



Surface Transportation Board
Washington, D.C. 20423-0001

October 1, 2018

The Honorable John Thune
Chairman
Senate Committee on Commerce, Science,
and Transportation
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member
Senate Committee on Commerce, Science,
and Transportation
716 Hart Senate Office Building
Washington, DC 20510

The Honorable Deb Fischer
Chairman
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
454 Russell Senate Office Building
Washington, DC 20510

The Honorable Gary Peters
Ranking Member
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
724 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Thune, Ranking Member Nelson, Subcommittee Chairman Fischer, and Subcommittee Ranking Member Peters:

On behalf of the Surface Transportation Board (Board), I am pleased to provide the Board's third quarter 2018 reports in accordance with the Surface Transportation Board Reauthorization Act of 2015. I will also provide an update on several matters that you may find of interest.

Two weeks ago, Union Pacific Railroad Company (UP) announced its intention to implement core tenets of so-called "precision scheduled railroading." Given UP's service challenges during this year and the serious service disruptions that occurred when CSX Transportation, Inc. implemented "precision scheduled railroading" across its network last year, the Board has requested UP to keep the Board fully informed throughout implementation of its operating changes. Later this week, the Board members and staff will be meeting with Mr. Kenny Rucker, UP Executive Vice President – Marketing and Sales, who will provide more detailed information on UP's operating plan changes. In addition, weekly phone calls between UP's senior management and staff from the Board's Rail Customer and Public Assistance (RCPA) office are already underway. As I have conveyed to you in prior letters, if your offices are contacted by rail shippers regarding any service issues, please urge them to contact the Board's RCPA office at 202-245-0238 or RCPA@stb.gov.

During the third quarter, the Board issued a notice of proposed rulemaking to update and streamline the agency's payment, filing, and service procedures. The proposed updates are intended to promote increased use of electronic filing and payment systems, reduce paper filing and service requirements on the Board and its stakeholders, and enhance the accessibility of

information relating to proceedings and functions of the Board. These updates were recommended by the Board's Regulatory Reform Task Force, which was established to review and address burdensome, unnecessary, or outdated agency rules and practices. The comment period closed last week, and the Board will be considering the comments received and determining next steps in the weeks ahead.

Also during the third quarter, the Board issued a decision on petitions for reconsideration and technical corrections filed by both parties in the rate reasonableness case, Consumers Energy Co. v. CSX Transportation, Inc., Docket No. NOR 42142. The Board (1) confirmed its finding that the rate challenged was shown to be unreasonably high under the stand-alone cost constraint; (2) confirmed its finding that the complaining shipper did not show that the defendant railroad is revenue adequate under the revenue adequacy constraint; and (3) modified the maximum reasonable rates prescribed in the underlying decision to account for changes made to resolve petitions for technical corrections and petitions for reconsideration. The parties have recently petitioned for review of the Board's decisions in the U.S. Court of Appeals for the D.C. Circuit.

On a related matter, the Board's Rate Reform Task Force is continuing its work to develop recommendations to reform and streamline the Board's rate review methodology for large cases, and to improve rate review options for smaller cases. As I mentioned in my last quarterly transmittal letter, the Task Force is meeting with stakeholders to obtain input and ideas and is available to meet with members of your staff, should they be interested.

Thank you for your continued interest in the Board and its work. If you or your staff have any questions, please contact me at 202-245-0204.

Sincerely,

A handwritten signature in blue ink that reads "Ann Begeman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Ann Begeman
Chairman

Report on Pending STB Regulatory Proceedings – September 30, 2018

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Surface Transportation Board

1. Review of the General Purpose Costing System

Popular Title: Review of the General Purpose Costing System

RIN 2140-AB14

Stage: Proposed Rule

Previous Stage: NPRM served 02/04/2013; End of Comment Period 09/05/2013; SNPRM served 08/04/2016 (published in Fed. Reg. 08/10/2016); End of Comment Period 11/07/2016.

Abstract: The Board proposes certain changes to its general purpose costing system—the Uniform Railroad Costing System (URCS). Specifically, the Board proposes in a Supplemental Notice of Proposed Rulemaking to modify certain inputs into Phase II of URCS and to modify certain cost calculations in Phase III of URCS in order to eliminate the “make-whole adjustment” in Phase III. The Board proposes certain other related changes to URCS, including proposals for locomotive unit-miles and train miles allocations, that would result in more appropriate rail movement costs.

Effects:

Paperwork Reduction Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 02/04/2013

Docket Number: EP 431 (Sub-No. 4)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	05/2017	TBD	N/A

Explanation for any delay: The previous projected target date of 01/2018 was changed to TBD in the April 2018 report. The Board has not reached a consensus on the next action.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

2. Rail Fuel Surcharges (Safe Harbor)

Popular Title: Rail Fuel Surcharges (Safe Harbor)

RIN 2140-AB17

Stage: Pre-Rule

Previous Stage: ANPRM served 05/29/2014; End of Comment Period 10/15/2014.

