

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

First Quarter 2019

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 first quarter of 2019 (January 26, 2019* – March 31, 2019), the following formal service-related complaints were pending:

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	Decision granting BNSF’s application for terminal trackage rights served 7/5/2016. 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. BNSF filed petition to establish conditions of use and

* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this report covers the period from January 26, 2019, through the first quarter 2019.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<p>compensation on 1/12/2018. KCS filed motion to dismiss petition on 2/1/2018. Additional pleadings by BNSF, UP, and KCS filed. Decision denying KCS motion to dismiss served 5/1/2018.</p> <p>UP and KCS filed replies to BNSF's petition on 6/25/2018 and BNSF and KCS filed rebuttals on 7/16/2018.</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. On 10/17/2018, the Board was informed that mediation was not successful.</p> <p>By decision served on 12/7/2018, the Board directed the parties to provide additional information. The parties submitted responses on 2/4/2019, and replies on 2/25/2019.</p>
3/31/2015	Unreasonable tariff and practices	North American Freight Car Association v. Union Pacific	NOR 42144	Nationwide	North American Freight Car Association; American Fuel & Petrochemicals	Union Pacific Railroad Company	Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received 1/26/2017. Decision consolidating NOR 42150,

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		Railroad Company			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		NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/5/2017. Discovery in consolidated proceedings concluded 1/22/2019. Opening evidence filed 2/22/2019.
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 concluded 1/22/2019. Opening evidence filed 2/22/2019.
12/30/2016	Unreasonable practice and violation of statutory obligation to	Tesoro Refining & Marketing Company LLC v. Union Pacific Railroad Company	NOR 42152	Unspecified	Tesoro Refining & Marketing Company LLC; Tesoro Great Plains Gathering & Marketing 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

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	compensate car owners				and Dakota Prairie Refining, LLC		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 concluded 1/22/2019. Opening evidence filed 2/22/2019.
8/1/2017	Unreasonable practice and violation of statutory obligation to compensate car owners	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 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 concluded 1/22/2019. Opening evidence filed 2/22/2019.
5/1/2018	Unreasonable practice	Central Valley Ag Grinding, Inc., and Central Valley	NOR 42159	California	Central Valley Ag Grinding, Inc.; and Central Valley Ag Transport, Inc.	Modesto and Empire Traction Company	Complaint filed 5/1/2018. Petition for preliminary injunction and investigation filed 5/1/2018. Reply and

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		Ag Transport, Inc. v. Modesto and Empire Traction Company					<p>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.</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).</p> <p>Parties in voluntary mediation, which has been extended five times, most recently until 4/8/2019, at the parties' request.</p>
12/17/2018	Unreasonable practice and common carrier violations	Ameropan Oil Corporation v. Canadian National Railway Company	NOR 42161	Illinois	Ameropan Oil Corporation	Canadian National Railway Company	<p>Complaint filed 12/17/2018. Motion to dismiss filed 1/28/2019. Reply to motion to dismiss filed 2/6/2019.</p> <p>On 2/6/2019, Ameropan Oil Corporation filed for leave to amend the complaint to voluntarily dismiss Canadian National Railway Company and to add Illinois Central Railroad Company (a Canadian National Railway</p>

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							Company subsidiary) as the defendant.

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED

First Quarter 2019

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 first quarter of 2019 (January 26, 2019* – March 31, 2019), the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
12/5/2018	Railroad service issue	Northeast	Shipper sought RCPA assistance to resolve issues related to railcars stranded on a railroad that had ceased operations and changed ownership; RCPA provided informal guidance to the shipper on securing movement of the cars. [Closed]	

* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this report covers the period from January 26, 2019, through the first quarter 2019.

