



SURFACE TRANSPORTATION BOARD

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STB DENIES REQUEST TO HOLD ARBITRATION RULEMAKING PROCEEDING IN ABEYANCE; MODIFIES PROCEDURAL SCHEDULE

The Surface Transportation Board today issued a decision denying a motion to hold in abeyance the procedural schedule for the Board's proposed rulemaking to establish a voluntary arbitration program for small rate disputes. The decision also extends the deadline for reply comments in that proceeding and adjusts the procedural schedule for consideration of the proposed Final Offer Rate Review (FORR) procedure so that those related rulemaking proceedings remain on the same schedule.

In response to a joint petition filed by five Class I rail carriers, on November 15, 2021, the Board proposed a new voluntary arbitration program for small rate disputes. The Board also invited comment on modifications to the FORR procedure. On November 24, 2021, several shipper groups requested that the Board hold the arbitration rulemaking in abeyance until the petitioning carriers state whether they would participate in the proposed program if arbitrators are permitted to consider revenue adequacy, as has been proposed by the Board. The petitioning carriers separately filed a motion seeking to extend the procedural schedule for the arbitration proceeding.

As explained further in today's decision, the Board found premature the request that the rail carriers state now whether they would agree to participate in the proposed arbitration program. The Board, however, emphasized its expectation that the carriers will convey their position on the revenue adequacy issue in their comments. Comments to both the arbitration rulemaking and the FORR rulemaking continue to be due by January 14, 2022. The deadline for reply comments has been extended to April 15, 2022. Ex parte communications regarding matters related to both rulemakings are allowed until March 28, 2022.

The Board's decision in [Joint Petition for Rulemaking to Establish a Voluntary Arbitration Program for Small Rate Disputes](#), Docket No. EP 765, [Expanding Access to Rate Relief](#), Docket No. EP 665 (Sub-No. 2), and [Final Offer Rate Review](#), Docket No. EP 755, may be viewed and downloaded [here](#).

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