Abstract: The Board is giving shippers, rail carriers, and other interested parties the opportunity to comment on the Board's "safe harbor" standard, which allows carriers to rely on a Board-approved fuel index to measure changes in fuel prices for purposes of their fuel surcharge programs.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 05/29/2014

Docket Number: EP 661 (Sub-No. 2)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	09/2016	TBD	N/A

Explanation for any delay: The new projected date was modified in the January 2017 report, explaining that the Board is in a time of transition with potential changes to the Board's membership due to the changeover in administration. The new projected target date remains TBD.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

3. Expanding Access to Rate Relief

Popular Title: Expanding Access to Rate Relief

RIN 2140-AB37

Stage: Pre-Rule

Previous Stage: ANPRM served 08/31/2016; End of Comment Period 12/19/2016.

Abstract: The Board is considering procedures that could comprise a new rate reasonableness methodology for use in very small disputes, which would be available to shippers of agricultural products and all other commodities.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 08/31/2016

Docket Number: EP 665 (Sub-No. 2)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	06/2017	TBD	N/A

Explanation for any delay: The 06/2017 date for next action was established in the January 2017 report. The Board did not reach a consensus on a June Board action. The new projected target date was changed to TBD in the July 2017 report. Note, on March 28, 2018, the Board issued a decision waiving the prohibition on ex parte communications in this proceeding.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

4. Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Popular Title: Commodity Exemptions

RIN 2140-AB29

Stage: Proposed Rule

Previous Stage: NPRM served 03/23/2016; Order granting the Association of American Railroads' request for extension of time served 05/06/2016; End of Comment Period 08/26/2016.

Abstract: In this proceeding, the Board proposes to revoke the existing class exemptions under 49 C.F.R. Part 1039 for (1) crushed or broken stone or rip rap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings.

Effects:

Regulatory Flexibility Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 03/23/2016

Docket Number: EP 704 (Sub-No. 1)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	01/2017	TBD	N/A

Explanation for any delay: The new projected date was modified in the January 2017 report, explaining that the Board is in a time of transition with potential changes to the Board's membership due to the changeover in administration. The new projected target date remains TBD.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

5. Reciprocal Switching

Popular Title: Competitive Switching Rules

RIN 2140-AB32

Stage: Proposed Rule

Previous Stage: NPRM served 07/27/2016; End of Comment Period 01/13/2017.

Abstract: The Board proposes regulations which would allow a party to seek a reciprocal switching prescription that is either practicable and in the public interest or necessary to provide competitive rail service, in accordance with 49 U.S.C. § 11102(c)(1).

Effects:

None

Prompting action: Petition from the National Industrial Transportation League.

Legal Deadline: None

Rulemaking Project Initiated: 07/27/2016

Docket Number: EP 711 (Sub-No. 1)

Dates for Ex Parte Meetings:

Milestone	Scheduled Date	New Projected Date	Actual Date
Ex Parte Meetings	Beginning 01/30/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Ex Parte Meetings: N/A

Surface Transportation Board

6. Railroad Revenue Adequacy

Popular Title: Revenue Adequacy

RIN 2140-AB19

Stage: Pre-Rule

Previous Stage: Notice served 04/02/2014; End of Comment Period 11/04/2014; Hearing 07/22/2015 and 07/23/2015.

Abstract: The Board is exploring its methodology for determining railroad revenue adequacy, as well as the revenue adequacy component used in judging the reasonableness of rail freight rates.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 04/02/2014

Docket Number: EP 722

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	10/2016	TBD	N/A

Explanation for any delay: The new projected target date was modified in the April 2017 report, changing it from June 2017 to TBD, in recognition of a changeover in administration and expected changes to the Board's membership. The new projected target date remains TBD. Note, on March 28, 2018, the Board issued a decision clarifying that a prohibition on ex parte communications in this proceeding is not applicable.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

7. Payment, Filing, and Service Procedures

Popular Title: Fees and Billing

RIN 2140-AB41

Stage: Proposed Rule

Previous Stage: NPRM served 08/24/2018; End of Comment Period 9/24/2018.

Abstract: The Board proposes updating its regulations relating to methods of payment, filing procedures, electronic service of Board decisions, and fees for copying, printing, and related services. The proposed updates are intended to promote increased use of electronic filing and payment systems and result in cost savings to both the Board and the public, while enhancing the accessibility of information relating to proceedings and functions of the Board.

Effects:

None

Prompting action: Board initiative

Legal Deadline: None

Rulemaking Project Initiated: 08/24/2018

Docket Number: EP 747

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	1/2019	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Quarterly Status Report of Rate Complaint Cases Before the STB - 3RD QUARTER 2018

Docket No:	NOR 42142
Case Name:	Consumers Energy Co. v. CSX Transportation, Inc.
Commodities:	Coal

Rate Review Type (SAC, SSAC, 3-Benchmark or Other):	SAC and Revenue Adequacy
Origin(s):	Interchange with BNSF in the vicinity of Chicago, IL
Destination(s):	Campbell Generating Station near West Olive, MI

Procedural Schedule:	
Date on Which Proceeding Began:	January 13, 2015
*Discovery Completed:	July 1, 2015
Opening Evidence:	November 2, 2015 / January 23, 2017 (supplemental)
Reply Evidence:	March 7, 2016 / March 6, 2017 (supplemental)
Rebuttal Evidence:	May 20, 2016 / April 13, 2017 (supplemental)
Closing Briefs:	June 24, 2016

