

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

Date: July 3, 2017

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 April 1, 2017 – June 30, 2017, the following formal service-related complaints were 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. Petitions for judicial review of those rules filed by multiple parties and ultimately consolidated in the U.S. Court of Appeals for the Eighth Circuit. Proceeding removed from abeyance by decision served 9/15/2016. Amtrak revised on-time performance data filed 10/17/2016. Decision denying a petition for reconsideration of an earlier

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<p>motion to dismiss issued 10/21/2016.</p> <p>Requests to hold the proceeding in abeyance and responses to Amtrak's on-time performance data received 10/25/2016; reply to the motion to hold in abeyance received 11/10/2016.</p> <p>Oral argument on the petitions for review of EP 726 held by the Eighth Circuit on 2/08/2017.</p>
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 7/5/2016.</p> <p>Appeal filed with the U.S. Court of Appeals for the District of Columbia Circuit 9/1/2016. Appeal ordered to be held in abeyance by the DC Circuit 1/03/2017.</p>
11/17/2014	Failure to prioritize Amtrak trains over freight trains	National Railroad Passenger Corporation— Investigation of Substandard	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 EP 726. Petitions for judicial review of those rules filed by multiple parties and ultimately

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		Performance of the Capital Limited					<p>consolidated in the U.S. Court of Appeals for the Eighth Circuit.</p> <p>Amtrak revised on-time performance data submitted 10/17/2016. Requests to hold the proceeding in abeyance and responses to Amtrak's on-time performance data received 10/25/2016; reply to the motion to hold in abeyance received 11/10/2016.</p> <p>Oral argument on the petitions for review of EP 726 held by the Eighth Circuit 2/08/2017.</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	Union Pacific Railroad Company	Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received 1/26/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. In discovery.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
					Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated		
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. Decision issued by Administrative Law Judge (ALJ) 1/18/2017, which was appealed to the Board 1/25/2017. ALJ decision affirmed by the Board 3/24/2017. Finch Paper’s supplemental opening filed 6/26/2017; CP Rail’s supplemental reply due 7/17/2017; and Finch Paper’s rebuttal due 7/31/2017.
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.	Decision holding the proceeding in abeyance pending resolution of the parties’ state law issues served 3/24/2017. Petition for reconsideration of that decision filed 4/7/2017; reply filed 4/27/2017.
12/19/2016	Unreasonable practice and violation of statutory obligation to	Valero Marketing & Supply Company v. Union Pacific	NOR 42150	Unspecified	Valero Marketing & Supply Company; and Valero Rail Partners, LLC	Union Pacific Railroad Company	Complaint filed 12/19/2016. Motion for abeyance received 1/6/2017; reply and motion to consolidate received

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
	compensate car owners	Railroad Company					1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. In discovery.
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 12/30/2016. Motion for abeyance received 1/6/2017; reply and motion to consolidate received 1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. In discovery.
1/04/2017	Unreasonable practice and petition for injunctive relief	CF Industries Sales, LLC v. Canadian National Railway Company	NOR 42151	Unspecified	CF Industries Sales, LLC	Canadian National Railway Company	Complaint filed 1/4/17. Answer filed 1/24/17. Joint motion requesting Board-sponsored mediation granted 2/6/17. Joint procedural schedule adopted 2/27/17. Mediation extended by decisions served 4/5/17, 5/5/17, 6/5/17, and 6/30/17.
2/01/2017	Petition for enforcement of merger condition to permit a railroad access	Union Pacific Corporation, Union Pacific Railroad Company & Missouri Pacific	FD 32760	Texas	BNSF Railway Company & Mission Rail Industrial Park, LLC	Union Pacific Railroad Company, BNSF Railway Company	Joint petition for enforcement filed 2/01/2017. Reply filed 5/25/17. Rebuttal and Petition for Leave filed 6/16/17.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
	to another railroad's line	Railroad Company— Control and Merger— Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company					Motion to dismiss or hold proceeding in abeyance to allow for arbitration filed 2/21/2017; replies filed 3/07/2017.