¹ A table showing the quarterly inquiries received by the STB’s Rail Customer and Public Assistance 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
12/5/2018	Railroad service issue	South	Shipper requested RCPA assistance to facilitate improvement of local service at its manufacturing facility; RCPA contacted the railroad about service problems and liaised with both parties to improve communications and service. [Closed]	
12/12/18	Railroad accessorial charge issue	West	Shipper contacted RCPA about a railroad's announcement of changes to its accessorial charges tariff, which the shipper believes will harm its business; RCPA liaised with the railroad on behalf of shipper to improve communications and facilitate a resolution. [Closed]	
2/1/2019	Railroad demurrage issue	South	Shipper contacted RCPA for assistance regarding a railroad's demurrage tariff and enforcement policy; RCPA provided informal guidance and offered to reach out to the railroad but the shipper declined further assistance. [Closed]	
2/7/2019	Railroad service issue	West	Shipper contacted RCPA with concerns and questions regarding a railroad's operational changes impacting its service and track capacity; RCPA provided informal guidance and offered to reach out to the railroad but the shipper declined further assistance. [Closed]	
2/8/2019	Railroad service issue	South	Potential shipper sought RCPA assistance in re-establishing rail service at its facility; RCPA reached out to the former serving railroad to facilitate reengagement among the parties. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
2/8/2019	Railroad rate issue; railroad accessorial charge issue	Midwest	Shipper contacted RCPA to discuss commercial issues related to rail rates and accessorial charges and impacts on business opportunities; RCPA provided informal guidance to the shipper on legal and commercial matters. [Closed]	
2/12/2019	Railroad service issue; railroad demurrage and accessorial charge issues	Midwest	Shipper contacted RCPA with concerns about its rail service following a railroad's implementation of a new operating plan as well as its changes to its demurrage and accessorial tariffs; RCPA provided informal guidance on service and charges and offered to reach out to the railroad but the shipper declined. [Closed]	
2/13/2019	Railroad demurrage issue	Midwest	Shipper was referred to RCPA to address its concerns about two railroads' changes to demurrage and accessorial tariffs and related impacts on the shipper's business; RCPA offered informal guidance on the tariffs and commercial circumstances, but the shipper declined RCPA outreach to the railroads. [Closed]	
2/13/2019	Railroad demurrage issue; railroad service issue	West	Shipper contacted RCPA to discuss the impact of a railroad's new operating plan, changes to service, and demurrage charges; RCPA liaised with the railroad on the shipper's behalf to improve communications between the parties and seek resolution of the shipper's concerns. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
2/14/2019	Railroad storage charge issue	South	Shipper was referred to RCPA with respect to its concerns about a railroad's operation of intermodal ramps during severe weather, which results in storage fees for customers whose trucks cannot reach the intermodal ramps; RCPA offered informal guidance to the shipper on the issue. [Closed]	
2/17/2019	Railroad rate issue	South	Shipper contacted RCPA to discuss a railroad's rate increase; RCPA offered to discuss the matter with the railroad, but the shipper did not seek further assistance. [Closed]	
2/18/2019	Railroad service issue	Northeast	Shipper informed RCPA that its containers were delayed at a port during transfer from vessel to rail due to equipment shortages and congestion; RCPA contacted the railroad to facilitate moving the containers, and relayed status updates to the shipper. [Closed]	
2/19/2019	Railroad service issue	Northeast	Shipper sought RCPA assistance in connection with a car lost in transit by a railroad; RCPA contacted the railroad, which located the missing car and delivered it to destination. [Closed]	
2/22/2019	Railroad service issue	Midwest	Shipper informed RCPA about sporadic locomotive shortages to pull loaded and released cars and other service delays on multiple railroads; the shipper did not request further RCPA action to address the matters. [Closed]	
2/22/2019	Railroad service issue	Northeast	Shipper sought RCPA assistance to address missed and delayed local switching; RCPA discussed the matter with the railroad and the railroad's service subsequently improved. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
2/25/2019	Railroad service issue	Midwest	Shipper asked RCPA for assistance to get a delayed train moving, which was held due to lack of locomotives; RCPA contacted the railroad, which dispatched locomotives to move the train. [Closed]	
2/26/2019	Railroad service issue	Midwest	Shipper asked RCPA for assistance with a unit train that was sitting in transit; RCPA liaised with the railroad and the train resumed its movement. [Closed]	
2/26/2019	Railroad service issue; railroad demurrage issue	South	Shipper contacted RCPA to discuss railcar delays and additional concerns regarding associated demurrage; RCPA is liaising with railroad. [Pending]	
