



Surface Transportation Board
Washington, D.C. 20423-0001

Office of the Chairman

October 1, 2019

The Honorable Roger Wicker
Chairman
Senate Committee on Commerce, Science,
and Transportation
555 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Senate Committee on Commerce, Science,
and Transportation
511 Hart Senate Office Building
Washington, DC 20510

The Honorable Deb Fischer
Chairman
Subcommittee on Transportation
and Safety
454 Russell Senate Office Building
Washington, DC 20510

The Honorable Tammy Duckworth
Ranking Member
Subcommittee on Transportation
and Safety
524 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Wicker, Ranking Member Cantwell, Subcommittee Chairman Fischer, and Subcommittee Ranking Member Duckworth:

On behalf of the Surface Transportation Board (STB or Board), I am pleased to provide the Board's third quarter 2019 Report on Pending STB Regulatory Proceedings in accordance with Section 15 of the Surface Transportation Board Reauthorization Act of 2015. This report, along with the quarterly reports on rate case review metrics and formal and informal service complaints, will be posted to the Board's website at <https://www.stb.gov/stb/rail/ReauthorizationAct.html>.

Thank you for your continued interest in the Board and its work. If you or your staff have any questions, please contact me at 202-245-0204.

Sincerely,

Ann Begeman
Chairman

Report on Pending STB Regulatory Proceedings

Third Quarter 2019

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Surface Transportation Board

1. Rail Fuel Surcharges (Safe Harbor)

Popular Title: Rail Fuel Surcharges (Safe Harbor)

RIN 2140-AB17

Stage: Discontinued

Previous Stage: ANPRM served 5/29/2014; End of Comment Period 10/15/2014; Proceeding Discontinued 8/29/2019.

Abstract: The Board sought and received comments on the Board’s “safe harbor” standard, which allows carriers to rely on a Board-approved fuel index to measure changes in fuel prices for purposes of their fuel surcharge programs. The comment period closed in 2014, and the Board was unable to reach a majority decision on what additional Board action should be taken in response to the comments received. Because of the lack of a majority opinion and in the interest of administrative finality, the Board Members agreed that this docket should be discontinued.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 5/29/2014

Docket Number: EP 661 (Sub-No. 2)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	9/2016	8/2019	8/29/2019

Explanation for any delay: Prior quarterly submissions available on the Board’s website provide information regarding the status of this matter relevant at the time of each submission.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

2. Expanding Access to Rate Relief

Popular Title: Expanding Access to Rate Relief

RIN 2140-AB37

Stage: Pre-Rule

Previous Stage: ANPRM served 8/31/2016; End of Comment Period 12/19/2016. Decision served 3/28/2018 waiving the prohibition on ex parte communications in this proceeding. In conjunction with a NPRM in Docket No. EP 755, served 9/12/2019, the Board requests additional comment on this proceeding, including whether to close it.

Abstract: The Board is considering procedures that could comprise a new rate reasonableness methodology for use in very small disputes, which would be available to shippers of agricultural products and all other commodities.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 08/31/2016

Docket Number: EP 665 (Sub-No. 2)

Dates for Request for Comments:

Milestone	Scheduled Date	New Projected Date	Actual Date
Comments Due	11/12/2019	N/A	N/A
Replies Due	1/10/2020	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Request for Comments: 84 Fed. Reg. 48,872 (Sept. 17, 2019)

Surface Transportation Board

3. Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Popular Title: Commodity Exemptions

RIN 2140-AB29

Stage: Proposed Rule

Previous Stage: NPRM served 3/23/2016; End of Comment Period 8/26/2016. Decision served 3/19/2019 waiving the prohibition on ex parte communications in this proceeding, and providing a 90-day period for meetings with Board members; End of Comment Period in response to memoranda summaries of ex parte meetings 7/16/2019.

Abstract: In this proceeding, the Board proposes to revoke the existing class exemptions under 49 C.F.R. Part 1039 for (1) crushed or broken stone or rip rap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings.

Effects:

Regulatory Flexibility Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 3/23/2016

Docket Number: EP 704 (Sub-No. 1)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	TBD	N/A	N/A

Explanation for any delay: The Board is in the process of determining its next action in this proceeding.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

4. Reciprocal Switching

Popular Title: Competitive Switching Rules

RIN 2140-AB32

Stage: Proposed Rule

Previous Stage: NPRM served 7/27/2016; End of Comment Period 1/13/2017.

