

**SURFACE TRANSPORTATION BOARD**  
**QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS**

Second Quarter 2020

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 second quarter of 2020, the following formal service-related complaints were pending:

<b>Complaint Received</b>	<b>Type of Complaint</b>	<b>Title</b>	<b>Docket No.</b>	<b>Geographic Region</b>	<b>Complainant</b>	<b>Carrier(s) Involved</b>	<b>Resolution/Status</b>
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 on 7/5/2016.</p> <p>Appeal filed with the U.S. Court of Appeals for the District of Columbia Circuit on 9/1/2016. Appeal ordered to be held in abeyance by the D.C. Circuit on 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. Decision denying KCS motion to dismiss served on 5/1/2018.</p>

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							<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 participated in Board-sponsored mediation in 2018. 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> <p>KCS and UP filed a joint request for Board-sponsored mediation on 6/18/2019. BNSF filed a reply to the mediation request on 6/25/2019. By decision served on 7/3/2019, the Board directed the parties to engage in Board-sponsored mediation. On 11/29/2019, the mediators informed the Board that mediation was not successful.</p> <p>By decision served 2/21/2020, the Board established conditions of use. The decision also directed the</p>

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							<p>parties to submit a joint procedural schedule to govern discovery and briefing on the remaining issues regarding compensation.</p> <p>By decision served on 4/1/2020 the Board adopted a procedural schedule jointly proposed by the parties and also granted a joint request to appoint an administrative law judge to resolve discovery disputes.</p> <p>On 4/7/2020, a second appeal was filed with the U.S. Court of Appeals for the District of Columbia Circuit.</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	<p>Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received on 1/26/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served on 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served on 10/5/2017.</p> <p>Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply</p>

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							filed on 4/26/19. Rebuttal filed on 5/31/19.
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 on 12/19/2016. Motion for abeyance received on 1/6/2017; reply and motion to consolidate received on 1/26/2017; motion to compel received on 2/24/2017. Decision consolidating NOR 42150 with NOR 42152 and NOR 42144 served on 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served on 10/05/2017.  Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
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 on 12/30/2016. Motion for abeyance received on 1/6/2017; reply and motion to consolidate received on 1/26/2017; motion to compel received on 2/24/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served on 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR

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							42152, and NOR 42144 served on 10/05/2017.  Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
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 on 8/1/2017. Union Pacific's motion to consolidate with NOR 42150, NOR 42152, and NOR 42144, received on 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 on 10/05/2017.  Discovery in consolidated proceedings concluded on 1/22/2019. Opening evidence filed on 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
7/8/2019	Unreasonable practice and violation of statutory obligation to	Olin Corporation v. Union Pacific Railroad Company	NOR 42164	Unspecified	Olin Corporation	Union Pacific Railroad Company	Complaint and motion to hold proceeding in abeyance filed on 7/8/2019. Answer, reply to motion for abeyance, and motion to dismiss received on 7/29/2019. Reply to the

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	compensate car owners						<p>motion to dismiss received on 8/14/2019.</p> <p>By decision served on 9/30/2019, the Board denied the motion to dismiss and granted the motion to hold the proceeding in abeyance.</p>
4/24/2020	Failure to provide adequate rail service; unreasonable practice; failure to provide a switch connection; and failure to provide continuous carriage of freight.	Twin City Metals, Inc. v. KET, LLC	NOR 42168	Washington	Twin City Metals, Inc. v. KET, LLC	KET, LLC	<p>Complaint filed 4/24/2020. Answer and motion for stay filed 5/13/2020. Reply to the motion for stay filed 5/15/2020. Reply to the answer filed 5/18/2020.</p> <p>By decision served 5/29/2020, the Board denied the motion for stay and directed the parties to inform the Board as to whether they would be interested in Board-sponsored mediation. After both parties agreed to mediation, by decision served 6/9/2020, the Board placed the proceeding in abeyance and initiated Board-sponsored mediation.</p>

**SURFACE TRANSPORTATION BOARD**  
**QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED**

Second Quarter 2020

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 second quarter of 2020 (April 1, 2020 – June 30, 2020), the STB received the following informal complaints<sup>1</sup>:

Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
1/17/2020	Railroad service issue	West	Shipper sought RCPA assistance working with a railroad to restore a switch connection to the shipper’s facility; RCPA provided informal guidance to the shipper on commercial and legal issues and facilitated extensive discussions between the parties; however, the parties were not able to resolve their dispute informally. <b>[Closed]</b>	

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<sup>1</sup> 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.

