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SERVICE DATE – MAY 13, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42119

NORTH AMERICA FREIGHT CAR ASSOCIATION v. UNION PACIFIC RAILROAD  
COMPANY

Decided: May 12, 2011

This decision extends the due date by which the parties are to file either a request for mediation or a proposed procedural schedule and holds the proceeding in abeyance until then.

On April 15, 2010, North America Freight Car Association (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 March 15, 2011, the proceeding was held in abeyance until May 9, 2011, so that the parties could engage in informal discovery and consider mediation to resolve this dispute or narrow the issues.<sup>1</sup> The parties also were directed, jointly or separately, to file either a request for mediation or a proposed procedural schedule by May 9, 2011.

In a letter filed on May 6, 2011, NAFCA requests that the Board extend the negotiation/mediation process until July 8, 2011, and that the proceeding continue to be held in abeyance. In its letter, NAFCA states that the parties recently have exchanged proposed new versions of the tariff provision at issue and hope that negotiations are reaching a dispositive point.

The request is reasonable. The due date for the parties, jointly or separately, to file either a request for mediation or, if the parties no longer wish to consider mediation, a proposed procedural schedule will be extended from May 9, 2011, to July 8, 2011, and the proceeding will be held in abeyance until that date.

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<sup>1</sup> 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.

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

It is ordered:

1. The date for the parties, jointly or separately, to file either a request for mediation or a proposed procedural schedule is extended to July 8, 2011.
2. The proceeding is held in abeyance until July 8, 2011.
3. This decision is effective on its date of service.

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