Merits Decision:	January 11, 2018
Petitions for Reconsideration or Reopening / Petitions for Technical Corrections	February 20, 2018
Replies to Petitions for Reconsideration or Reopening	March 12, 2018
Decision on Reconsideration and Technical Corrections	August 2, 2018

Brief Description of the Final Decisions:	
	<p>The merits decision found that (1) CSXT has market dominance over the issue traffic; (2) the rate was shown to be unreasonably high under the SAC constraint; and (3) CSXT was not shown to be revenue adequate under the revenue adequacy constraint. Rate relief was prescribed under the SAC constraint. In a subsequent decision, the Board (1) confirmed its finding that the rate challenged was shown to be unreasonably high under the SAC constraint; (2) confirmed its finding that the complaining shipper did not show that the defendant railroad is revenue adequate under the revenue adequacy constraint; and (3) modified the maximum reasonable rates prescribed in the underlying decision to account for changes made to resolve petitions for technical corrections and petitions for reconsideration.</p>

** Parties often set the schedule for discovery and do not necessarily inform the Board. This date is based on the information in the Board's possession, but may have changed.*

CONSUMERS ENERGY CO. v. CSX TRANSPORTATION, Docket No. NOR 42142

Complete Timeline (Significant Filings and Decisions Only)

Consumers Complaint	January 13, 2015
CSXT Answer	February 2, 2015
CSXT Motion to Dismiss Revenue Adequacy Claim	March 24, 2015
Consumers Reply to CSXT Motion to Dismiss	April 13, 2015
Discovery Conference	April 21, 2015
STB Decision Denying CSXT Motion to Dismiss Rev. Adeq. Claim	June 15, 2015
Technical Conference	June 23, 2015
Close of Discovery*	July 1, 2015
STB Decision Adopting Procedures for Formatting of Evidence	July 15, 2015
Discovery Conference	July 20, 2015
Consumers Opening Evidence	November 2, 2015
CSXT Reply Evidence	March 7, 2016
CSXT Reply	March 7, 2016
CSXT Workpapers	March 7, 2016
CSXT Errata Sheet	March 8, 2016
CSXT Errata Sheet	March 8, 2016
Consumers Petition for Technical Conference	March 14, 2016
STB Decision Directing CSXT to File Response to Technical Conference	March 16, 2016
CSXT Reply to Consumers Technical Conference	March 21, 2016
STB Decision Denying Request for Technical Conference	April 6, 2016
CSXT Reply and Submission of Workpapers in Response to STB Decision	April 8, 2016
Consumers Motion to Modify Procedural Schedule	April 13, 2016
CSXT Reply to Consumers Motion to Modify Procedural Schedule	April 15, 2016
STB Decision Granting in Part Consumers Motion to Modify Procedural Schedule	April 20, 2016
Consumers Workpapers	May 20, 2016
Consumers Rebuttal	May 20, 2016
Consumers Rebuttal	May 20, 2016
CSXT Confidential Errata to Reply Evidence	May 26, 2016
CSXT Errata Sheet	May 26, 2016
Consumers Reply to CSXT Errata Evidence	May 27, 2016
CSXT Letter Requesting the Board Accept Its Errata Sheet	June 1, 2016
STB Decision Directing Parties to Prepare Closing Briefs	June 3, 2016
Consumers Errata Sheet	June 3, 2016
Consumers Errata Sheet	June 3, 2016
CSXT Motion to Strike	June 24, 2016
CSXT Motion to Strike	June 24, 2016
CSXT Final Brief	June 24, 2016
CSXT Final Brief	June 24, 2016
Consumers Final Brief	June 24, 2016
Consumers Final Brief	June 24, 2016
Consumers Motion to Remove CSXT Motion to Strike	June 27, 2016
Consumers Reply to CSXT Motion to Strike	July 14, 2016
Consumers Petition for Leave to Supplement Record	July 14, 2016
CSXT Reply to Consumers Petition for Leave to Supplement Record	July 26, 2016
STB Decision Ruling on Consumers Petition for Leave to Supplement Record and CSXT Motion to Strike, and Directing Parties to File Supplemental Evidence	December 9, 2016
Consumers Supplemental Opening Evidence	January 23, 2017
CSXT Supplemental Reply Evidence	March 6, 2017
Consumers Supplemental Rebuttal Evidence	April 13, 2017
CSXT Motion to Strike	May 3, 2017
Consumers Reply to CSXT Motion to Strike	May 23, 2017
STB Decision on the Merits	January 11, 2018
CSXT Motion for an Extension of Time	January 18, 2018
STB Decision Granting CSXT Motion for an Extension of Time	January 19, 2018
Joint Petition for Technical Changes	February 20, 2018
Consumers Petition for Technical Changes	February 20, 2018
Consumers Petition for Reconsideration	February 20, 2018
CSXT Petition for Reconsideration	February 20, 2018
CSXT Reply to Consumers Petition for Technical Changes	March 12, 2018
CSXT Reply to Consumers Petition for Reconsideration	March 12, 2018
Consumers Reply to CSXT Petition for Reconsideration	March 12, 2018
STB Updated Merits Decision to Include Public Version of Market Dominance Appendix	March 14, 2018
CSXT Letter	March 19, 2018
Consumers Response to CSXT Letter	March 20, 2018
STB Decision on Reconsideration and Technical Corrections	August 2, 2018
Notice of Court Action (Consumers)	September 24, 2018
Notice of Court Action (CSXT)	September 27, 2018

