



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

Office of the Chairman

January 30, 2019

The Honorable Susan Collins
Chairman
Senate Appropriations Subcommittee on
Transportation, Housing and Urban
Development, and Related Agencies
S-128, The Capitol
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Senate Appropriations Subcommittee on
Transportation, Housing and Urban
Development, and Related Agencies
S-128, The Capitol
Washington, DC 20510


Dear Chairman Collins and Ranking Member Reed:

On behalf of the Surface Transportation Board (STB or Board), I am pleased to provide the Board's fourth quarter 2018 Report on Pending STB Regulatory Proceedings in accordance with Section 15 of the Surface Transportation Board Reauthorization Act of 2015. This report, along with the quarterly reports on rate case review metrics and formal and informal service complaints, will be posted to the Board's website at <https://www.stb.gov/stb/rail/ReauthorizationAct.html>. Please note that this fourth quarter's reporting information is through December 21, 2018, the last business day before the partial government shutdown.

I am also pleased to inform you that two new Board members recently joined the agency. Following confirmation by the United States Senate on January 2, 2019, Patrick J. Fuchs was sworn in on January 17, 2019, and Martin J. Oberman was sworn in on January 22, 2019. Two Board member vacancies remain.

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,


Ann Begeman
Chairman

Fourth Quarter 2018 Report on Pending STB Regulatory Proceedings*

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* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this fourth quarter 2018 report reflects the status of pending regulatory proceedings through December 21, 2018. Scheduled actions impacted by the shutdown in two proceedings have been updated.

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 because the Board could not reach 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 was in a time of transition with potential changes to the Board's membership due to the changeover in administration.

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 2017 Board action; therefore, 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. The subject matter of this proceeding is also under review by the Board's Rate Reform Task Force.

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 was in a time of transition with potential changes to the Board's membership due to the changeover in administration.

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 06/2017 to TBD, in recognition of a changeover in administration and expected changes to the Board's membership. Note, on March 28, 2018, the Board issued a decision clarifying that a prohibition on ex parte communications in this proceeding is not applicable. The subject matter of this proceeding is also under review by the Board's Rate Reform Task Force.

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 09/24/2018.

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	3/2019	N/A

Explanation for any delay: The scheduled service date has been extended due to the partial government shutdown.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

8. Limiting Extensions of Trail Use Negotiating Periods

Popular Title: NARPO Rulemaking

RIN 2140-AB42

Stage: Proposed Rule

Previous Stage: NPRM served 10/2/2018; End of Comment Period 11/21/2018.

Abstract: The Board proposes to modify its regulations to limit the number of 180-day extensions of a trail use negotiating period to a maximum of six extensions, absent extraordinary circumstances.

Effects:

None

Prompting action: Petition for rulemaking.

Legal Deadline: None

Rulemaking Project Initiated: 06/14/2018

Docket Number: EP 749 (Sub-No. 1)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	5/2019	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

9. Water Carrier Tariff Filing Procedures

Popular Title: Water Carrier Rulemaking

RIN 2140-AB43

Stage: Proposed Rule

Previous Stage: NPRM served 12/21/2018.

Abstract: The Board proposes a new procedure for water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection, in an effort to better reflect current business practices.

Effects:

None

Prompting action: Board initiative

Legal Deadline: None

Rulemaking Project Initiated: 12/21/2018

Docket Number: EP 743

Dates for NPRM:

Milestone	Scheduled Date	New Projected Date	Actual Date
NPRM Service Date	N/A	N/A	12/21/2018
Comment Period Ends	01/25/2019	02/04/2019	N/A
Reply Period Ends	02/25/2019	03/04/2019	N/A

Explanation for any delay: The scheduled comment and reply period end dates have been tolled due to the partial government shutdown.

Federal Register Citation for NPRM: ___ Fed. Reg. ____ (Dec. __, 2018)

Quarterly Status Report of Rate Complaint Cases Before the STB - 4TH 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>

* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this fourth quarter 2018 report reflects the status of pending rate complaint proceedings through December 21, 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.

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
U.S. Court of Appeals Order Granting Unopposed Joint Motion for Abeyance to Pursue Settlement	December 18, 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 12/21/2018

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

Fourth Quarter 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 fourth quarter of 2018 (October 1 – December 21), 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 fourth quarter 2018 report reflects the status of pending formal service complaints through December 21, 2018.

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.</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	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

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
					Institute; American Chemistry Council; Ethanol Products, LLC d/b/a Poet Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated		NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.
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

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							10/05/2017. Discovery in consolidated proceedings ongoing.
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 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	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. Motion to dismiss denied 7/25/2018. Parties in voluntary mediation, which has been extended until

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<p>1/3/2019 at the parties' request.</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>
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	Complaint filed 12/17/2018.