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

<sup>3</sup> **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.

<sup>4</sup> 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 <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
2/28/2020	Railroad service issue	Midwest	Shipper sought RCPA guidance in connection with its negotiations with a railroad regarding possible construction of a loading track; RCPA provided informal guidance to the shipper; no further assistance was requested by the shipper. <b>[Closed]</b>	
3/3/2020	Railroad service issue	Midwest	Shipper contacted RCPA to discuss its serving railroad's plan to abandon the branch line leading to its facility; RCPA provided informal guidance on the abandonment process and other regulatory issues; RCPA also provided perspective on commercial and financial issues and offered to contact another federal agency to gain information about the costs of repairing a key bridge on the branch line; no additional assistance was requested by the shipper. <b>[Closed]</b>	
3/4/2020	Railroad service issue	West	Shipper requested RCPA assistance addressing railroad service failures, including missed switches and congestion; RCPA liaised with the railroad and facilitated the exchange of service records between the parties; after RCPA's involvement, the parties initiated direct discussions to review the service issues, and no additional assistance was requested. <b>[Closed]</b>	
3/5/2020	Railroad service issue	South	Shipper requested RCPA's help in addressing railroad service problems; RCPA liaised with the railroad, which developed a service improvement plan with the shipper; the railroad's modification of its switching schedule resolved the shipper's concerns. <b>[Closed]</b>	
3/11/2020	Railroad service issue	Northeast	Shipper contacted RCPA about a service disruption following a railroad tunnel collapse and subsequent embargo; the shipper advised that it was having difficulty with the railroad re-routing its traffic; RCPA contacted the railroad about securing permits for the shipper to allow movement of its traffic; permits were issued and RCPA monitored the flow of the shipper's traffic as service normalized. <b>[Closed]</b>	



Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
3/30/2020	Railroad rate issue	West	Shipper contacted RCPA to discuss a railroad's common carrier rate proposal, in light of an impasse in negotiations to renew the parties' private rail transportation contract; RCPA provided informal guidance to the shipper on commercial issues and the STB's rate reasonableness jurisdiction; the shipper did not request further assistance. <b>[Closed]</b>	
4/2/2020	Railroad reciprocal switching	Midwest	Shipper contacted RCPA for assistance in obtaining reciprocal switching for unit trains at various facilities pursuant to a railroad's tariff; RCPA reviewed the tariff and facilitated discussions between the shipper and railroads to permit unit trains to be switched. <b>[Closed]</b>	
4/3/2020	Railroad service issue	Northeast	Shipper contacted RCPA for assistance with missed switches and poor rail service; RCPA contacted the railroad, which explained that it was experiencing crew shortages; the railroad committed to assigning additional crews to the line in order to provide consistent service to the shipper. <b>[Closed]</b>	
4/7/2020	Railroad service issue	Midwest	Shipper sought informal guidance from RCPA as to whether a railroad has an obligation to provide a minimum number of switches per week; RCPA provided informal guidance to the shipper related to the common carrier obligation and STB/ICC precedent on reasonable switching requirements. <b>[Closed]</b>	
4/9/2020	Railroad service issue	West	Shipper requested RCPA assistance in addressing poor railroad service and a reduction in switches per week; RCPA discussed the situation with the railroad, and then facilitated several calls between the shipper and the railroad, which resulted in the railroad restoring the number of switches requested by the shipper. <b>[Closed]</b>	
4/13/2020	Railroad service issue	West	Shipper sought RCPA assistance concerning a railroad's reduction in service at its facility; RCPA conferred with the railroad about the shipper's concerns; the railroad and the shipper subsequently reached an agreement which satisfied the shipper's concerns about maintaining its facility's production levels. <b>[Closed]</b>	