* Parties often set the schedule for discovery and do not necessarily inform the Board. This date is based on the information in the Board's possession, but may have changed

Rail Rate Cases at the STB

(1996 to Present) - Last Updated 09/28/2018

Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
41191	West Texas v. BNSF	Coal	SAC	5/3/1996	Rates Unreasonable
37809	McCarty Farms v. BN	Grain	SAC	8/20/1997	Rates Reasonable
41185	APS v. ATSF	Coal	SAC	4/17/1998	Rates Unreasonable
41989	Pepco v. CSX	Coal	SAC	6/18/1998	Settlement
42012	Sierra Pacific v. UP	Coal	SAC	7/17/1998	Settlement
41670	Shell Chemical v. NS	Chemical	Simplified	3/12/1999	Settlement
41295	PPL v. Conrail	Coal	SAC	5/13/1999	Settlement
42034	PSI Energy v. Soo	Coal	SAC	5/13/1999	Settlement
42022	FMC v. UP	Minerals	SAC	5/12/2000	Rates Unreasonable
42038	MN Power v. DMIR	Coal	Stipulated R/VC	1/5/2001	Settlement
42051	WPL v. UP	Coal	SAC	5/14/2002	Rates Unreasonable
42054	PPL v. BNSF	Coal	SAC	8/20/2002	Rates Reasonable
42059	Northern States v. UP	Coal	Stipulated R/VC	8/7/2003	Settlement
42077	APS v. BNSF	Coal	SAC	12/31/2003	Withdrawn
42056	TMPA v. BNSF	Coal	SAC	9/27/2004	Rates Unreasonable
42069	Duke v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42070	Duke v. CSXT	Coal	SAC	10/20/2004	Rates Reasonable
42072	Carolina Power v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42057	Xcel v. BNSF	Coal	SAC	12/14/2004	Rates Unreasonable
42058	AEP v. BNSF	Coal	SAC	3/15/2005	Rates Reasonable
42093	BP Amoco v. NS	Chemical	Simplified	6/28/2005	Settlement
42071	Otter Tail v. BNSF	Coal	SAC	1/27/2006	Rates Reasonable
42091	APS v. BNSF	Coal	SAC	2/10/2006	Settlement
42097	Albemarle v. LNW	Chemical	SAC	11/14/2006	Settlement
42098	Williams Olefins v. GTC	Chemical	Simplified	2/15/2007	Settlement
42095	KCPL v. UP	Coal	Stipulated R/VC	5/19/2008	Rates Unreasonable
42088	Western Fuels v. BNSF	Coal	SAC	2/18/2009	Rates Unreasonable
42112	E.I. Dupont v. CSX	Chemical	SAC	5/11/2009	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC	5/15/2009	Rates Reasonable
42111	Oklahoma Gas v. UP	Coal	Stipulated R/VC	7/24/2009	Rates Unreasonable
42099	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42100	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42101	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42114	U.S. Magnesium v. UP	Chemical	Three-Benchmark	1/28/2010	Rates Unreasonable
42115	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42116	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42122	NRG v. CSXT	Coal	SAC	7/8/2010	Settlement
42110	Seminole Electric v. CSXT	Coal	SAC	9/27/2010	Settlement
42113 (S1)	AEP v. UP	Coal	SAC	4/15/2011	Settlement
42128	SMEPA v. NS	Coal	SAC	8/31/2011	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC-Remand	10/26/2011	Settlement
42113	AEP v. BNSF & UP	Coal	SAC	11/22/2011	Rates Unreasonable
42132	Canexus v. BNSF	Chemical	Three-Benchmark	7/20/2012	Settlement
42127	IPA v. UP	Coal	SAC	11/2/2012	Withdrawn
42123	M&G Polymers v. CSXT	Chemicals	SAC	1/7/2013	Settlement
42125	DuPont v. NS	Chemicals	SAC	3/24/2014	Rates Reasonable
42130	SunBelt v. NS	Chemical	SAC	6/20/2014	Rates Reasonable
42136	IPA v. UP	Coal	SAC	10/8/2014	Settlement
42088	Western Fuels v. BNSF	Coal	SAC	6/15/2015	Settlement
42121	TPI v. CSXT	Chemicals	SAC	9/14/2016	Rates Reasonable
42142	Consumers v. CSXT	Coal	SAC & Revenue Adequacy	1/11/2018	Rates Unreasonable
Pending before the STB					
Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
NA					

Notes to Table:

1. SAC = Stand-Alone Cost Methodology Applied for a Hypothetical Railroad.
2. Simplified = Using a Simplified, Rather than Full-SAC, Methodology for Determining the Reasonableness of Rates as Set Forth in Coal Rate Guidelines, Nationwide, 1 I.C.C.2d 520 (1985) ([Guidelines](#)).
3. Stipulated R/VC = Parties Agreed to Use Revenue to Variable Cost (R/VC) Ratios @ 180% Level, in Lieu of Using SAC.
4. Three-Benchmark Methodology = Methodology of Seeking Relief Pursuant to the Revised Simplified Procedures as Set Forth in Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007) and any additional Sub-No. decisions.
5. Revenue Adequacy = Revenue Adequacy Constraint, as Described in [Guidelines](#).