SURFACE TRANSPORTATION BOARD
 QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED
 SECOND QUARTER 2017

Date: July 3, 2017

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 April 1, 2017 through June 30, 2017, the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
11/22/2016	Railroad demurrage issue	West	Shipper expressed concern over demurrage charges related to inconsistent rail service; RCPA provided informal guidance to shipper pertaining to demurrage charges assessed by shortline serving carrier; liaised with shortline serving carrier to seek informal resolution; engaged with both parties to pursue mediation of dispute [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 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
02/27/2017	Railroad demurrage issue	Midwest	Shipper expressed concern over demurrage, resulting from railroad changing its local service plan; RCPA explained potential formal remedies before the STB and offered to liaise with serving railroad; shipper requested additional guidance on avenues for resolving dispute and RCPA provided assistance [Closed]	
02/28/2017	Railroad demurrage issue	East	Shipper presented concern over demurrage charges related to missed switches and bunching; RCPA discussed operational and commercial issues and offered to liaise with railroad; discussed dispute with railroad and its outside counsel; attempted to achieve mediated settlement [Closed]	
03/10/2017	Railroad demurrage issue	West	Shipper expressed concern over demurrage charges related to cars in transit for extended time; RCPA provided informal guidance to shipper; liaised with railroad on operational issues, resulting in service changes designed to reduce demurrage going forward [Closed]	
03/21/2017	Railroad service issue	West	Shipper raised concern over delayed movement of outbound loaded railcars, arising from congestion at interchange location and inability to reroute cars to avoid delays; RCPA conferred with shipper about operational issues and liaised with shortline to ascertain the cause and magnitude of congestion issues [Closed]	
03/22/2017	Railroad service issue	Midwest	Shipper expressed concern over dispute between railroad and rail line owner, and recent degradation in service, including potential loss of rail service; RCPA discussed formal and informal pathways for seeking assistance or relief from the Board [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
03/28/2017	Railroad service issue	South	Shipper's inbound cars are not switched in a timely manner and railroad has been unresponsive to requests for information; railroad service issues are causing production problems at shipper's plant; RCPA provided information on formal and informal options; shipper will review and follow up [Pending]	
04/03/2017	Railroad service issue	South	Shipper expressed concern over recent rail service decline; cars are often bunched at the local yard and delivered all at once; shipper's cars were also mis-weighed; RCPA provided guidance on formal and informal options; shipper will review and may seek further guidance [Closed]	
04/06/2017	Railroad service issue	West	Customer expressed concern over railroad congestion since 3rd quarter of 2016, which is causing its customers to shut down operations; RCPA provided informal guidance and offered to confer with railroad; per the shipper's direction, RCPA liaised with the railroad and the issue was resolved [Closed]	
04/14/2017	Railroad service issue	West	Shipper expressed concern over railroad cutting off rail service to its facility, related to dispute between railroad and lessor of line; shipper asked RCPA to advise railroad of its common carrier obligation; RCPA liaised with all parties involved; parties are presently in court litigation [Closed]	
04/20/2017	Railroad service issue	South	Shipper requested that shortline pull cars from storage on branch line; shortline declined request due to operational constraints; RCPA liaised with parties to facilitate movement of stored cars [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
04/24/2017	Railroad service issue	West	Shipper expressed concern over possible disruption to its business by railroad's long delay in spotting loaded cars; RCPA provided informal guidance to shipper; shipper asked RCPA to liaise directly with railroad; railroad agreed to expedite shipments [Closed]	
04/25/2017	Railroad service issue	South	Shipper expressed concern over deteriorating and unreliable service leading to delays in receiving loaded cars; RCPA per shipper's request, liaised with serving railroad and shipper; following series of communications with both parties, service improved; shipper and RCPA continue to monitor the developments, and further discussions with carrier are anticipated [Pending]	
05/02/2017	Railroad service issue	Midwest	Shipper expressed concern over railroad's excessive delays on the delivery of its railcars; shipper shut down plant while waiting for inbound cars; shipper asked RCPA to reach out to railroad; railroad explained that delays arose from improvements being made at local yard; railroad expedited delivery of railcars [Closed]	
05/05/2017	Railroad rate levels	Midwest	Shipper expressed concern over rate levels, including disparity for moving similar products and from various geographic locations; RCPA provided informal guidance on commercial and competitive factors related to rate levels, and discussed formal and informal avenues for relief [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
