

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

Third Quarter 2020

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 third quarter of 2020, the following formal service-related complaints were pending:

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 Company— Terminal Trackage Rights—Kansas City Southern Railway and Union Pacific Railroad Company	FD 32760 (Sub-No. 46)	Louisiana	BNSF Railway Company	BNSF Railway Company, Union Pacific Railroad Company, Kansas City Southern Railway	<p>Decision granting BNSF’s application for terminal trackage rights served on 7/5/2016.</p> <p>Appeal filed with the U.S. Court of Appeals for the District of Columbia Circuit on 9/1/2016. Appeal ordered to be held in abeyance by the D.C. Circuit on 1/3/2017 to allow parties to reach agreement regarding certain terms and conditions.</p> <p>BNSF filed petition to establish conditions of use and compensation on 1/12/2018. KCS filed motion to dismiss petition on 2/1/2018. Additional pleadings by BNSF, UP, and KCS filed. Decision denying KCS motion to dismiss served on 5/1/2018.</p>

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							<p>UP and KCS filed replies to BNSF's petition on 6/25/2018 and BNSF and KCS filed rebuttals on 7/16/2018.</p> <p>The parties participated in Board-sponsored mediation in 2018. On 10/17/2018, the Board was informed that mediation was not successful.</p> <p>By decision served on 12/7/2018, the Board directed the parties to provide additional information. The parties submitted responses on 2/4/2019 and replies on 2/25/2019.</p> <p>KCS and UP filed a joint request for Board-sponsored mediation on 6/18/2019. BNSF filed a reply to the mediation request on 6/25/2019. By decision served on 7/3/2019, the Board directed the parties to engage in Board-sponsored mediation. On 11/29/2019, the mediators informed the Board that mediation was not successful.</p> <p>By decision served 2/21/2020, the Board established conditions of use. The decision also directed the</p>

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							<p>parties to submit a joint procedural schedule to govern discovery and briefing on the remaining issues regarding compensation.</p> <p>By decision served on 4/1/2020, the Board adopted a procedural schedule jointly proposed by the parties and also granted a joint request to appoint an administrative law judge to resolve discovery disputes.</p> <p>On 4/7/2020, a second appeal was filed with the U.S. Court of Appeals for the District of Columbia Circuit.</p>
3/31/2015	Unreasonable tariff and practices	North American Freight Car Association v. Union Pacific Railroad Company	NOR 42144	Nationwide	North American Freight Car Association; American Fuel & Petrochemicals Manufacturers; The Chlorine Institute; The Fertilizer Institute; American Chemistry Council; Ethanol Products, LLC d/b/a Poet Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated	Union Pacific Railroad Company	<p>Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received on 1/26/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served on 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served on 10/5/2017.</p> <p>Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply</p>

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							filed on 4/26/19. Rebuttal filed on 5/31/19.
12/19/2016	Unreasonable practice and violation of statutory obligation to compensate car owners	Valero Marketing & Supply Company v. Union Pacific Railroad Company	NOR 42150	Unspecified	Valero Marketing & Supply Company; and Valero Rail Partners, LLC	Union Pacific Railroad Company	Complaint filed on 12/19/2016. Motion for abeyance received on 1/6/2017; reply and motion to consolidate received on 1/26/2017; motion to compel received on 2/24/2017. Decision consolidating NOR 42150 with NOR 42152 and NOR 42144 served on 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served on 10/05/2017. Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
12/30/2016	Unreasonable practice and violation of statutory obligation to compensate car owners	Tesoro Refining & Marketing Company LLC v. Union Pacific Railroad Company	NOR 42152	Unspecified	Tesoro Refining & Marketing Company LLC; Tesoro Great Plains Gathering & Marketing LLC; and Dakota Prairie Refining, LLC	Union Pacific Railroad Company	Complaint filed on 12/30/2016. Motion for abeyance received on 1/6/2017; reply and motion to consolidate received on 1/26/2017; motion to compel received on 2/24/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served on 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR

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							42152, and NOR 42144 served on 10/05/2017. Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
8/1/2017	Unreasonable practice and violation of statutory obligation to compensate car owners	Arkema Inc. v. Union Pacific Railroad Company	NOR 42153	Unspecified	Arkema Inc.	Union Pacific Railroad Company	Complaint filed on 8/1/2017. Union Pacific's motion to consolidate with NOR 42150, NOR 42152, and NOR 42144, received on 8/9/2017; answer to the complaint (8/23/2017), reply (8/29/2017), and supplement to the motion to consolidate (9/8/2017) received. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served on 10/05/2017. Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
7/8/2019	Unreasonable practice and violation of statutory obligation to	Olin Corporation v. Union Pacific Railroad Company	NOR 42164	Unspecified	Olin Corporation	Union Pacific Railroad Company	Complaint and motion to hold proceeding in abeyance filed on 7/8/2019. Answer, reply to motion for abeyance, and motion to dismiss received on 7/29/2019. Reply to the

