

41093
DO

SERVICE DATE – SEPTEMBER 22, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42119

NORTH AMERICA FREIGHT CAR ASSOCIATION v. UNION PACIFIC RAILROAD
COMPANY

Decided: September 21, 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 decisions served on June 8, 2010, and August 13, 2010, the proceeding was held in abeyance until September 10, 2010, so that the parties could engage in informal discovery and consider mediation to resolve this dispute or narrow the issues.¹ The parties also were directed, jointly or separately, to file either a request for mediation or a proposed procedural schedule by September 10, 2010.

In a letter filed on September 10, 2010, NAFCA requests that the Board extend the negotiation/mediation process until December 10, 2010, and that the proceeding continue to be held in abeyance. In its letter, NAFCA states that UP joins in this request. NAFCA also states that the parties have had several conversations and have agreed to explore a settlement through private negotiations or mediation. NAFCA states that UP is developing a written outline proposal and that the parties have scheduled settlement meetings for September and October.

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 September 10, 2010, to December 10, 2010, and the proceeding will be held in abeyance until that date.

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.

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 December 10, 2010.
2. The proceeding is held in abeyance until December 10, 2010.
3. This decision is effective on its date of service.

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