Abstract: The Board proposes regulations which would allow a party to seek a reciprocal switching prescription that is either practicable and in the public interest or necessary to provide competitive rail service, in accordance with 49 U.S.C. § 11102(c)(1).

Effects:

None

Prompting action: Petition from the National Industrial Transportation League

Legal Deadline: None

Rulemaking Project Initiated: 7/27/2016

Docket Number: EP 711 (Sub-No. 1)

Dates for Ex Parte Meetings:

Milestone	Scheduled Date	New Projected Date	Actual Date
Ex Parte Meetings	Beginning 1/30/2017	N/A	N/A

Ex parte meetings have continued during 2019.

Explanation for any delay: N/A

Federal Register Citation for Ex Parte Meetings: N/A

Surface Transportation Board

5. Railroad Revenue Adequacy

Popular Title: Revenue Adequacy

RIN 2140-AB19

Stage: Pre-Rule

Previous Stage: Notice served 4/2/2014; End of Comment Period 11/4/2014; Hearing 7/22/2015 and 7/23/2015.

Abstract: The Board is exploring its methodology for determining railroad revenue adequacy, as well as the revenue adequacy component used in judging the reasonableness of rail freight rates.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 4/2/2014

Docket Number: EP 722

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Hearing Date	12/12/2019	N/A	N/A

On March 28, 2018, the Board issued a decision clarifying that a prohibition on ex parte communications in this proceeding is not applicable.

The subject matter of this proceeding was under review by the Board's Rate Reform Task Force. The Task Force issued its findings and recommendations in its April 25, 2019 report, which was publicly released on April 29, 2019. By decision served September 12, 2019, the Board announced it would hold a public hearing on December 12, 2019, and invited interested persons to provide input on the Task Force's recommendations regarding revenue adequacy.

Explanation for any delay: Prior quarterly submissions available on the Board's website provide information regarding the status of this matter relevant at the time of each submission.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

6. Limiting Extensions of Trail Use Negotiating Periods

Popular Title: NARPO Rulemaking

RIN 2140-AB42

Stage: Proposed Rule

Previous Stage: NPRM served 10/2/2018; End of Comment Period 11/21/2018; SNPRM served 6/6/2019.

Abstract: The Board proposes in a SNPRM to modify its regulations to establish a new one-year period for any initial interim trail use negotiating period, instead of the existing 180-day initial negotiating period; to permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

Effects:

None

Prompting action: Petition for Rulemaking

Legal Deadline: None

Rulemaking Project Initiated: 10/2/2018

Docket Number: EP 749 (Sub-No. 1) [Docket No. EP 753 was consolidated into this proceeding in the 6/6/2019 SNPRM]

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	11/2019	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

7. Petition for Rulemaking to Amend 49 C.F.R. Part 1250

Popular Title: Data Reporting, ACC Petition for Rulemaking

RIN 2140-AB44

Stage: Proposed Rule

Previous Stage: Proceeding opened 4/5/2019; End of Comment Period 5/20/2019; NPRM served 9/30/2019.

Abstract: The Board granted, in part, a petition to amend its railroad performance data reporting rules. Specifically, the Board proposes to modify its regulations to include chemical and plastics traffic as a distinct reporting category for the “cars-held” metric.

Effects:

None

Prompting action: Petition filed by the American Chemistry Council

Legal Deadline: None

Rulemaking Project Initiated: 4/5/2019

Docket Number: EP 724 (Sub-No. 5)

Dates for NPRM:

Milestone	Scheduled Date	New Projected Date	Actual Date
Comments Due	12/6/2019	N/A	N/A
Replies Due	1/6/2020	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for NPRM: ___ Fed. Reg. ___ (_____, ____)

Surface Transportation Board

8. Final Offer Rate Review

Popular Title: FORR, Final Offer

RIN 2140-AB##

Stage: Proposed Rule

Previous Stage: NPRM served 9/12/2019.

Abstract: The Board proposes a new procedure for challenging the reasonableness of railroad rates in smaller cases. In this procedure, the Board would decide a case by selecting either the complainant's or the defendant's final offer, subject to an expedited procedural schedule that adheres to firm deadlines.

