

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42119

NORTH AMERICA FREIGHT CAR ASSOCIATION v. UNION PACIFIC RAILROAD
COMPANY

Decided: August 2, 2011

This decision adopts the procedural schedule negotiated by the parties and submitted with North America Freight Car Association's (NAFCA) first amended complaint.

On April 15, 2010, 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 May 13, 2011, the proceeding was held in abeyance until July 8, 2011, 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 July 8, 2011.

On July 7, 2011, NAFCA: (1) filed its first amended complaint; (2) notified the Board that the parties had failed to reach a negotiated agreement and advised the Board that no further negotiations appear warranted; and (3) submitted for the Board's consideration a procedural schedule negotiated by the parties with a request for a Board order embracing the proposed procedural schedule. On July 27, 2011, UP filed an answer to NAFCA's first amended complaint.

The request is reasonable. The proposed procedural schedule, negotiated by the parties, will be adopted. The procedural schedule will be as follows:

July 18, 2011	Discovery begins
September 16, 2011	Discovery ends
October 31, 2011	NAFCA Opening Statement due

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.

December 21, 2011 UP Reply Statement due
January 27, 2012 NAFCA Rebuttal due

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

It is ordered:

1. NAFCA's and UP's joint request to adopt the proposed procedural schedule is granted.
2. The procedural schedule set forth above is adopted.
3. This decision is effective on its date of service.

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