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4/17/2020	Railroad service issue	Midwest	Shipper contacted RCPA with questions regarding track maintenance requirements proposed by its serving railroad; RCPA provided informal guidance to the shipper on commercial and operational issues to discuss with the railroad before agreeing upon a cost-sharing plan. <b>[Closed]</b>	
4/22/2020	Railroad service issue	Midwest	Shipper sought RCPA assistance regarding service delays that the shipper believed were attributable to limited car supply at the origin manufacturing facility; RCPA liaised with the railroad to obtain information about car supply issues and relayed the information to the shipper; subsequently, the shipper advised RCPA that the delays had abated. <b>[Closed]</b>	
04/27/2020	Railroad service issue	South	A shipper's consultant advised RCPA of poor service at its client's facility; RCPA provided informal guidance to the consultant, but the consultant did not ask RCPA to intercede with the railroad; subsequently, the consultant advised RCPA that rail service had improved. <b>[Closed]</b>	
4/28/2020	Railroad service issue	West	Shipper informed RCPA of its general concerns related to cutbacks in locomotive and crew resources and possible impacts upon its service; RCPA provided informal guidance to the shipper on these issues. <b>[Closed]</b>	
4/30/2020	Railroad demurrage charges	Midwest	Shipper contacted RCPA for assistance related to significant demurrage charges arising from service issues and missed switching; RCPA reviewed data provided by the shipper and discussed the circumstances related to the charges; RCPA facilitated a discussion between the shipper and the railroad with the result that the railroad will review and re-examine the contested charges. <b>[Closed]</b>	

Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
5/5/2020	Railroad service issue	Midwest	Shipper contacted RCPA about its serving railroad's plan to reduce switching frequency at its facility; RCPA provided informal guidance to the shipper on commercial and operational issues, but the shipper declined further RCPA assistance. <b>[Closed]</b>	
5/5/2020	Railroad service issue	Midwest	Shipper contacted RCPA for assistance regarding inconsistent and unreliable rail service; RCPA contacted the railroad, which agreed to address the service issues directly with the shipper; the shipper advised that its rail service subsequently improved. <b>[Closed]</b>	
5/7/2020	Railroad service issue	West	Shipper contacted RCPA for assistance regarding its serving railroad's planned reduction in switching; RCPA provided guidance to the shipper on formal and informal pathways to address the issue and referred the shipper to recent STB decisions; the shipper did not seek additional assistance. <b>[Closed]</b>	
5/18/2020	Railroad service issue	South	Shipper's representative contacted RCPA about problems in restoring service to a facility located on a State-owned rail line; RCPA discussed potential formal and informal pathways for restoring service, and, upon request, contacted representatives of the State; RCPA also discussed the situation with the railroad that holds operating rights on the line; subsequently, RCPA was advised of progress being made in discussions to restore service to the shipper. <b>[Closed]</b>	
6/5/2020	Railroad rate issue	Northeast	Shipper contacted RCPA about rate levels proposed by a railroad, in particular the rate disparity between traffic with similar movement characteristics; RCPA discussed commercial issues with the shipper; however, while RCPA was awaiting permission to contact the railroad, the shipper subsequently advised that it had received a more favorable and consistent rate proposal. <b>[Closed]</b>	