Effects:

None

Prompting action: Recommendation by the Board's Rate Reform Task Force

Legal Deadline: None

Rulemaking Project Initiated: 9/12/2019

Docket Number: EP 755 [the decision issuing the NPRM also requested comments in Expanding Access to Rate Relief, Docket No. EP 665 (Sub-No. 2)]

Dates for NPRM:

Milestone	Scheduled Date	New Projected Date	Actual Date
Comments Due	11/12/2019	N/A	N/A
Replies Due	1/10/2020	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for NPRM: 84 Fed. Reg. 48,872 (Sept. 17, 2019)

Surface Transportation Board

9. Market Dominance Streamlined Approach

Popular Title: Market Dominance

RIN 2140-AB##

Stage: Proposed Rule

Previous Stage: NPRM served 9/12/2019.

Abstract: The Board proposes a streamlined approach for pleading market dominance in rate reasonableness proceedings. The Board expects that this streamlined approach would reduce burdens on parties, expedite proceedings, and make the Board's rate relief procedures more accessible, especially for complainants with smaller cases.

Effects:

None

Prompting action: Recommendation by the Board's Rate Reform Task Force

Legal Deadline: None

Rulemaking Project Initiated: 9/12/2019

Docket Number: EP 756

Dates for NPRM:

Milestone	Scheduled Date	New Projected Date	Actual Date
Comments Due	11/12/2019	N/A	N/A
Replies Due	1/10/2020	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for NPRM: 84 Fed. Reg. 48,882 (Sept. 17, 2019)

Surface Transportation Board

10. Revisions to the Board’s Methodology for Determining the
Railroad Industry’s Cost of Capital

Popular Title: Cost of Capital, CoC

RIN 2140-AB##

Stage: Proposed Rule

Previous Stage: NPRM served 9/30/2019.

Abstract: The Board proposes to incorporate an additional model to complement its use of the Morningstar/Ibbotson Multi-Stage Discounted Cash Flow Model (MSDCF) and the Capital Asset Pricing Model (CAPM) in determining the cost-of-equity component of the cost of capital.

Effects:

None

Prompting action: Board initiative

Legal Deadline: None

Rulemaking Project Initiated: 9/30/2019

Docket Number: EP 664 (Sub-No. 4)

Dates for NPRM:

Milestone	Scheduled Date	New Projected Date	Actual Date
Comments Due	11/5/2019	N/A	N/A
Replies Due	12/4/2019	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for NPRM: __ Fed. Reg. __ (_____, ____)

**Quarterly Status Report of Rate Complaint Cases Before the STB -
3RD QUARTER 2019**

There were no pending rate cases during the third quarter of 2019.

