

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

Date: October 3, 2016

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of formal service complaints received by the agency. See STB Reauthorization Act of 2015, sec. 6(b), Pub. L. No: 114-110 (2015). During the period July 1, 2016 – September 30, 2016, the STB had the following formal service-related complaints pending:

Formal Service-Related Complaints:

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
1-19-2012	Failure to prioritize Amtrak trains over freight trains.	National Railroad Passenger Corporation— Section 213 Investigation of Substandard Performance on Rail Lines of Canadian National Railway Company	NOR 42134	Midwest	National Railroad Passenger Corporation (Amtrak)	Canadian National Railway Company, Grand Trunk Western Railway, Illinois Central Railroad	Final rules regarding on-time performance standard issued 7-28-2016, in Docket No. EP 726. This Proceeding removed from abeyance by decision served 9-15-2016. Amtrak submission of revised on-time performance data due by 10-17-2016. Replies due by 10-25-2016.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
2-27-2013	Application for terminal trackage rights.	BNSF Railway—Terminal Trackage Rights—Kansas City Southern Railway	FD 32760 (Sub-No. 46)	Louisiana	BNSF Railway Company	BNSF Railway Company, Union Pacific Railroad Company, Kansas City Southern Railway	Decision granting BNSF's application for terminal trackage rights served 7-5-2016. Appeal filed with the U.S. Ct. of Appeals for the District of Columbia on 9-1-2016.
11-17-2014	Failure to prioritize Amtrak trains over freight trains.	National Railroad Passenger Corporation—Investigation of Substandard Performance of the Capital Limited	NOR 42141	Midwest, Mid-Atlantic	National Railroad Passenger Corporation (Amtrak)	CSX Transportation, Inc.; Norfolk Southern Railway Company	Final rules regarding on-time performance standard issued 7-28-2016, in Docket No. EP 726. This proceeding removed from abeyance by decision served 9-15-2016. Amtrak submission of revised on-time performance data due by 10-17-2016. Replies due by 10-25-2016.
3-31-2015	Unreasonable tariff and practices.	North American Freight Car Association v. Union Pacific Railroad	NOR 42144	Nationwide	North American Freight Car Association; American Fuel & Petrochemicals Manufacturers; The Chlorine Institute; The Fertilizer Institute; American	Union Pacific Railroad Company	Procedural schedule held in abeyance, at the request of the Union Pacific, due to an Admin. Law Judge's discovery conference, which concluded on 6-23-2016. Status conference held with the Admn. Law Judge on 8-22-2016; discovery continues.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
					Chemistry Council; Ethanol Products, LLC d/b/a Poet Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated		Record scheduled to close 11-22-2016.
12-07-2015	Demurrage and service frequency issues	Finch Paper LLC—Petition for Declaratory Order	FD 35981	Mid-Atlantic	Finch Paper LLC	Canadian Pacific Railway, Delaware and Hudson Railway Company	Evidentiary record being developed. Motion to modify procedural schedule granted; record now due to close on 10-13-2016 (originally, 8-15-2016).
4-25-2016	Common carrier violation and unreasonable practices	American Fuel & Petrochemicals Manufacturers v. BNSF Railway Company	NOR 42146	Nationwide	American Fuel & Petrochemicals Manufacturers	BNSF Railway Company	Motion to dismiss or discontinue filed 6-21-2016. Staff concluded Board member briefings on 9-28-2016. Decision being drafted.
6-10-2016	Demurrage	C.L. Consulting & Management Corp.—Petition for Declaratory Order—Reasonableness of Demurrage Charges	FD 36042	New Jersey	C.L. Consulting & Management Corp.	Norfolk Southern Railway Company	Reply received 6-29-2016; parties have filed various post-reply motions. Decision on the merits being drafted.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
6-30-2016	Common carrier violation and unreasonable practices	Dyno Nobel Louisiana Ammonia, LLC v. NuStar Pipeline Operating Partnership, L.P.	NOR 42147	Louisiana	Dyno Nobel Louisiana Ammonia, LLC	NuStar Pipeline Operating Partnership, L.P.	<p>Answer and Mot. to Dismiss received 7-20-2016. Reply to Mot. to Dismiss received 8-9-2016.</p> <p>Conference Report filed 8-25-2016.</p> <p>Mot. for Oral Argument filed 8-25-2016; reply to Mot. for Oral Argument filed 9-9-2016.</p>

SURFACE TRANSPORTATION BOARD
 QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED
 THIRD QUARTER 2016

Date: October 3, 2016

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of informal service complaints received by the agency. See STB Reauthorization Act of 2015, sec. 6(b), Pub. L. No: 114-110 (2015). During the period from July 1, 2016 through September 30, 2016, the STB received the following informal complaints¹:

Date	Type of Informal Complaint	Geographic Region ²	Resolution / Status	Complainant ³ CONFIDENTIAL
06-03-2016	Railroad switching; decrease in service	Midwest	Provided informal guidance to shipper; offered to contact railroad serving shipper's facility to discuss service issues and changes in design plan; shipper declined to pursue [Closed]	
06-09-2016	Competitive access; reciprocal switching	South	Provided informal guidance to shipper concerning reciprocal switching agreements and avenues for competitive access before the STB; offered to liaise with involved railroads on behalf of shipper; shipper declined to pursue assistance [Closed]	

¹ A table showing the quarterly inquiries received by the STB's Rail Customer and Public Assistance (RCPA) office is attached as an Appendix to this report.

² **Northeast:** Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania; **South:** Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas; **Midwest:** North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio; **West:** Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii.

³ This Quarterly Report may identify the complainant that submitted an informal complaint only upon the written consent of the complainant. Surface Transportation Board Reauthorization Act of 2015, sec. 6(b).

Date	Type of Informal Complaint	Geographic Region ²	Resolution / Status	Complainant ³ CONFIDENTIAL
06-22-2016	Railroad service issues; switching fees; commercial issues	West	Provided informal guidance and perspective on commercial and service issues, including shipper's investment in infrastructure to facilitate rail service; offered to confer with serving railroad; shipper declined to pursue [Closed]	
06-23-2016	Loss of service; dispute between railroads over track access	Midwest	Provided informal guidance to multiple shippers and other stakeholders affected by access dispute between railroads; conferred with railroad controlling track access and operating rights; facilitated temporary agreement restoring service to shippers while railroads negotiate outstanding issues related to respective access and operating rights; conducted multi-party informal mediation, which did not resolve disputed issues [Closed]	
06-28-2016	Delayed delivery of inbound shipment	Northeast	Provided informal guidance to shipper; conferred with railroad to ascertain status of railcar and expedite movement, resulting in delivery of shipment [Closed]	
07-06-2016	Demurrage charges	Northeast	Provided informal guidance on commercial and operational circumstances giving rise to demurrage charges; offered to liaise with railroad; shipper declined to pursue [Closed]	
07-12-2016	Railcar handling charge	Midwest	Provided informal guidance on potential formal legal remedies available before the STB; suggested alternative pathways for dispute resolution [Closed]	
07-15-2016	Rail service issues; reduction in switches per week	Midwest	Provided informal guidance to shipper; liaised with serving railroad to discuss shipper's concerns; convened mediation telephone call with railroad and shipper representatives to seek informal resolution [Pending]	

Date	Type of Informal Complaint	Geographic Region ²	Resolution / Status	Complainant ³ CONFIDENTIAL
07-20-2016	Railroad rate level; applicability of increased rate to shipment	Midwest	Provided informal guidance on commercial and legal issues pertaining to applicability of contested rate [Closed]	
07-21-2016	Railroad service issue; competition between railroads	West	Provided informal guidance to shipper; explained potential formal remedies before the STB; analyzed and discussed potential commercial pathways for shipper to maintain dual access, such as leasing or acquiring lightly used spur track [Closed]	
07-22-2016	Railroad rate increase	East	Provided informal guidance to shortline railroad concerning implications of rate increase by Class I railroad and potential for loss of customer traffic; offered to confer informally with Class I railroad; shortline declined to pursue [Closed]	
07/22/2016	Railroad car supply; competitive access	Midwest	Provided informal guidance to shipper; liaised with Class I railroad to address car supply shortages, resulting in improvement in service [Closed]	
07/27/2016	Railroad rate levels	Midwest	Provided informal guidance to shortline railroad about STB jurisdiction over rates [Closed]	
07/27/2016	Railroad service issues; railroad rate levels; railroad car supply	Multiple	Provided informal guidance to shipper trade association; offered to liaise with involved Class I railroads on a case-by-case basis to address individual service issues [Pending]	
07/28/2016	Railroad side track agreement; railroad service issues; common carrier obligation	South	Provided informal guidance to shipper on issues related to negotiation of side track agreement; discussed regulatory and commercial issues related to side track agreement; conferred with Class I railroad on legal issues in order to facilitate further negotiations; discussed extent of common carrier obligation with Class I railroad in unsuccessful attempt to resolve dispute over side track terms and conditions [Closed]	

