

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 699

ASSESSMENT OF MEDIATION AND ARBITRATION PROCEDURES

Decided: December 3, 2010

In a decision served on August 20, 2010 (August 20 decision), the Board sought input regarding measures it can implement to encourage greater use of mediation and arbitration procedures, including changes to the Board's existing rules and establishment of new rules. The Board also sought input regarding possible changes to its rules to permit the use of Board-facilitated mediation procedures without the filing of a formal complaint.

To date, the Board has received comments reflecting the views of 10 parties. In their comments, certain parties raised questions regarding the weight to be given to the comments filed by the Railroad-Shipper Transportation Advisory Council (RSTAC).¹ The Board clarifies that, if RSTAC wishes to submit a filing in this proceeding, that filing will be accorded the same consideration as comments filed by any other party.² To allow sufficient time for RSTAC, as well as any other interested parties, to file comments, we request that all such comments be submitted by March 15, 2011. Based upon all the comments received, the Board will decide whether to issue a Notice of Proposed Rulemaking (NPRM) at a later date. The Board will invite comment on the NPRM before issuance of any final rule.

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

¹ RSTAC is an advisory board established by Federal law to advise the U.S. Congress, the U.S. Department of Transportation, and the Board on issues related to rail freight, with particular attention to issues of importance to small shippers and railroads. By statute, RSTAC members are appointed by the Board's chairman. Representatives of rail customers, Class I railroads, and small railroads sit on RSTAC. The Board's members and the U.S. Secretary of Transportation are RSTAC *ex officio*, nonvoting members. (49 U.S.C. § 726)

² In its August 20 decision, the Board suggested that RSTAC submit a "report" following the submission of other comments in this docket. The Board clarifies that any filing RSTAC opts to submit in this docket is entirely within RSTAC's discretion and, as clarified above, will be accorded the same consideration as other parties' comments.

It is ordered:

1. Comments as described above are due by March 15, 2011.
2. This decision is effective on its date of service.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.