Rail Rate Cases at the STB

(1996 to Present) - Last Reviewed 9/30/2019

Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
41191	West Texas v. BNSF	Coal	SAC	5/3/1996	Rates Unreasonable
37809	McCarty Farms v. BN	Grain	SAC	8/20/1997	Rates Reasonable
41185	APS v. ATSF	Coal	SAC	4/17/1998	Rates Unreasonable
41989	Pepco v. CSX	Coal	SAC	6/18/1998	Settlement
42012	Sierra Pacific v. UP	Coal	SAC	7/17/1998	Settlement
41670	Shell Chemical v. NS	Chemical	Simplified	3/12/1999	Settlement
41295	PPL v. Conrail	Coal	SAC	5/13/1999	Settlement
42034	PSI Energy v. Soo	Coal	SAC	5/13/1999	Settlement
42022	FMC v. UP	Minerals	SAC	5/12/2000	Rates Unreasonable
42038	MN Power v. DMIR	Coal	Stipulated R/VC	1/5/2001	Settlement
42051	WPL v. UP	Coal	SAC	5/14/2002	Rates Unreasonable
42054	PPL v. BNSF	Coal	SAC	8/20/2002	Rates Reasonable
42059	Northern States v. UP	Coal	Stipulated R/VC	8/7/2003	Settlement
42077	APS v. BNSF	Coal	SAC	12/31/2003	Withdrawn
42056	TMPA v. BNSF	Coal	SAC	9/27/2004	Rates Unreasonable
42069	Duke v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42070	Duke v. CSXT	Coal	SAC	10/20/2004	Rates Reasonable
42072	Carolina Power v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42057	Xcel v. BNSF	Coal	SAC	12/14/2004	Rates Unreasonable
42058	AEP v. BNSF	Coal	SAC	3/15/2005	Rates Reasonable
42093	BP Amoco v. NS	Chemical	Simplified	6/28/2005	Settlement
42071	Otter Tail v. BNSF	Coal	SAC	1/27/2006	Rates Reasonable
42091	APS v. BNSF	Coal	SAC	2/10/2006	Settlement
42097	Albemarle v. LNW	Chemical	SAC	11/14/2006	Settlement
42098	Williams Olefins v. GTC	Chemical	Simplified	2/15/2007	Settlement
42095	KCPL v. UP	Coal	Stipulated R/VC	5/19/2008	Rates Unreasonable
42088	Western Fuels v. BNSF	Coal	SAC	2/18/2009	Rates Unreasonable
42112	E.I. Dupont v. CSX	Chemical	SAC	5/11/2009	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC	5/15/2009	Rates Reasonable
42111	Oklahoma Gas v. UP	Coal	Stipulated R/VC	7/24/2009	Rates Unreasonable
42099	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42100	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42101	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42114	U.S. Magnesium v. UP	Chemical	Three-Benchmark	1/28/2010	Rates Unreasonable
42115	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42116	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42122	NRG v. CSXT	Coal	SAC	7/8/2010	Settlement
42110	Seminole Electric v. CSXT	Coal	SAC	9/27/2010	Settlement
42113 (S1)	AEP v. UP	Coal	SAC	4/15/2011	Settlement
42128	SMEPA v. NS	Coal	SAC	8/31/2011	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC-Remand	10/26/2011	Settlement
42113	AEP v. BNSF & UP	Coal	SAC	11/22/2011	Rates Unreasonable
42132	Canexus v. BNSF	Chemical	Three-Benchmark	7/20/2012	Settlement
42127	IPA v. UP	Coal	SAC	11/2/2012	Withdrawn
42123	M&G Polymers v. CSXT	Chemical	SAC	1/7/2013	Settlement
42125	DuPont v. NS	Chemical	SAC	3/24/2014	Rates Reasonable
42130	SunBelt v. NS	Chemical	SAC	6/20/2014	Rates Reasonable
42136	IPA v. UP	Coal	SAC	10/8/2014	Settlement
42088	Western Fuels v. BNSF	Coal	SAC	6/15/2015	Settlement
42121	TPI v. CSXT	Chemical	SAC	9/14/2016	Rates Reasonable
42142	Consumers v. CSXT	Coal	SAC & Revenue Adequacy	2/7/2019	Settlement
Pending before the STB					
Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
NA					

Notes to Table:

1. SAC = Stand-Alone Cost Methodology Applied for a Hypothetical Railroad.
2. Simplified = Using a Simplified, Rather than Full-SAC, Methodology for Determining the Reasonableness of Rates as Set Forth in Coal Rate Guidelines, Nationwide, 1 I.C.C.2d 520 (1985) ([Guidelines](#)).
3. Stipulated R/VC = Parties Agreed to Use Revenue to Variable Cost (R/VC) Ratios @ 180% Level, in Lieu of Using SAC.
4. Three-Benchmark Methodology = Methodology of Seeking Relief Pursuant to the Revised Simplified Procedures as Set Forth in Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007) and any additional Sub-No. decisions.
5. Revenue Adequacy = Revenue Adequacy Constraint, as Described in [Guidelines](#).

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

Third Quarter 2019

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 2019, 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>

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<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.</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	Union Pacific Railroad Company	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

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
					Institute; American Chemistry Council; Ethanol Products, LLC d/b/a Poet Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated		NOR 42150, NOR 42152, and NOR 42144 served on 10/5/2017. 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.
12/19/2016	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	Tesoro Refining & Marketing Company LLC v. Union Pacific	NOR 42152	Unspecified	Tesoro Refining & Marketing Company LLC; Tesoro Great	Union Pacific Railroad Company	Complaint filed on 12/30/2016. Motion for abeyance received on 1/6/2017; reply and motion to

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
	obligation to compensate car owners	Railroad Company			Plains Gathering & Marketing LLC; and Dakota Prairie Refining, LLC		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 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