Date	Type of Informal Complaint	Geographic Region ²	Resolution / Status	Complainant ³ CONFIDENTIAL
07/29/2016	Railroad blocked crossing; locomotive idling	Midwest	Provided informal guidance to counsel for locality affected by increasing rail traffic volumes; discussed options for formal action before the STB [Closed]	
08/03/2016	Railroad service issue; missed switches	South	Provided informal guidance to shipper; liaised with Class I railroad, resulting in identification of problems and improvement in operations and commitment to better communications [Closed]	
08/04/2016	Railroad service issue; termination of side track agreement	South	Provided informal guidance to shipper about railroad's common carrier obligation; offered to liaise with railroad; shipper advised that the issue was resolved by the railroad [Closed]	
08/05/2016	Railroad service issue; railroad rate increase	West	Provided informal guidance to shipper on common carrier obligation and STB rate regulation; discussed underlying commercial issues related to shipper's traffic; informed by shipper that it is exploring formal legal options [Closed]	
08/09/2016	Railroad service issue	Midwest	Provided informal guidance to shipper concerning railroad's denial of service due to safety considerations; counseled shipper on relevant operating practices and industry norms; provided informal guidance on possible formal actions before the STB and relevant procedures [Closed]	
08/09/2016	Railroad service issue	Multiple	Provided informal guidance to shipper concerning railroad's discretion over routes for moving shipments [Closed]	

Date	Type of Informal Complaint	Geographic Region ²	Resolution / Status	Complainant ³ CONFIDENTIAL
08/10/2016	Railroad service issues; demurrage	West	Provided informal guidance to shipper on regulations applicable to demurrage; liaised with Class I railroad for explanation of demurrage charges and local operations; explained operational issues to shipper and discussed potential for formal action before STB [Closed]	
08/10/2016	Railroad service issues	Multiple	Discussed with the shipper railroad pricing within the context of empty returns of shipper owned or leased railroad cars. Also, discussed the unfavorable impact of weight restricted branch lines. [Pending]	
08/12/2016	Railroad service issues; storage and retrieval of private cars	West	Provided informal assistance to shipper in retrieving private cars from storage and informal guidance on assessment of storage charges; liaised with railroad on issues related to delayed retrieval of stored cars and interchange of cars with other railroads [Closed]	
08/12/2016	Railroad operating issue; stopped train; idling locomotives	South	Provided informal guidance to locality related to railroad operating practice; discussed potential options to mitigate noise and nuisance issues from stopped trains and idling locomotives; liaising with railroad contacts to seek mutually-acceptable solution [Pending]	
08/15/2016	Railroad services issues; delayed delivery of inbound railcars	South	Provided informal guidance to shipper; liaised with railroad to express concern about frequent delays and to obtain status report on outstanding railcars [Closed]	
08/18/2016	Railroad service issue; delayed delivery of railcar; loss and damage claim; demurrage	Northeast	Provided assistance to shipper in efforts to contact railroad personnel concerning lost railcar; provided informal guidance; facilitated exchange of relevant information between shipper and railroad; offered to serve as mediator to resolve disputed issues; railroad declined to participate [Closed]	

Date	Type of Informal Complaint	Geographic Region ²	Resolution / Status	Complainant ³ CONFIDENTIAL
08/19/2016	Demurrage	West	Provided informal guidance to shipper; assisted shipper in investigating and understanding the commercial circumstances giving rise to railroad's assessment of demurrage [Closed]	
08/25/2016	Rail service issue; refusal to service facility	Midwest	Provided informal guidance to shipper pertaining to railroad's reluctance to offer rail service to facility that would be renovated to serve as private railcar maintenance facility; discussed the common carrier obligation and railroad's duty to provide service on reasonable request; offered to confer with railroad on shipper's behalf and provided information to shipper on STB procedures [Closed]	
09/01/2016	Railroad service issue; containers stuck at intermodal terminal	West	Provided informal guidance to shipper's counsel; offered to provide assistance to shippers in resolving issues [Closed]	
09/02/2016	Railroad loss and damage claim	West	Provided informal guidance to shipper on laws and regulations applicable to loss and damage claim; offered to liaise with railroad and serve as intermediary to facilitate discussions [Closed]	
09/06/2016	Railroad service issue; delayed delivery of inbound car	South	Provided informal guidance to shipper; contacted railroad on shipper's behalf to assist in locating railcar and determine status; facilitated delivery of railcar to shipper's facility [Closed]	
09/12/2016	Demurrage issue	West	Provided informal guidance to shipper on legal and commercial issues giving rise to demurrage; discussed potential strategies for reducing instances of demurrage [Closed]	