05/11/2017	Railroad demurrage issue	West	Shipper raised concern over demurrage charges arising from offline bunching in interline move, and problems disputing demurrage; shipper asked RCPA to discuss the issue with the railroad; RCPA facilitated further communication between the parties that resulted in a mutually agreeable outcome [Closed]	
05/15/2017	Railroad demurrage issue	South	Shipper presented concern over rail operations causing demurrage; railroad did not serve customer for several few weeks, then delivered bunched cars; accumulated cars took several days to unload because of limited capacity at shipper's plant; shipper has requested RCPA assistance in communicating with railroad [Pending]	
05/18/2017	Railroad side track agreement	Midwest	Shipper expressed concern over unfavorable terms of proposed railroad sidetrack agreement; RCPA provided perspective on typical terms and railroad practices; shipper will reach out to RCPA, as needed, during negotiations [Closed]	
05/30/2017	Railroad side track agreement; loss of service	Midwest	Shipper expressed concern over loss of service; railroad removed switch to side track after derailment, which damaged shipper's track, and railroad has not been responsive to requests to restore switch and service; shipper and railroad held RCPA-led conference call and agreed to continue discussions between themselves regarding possible rail service restoration [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
05/31/2017	Railroad demurrage issue	Northeast	Shipper expressed concern over demurrage rules becoming tighter while service windows are reduced; RCPA explained potential formal and informal remedies before the STB; offered to liaise with serving railroad; shipper declined to pursue [Closed]	
05/31/2017	Railroad service issue	Midwest	Shipper asked for RCPA assistance in on-going negotiations with railroad regarding switching at its new facility; shipper wanted to conduct switching, but would need access to railroad yard; RCPA provided informal guidance and offered to liaise with the railroad; shipper declined to pursue [Closed]	
05/31/2017	Railroad rate levels	South	Shipper expressed concern over railroad's withdrawal of rates offered; RCPA discussed commercial issues with shipper and reviewed terms of such rates; RCPA provided informal guidance and offered to liaise with the railroad; shipper declined to pursue [Closed]	
06/05/2017	Railroad service issue	Midwest	Railroad expressed concern over another railroad's reduction of number of interchanges per week; RCPA provided informal guidance; railroad will pursue discussions directly with the other railroad [Closed]	
06/06/2017	Railroad service issue	Northeast	Shipper expressed concern over railroad service changes that led to halting of unit train service; traffic is now handled in manifest service, causing increase in transit times for shipments; RCPA provided informal guidance to shipper [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
06/07/2017	Railroad service issue	Midwest	Shipper expressed concern over railroad service changes; these changes have caused major delays and unpredictable shipment arrivals; shipper is in direct consultations with the railroad; RCPA provided informal guidance [Closed]	
06/13/2017	Railroad service issue	South	Shipper voiced concern about deteriorating rail service and shortage of car supply, which have disrupted its supply chain; RCPA offered informal guidance on commercial and operational issues; and offered to liaise with railroad; shipper requested that RCPA liaise with railroad, but not disclose its identity; RCPA contacted railroad [Pending]	
06/15/2017	Railroad service issue	Midwest	Shipper relayed concerns about cars stuck at local serving yard for several days and not being switched to plant, which is threatening production; at request of shipper, RCPA has contacted railroad to ascertain service issues and secure delivery of stranded cars [Pending]	
06/19/2017	Railroad service issue	Midwest	Shipper relayed concern about serving yard congestion and dwell, and delayed delivery of inbound shipments to customer; shipper requested that RCPA liaise anonymously with railroad contacts; RCPA interceded and relayed to shipper the congestion and delays were due to railroad infrastructure improvements and that yard was now current [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
06/20/2017	Railroad service issue	Midwest	Shipper presented concern over railroad's modification to service schedules and resulting disruption to supply chain, including delays picking up and delivering cars; RCPA provided informal perspective and counseling; however, shipper did not request outreach to railroad [Closed]	
06/21/2017	Railroad service issue	Midwest	Shipper requested assistance from RCPA in dispute with railroad relating to serving tracks and maintenance and repair responsibilities, including possible acquisition of tracks; RCPA conferred with shipper to obtain additional information about commercial and operational concerns, and provided informal guidance to shipper; shipper declined RCPA's offer to engage railroad on its behalf [Closed]	
06/29/2017	Railroad service issue	West	Shortline railroad requested assistance from RCPA concerning suspension of interchange with Class I railroad; after conferring with shortline, RCPA reached out to Class I railroad to discuss issues and resumption of interchange [Pending]	
06/30/2017	Railroad service issue	South	Shipper contacted RCPA to discuss concerns over problems with switching outbound traffic and delays at interchange between bridge carrier and Class I railroads, which are disrupting its supply chain; RCPA reached out to shipper to discuss issues and explore options to improve service [Pending]	

