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SERVICE DATE – AUGUST 13, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42119

NORTH AMERICA FREIGHT CAR ASSOCIATION v. UNION PACIFIC RAILROAD  
COMPANY

Decided: August 12, 2010

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 decision served on June 8, 2010, the proceeding was held in abeyance until August 9, 2010, 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 August 9, 2010.

In a letter filed on August 5, 2010, NAFCA requests that the Board postpone the due date for filing either a request for mediation or a proposed procedural schedule from August 9, 2010, to September 10, 2010. In its letter, NAFCA states that UP joins in this request. NAFCA also states that the parties have exchanged data and have discussed possible areas of compromise or mediation focus. However, NAFCA notes that not all requested data has been furnished and indicates that the parties have not reached the point yet where NAFCA believes it would be prudent to terminate informal discussions and choose between mediation and litigation.

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 August 9, 2010, to September 10, 2010, 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 response date for the parties, jointly or separately, to file either a request for mediation or a proposed procedural schedule is extended to September 10, 2010.
2. The proceeding is held in abeyance until September 10, 2010.
3. This decision is effective on its date of service.

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