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							filed on 4/26/19. Rebuttal filed on 5/31/19.
7/8/2019	Unreasonable practice and violation of statutory obligation to compensate car owners	Olin Corporation v. Union Pacific Railroad Company	NOR 42164	Unspecified	Olin Corporation	Union Pacific Railroad Company	<p>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 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>
8/20/2019	Application for service under 49 U.S.C. § 11123(a) and investigation under 49 U.S.C. § 11701	Hasa, Inc. v. Union Pacific Railroad Company	NOR 42165	Saugus, California	Hasa, Inc.	Union Pacific Railroad Company	<p>Petition filed on 8/20/2019. Decision to temporarily restore and maintain rail service served on 8/21/2019. Reply received on 9/3/2019. Rebuttal received on 9/10/2019.</p> <p>By decision served on 9/18/2019, proceeding held in abeyance at the request of the parties while they negotiate.</p> <p>On 9/27/2019, joint status report and request to continue holding proceeding in abeyance and lift the Board's 8/21/2019 decision filed.</p>

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED

Third Quarter 2019

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 2019 (July 1, 2019 – September 30, 2019), the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
4/16/2019	Railroad service issue; railroad demurrage issue	Midwest	Shipper contacted RCPA regarding changes in local rail service that resulted in demurrage charges; RCPA provided informal guidance and assisted the shipper with the service issues; subsequently, the shipper advised RCPA that the railroad increased its number of weekly switches, which mitigated demurrage issues. [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
4/29/2019	Railroad demurrage issue	Midwest	Shipper sought assistance from RCPA regarding recent increases in demurrage charges; RCPA offered to provide informal assistance to the shipper and discussed the issues with the shipper's counsel; however, the shipper did not pursue direct RCPA assistance with the railroad. [Closed]	
4/30/2019	Railroad rate levels	South	Shipper contacted RCPA regarding rate increases; RCPA liaised with the railroad and other shippers affected by the increase to gather more information and improve communications between the parties. [Closed]	
5/8/2019	Railroad service issue	Midwest	Shipper contacted RCPA about a railroad's use of the shipper's private siding to store railcars pending renewal of a railroad service agreement; RCPA provided informal guidance to the shipper. [Closed]	
6/6/2019	Railroad rate levels	Midwest	Shipper reported to RCPA that its rates recently increased significantly due to rail traffic detouring over longer routes as a result of flooding; RCPA provided informal guidance to the shipper as to whether the increase was legitimate. [Closed]	
6/11/2019	Railroad service issue	Midwest	Shipper reported that its rail service was deteriorating and that local train crews were disregarding instructions provided by the shipper; RCPA contacted the shipper to request further information; however, the shipper did not follow up with RCPA. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
6/12/2019	Railroad service issue	South	Shipper sought RCPA assistance in working with a railroad, which proposed certain commercial and operational conditions on new operations at the shipper's facility; RCPA contacted the railroad on the shipper's behalf to discuss the conditions and liaised with the shipper; however, RCPA was not able to resolve the issues. [Closed]	
6/18/2019	Railroad service issue	Midwest	Shipper notified RCPA of a railroad's reduction in switching at its facility and its adverse impact upon its business; RCPA discussed the issues with the shipper, but the shipper declined RCPA's direct assistance with the railroad. [Closed]	
6/18/2019	Railroad service issue	Midwest	Shipper contacted RCPA about a railroad's reduction in switching at its facility; RCPA provided informal guidance on legal and commercial issues and informed the shipper of the opportunity to file formal comments before the Board in an ongoing proceeding related to its concerns. [Closed]	
6/25/2019	Railroad rate levels	West	Shipper contacted RCPA about a railroad's rates in comparison to rates offered by another railroad over a different route; RCPA provided informal guidance to the shipper on commercial issues, including potential reasons for the disparity between the rates, and offered to liaise with the railroads; however, the shipper did not request further assistance. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
6/26/2019	Railroad demurrage issue	West	Shipper contacted RCPA about a railroad's statement that it intended to take the shipper's spur track out of service; after further discussion with the shipper, RCPA learned of an underlying demurrage dispute; the shipper is interested in exploring the possibility of RCPA mediation in an effort to resolve the dispute; the offer for informal mediation is still pending. [Pending]	
7/9/2019	Railroad service issue	South	Shipper sought assistance from RCPA in restoring rail service to its facility, which was halted by the railroad (apparently due to track damage); RCPA raised the issue with the railroad's counsel; rail service to the shipper was restored shortly thereafter. [Closed]	
7/11/2019	Railroad demurrage issue	South	Shipper requested RCPA assistance in connection with demurrage charges arising from bunching caused by track outages and extensive re-routing of traffic; RCPA provided informal guidance to the shipper on various pathways to resolve the dispute. [Closed]	
7/16/19	Railroad service issue	Midwest	Shipper sought RCPA assistance in connection with a railcar delayed in transit due to a load shift; RCPA liaised with the railroad to facilitate movement of the car and provided railroad contact information to the shipper; RCPA monitored the status of the shipment through interchange. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
