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SERVICE DATE – SEPTEMBER 26, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42119

NORTH AMERICA FREIGHT CAR ASSOCIATION v. UNION PACIFIC RAILROAD
COMPANY

Decided: September 26, 2011

This decision grants an unopposed motion filed by the North America Freight Car Association (NAFCA) to alter the procedural schedule in this proceeding.

On April 15, 2010, NAFCA filed a complaint against Union Pacific Railroad Company (UP), alleging that provisions of Item 200-A of UP's Freight Tariff 6004 Series constitute unreasonable practices and violations of UP's common carrier obligation. On May 5, 2010, UP filed an answer to the complaint, generally denying NAFCA's allegations. By a series of decisions, the most recent served on May 13, 2011, the proceeding was held in abeyance until July 8, 2011, so that the parties could engage in informal discovery and consider mediation to resolve this dispute or narrow the issues.¹

On July 7, 2011, NAFCA: (1) filed its first amended complaint; (2) notified the Board that the parties had failed to reach a negotiated agreement and advised the Board that no further negotiations appear warranted; and (3) submitted for the Board's consideration a procedural schedule negotiated by the parties with a request for a Board order embracing the proposed procedural schedule. On July 27, 2011, UP filed an answer to NAFCA's first amended complaint. By a decision served on August 2, 2011, the Board adopted the procedural schedule jointly proposed by the parties.

On September 14, 2011, NAFCA filed a motion to alter the procedural schedule. NAFCA states that the alteration is necessary to accommodate the completion of the discovery process. NAFCA states that UP concurs with the modified procedural schedule. NAFCA requests that the Board adopt the following procedural schedule:

October 3, 2011	UP completes discovery responses
November 4, 2011	NAFCA completes discovery responses
December 5, 2011	NAFCA Opening Statement due

¹ On June 25, 2010, NAFCA filed a motion for a protective order to facilitate informal discovery, to which UP concurred. By decision served on July 12, 2010, the motion for a protective order was granted, and a protective order was adopted.

February 3, 2012
March 5, 2012

UP Reply Statement due
NAFCA Rebuttal due

The request is reasonable. The proposed alteration to the procedural schedule, agreed to by the parties, will be adopted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request to adopt the proposed procedural schedule is granted.
2. The procedural schedule set forth above is adopted.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.