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

Date: September 30, 2018

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of formal service complaints received by the agency. *See* STB Reauthorization Act of 2015, Sec. 6(b), Pub. L. No. 114-110 (2015). During the July 1, 2018 – September 30, 2018 period, the following formal service-related complaints were pending:

Formal Service-Related Complaints:

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
2/27/2013	Application for terminal trackage rights	BNSF Railway Company— Terminal Trackage Rights—Kansas City Southern Railway and Union Pacific Railroad Company	FD 32760 (Sub-No. 46)	Louisiana	BNSF Railway Company	BNSF Railway Company, Union Pacific Railroad Company, Kansas City Southern Railway	<p>Decision granting BNSF’s application for terminal trackage rights served 7/5/2016.</p> <p>Appeal filed with the U.S. Court of Appeals for the District of Columbia Circuit 9/1/2016. Appeal ordered to be held in abeyance by the D.C. Circuit 1/3/2017 to allow parties to reach agreement regarding certain terms and conditions.</p> <p>BNSF filed petition to establish conditions of use and compensation on 1/12/2018. KCS filed motion to dismiss petition on 2/1/2018. Additional pleadings by BNSF, UP, and KCS filed.</p>

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<p>Decision denying KCS motion to dismiss served 5/1/2018.</p> <p>UP and KCS filed replies to BNSF's petition on 6/25/18 and BNSF and KCS filed rebuttals on 7/16/18.</p> <p>The record is under Board review.</p> <p>The parties also participated in Board-sponsored mediation. Although the mediation period expired at the end of August, the parties held another mediation session in September.</p>
3/31/2015	Unreasonable tariff and practices	North American Freight Car Association v. Union Pacific Railroad Company	NOR 42144	Nationwide	North American Freight Car Association; American Fuel & Petrochemicals Manufacturers; The Chlorine Institute; The Fertilizer Institute; American Chemistry Council; Ethanol Products, LLC d/b/a Poet Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated	Union Pacific Railroad Company	Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received 1/26/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
12/19/2016	Unreasonable practice and violation of statutory obligation to compensate car owners	Valero Marketing & Supply Company v. Union Pacific Railroad Company	NOR 42150	Unspecified	Valero Marketing & Supply Company; and Valero Rail Partners, LLC	Union Pacific Railroad Company	Complaint filed 12/19/2016. Motion for abeyance received 1/6/2017; reply and motion to consolidate received 1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150 with NOR 42152 and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.
12/30/2016	Unreasonable practice and violation of statutory obligation to compensate car owners	Tesoro Refining & Marketing Company LLC v. Union Pacific Railroad Company	NOR 42152	Unspecified	Tesoro Refining & Marketing Company LLC; Tesoro Great Plains Gathering & Marketing LLC; and Dakota Prairie Refining, LLC	Union Pacific Railroad Company	Complaint filed 12/30/2016. Motion for abeyance received 1/6/2017; reply and motion to consolidate received 1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.
8/1/2017	Unreasonable practice and violation of statutory obligation to	Arkema Inc. v. Union Pacific Railroad Company	NOR 42153	Unspecified	Arkema Inc.	Union Pacific Railroad Company	Complaint filed 8/1/2017. Union Pacific's motion to consolidate with NOR 42150, NOR 42152, and NOR 42144, received 8/9/2017; answer to

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
	compensate car owners						the complaint (8/23/2017), reply (8/29/2017), and supplement to the motion to consolidate (9/8/2017) received. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.
5/1/2018	Unreasonable practice	Central Valley Ag Grinding, Inc., and Central Valley Ag Transport, Inc. v. Modesto and Empire Traction Company	NOR 42159	California	Central Valley Ag Grinding, Inc.; and Central Valley Ag Transport, Inc.	Modesto and Empire Traction Company	<p>Complaint filed 5/1/2018. Petition for preliminary injunction and investigation filed 5/1/2018. Reply and motion to dismiss complaint filed 5/31/2018. Decision issuing preliminary injunction served 6/12/2018. Reply to the motion to dismiss filed 6/20/2018.</p> <p>Motion to dismiss denied 7/25/2018. Parties in voluntary mediation.</p> <p>Petition to reopen and for clarification filed (8/14/2018); reply filed (9/4/2018); request for leave to file a rebuttal and rebuttal filed (9/17/2018); response to rebuttal filed (9/20/2018).</p>

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED
THIRD QUARTER 2018

Date: September 30, 2018

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of informal service complaints received by the agency. *See* STB Reauthorization Act of 2015, Sec. 6(b), Pub. L. No: 114-110 (2015). During the period from July 1, 2018 through September 30, 2018, the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
4/24/2018	Railroad service issue	Midwest	Shipper contacted RCPA to discuss poor service from its serving railroad; RCPA provided the shipper with an overview of informal and formal pathways for resolving service issues; the shipper chose not to engage RCPA for additional assistance [Closed]	

¹ A table showing the quarterly inquiries received by the STB’s Rail Customer and Public Assistance (RCPA) office is attached as an Appendix to this report.