7/17/19	Railroad demurrage issue	South	Shipper requested RCPA assistance in resolving demurrage charges caused by a railroad's bunching of cars; RCPA discussed relevant logistics and commercial issues with the shipper and arranged and participated in discussions between the shipper and the railroad to resolve the matter. [Closed]	
7/19/2019	Railroad service issue	West	Short line railroad contacted RCPA about another railroad's change in its interchange schedule, which disrupted the short line's service to its customers and led to congestion in its yard; RCPA liaised with the second railroad to discuss the consequences of the change, resulting in a further modification of the schedule in order to mitigate disruptions and coordinate operations between the carriers. [Closed]	
7/23/2019	Railroad service issue; railroad demurrage issue	Midwest	Shipper informed RCPA of unreliable rail service at its facility, resulting in bunching of inbound cars and significant demurrage charges; however, the shipper stated that it did not, at the present time, want RCPA to contact the railroad. [Closed]	
7/23/2019	Railroad rate levels	Midwest	Shipper contacted RCPA about increases in a railroad's charges for providing reciprocal switching, which made other rail options uneconomic; RCPA liaised with the shipper about providing assistance; subsequently, the shipper advised that the railroad had offered more viable charges so RCPA's assistance was not needed. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
7/25/2019	Railroad service issue	South	Shipper contacted RCPA about poor rail service, onerous commercial terms, and unreturned communications from a railroad; RCPA notified the railroad of the shipper's concerns and located a new point of contact for the shipper; RCPA remained in contact with the shipper to monitor the status of the situation until the issues were resolved. [Closed]	
7/28/2019	Railroad service issue	West	Shipper sought RCPA assistance in response to a railroad's reduction of switches at its facility; RCPA liaised with the shipper and facilitated discussions between the railroad and the shipper; however, the parties were unable to agree upon an informal resolution of the dispute. [Closed]	
7/29/2019	Railroad service issue	South	Shipper requested RCPA guidance in connection with a track weight restriction that prevented the shipper from tendering fully loaded railcars; RCPA reviewed the routing with the shipper and suggested a movement that would avoid the weight restriction. [Closed]	
7/31/2019	Railroad service issue	West	Shipper contacted RCPA to discuss delays in transit and service problems in a joint-line move; RCPA discussed the service issues with the shipper and arranged a call between the railroads and the shipper; the origin railroad committed to closely monitoring the interchange to ensure fluidity. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/1/2019	Railroad service issue	West	Shipper contacted RCPA to discuss a railroad's refusal to add interchanges with another railroad that would allow the shipper to rebuild inventory that was depleted due to service disruptions; RCPA provided informal guidance to the shipper, and offered to liaise with the railroad; however, the shipper declined to pursue further RCPA assistance. [Closed]	
8/7/2019	Railroad service issue	South	Shipper sought RCPA assistance in responding to a reduction in switching at its facility; RCPA contacted the railroad to discuss the shipper's concern; the railroad advised RCPA that it would restore the number of weekly switches; however, the shipper expressed concern over the frequency of restored switches and requested that RCPA remain available. [Pending]	
8/7/2019	Railroad service issue	Midwest	Shipper requested RCPA assistance with missed switches and deteriorating rail service; RCPA contacted the shipper to discuss the issues; however, the shipper declined to pursue the issues. [Closed]	
8/9/2019	Railroad service issue	Midwest	Shipper requested RCPA assistance related to securing the disposition of loaded railcars that went into storage as a result of the consignor's bankruptcy; RCPA provided informal guidance to the shipper on potential solutions; subsequently, the shipper advised that the matter had been resolved. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/9/2019	Railroad service issue	West	Shipper contacted RCPA about a railroad's decision to withdraw a set of its private railcars from service, which reduced its on-site inventory; per the shipper's request, RCPA liaised with the railroad to elevate the shipper's concern; the railroad subsequently advised that its senior management was reaching out to the shipper to discuss the issue. [Closed]	
8/16/2019	Railroad demurrage issue	West	Shipper contacted RCPA about demurrage charges accruing at its facility that were attributable to railroad-caused bunching; however, the shipper did not request that RCPA contact the railroad; subsequently, the shipper advised that it had made progress with the railroad in having the charges reduced [Closed]	
8/20/2019	Railroad service issue; railroad demurrage issue	West	Shipper contacted RCPA about rail service issues at its facility, including missed switches and bunching, demurrage charges, and poor communication with the railroad; RCPA discussed the issues with the shipper and liaised with the railroad; subsequently, the shipper and the railroad communicated directly to work through the issues, and the shipper informed RCPA of a favorable result. [Closed]	
8/20/2019	Railroad service issue	Midwest	Shipper contacted RCPA for assistance with a delayed shipment following damage in transit; RCPA reached out to the shipper to provide assistance, but the shipper did not follow up with RCPA. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/23/2019	Railroad accessorial charges	West	Shipper contacted RCPA about accessorial charges imposed by a railroad on moving empty cars to a rail yard operated by another railroad; RCPA liaised with the shipper to get a better understanding of the issues; RCPA is working to arrange a call with all parties to discuss the shipper's concerns. [Pending]	