Date	Type of Informal Complaint	Geographic Region ²	Resolution / Status	Complainant ³ CONFIDENTIAL
09/13/2016	Railroad car supply; reciprocal switching	South	Provided informal guidance to shipper on railroad's responsibility to supply railcars; referred shipper to resources that could provide responsive information to commercial question [Closed]	
09/22/2016	Railroad service issue; conflict over operating rights	West	Provided informal guidance to Class III railroad concerning dispute with local jurisdiction over railroad's right to operate over track; liaised with local officials as to disputed issues and railroad's common carrier duties and obligations; facilitated preservation of status quo to allow rail operations [Closed]	
09/28/2016	Railroad storage charges	West	Provided informal guidance to shipper regarding storage charges arising from bankruptcy proceeding; discussed commercial and legal issues; liaised with railroad representative to discuss applicability of storage charges [Closed]	

Note: A table showing the quarterly inquiries received by the STB's Rail Customer and Public Assistance (RCPA) office is attached below as an appendix to the foregoing report.

**Appendix to Quarterly Report of Informal Service Complaints
3rd Quarter 2016 Cases by Category/Region**

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	46	9	6	7	4	20
Acquisition and Operation Exemption	2	0	0	2	0	0
Arrange Meeting	1	0	0	0	0	1
Bus Issue	2	1	0	0	0	1
Household Movers	25	5	2	1	7	10
Information-Economic Data	4	0	2	0	0	2
Information-Non Economic Request	9	0	1	0	0	8
Motor Carriers (trucks)	11	0	2	0	3	6
Pipeline	3	0	1	0	0	2
Railroad Abandonment/Loss of Service	2	0	0	0	1	1
Railroad Agricultural Contract Filing	2	0	0	0	0	2
Railroad Amtrak/Passenger Issue	3	2	0	0	0	1
Railroad Billing Dispute	1	0	0	0	0	1
Railroad Blocked Crossings	1	0	1	0	0	0
Railroad Car Supply	2	0	0	0	0	2
Railroad Claims	1	0	0	0	1	0
Railroad Common Carrier Obligation	1	1	0	0	0	0
Railroad Competition Issues	1	0	0	0	1	0
Railroad Demurrage Charges	4	1	0	1	1	1
Railroad Denial of Rail Service	2	0	0	1	0	1
Railroad Environmental Issues	5	0	1	1	1	2
Railroad Grade Crossing Issues	1	0	0	0	1	0
Railroad Idling Engines/Parked Trains	3	0	0	0	0	3
Railroad Intermodal Service	1	0	0	0	0	1
Railroad Labor Issues	3	0	0	1	2	0
Railroad Lease of track or equipment	1	0	1	0	0	0
Railroad Liability Issues	1	0	0	1	0	0
Railroad Miscellaneous Charges	1	0	0	0	1	0
Railroad Noise - Airhorn, Safety, etc	2	0	1	1	0	0
Railroad Operating Authority Issue	1	0	0	0	1	0
Railroad Preemption	9	1	1	1	5	1
Railroad Rate Levels/Increases	8	0	0	5	1	2
Railroad Service Issue	16	2	4	3	2	5
Railroad Side Track Agreement	1	0	1	0	0	0
Railroad Stored Freight Cars	1	0	0	0	1	0
Railroad Tariff Issue	2	0	0	0	0	2
Rails to Trails	7	1	0	4	1	1

**Appendix to Quarterly Report of Informal Service Complaints
3rd Quarter 2016 Cases by Category/Region**

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Real Estate Matter	2	0	0	0	2	0
STB Authority Question	6	1	2	2	0	0
STB Information	27	2	9	3	0	13
STB Jurisdictional Question	13	2	0	2	0	9
STB Procedural Assistance	55	5	7	10	7	26
STB Recordations or Security Interests on Rail Cars	6	0	3	0	1	2
STB Records Assistance	15	0	2	2	3	8
STB Webpage/Downloading Assistance	5	0	0	0	0	5
Water Carrier	5	0	1	1	2	1
Wrong Agency Calls	2	0	0	0	0	2
Other	1	0	0	0	0	1
Total	322	33	48	49	49	143

U.S. Census Regions:

Northeast Region	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania
South Region	Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas
Midwest Region	North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio
West Region	Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii

Appendix to Quarterly Report of Informal Service Complaints
3rd Quarter 2016 Cases by Category/Region

3rd Quarter 2016 Cases per Commodity Group*

Commodity Group	Number
Aggregates	1
Agricultural Products	17
Chemicals	9
Coal	3
Empty Freight Cars	2
Forest Products	4
Hazardous Waste/Radioactive Waste	2
Household Goods	18
Industrial Products	2
Intermodal	1
Metals and Minerals	2
Not Specified by Shipper	4
N/A	246
Other	1
Passenger	11
Total	323

*In many cases, the commodity is not specified or material to the Case, therefore the total number for this data may not equal the total number for the quarter.