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	compensate car owners						<p>motion to dismiss received on 8/14/2019.</p> <p>By decision served on 9/30/2019, the Board denied the motion to dismiss and granted the motion to hold the proceeding in abeyance.</p>
4/24/2020	Failure to provide adequate rail service; unreasonable practice; failure to provide a switch connection; and failure to provide continuous carriage of freight.	Twin City Metals, Inc. v. KET, LLC	NOR 42168	Washington	Twin City Metals, Inc.	KET, LLC	<p>Complaint filed 4/24/2020. Answer and motion for stay filed 5/13/2020. Reply to the motion for stay filed 5/15/2020. Reply to the answer filed 5/18/2020.</p> <p>By decision served 5/29/2020, the Board denied the motion for stay and directed the parties to inform the Board as to whether they would be interested in Board-sponsored mediation. After both parties agreed to mediation, by decision served 6/9/2020, the Board placed the proceeding in abeyance and initiated Board-sponsored mediation. At the request of the parties, the proceeding was discontinued by decision served on 9/23/2020, following settlement during Board-sponsored mediation.</p>
7/10/2020	Failure to provide notice of change in	Bell Oil Terminal, Inc. v. BNSF	NOR 42169	Chicago, Ill.	Bell Oil Terminal, Inc.	BNSF Railway Company	Complaint filed 7/10/2020; answer filed 8/3/2020. Motion to dismiss or discontinue filed

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	common carrier service term (i.e., reduction of service).	Railway Company					8/17/2020; reply filed 9/8/2020.
8/6/2020	Failure to provide notice of change in common carrier service term (i.e., reduction of service); failure to provide reasonably prompt delivery of shipments; overcharges; failure to pay allowances for services provided by shipper to carrier; and unreasonably assessed demurrage and other charges.	Kingsbury Elevator, Inc. v. Grand Trunk Western Railroad Company	NOR 42170	Kingsbury, Ind.	Kingsbury Elevator, Inc.	Grand Trunk Western Railroad Company	Complaint filed 9/6/2020.

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED

Third Quarter 2020

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 third quarter of 2020 (July 1, 2020 – September 30, 2020), the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
6/8/2020	Railroad service issue	West	Shipper sought RCPA assistance in addressing poor railroad service and related demurrage charges; RCPA contacted the railroad and facilitated improved communication between the parties to review and discuss the contested charges; RCPA monitored the parties' progress towards a resolution, but additional active involvement was not requested. [Closed]	

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

² Matters reported as "Pending" on the previous quarterly report are carried forward to the next quarterly report.

³ **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.