8/30/2019	Railroad service issue	Midwest	Shipper contacted RCPA for assistance after its serving railroad imposed a limit on the number of railcars that it would hold in the serving yard for the shipper; upon the shipper's request, RCPA liaised with the railroad about the restriction, which was modified after the railroad reviewed the shipper's typical inventory; additionally, RCPA facilitated a follow-up call between the shipper and the railroad to enhance communication going forward. [Closed]	
9/3/2019	Railroad service issue	Northeast	Shipper contacted RCPA for assistance with a delayed railcar; RCPA liaised with the railroad to expedite movement of the railcar and circled back with the shipper to confirm delivery. [Closed]	
9/6/2019	Railroad service issue	Midwest	Shipper contacted RCPA about railcars delayed at an interchange location; RCPA liaised with railroad involved to expedite interchange of the railcars. [Closed]	
9/6/2019	Railroad service issue	Midwest	Chamber of commerce contacted RCPA to discuss rail service failures impacting a local business; RCPA liaised directly with the shipper to discuss service issues and provide guidance; RCPA is remaining in contact with the shipper. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/10/2019	Railroad service issue	Northeast	Shipper contacted RCPA seeking assistance with a bad ordered railcar that was delayed in transit; RCPA liaised with the railroad to obtain information for the shipper and expedite movement of the railcar. [Closed]	
9/11/2019	Railroad service issue	South	Shipper contacted RCPA seeking assistance after a railroad delayed making repairs to its serving track; RCPA liaised with the railroad on behalf of the shipper with the result that the railroad promptly scheduled track repair in order to resume service. [Closed]	
9/12/2019	Railroad accessorial charge	Midwest	Shipper contacted RCPA seeking guidance in its dispute with a railroad over a charge assessed on an overweight car; RCPA provided informal guidance to the shipper. [Closed]	
9/13/2019	Railroad demurrage issue	West	Shipper contacted RCPA seeking assistance with a railroad demurrage dispute; RCPA offered to liaise with the railroad, but the shipper declined assistance after reaching an agreement with the railroad. [Closed]	
9/13/2019	Railroad demurrage issue	West	Shipper's representative contacted RCPA for information about options for demurrage dispute resolution; RCPA provided information about its informal processes for resolving disputes. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/18/2019	Railroad service issue	South	Shipper contacted RCPA about a railroad's limit on the number of cars that the railroad would hold in its local serving yard and related commercial issues that precluded the shipper from utilizing storage-in-transit or a nearby staging facility to hold excess inventory; RCPA discussed the issues with the shipper and provided informal guidance on pathways to resolve the problems. [Closed]	
9/19/2019	Railroad property dispute	South	A company located adjacent to a rail shipper contacted RCPA to discuss its dispute with the shipper related to a spur line that crossed its property; RCPA provided informal guidance to the company on STB jurisdiction and common carrier rail service; RCPA offered to liaise with the company's attorney to discuss the issues; subsequently, RCPA provided informal guidance to the attorney on relevant STB statutes and case law. [Closed]	
9/23/2019	Railroad accessorial charges	Midwest	Shipper contacted RCPA about a railroad's imposition of an accessorial charge related to the last-mile move of empty private railcars that were interchanged with a line-haul railroad; RCPA is gathering additional information about the charge. [Pending]	
9/24/2019	Railroad service issue	West	Shipper contacted RCPA about a railroad's reduction in its weekly switches and its efforts to mitigate demurrage and congestion by requesting special switches; the shipper requested guidance on seeking an increase in its weekly switches based on its numerous requests for special switches; RCPA is waiting for authorization from the shipper to contact the railroad. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/26/2019	Railroad rates levels	West	Shipper contacted RCPA about a railroad's rate increases on its traffic in light of the STB's recent revenue adequacy determination; RCPA provided informal guidance to the shipper on the revenue adequacy determination and discussed potential commercial factors related to the rate increases. [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 2019 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	51	6	9	16	7	12
Acquisition and Operation Exemption	1	0	1	0	0	0
Arrange Meeting	1	0	0	0	0	1
Bus Issue	2	1	1	0	0	0
Household Movers	26	2	10	7	2	5
Information-Economic Data	4	1	1	0	0	2
Information-Non Economic Request	2	1	1	0	0	0
Motor Carriers (trucks)	7	2	1	1	1	2
Pipeline	1	1	0	0	0	0
Railroad Abandonment/Loss of Service	2	0	1	0	0	1
Railroad Amtrak/Passenger Issue	1	0	0	1	0	0
Railroad Billing Dispute	1	0	1	0	0	0
Railroad Blocked Crossings	21	0	5	13	0	3
Railroad Claims	1	0	0	1	0	0
Railroad Common Carrier Obligation	4	1	3	0	0	0
Railroad Demurrage Charges	11	1	4	1	3	2
Railroad Denial of Rail Service	1	0	1	0	0	0
Railroad Embargo	1	0	0	1	0	0
Railroad Environmental Issues	3	0	1	1	0	1
Railroad Grade Crossing Issues	4	0	1	3	0	0
Railroad Hazardous Material Rules	1	0	0	0	1	0
Railroad Idling Engines/Parked Trains	2	1	0	1	0	0
Railroad Interchange Issue	1	0	0	0	1	0
Railroad Labor Issues	2	1	0	0	0	1
Railroad Locomotive Issue	1	0	0	1	0	0
Railroad Operating Authority Issue	2	1	1	0	0	0
Railroad Preemption	8	1	0	3	2	2

