

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42119

NORTH AMERICA FREIGHT CAR ASSOCIATION v. UNION PACIFIC RAILROAD
COMPANY

Decided: June 8, 2010

This decision holds the proceeding in abeyance while the parties conduct informal discovery and discuss the possibility of mediation.

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.

On May 24, 2010, NAFCA and UP jointly filed a report stating that they have discussed discovery and other procedural matters, as required under 49 C.F.R. § 1111.10(a). They assert that they are interested in considering mediation to resolve this dispute or narrow the issues, but first need more information about each other's concerns. The parties note that they have exchanged informal discovery requests for that purpose.¹ They request that the requirement to file a proposed procedural schedule, which was to have been included in their report pursuant to 49 C.F.R. § 1111.10(a), be held in abeyance for 75 days.

The joint request is reasonable, and the proceeding will be held in abeyance so that the parties may engage in informal discovery and continue to consider mediation. By August 9, 2010, the parties, jointly or separately, must file either a request for mediation or, if the parties no longer wish to consider mediation, a proposed procedural schedule.

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

It is ordered:

1. The proceeding is held in abeyance until August 9, 2010.

¹ To facilitate informal discovery, the parties state that they expect to file a joint request for a protective order with the Board shortly.

2. The parties are directed to file either a request for mediation or a proposed procedural schedule by August 9, 2010, as discussed above.

3. This decision is effective on its date of service.

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