⁴ 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 ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
6/18/2020	Railroad service issue; railroad demurrage issue	Midwest	Shipper sought RCPA assistance resolving a dispute with a railroad regarding demurrage charges and curtailed switching service; RCPA provided informal guidance to the shipper and facilitated discussions between the railroad and the shipper resulting in restoration of an additional switch each week. [Closed]	
7/2/2020	Railroad service issue	West	Shipper contacted RCPA regarding delayed delivery of critical rail car shipments; RCPA contacted the railroad, which expedited delivery of the shipments to the destination. [Closed]	
7/9/2020	Railroad service issue	Midwest	Shipper sought RCPA assistance in resolving service failures and missed switches on inbound raw materials; RCPA conferred with the shipper and facilitated a joint discussion with the railroad and the shipper to discuss operational and communications problems; RCPA monitored the situation and the shipper subsequently reported that rail service improved. [Closed]	
7/13/2020	Railroad service issue	Northeast	Shipper contacted RCPA about a rail car that was delayed in transit due to mechanical repairs; RCPA contacted the railroad for an update on the status of the car and to prompt movement to its destination. [Closed]	
7/20/2020	Railroad demurrage issue	Northeast	Short line railroad contacted RCPA for assistance with demurrage charges that were being imposed on it by a Class I railroad on the grounds that it was a private receiver; RCPA contacted the Class I and facilitated communications between the parties with the outcome that the disputed charges were withdrawn. [Closed]	
7/21/2020	Railroad commercial issue	Midwest	Shipper contacted RCPA about a railroad's required insurance coverage as a pre-condition to serving its facility, which carried an unaffordable annual premium; RCPA discussed the issues with the shipper, including commercial and operational circumstances; at the shipper's request, RCPA liaised with the railroad to facilitate a mutually acceptable resolution; discussions on lowering the premium are still ongoing. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
7/29/2020	Railroad service issue	Midwest	Shipper notified RCPA of longer cycle times for unit train deliveries and delays at origin for released trains; RCPA discussed the situation with the railroad, which advised that slower cycle times and other delays were the result of an unanticipated rebound in traffic levels, and resources were being brought back to increase fluidity; RCPA relayed the information to the shipper. [Closed]	
8/5/2020	Railroad service issue	Northeast	Shipper contacted RCPA about a rail car that was delayed in transit while awaiting mechanical repairs; RCPA contacted the railroad about the car, and then subsequently confirmed with the shipper that the car was delivered. [Closed]	
8/5/2020	Railroad service issue	Midwest	Shipper contacted RCPA about a unit train at its facility, which incurred significant delays after being released to the railroad and would disrupt the flow of inbound traffic; RCPA liaised with the railroad, which made arrangements for movement of the train and to monitor the progress of inbound cars. [Closed]	
8/11/2020	Railroad service issue	Midwest	Shipper sought RCPA assistance regarding poor railroad service, including reduced switching frequency; RCPA discussed the issues with the shipper and facilitated communications between the railroad and the shipper; RCPA is continuing to monitor the situation. [Pending]	
8/12/2020	Railroad service issue	South	Shipper sought RCPA assistance after its serving railroad announced a plan to reduce switching frequency at its facility; RCPA discussed the service reduction with the railroad and facilitated discussions between the parties; the shipper subsequently advised RCPA that it had reached a viable service arrangement with the railroad. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/17/2020	Railroad service issue	Midwest	Shipper requested RCPA assistance with several instances of missed switches at its facility and delayed deliveries of inbound rail cars; RCPA contacted the railroad to facilitate delivery of urgently needed cars in order to prevent shutdowns and discussed design changes in order to promote consistent service; RCPA actively monitored service for several weeks until problems abated. [Closed]	
8/20/2020	Railroad service issue	South	Shipper contacted RCPA to seek assistance with obtaining more frequent and reliable railroad service in order to work through a backlog of inbound traffic; RCPA contacted the railroad, which provided additional switches and reviewed other options to improve service. [Closed]	
8/26/2020	Railroad rate levels	Midwest	Shipper contacted RCPA for assistance related to a significant rate increase being imposed by a railroad, which would affect several of the shipper's production facilities; RCPA provided guidance to the shipper on various formal and informal pathways for addressing the rate increase and offered informal assistance; however, the shipper did not seek additional RCPA assistance [Closed]	
8/27/2020	Railroad service issue	Midwest	Shipper contacted RCPA about a railroad's plan to reduce switching frequency at its facility, which would impair the shipper's ability to serve customers; RCPA contacted the railroad to discuss the reasons for the reduction in service and the consequences for the shipper; RCPA is continuing to liaise with the shipper. [Pending]	
8/28/2020	Railroad service issue	Midwest	Shipper notified RCPA of service problems involving a switching railroad; RCPA and the shipper discussed the problems; the shipper subsequently advised RCPA that the issues appeared to be abating and that there was no need for further RCPA involvement. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/8/2020	Railroad service issue	Northeast	Shipper contacted RCPA about delayed inbound rail cars and poor communication with the railroad's local supervisor; RCPA contacted the railroad, which worked with the shipper to expedite delivery of the cars and to improve communication channels. [Closed]	
9/10/2020	Rail accessorial charges	West	Shipper's representative contacted RCPA concerning a railroad's new tariff item, which imposed new requirements for securing rail cars and imposed a fine for non-compliance; RCPA discussed the tariff item with the shipper's representative, including commercial and operational issues; on the representative's request; RCPA liaised with the railroad to understand that background, purposes and implementation of the rule. [Pending]	
9/11/2020	Railroad service issue	South	Shipper sought RCPA assistance with expediting delivery of rail cars that were delayed in transit, which resulted in the shipper not being able to supply local customers; RCPA contacted the railroad for an explanation for the delays and to elevate the urgency of the shipper's request; the railroad delivered the rail cars. [Closed]	
9/11/2020	Railroad service issue	South	Shipper contacted RCPA for assistance with a railroad's plan to reduce train deliveries at the shipper's local serving yard, which would impair the shipper's ability to supply customers and create congestion for its switching railroad; RCPA discussed the issues with the shipper and contacted the line haul railroad about the impacts of the service reduction; RCPA is continuing to engage with the line haul railroad. [Pending]	
9/15/2020	Railroad service issue	South	A short line railroad notified RCPA that a Class I railroad was routinely taking several days to move trains from its interchange location; RCPA provided guidance to the short line about potential avenues for formal relief before the Board, but per the short line's request, did not contact the Class I railroad. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/21/2020	Railroad rate levels	Northeast	Shipper contacted RCPA about a per-car surcharge being imposed by a short line, ostensibly to defray additional costs incurred by the railroad in serving the shipper's facility; RCPA conferred with the shipper and reviewed relevant documents; RCPA is liaising with the railroad about the surcharge. [Pending]	
9/22/2020	Railroad service issue	West	Shipper contacted RCPA for assistance with rail cars that were being held by a railroad, apparently due to an issue with the waybill; RCPA is liaising with the shipper to provide assistance. [Pending]	
9/22/2020	Railroad service issue	South	Shipper contacted RCPA about several instances of rail cars being delayed in transit and missed switches; RCPA liaised with the shipper to fully understand the problems and contacted the railroad to discuss potential options for service improvement. [Pending]	
9/23/2020	Railroad service issue	South	Shipper requested RCPA assistance with delayed delivery of rail cars and missed switches; RCPA liaised with the railroad and discussed how to make up for the lost switches and improve service in the near term; RCPA will continue to monitor service going forward. [Pending]	
9/24/2020	Railroad service issue	West	Shipper requested RCPA assistance with rail cars that could not be removed from storage due to a railroad's track outage and embargo of the line; RCPA discussed potential informal options for assisting the shipper in bringing the rail cars back in service; RCPA is liaising with the railroad to explore solutions. [Pending]	
9/29/2020	Railroad service issue	Midwest	Shipper requested RCPA assistance with rail cars that are stranded on a connecting railroad due to an embargo resulting from a public protest; RCPA liaised with the railroad to understand the status of the cars and the potential for re-routing them to a different interchange point; RCPA is continuing to monitor the status of the cars. [Pending]	