² Matters reported as “Pending” on the previous quarterly report are carried forward to the next quarterly report.

³ **Northeast:** Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania; **South:** Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas; **Midwest:** North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio; **West:** Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii.

⁴ This Quarterly Report may identify the complainant that submitted an informal complaint only upon the written consent of the complainant. Surface Transportation Board Reauthorization Act of 2015, Sec. 6(b).

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
5/18/2018	Railroad service/ancillary charges	Midwest	Shipper contacted RCPA about problems with a railroad's weighing of its railcars and assessment of overweight charges on its shipments; RCPA offered to address the concerns with the railroad; however, the shipper asked that RCPA postpone outreach until further notice; the shipper ultimately declined additional assistance [Closed]	
5/18/2018	Railroad service issue	South	Shipper contacted RCPA to discuss problems with deteriorated rail service; RCPA discussed possible solutions with the shipper and contacted the railroad to discuss the shipper's concerns [Closed]	
5/25/2018	Railroad service issue/car supply	Midwest	Shipper contacted RCPA about inadequate car supply and rail service problems; RCPA advised the shipper of its informal and formal options to address the problems, and offered to provide further assistance as needed; the shipper did not seek additional assistance [Closed]	
5/31/2018	Railroad service issue	Midwest	Shipper contacted RCPA for assistance with a railcar excessively delayed in transit; RCPA contacted the railroad, which expedited movement of car [Closed]	
6/12/2018	Railroad service issues/embargo	South	Shipper contacted RCPA for assistance moving its traffic, which was restricted due to an embargo; RCPA liaised with the railroad and assisted in obtaining service for the shipper on a permit basis; RCPA maintained oversight as the railroad ameliorated congestion issues [Closed]	
6/20/2018	Railroad service issue	West	Shipper contacted RCPA for assistance with cars being held at an interchange due to a deteriorated bridge on a connecting short line; RCPA offered to assist; however, the shipper subsequently advised that bridge repair work had commenced; RCPA was informed that the cars had been delivered [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
6/21/2018	Railroad service issue	Multiple regions	Shipper association contacted RCPA about ongoing rail service problems affecting its members; RCPA offered to meet with the association to discuss the issues and encouraged it to advise its members to contact RCPA individually [Closed]	
06/27/2017	Railroad service issue/surcharges	Northeast	Shipper contacted RCPA regarding a railcar delayed in transit and surcharges being assessed by the railroad; RCPA contacted the railroad on behalf of the shipper; the railcar was delivered [Closed]	
06/28/2017	Railroad service issue	Midwest	Shipper sought RCPA advice regarding railroad delays and reduced service at its facility; RCPA provided informal guidance on service issues; the shipper advised that it would follow up with RCPA if service did not improve; the shipper did not seek additional assistance [Closed]	
07/06/2018	Railroad service issue	Midwest	Shipper contacted RCPA seeking assistance in facilitating a meeting with a railroad to discuss rail service issues; RCPA assisted in elevating the issues and scheduling a meeting [Closed]	
07/11/2018	Railroad service issue	West	State transportation agency contacted RCPA regarding options for the state's acquisition of a short line railroad; RCPA provided informal guidance on relevant options and regulatory processes [Closed]	
07/12/2018	Railroad service issue	South	Shipper contacted RCPA to discuss deferred maintenance costs and potential service outage resulting from maintenance issues; RCPA provided guidance on relevant laws and industry practices [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
07/13/2018	Railroad service issue	Midwest	Railroad historical museum contacted RCPA to inquire about the status of a rail line and switch that once provided service to its property; RCPA liaised with the railroad that currently serves the area to understand the status and necessary steps to restore service; RCPA relayed information about the line and prospects for restoration of service to the museum [Closed]	
7/20/2018	Railroad service issue	South	Shipper contacted RCPA regarding deteriorating rail service and missed switches; RCPA liaised with the railroad and facilitated communication between the parties to improve rail service [Closed]	
7/24/2018	Railroad service issue	West	Shipper contacted RCPA for assistance with restoration of rail service following maintenance issues; RCPA provided guidance on the potential means for resolving on-going maintenance problems and offered to liaise with the railroad; the shipper chose not to pursue assistance at that time [Closed]	
7/24/2018	Railroad service issue	Midwest	Shipper contacted RCPA to request assistance with service issues on both its serving and linehaul railroads, including imposition of an embargo due to congestion; RCPA liaised with the railroads to elevate service issues and facilitate better communication [Closed]	
7/25/2018	Railroad service issue	South	Shipper contacted RCPA to request assistance with delayed railcars and missed switches on its serving and linehaul railroads; RCPA liaised with the railroads to elevate the shipper's concerns and improve overall coordination and communication [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
7/25/2018	Railroad service issue	Midwest	Shipper contacted RCPA to request assistance with missed switches and lack of communication from the railroads moving its traffic; RCPA liaised with the serving and connecting rail carriers to address service problems and resulting delays [Pending]	
7/31/2018	Railroad service issue	South	Third-party logistics provider contacted RCPA to express concern over railroad's management of its railcar fleet and associated costs for shippers; RCPA provided guidance on regulatory framework and legality of responsive actions [Closed]	
8/1/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with delayed rail shipment; RCPA liaised with the railroad to expedite the shipment and provide feedback to the shipper on service issues [Closed]	
8/3/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with delayed rail shipments; RCPA liaised with the railroad to address rail car delays [Closed]	
8/7/2018	Railroad service issue	Midwest	Shipper contacted RCPA to discuss the impact of an embargo and associated service issues with two connecting carriers; RCPA provided advice on the embargo and service issues and liaised with the railroads to provide feedback to the shipper [Closed]	
