

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

NORTH AMERICA FREIGHT CAR
ASSOCIATION

Complainant,

v.

BNSF RAILWAY COMPANY, et al

Defendants.

234573
ENTERED
Office of Proceedings
July 24, 2013
Part of
Public Record

Docket NOR 42137

JOINT MOTION TO HOLD PROCEEDING IN ABEYANCE

Pursuant to 49 C.F.R. §1117.1, Complainant North America Freight Car Association (“NAFCA”) and Defendants BNSF Railway Company, CSX Transportation, Inc., Canadian National Railway Company, The Kansas City Southern Railway Company, Norfolk Southern Railway Company, Canadian Pacific Railway Company, Union Pacific Railroad Company (“Class I Railroad Defendants”) and the Association of American Railroads (“AAR”), collectively, the “Parties,” hereby move the Board to issue an order directing that the above-captioned proceeding be held in abeyance, pending possible dismissal of NAFCA’s complaint upon the formal conclusion of the Parties’ ongoing settlement discussions. In support of this Motion, the Parties state the following:

NAFCA’s Complaint in this proceeding, filed October 9, 2012, alleges that the defendants have engaged in one or more unreasonable practices in violation of 49 U.S.C.

§10702(2) associated with the adoption of a 2011 amendment to AAR Interchange Rule 46.A.1.h., and in their processes for establishing and modifying AAR Interchange Rules generally. The Complaint also alleges the defendants have failed to establish, observe, and enforce reasonable rules and practices on car service in violation of 49 U.S.C. §11121.

After first denying a petition by the defendants to hold the proceeding in abeyance until January, 2013, the Board subsequently served a decision on March 25, 2013 that adopted a procedural schedule governing the Parties' discovery and evidentiary filings in this proceeding. The Parties have been engaged in discovery activities since the issuance of that decision.

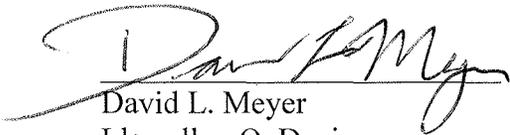
On June 21, 2013, NAFCA filed a Motion to Extend Procedural Schedule, which was unopposed by the Class I Railroad Defendants and the AAR, in which it informed the Board that representatives of some of the Parties had been engaged in discussions about the possibility of reaching a commercial resolution of this dispute. Those discussions began in April 2013. NAFCA also stated in its motion that these representatives were scheduled to meet face-to-face on June 27, 2013, to continue those discussions. As a result of that meeting and subsequent discussions, the Parties have made sufficient progress toward a commercial resolution of this dispute that they believe that the appropriate course is to hold this case in abeyance to permit the final details of a settlement to be negotiated.

Accordingly, given the status of the Parties' settlement discussions, and in the interests of efficiency and the conservation of the Parties' and the Board's resources, the Parties request that the Board hold further proceedings in this docket in abeyance, pending resolution of the Parties' ongoing settlement negotiations. Granting the Parties' request to hold this proceeding in abeyance will facilitate efforts to reach a privately negotiated resolution of this dispute and will not prejudice any of the Parties to this proceeding.

If this Motion is granted, the Parties will inform the Board by October 1, 2013 of the status of their negotiations, assuming NAFCA has not filed a motion to dismiss before that date.

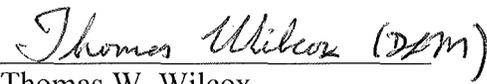
In light of the foregoing, the Parties jointly request that the Board enter an order directing that this proceeding be held in abeyance pending resolution of the Parties' settlement discussions.

Respectfully submitted,


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* Each of the Class I Railroad Defendants (counsel for which are listed below) has authorized counsel for AAR to execute this pleading on its behalf.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Joint Motion to Hold Proceeding in Abeyance has been served this 24th day of July, 2013 on counsel for each of the defendants by electronic mail and by first-class mail, postage prepaid.


Llewellyn O. Davis