2/28/2019	Railroad access issue	South	Public transportation district contacted RCPA to discuss the district's interchange access to certain railroads and potential restrictions; RCPA reviewed relevant documents and researched relevant transactions before the Interstate Commerce Commission and the STB and offered informal guidance on access issues. [Pending]	
3/4/2019	Railroad service issue	Midwest	Shipper contacted RCPA about delayed service, increased car cycle times, and resulting inability to utilize negotiated contract rates before they expired; RCPA contacted the railroad, which in turn communicated with the shipper; the shipper subsequently informed RCPA of a favorable resolution to the matter. [Closed]	
3/6/2019	Railroad service issue; railroad demurrage issue	Midwest	Shipper contacted RCPA about poor rail service, transit delays, and associated demurrage charges; RCPA provided general guidance to the shipper, but per the shipper's request, has not contacted railroad. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
3/7/2019	Railroad service issue	Midwest	Shipper contacted RCPA about a delayed inbound shipment of empty cars and looming plant shutdown; RCPA contacted the railroad to elevate the shipper's concerns, resulting in delivery of urgently needed cars. [Closed]	
3/7/2019	Railroad rate issue		Shortline railroad contacted RCPA about a Class I railroad's rate setting practices, which affected the shortline's customers; RCPA provided informal guidance on the practices in light of relevant STB regulations; the shortline did not request that RCPA liaise with the Class I railroad about the issue. [Closed]	
3/8/2019	Railroad service issue	Midwest	Shipper informed RCPA of a unit train that had been stopped in transit for 11 days; the shipper had already elevated the matter with the railroad and did not request that RCPA take further action. [Closed]	
3/8/2019	Railroad service issue	West	Shipper contacted RCPA to about poor rail service and missed deliveries; RCPA liaised with the railroad, resulting in subsequent service improvements. [Closed]	
3/11/2019	Railroad service issue	Midwest	Shipper requested RCPA assistance in working with a railroad to expedite movement of delayed cars; RCPA contacted the railroad on the shipper's behalf to expedite the cars. [Pending]	
3/11/2019	Railroad accessorial charge issue	Multiple	Shipper contacted RCPA about a railroad's practices and charges relating to OT-5 approval; RCPA provided informal guidance to the shipper; subsequently, the shipper advised RCPA that it was able to resolve the issues directly with the railroad. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
3/12/2019	Railroad demurrage issue	Midwest	Shipper requested RCPA assistance with congestion charges assessed by the railroad serving its facility; RCPA liaised with the railroad to discuss the circumstances related to the charges and to pursue relief for the shipper. [Closed]	
3/15/2019	Railroad service issue	Midwest	Shipper sought RCPA assistance in working with a railroad to expedite movement of delayed shipments; RCPA contacted the railroad to ask about the delays, resulting in movement of needed cars. [Closed]	
3/21/2019	Railroad access issue	South	Shipper requested RCPA assistance in determining potential competitive access options at its facility; RCPA reviewed relevant STB proceedings to explain potential interchange options available to the shipper. [Pending]	
3/21/2019	Railroad demurrage issue	West	Shipper requested assistance from RCPA related to a railroad's reduction in the shipper's storage track capacity and resulting increases in demurrage charges; RCPA provided informal guidance on operational and commercial issues and offered to liaise with the railroad; however, the shipper wished to address the matter directly with the railroad before seeking further RCPA assistance. [Closed]	
3/25/2019	Railroad demurrage issue	South	Shipper requested assistance from RCPA related to increased demurrage charges; RCPA provided informal guidance on legal and commercial issues and offered to liaise with the railroad; however, the shipper wished to address the matter directly with the railroad before seeking further RCPA assistance. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
3/28/2019	Railroad rate issue	West	Shipper contacted RCPA to discuss a railroad's proposed rate for moving carloads of hazardous material; RCPA provided informal guidance on legal and commercial issues, including rate case procedures before the STB; the shipper advised that it would follow up with RCPA, if it desires further assistance. [Closed]	
3/29/2019	Railroad service issue	Northeast	Shipper contacted RCPA about erratic and delayed rail service across several railroads, including urgently needed cars that were stuck in transit; RCPA is liaising with the railroads to expedite movement of the cars and discuss overall service issues. [Pending]	
3/29/2019	Railroad demurrage issue	Midwest	Shipper contacted RCPA about a railroad's new demurrage tariff, the process for disputing charges, and related costs for the shipper; RCPA provided informal guidance on laws and regulations related to demurrage; however, the shipper did not request that RCPA liaise directly with the railroad. [Closed]	