8/9/2018	Railroad service issue	South	Potential rail shipper contacted RCPA to request assistance in determining whether a location was rail-served; RCPA provided recommendations to determine whether rail service was available and offered to liaise with the railroad, but the shipper declined such assistance [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/10/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with service problems and communication issues with a railroad; RCPA liaised with the railroad to improve communication and address rail service issues [Closed]	
8/10/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with a railroad's reassessment of its storage track capacity; RCPA liaised with the railroad to review the track capacity and correct erroneous limitations on car storage [Closed]	
8/11/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance communicating with a railroad to establish rates and service; RCPA liaised with the railroad to facilitate improved communication with the shipper about its service needs and applicable rates [Closed]	
8/14/2018	Railroad service issue	South	Shipper contacted RCPA to request assistance with delayed inbound railcars; RCPA liaised with the railroad to expedite delivery of the shipper's rail cars [Closed]	
8/15/2018	Railroad service issue	West	Shippers contacted RCPA to request assistance with potential cessation of service arising from damaged track and other commercial issues; RCPA liaised with the railroads involved to elevate the shippers' concerns, resulting in a commitment from the railroads to maintain service [Closed]	
8/15/2018	Railroad service issue	Midwest	Shipper contacted RCPA to request assistance in restoring rail service at its facility; RCPA provided informal guidance on legal and commercial issues related to a request for service; in the meantime, the railroad resumed communications with the shipper to discuss operational requirements [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/20/2018	Railroad service issue	South	Shipper contacted RCPA to request assistance obtaining rail rates for specific lanes; RCPA contacted the railroad to request further communication with the shipper to address the shipper's request; the railroad stated that it would work with the shipper to clarify its response and provide rates [Closed]	
8/21/2018	Railroad service issue	West	Shipper trade association contacted RCPA to request guidance for a member facing a reduction in rail service or potential line abandonment; RCPA provided informal guidance on regulatory and commercial issues and offered to liaise with the railroad on behalf of the shipper; the shipper did not pursue additional assistance [Closed]	
8/27/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance expediting a delayed car; RCPA liaised with the railroad to ensure movement of the car and provided guidance to the shipper on railroad service regulations [Closed]	
8/27/2018	Railroad service issue	Northeast	Shipper contacted RCPA to request assistance with delays resulting from bad ordered rail car; RCPA liaised with the railroad to provide the shipper with more information on status of car repairs [Closed]	
9/5/2018	Railroad service issue	South	Shipper contacted RCPA regarding poor rail service, including delayed cars and extended transit times; RCPA addressed the issues with the railroad, which identified the source of the delays and promised improved performance [Closed]	
9/5/2018	Railroad service issue	South	Shipper contacted RCPA about increased transit times on its shipments; RCPA contacted the railroad to discuss the issues and facilitate service improvements [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/6/2018	Railroad service issue	Northeast	Shipper requested RCPA assistance to facilitate delivery of significantly delayed railcars; RCPA contacted the railroad to ascertain the status of the cars, resulting in their movement to the destination [Closed]	
9/10/2018	Railroad service issue	South	Shipper contacted RCPA about poor rail service at its facility, including bunching of inbound cars and missed switches; RCPA provided informal guidance and offered to liaise with the railroad; however, the shipper declined direct RCPA involvement [Closed]	
9/11/2018	Railroad service issue/surcharges	Midwest/West	Shipper contacted RCPA regarding newly-imposed storage fees assessed on containers dwelling in railroad-operated intermodal facilities; RCPA contacted the railroad to discuss the charges and the implications for the shipper [Pending]	
9/12/2018	Railroad service issue/rates	Northeast	Shipper sought RCPA assistance in working with a railroad to establish rates and service terms for movement of intermodal traffic to a planned transload facility; RCPA initiated contact with railroad to discuss operational and commercial issues [Pending]	
9/12/2018	Railroad service issue	Midwest	Shipper contacted RCPA about delayed railcars; RCPA liaised with the railroad to facilitate movement of the cars to destination; RCPA is monitoring the shipper's service [Pending]	
9/16/2018	Railroad service issue	Northeast	Shipper contacted RCPA about a car that was not moving after being bad-ordered by the railroad; RCPA liaised with the railroad to ascertain the car's status and facilitate the railroad's communication with the shipper about necessary repairs [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/19/2018	Railroad demurrage issue	Midwest	Shipper contacted RCPA about a demurrage charge assessed after its drayage carrier was unable to gain access to the railroad's terminal after an extended wait; RCPA offered to liaise with the railroad to discuss the issues; however, the shipper subsequently notified RCPA that the railroad had issued a credit for the amount charged [Closed]	
9/19/2018	Railroad service issue	South	Shipper contacted RCPA for assistance in having a railcar delivered from its local serving yard; RCPA contacted the railroad to request delivery of the car, resulting in the railroad switching the car the following day [Closed]	
9/21/2018	Railroad service issue	Midwest	Shipper contacted RCPA for assistance with a service issue and a loss and damage claim; RCPA provided informal guidance on the legal issues related to the loss and damage claim but the shipper declined RCPA assistance on this issue; however, per the shipper's request, RCPA contacted the railroad for purposes of discussing service issues [Pending]	
9/21/2018	Railroad service issue	Midwest	Shipper's representative contacted RCPA about inconsistent and unreliable switching service provided by its serving railroad; RCPA is in the process of setting up further discussions with the shipper to understand the specifics of the service problem [Pending]	
9/25/2018	Railroad service issue	South	Shipper contacted RCPA about missed switches at its facility; RCPA has reached out to the shipper to obtain additional information about the shipper's service and its need for assistance, going forward [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/26/2018	Railroad service issue; rail demurrage charges	South	Representative of warehouse contacted RCPA for assistance with demurrage issue resulting from bunching and missed switches; RCPA has contacted the warehouse to obtain additional information about the dispute [Pending]	

