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SERVICE DATE – AUGUST 20, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 699

ASSESSMENT OF MEDIATION AND ARBITRATION PROCEDURES

Decided: August 18, 2010

AGENCY: Surface Transportation Board (Board).

ACTION: Notice and Request for Comments.

SUMMARY: The Board seeks comments on matters relating to the use of mediation and arbitration as effective means of resolving disputes that are subject to the Board's jurisdiction. Depending upon the Board's assessment of the comments received, the Board may propose revisions to its current rules or propose new rules in order to encourage the use of mediation and arbitration in the resolution of disputes. If so, the proposed changes or new rules would be published and made available for review and comment in a subsequent notice.

DATES: Comments are due on October 25, 2010.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's website, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 699, 395 E Street, S.W., Washington, DC 20423-0001. Copies of written comments will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's website.

FOR FURTHER INFORMATION CONTACT: Julia Farr at 202-245-0359. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Board favors private sector resolutions of disputes as an alternative to its formal processes where possible. To that end, the Board has rules in place that allow for mediation and arbitration of matters subject to its jurisdiction. The Board's mediation rules are set forth at 49 C.F.R. §§ 1109.1, 1109.4, 1111.2, 1111.9, and 1111.10. Its arbitration rules are set forth at 49 C.F.R. §§ 1108, 1109.1, 1109.2, and 1115.8.

The Board seeks 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 seeks input regarding possible changes to its rules to permit the use of Board-facilitated mediation procedures without the filing of a formal complaint. In addition to being reviewed by the Board, the Railroad-Shipper Transportation Advisory Council (RSTAC) will review the comments and prepare a report to the Board reflecting the input of its members on this issue.¹

Based upon the comments from interested persons and RSTAC's input, the Board will decide whether to issue a Notice of Proposed Rulemaking (NPRM) at a later date. We 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.

It is ordered:

1. Comments as described above are due by October 25, 2010.
2. This decision is effective on its date of service.

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

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.)