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

2nd Quarter 2017 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	67	9	11	15	9	22
Arrange Meeting	2	1	0	1	0	0
Bus Issue	4	0	0	0	0	4
Household Movers	21	3	5	3	4	6
Information-Economic Data	12	1	1	0	2	8
Information-Non Economic Request	4	0	2	0	1	1
Motor Carriers (trucks)	7	0	0	1	1	5
Pipeline	1	0	0	0	0	1
Post CN/EJE Decision Comments	1	0	0	1	0	0
Railroad Abandonment/Loss of Service	1	0	0	0	1	0
Railroad Agricultural Contract Filing	2	0	0	1	0	1
Railroad Amtrak/Passenger Issue	3	1	0	1	1	0
Railroad Blocked Crossings	3	0	1	1	0	1
Railroad Car Supply	1	0	1	0	0	0
Railroad Common Carrier Obligation	2	0	1	0	1	0
Railroad Cost of Capital	1	0	0	0	0	1
Railroad Demurrage Charges	6	1	0	0	2	3
Railroad Embargo	3	0	0	2	0	1
Railroad Environmental Issues	3	1	0	1	1	0
Railroad Grade Crossing Issues	2	0	0	1	0	1
Railroad Idling Engines/Parked Trains	6	0	0	0	5	1
Railroad Interchange Issue	1	0	0	0	1	0
Railroad Labor Issues	1	0	1	0	0	0
Railroad Liability Issues	1	1	0	0	0	0
Railroad Noise - Airhorn, Safety, etc	1	0	0	0	0	1
Railroad Preemption	8	3	0	3	0	2

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Railroad Rate Levels/Increases	1	0	1	0	0	0
Railroad Service Issue	21	1	6	7	4	3
Railroad Side Track Agreement	2	0	0	2	0	0
Railroad Tariff Issue	1	0	1	0	0	0
Rails to Trails	7	0	0	3	2	2
Real Estate Matter	10	1	2	4	2	1
STB Authority Question	7	2	1	2	1	1
STB Fees	2	1	0	0	0	1
STB Information	43	5	5	5	3	25
STB Jurisdictional Question	11	0	0	1	2	8
STB Practitioners Exam	2	0	1	0	0	1
STB Procedural Assistance	77	13	6	14	9	34
STB Recordations or Security Interests on Rail Cars	8	0	2	4	0	2
STB Records Assistance	12	1	1	3	1	6
STB Track Exemption Issue	1	0	1	0	0	0
STB Webpage/Downloading Assistance	4	0	0	1	1	2
Water Carrier	7	1	0	0	3	2
Wrong Agency Calls	11	0	0	0	1	10
Other	10	0	2	2	0	5
Total	397	46	52	79	58	162

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

2nd Quarter 2017 Cases per Commodity Group*

Commodity Group	Number
Agricultural Products	11
Automobile	2
Chemicals	13
Construction Debris	1
Forest Products	2
Hazardous Waste/Radioactive Waste	1
Household Goods	20
Industrial Products	4
Metals and Minerals	4
Not Specified by Shipper	2
N/A	328
Other	2
Passenger	10
TIH	1
Total	401

*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.