Note: A table showing the quarterly inquiries received by the STB’s Rail Customer and Public Assistance (RCPA) office is attached below as an appendix to the foregoing report.

Appendix to Quarterly Report of Informal Service Complaints

3rd Quarter 2018 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	53	3	15	8	11	16
Arrange Meeting	4	0	0	0	2	2
Bus Issue	2	0	0	0	1	1
Household Movers	30	3	10	2	4	11
Information-Economic Data	2	0	1	0	0	1
Information-Non Economic Request	8	1	1	3	1	2
Motor Carriers (trucks)	5	1	2	0	0	2
National Grain Car Council	1	0	0	0	1	0
Railroad Agricultural Contract Filing	1	0	0	1	0	0
Railroad Amtrak/Passenger Issue	4	2	1	1	0	0
Railroad Blocked Crossings	9	2	1	3	0	3
Railroad Common Carrier Obligation	1	0	0	0	0	1
Railroad Cost of Capital	1	0	0	0	0	1
Railroad Demurrage Charges	2	0	1	0	0	1
Railroad Environmental Issues	2	0	1	1	0	0
Railroad Grade Crossing Issues	5	0	0	3	2	0
Railroad Idling Engines/Parked Trains	1	0	0	0	0	1
Railroad Inter-carrier disputes	1	1	0	0	0	0
Railroad Labor Issues	2	1	0	0	0	1
Railroad Liability Issues	2	0	0	1	1	0
Railroad Locomotive Issue	1	0	0	0	0	1
Railroad Noise - Airhorn, Safety, etc	4	0	0	1	1	2
Railroad Operating Authority Issue	1	0	0	0	1	0
Railroad Preemption	4	2	0	0	2	0
Railroad Rate Levels/Increases	7	1	2	2	2	0
Railroad Reciprocal Switching	2	0	0	0	0	2
Railroad Service Issue	40	1	12	11	7	8
Railroad Side Track Agreement	2	0	0	2	0	0

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Rails to Trails	21	3	6	6	4	2
STB Authority Question	2	0	0	2	0	0
STB Fees	1	0	0	1	0	0
STB Information	42	3	4	1	4	30
STB Jurisdictional Question	5	0	0	2	0	3
STB Procedural Assistance	69	6	5	12	10	36
STB Recordations or Security Interests on Rail Cars	4	1	1	0	0	0
STB Records Assistance	14	1	1	2	1	9
STB Webpage/Downloading Assistance	2	0	0	0	1	1
Water Carrier	3	1	2	0	0	0
Wrong Agency Calls	12	1	0	0	0	11
Other	5	0	1	0	1	2
Total	373	34	67	65	57	150

U.S. Census Regions:

Northeast Region	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania
South Region	Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas
Midwest Region	North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio
West Region	Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii

Appendix to Quarterly Report of Informal Service Complaints

3rd Quarter 2018 Cases per Commodity Group*

Commodity Group	Number
Aggregates	1
Agricultural Products	25
Chemicals	11
Coal	2
Construction Materials	1
Empty Freight Cars	2
Forest Products	7
Hazardous Waste/Radioactive Waste	2
Household Goods	25
Industrial Products	8
Intermodal	2
Metals and Minerals	2
Not Specified by Shipper	1
N/A	279
Other	2
Passenger	7
Total	377

*In many cases, the commodity is not specified or material to the case, therefore the total number for this data may not equal the total number for the quarter.