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SERVICE DATE – LATE RELEASE AUGUST 23, 2016

SURFACE TRANSPORTATION BOARD

ORDER OF PRESIDING ADMINISTRATIVE LAW JUDGE SCHEDULING STATUS  
CONFERENCE ON THE RECORD

Docket No. NOR 42144

NORTH AMERICA 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 v. UNION PACIFIC RAILROAD COMPANY

Decided: August 22, 2016

On June 2, 2015, North America Freight Car Association, American Fuel & Petrochemicals Manufacturers, The Chlorine Institute, Inc., The Fertilizer Institute, and American Chemistry Council, along with Ethanol Products, LLC d/b/a POET Ethanol Products, POET Nutrition, Inc., and Cargill Incorporated (Complainants), filed an amended complaint against Union Pacific Railroad Company (UP) pursuant to 49 U.S.C. §§ 10702, 11101, 11121, 11122, 11701, and 11704, and 49 C.F.R. pt. 1111. In Count I, Complainants challenge the reasonableness of UP Tariff 6004, Item 55-C (Item 55-C), which became effective on January 1, 2015. In Count II, Complainants allege that UP's refusal to compensate Complainants for the use of their tanks cars, whether through mileage allowances or reduced line haul rates, constitutes an unreasonable practice under 49 U.S.C. § 10702 and violates 49 U.S.C. §§ 11101, 11121, and 11122. On June 22, 2015, UP filed its answer to the amended complaint.

By a decision served on February 11, 2016, the Board assigned and authorized Administrative Law Judge John P. Dring of the Federal Energy Regulatory Commission to entertain and rule upon discovery matters and to resolve all disputes concerning discovery in this proceeding. A discovery conference on outstanding discovery matters, and a follow-up status conference took place on June 23, 2016, and August 22, 2016, respectively. An oral argument to decide pending motions to compel and motions for subpoena is hereby scheduled below. Any questions pertaining to this proceeding should be directed to Judge Dring's law clerk, Obianuju (Uju) Okasi, who may be contacted at (202) 502-8131 or obianuju.okasi@ferc.gov.

It is ordered:

1. An oral argument on pending motions to compel and motions for subpoena is scheduled for September 20, 2016, at 10:00 a.m. in a hearing room to be designated at the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. This conference will be held on the record.

By the Board, John P. Dring, Administrative Law Judge.