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6/5/2020	Railroad accessorial charges	Midwest	Shipper contacted RCPA about various accessorial charges that were being imposed by its short line serving railroad; RCPA discussed the commercial circumstances with the shipper and formal and informal pathways for contesting the charges; RCPA also advised the shipper of recent STB activity in this area and provided copies of relevant decisions; the shipper did not request additional assistance. <b>[Closed]</b>	
6/8/2020	Railroad service issue	Northeast	Shipper contacted RCPA for assistance in obtaining delivery of cars that were delayed in transit; RCPA liaised with the railroad about the delays and facilitated conversations between the railroad and the shipper, resulting in delivery of the cars. <b>[Closed]</b>	
6/8/2020	Railroad service issue	West	Shipper sought RCPA assistance in addressing poor railroad service and related demurrage charges; RCPA contacted the railroad to facilitate improved communication on the issues. <b>[Pending]</b>	
6/11/2020	Railroad service issue	Midwest	Shipper contacted RCPA to express its concerns about shortages in railroad crew and power resources being available to accommodate increasing traffic demand; RCPA provided informal guidance to the shipper on current operational and commercial issues, and advised the shipper that RCPA was raising these concerns in monthly calls with Class I railroads. <b>[Closed]</b>	
6/17/2020	Railroad service issue	Midwest	Shipper's consultant contacted RCPA for assistance with significantly delayed railcars awaiting placement at the client's facility; RCPA contacted the railroad, which made delivery of the railcars. <b>[Closed]</b>	
6/18/2020	Railroad service issue; railroad demurrage issue	Midwest	Shipper sought RCPA assistance resolving a dispute with a railroad regarding demurrage charges and curtailed switching service; RCPA provided informal guidance to the shipper and contacted the railroad on the shipper's behalf. <b>[Pending]</b>	

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

### 2<sup>nd</sup> Quarter 2020 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	36	1	9	16	6	4
Household Movers	17	1	8	3	3	2
Information-Economic Data	9	4	2	0	2	1
Information-Non Economic Request	3	1	1	1	0	0
Motor Carriers (trucks)	7	1	1	2	0	3
Railroad Abandonment/Loss of Service	2	0	0	1	1	0
Railroad Billing Dispute	2	1	0	1	0	0
Railroad Blocked Crossings	3	1	1	1	0	0
Railroad Common Carrier Obligation	1	0	0	0	1	0
Railroad Competition Issues	2	0	1	0	1	0
Railroad Demurrage Charges	4	0	1	3	0	0
Railroad Environmental Issues	1	0	0	0	1	0
Railroad Hazardous Waste/Radioactive Waste	1	0	0	1	0	0
Railroad Labor Issues	2	0	1	1	0	0
Railroad Liability Issues	1	0	0	1	0	0
Railroad Maintenance Issue	1	0	0	1	0	0
Railroad Noise - Airhorn, Safety, etc	2	0	2	0	0	0
Railroad Operating Authority Issue	1	1	0	0	0	0
Railroad Preemption	3	1	0	1	1	0
Railroad Rate Levels/Increases	6	1	1	2	0	2
Railroad Reciprocal Switching	1	0	0	1	0	0
Railroad Service Issue	19	3	3	8	5	0
Railroad Side Track Agreement	1	0	0	0	0	1
Railroad Stored Freight Cars	1	0	0	0	1	0
Railroad Tariff Issue	1	0	0	0	0	1
Rails to Trails	13	3	1	5	3	1
Real Estate Matter	2	0	1	1	0	0

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
STB Authority Question	5	0	2	0	2	1
STB Fees	1	0	1	0	0	0
STB Information	32	4	11	9	3	5
STB Jurisdictional Question	5	2	0	0	2	1
STB Procedural Assistance	48	12	8	8	7	13
STB Recordations or Security Interests on Rail Cars	12	2	2	3	4	1
STB Records Assistance	11	1	1	5	0	4
STB Webpage/Downloading Assistance	9	3	0	0	2	4
Water Carrier	3	1	0	0	1	1
Wrong Agency Calls	2	0	0	1	0	1
Other	5	1	1	0	2	1
<b>Total</b>	<b>275</b>	<b>45</b>	<b>59</b>	<b>76</b>	<b>48</b>	<b>47</b>

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

### 2<sup>nd</sup> Quarter 2020 Cases per Commodity Group\*

Commodity Group	Number
Agricultural Products	11
Automobile	1
Chemicals	4
Coal	1
Forest Products	1
Hazardous Waste/Radioactive Waste	1
Household Goods	17
Industrial Products	9
Intermodal	4
Metals and Minerals	7
Not Specified by Shipper	5
N/A	208
Other	3
Passenger	3
<b>Total</b>	<b>275</b>

\*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.