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Railroad Rate Levels/Increases	5	0	0	3	1	1
Railroad Reciprocal Switching	1	0	0	1	0	0
Railroad Service Issue	19	2	5	7	0	5
Railroad Stored Freight Cars	2	0	0	1	1	0
Railroad Tariff Issue	2	0	0	0	1	1
Rails to Trails	17	0	1	6	7	3
Real Estate Matter	6	3	1	0	1	1
STB Authority Question	3	0	0	1	1	1
STB Information	85	8	10	5	1	59
STB Jurisdictional Question	12	0	3	4	3	2
STB Offers of Financial Assistance (OFA)	1	0	0	1	0	0
STB Practitioners Exam	1	0	0	0	0	1
STB Procedural Assistance	54	10	13	7	4	20
STB Recordations/Security Interests on Rail Cars	9	1	0	1	1	6
STB Records Assistance	23	3	5	7	4	3
STB Webpage/Downloading Assistance	3	0	0	0	1	2
Water Carrier	2	0	0	0	1	0
Wrong Agency Calls	13	1	0	1	0	11
Other	4	0	1	0	1	2
Total	419	48	81	95	45	150

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 2019 Cases per Commodity Group*

Commodity Group	Number
Agricultural Products	13
Automobile	4
Chemicals	9
Coal	3
Empty Freight Cars	1
Forest Products	1
Hazardous Waste/Radioactive Waste	3
Household Goods	24
Industrial Products	2
Intermodal	2
Metals and Minerals	12
Municipal Waste	2
Not Specified by Shipper	5
N/A	329
Other	3
Passenger	10
TIH	1
Total	424

*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.