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

Appendix to Quarterly Report of Informal Service Complaints

1st Quarter 2019 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	47	8	14	14	4	7
Arrange Meeting	8	7	0	0	0	1
Bus Issue	3	0	0	1	1	1
Canadian Rail Regulatory Issue	1	0	0	1	0	0
Household Movers	10	1	1	2	2	3
Information-Economic Data	5	1	2	1	1	0
Information-Non Economic Request	5	0	1	3	1	0
Motor Carriers (trucks)	7	1	0	2	1	3
Pipeline	1	0	1	0	0	0
Railroad Amtrak/Passenger Issue	3	0	0	0	2	1
Railroad Blocked Crossings	27	2	2	17	0	6
Railroad Claims	2	1	0	0	1	0
Railroad Common Carrier Obligation	4	1	1	1	0	1
Railroad Demurrage Charges	13	3	3	1	4	1
Railroad Embargo	2	0	0	1	0	1
Railroad Environmental Issues	5	0	0	1	2	2
Railroad Grade Crossing Issues	3	0	1	1	0	1
Railroad Idling Engines/Parked Trains	19	1	0	1	17	0
Railroad Intermodal Service	2	1	0	1	0	0
Railroad Labor Issues	1	0	0	0	0	1
Railroad Locomotive Issue	1	0	0	0	1	0
Railroad Maintenance Issue	1	0	0	0	1	0
Railroad Miscellaneous Charges	3	0	0	1	0	2
Railroad Preemption	3	2	0	1	0	0
Railroad Rate Levels/Increases	9	0	2	2	4	1

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Railroad Reciprocal Switching	1	0	1	0	0	0
Railroad Service Issue	21	4	1	9	5	2
Railroad Side Track Agreement	1	0	1	0	0	0
Railroad Stored Freight Cars	1	0	0	1	0	0
Railroad Tariff Issue	1	0	0	1	0	0
Rails to Trails	13	0	3	6	3	1
Real Estate Matter	3	0	2	0	1	0
STB Authority Question	8	2	3	1	0	2
STB Fees	1	1	0	0	0	0
STB Information	50	3	1	2	2	42
STB Jurisdictional Question	3	0	0	0	2	1
STB Procedural Assistance	50	5	6	5	6	27
STB Recordations/Security Interests on Rail Cars	13	1	7	1	0	4
STB Records Assistance	13	2	2	2	3	4
STB Webpage/Downloading Assistance	1	0	1	0	0	0
Water Carrier	1	0	0	0	0	1
Wrong Agency Calls	4	0	0	0	0	4
Other	4	0	1	0	1	2
Total	371	47	57	80	65	122

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

1st Quarter 2019 Cases per Commodity Group*

Commodity Group	Number
Agricultural Products	21
Chemicals	6
Coal	7
Construction Debris	2
Empty Freight Cars	2
Forest Products	4
Hazardous Waste/Radioactive Waste	2
High/Wide Loads	1
Household Goods	8
Industrial Products	10
Intermodal	5
Metals and Minerals	3
Municipal Waste	3
Not Specified by Shipper	7
N/A	278
Other	5
Passenger	9
TIH	1
Total	374

*In many instances, the commodity is not specified or material to the inquiry, therefore the total number for this data may not equal the total number of inquiries for the quarter.