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

Appendix to Quarterly Report of Informal Service Complaints

3rd Quarter 2020 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	39	7	11	9	7	5
Household Movers	15	2	9	0	2	2
Information-Economic Data	8	0	0	3	1	4
Information-Non Economic Request	2	1	0	1	0	0
Motor Carriers (trucks)	7	1	2	3	0	1
Railroad Abandonment/Loss of Service	1	0	1	0	0	0
Railroad Amtrak/Passenger Issue	1	0	0	0	1	0
Railroad Blocked Crossings	8	0	2	5	0	1
Railroad Demurrage Charges	3	1	0	1	0	1
Railroad Denial of Rail Service	1	1	0	0	0	0
Railroad Freight Car Repair or Dispo	1	0	0	1	0	0
Railroad Hazardous Waste/Radioactive Waste	1	1	0	0	0	0
Railroad Idling Engines/Parked Trains	2	2	0	0	0	0
Railroad Labor Issues	1	0	1	0	0	0
Railroad Noise - Airhorn, Safety, etc	3	0	2	0	1	0
Railroad Preemption	5	1	1	0	2	1
Railroad Rate Levels/Increases	2	0	0	1	0	1
Railroad Service Issue	23	5	5	7	2	4
Railroad Side Track Agreement	1	0	0	0	0	1
Railroad Tariff Issue	2	0	0	0	1	1
Rails to Trails	4	2	0	1	0	1
Real Estate Matter	2	0	0	0	1	1
STB Authority Question	4	0	1	2	1	0
STB Fees	3	0	1	1	0	1
STB Information	28	4	10	4	8	2
STB Jurisdictional Question	10	2	2	2	1	3
STB Procedural Assistance	52	10	11	6	4	21

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
STB Recordations or Security Interests on Rail Cars	5	0	2	2	0	1
STB Records Assistance	21	2	12	2	5	0
STB Webpage/Downloading Assistance	8	3	1	0	0	4
Water Carrier	2	0	0	0	0	2
Wrong Agency Calls	3	1	1	0	1	0
Other	13	2	3	1	1	5
Total	280	48	78	52	39	63

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 2020 Cases per Commodity Group*

Commodity Group	Number
Agricultural Products	8
Chemicals	4
Forest Products	1
Household Goods	15
Industrial Products	10
Intermodal	1
Metals and Minerals	1
Not Specified by Shipper	2
N/A	227
Other	5
Passenger	6
TIH	1
Total	281

*In many instances, the commodity is not specified or material to the inquiry, therefore the total number for this data may not equal the total number of inquiries for the quarter.