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED

Fourth Quarter 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 fourth quarter of 2018 (October 1 – December 21), the STB received the following informal complaints¹:

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 serving railroads; RCPA liaised with the serving and connecting railroads to address service failures and resulting delays [Closed]	

* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this fourth quarter 2018 report reflects the status of informal rail service complaints through December 21, 2018.

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
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 [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, resulting in the railroad's better coordination and communication with the shipper [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 and facilitated a direct line of communication between the railroad and the shipper [Closed]	
9/12/2018	Railroad service issue/rates	Northeast	Developer sought RCPA assistance in working with two railroads to establish service and commercial terms to move freight to a planned inland port facility; RCPA assisted the developer in making contacts with the railroads to discuss operational and commercial issues, and provided informal guidance on regulatory issues [Closed]	
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 [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
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 [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 to have RCPA contact the railroad about this issue; however, per the shipper's request, RCPA contacted the railroad to discuss service issues [Closed]	
9/21/2018	Railroad service issue	Midwest	Shipper's representative contacted RCPA about inconsistent and unreliable switching being provided by its serving railroad; RCPA liaised with the railroad about the problems; service subsequently improved [Closed]	
9/25/2018	Railroad service issue	South	Shipper contacted RCPA about missed switches at its facility; RCPA notified the railroad, which addressed the service problems [Closed]	
9/25/2018 [Corrected Date]	Railroad service issue; rail demurrage charges	South	Representative of a warehouse contacted RCPA for assistance with a demurrage issue resulting from bunching and missed switches; RCPA provided guidance to the warehouse and worked with the railroad to resolve the issues [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/26/2018	Railroad competitive access	Midwest	Shipper contacted RCPA about obtaining competitive access to another railroad; RCPA provided informal guidance on commercial and legal issues related to reciprocal switching; RCPA offered to provide further informal guidance on the EP 711 rulemaking, but the shipper did not seek additional information [Closed]	
10/1/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with deteriorating rail service, including missed switches and delayed shipments; RCPA liaised with the railroad on behalf of the shipper, resulting in service improvement [Closed]	
10/2/2018	Railroad service issue	Midwest	Shipper contacted RCPA regarding rail service problems, including missed switches and wrongly-spotted cars; RCPA liaised with the railroad to facilitate better communication between the parties to coordinate switching operations [Closed]	
10/4/2018	Railroad service issue	South	Shipper requested assistance from RCPA about a railroad's threat to embargo its facility due to congestion; the railroad imposed the embargo, but then lifted it prior to any RCPA intervention [Closed]	
10/5/2018	Railroad rates	Midwest	Shipper contacted RCPA about a railroad's proposed rate increase; RCPA liaised with the railroad about the increase; however, the railroad was not willing to reconsider the increase [Closed]	
10/16/18	Railroad rates	South	Shipper contacted RCPA about a significant increase in its rates, effective in 2019; RCPA liaised with the railroad about the increase; however, the railroad declined to reconsider the increase [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
10/22/2018	Railroad service issue	South	Shipper contacted RCPA with concerns about poor rail service, including delayed cars and missed switches; RCPA contacted the railroad, which promptly delivered the delayed cars; RCPA and the shipper had discussions thereafter regarding steps to improve rail service [Closed]	
10/23/2018	Railroad service issue	Midwest	Shipper contacted RCPA about rail service problems, including missed switches and slow transit times; RCPA liaised with the railroad about the concerns; thereafter, the railroad addressed the issues directly with the shipper [Closed]	
10/25/2018	Railroad service issue	South	Shipper contacted RCPA about a shipment that was stranded in transit due to an embargo; RCPA contacted the railroad on the shipper's behalf, resulting in the railroad issuing a permit to move the cars to their destination [Closed]	
10/25/2018	Railroad service issue	Midwest	Shipper contacted RCPA about deteriorating rail service after a railroad modified its operating plan; RCPA facilitated a meeting between the shipper and the railroad to discuss and resolve service issues [Closed]	
11/1/2018	Railroad demurrage charges	South	Shipper's representative requested guidance from RCPA regarding modifications to a railroad's demurrage tariff; RCPA provided informal guidance on demurrage rules and practices and related commercial issues [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
11/2/2018	Railroad service issue	Midwest	Shipper contacted RCPA about railcars delayed in transit due to a bridge outage; RCPA liaised with the railroad and shipper to facilitate better communications regarding the status of bridge repairs [Closed]	
11/5/2018	Railroad service issue	Midwest	Shipper contacted RCPA seeking assistance with inconsistent rail service, including missed switches; RCPA liaised with the railroad to address local operational issues [Closed]	
11/5/2018	Railroad demurrage charges	South	Shipper contacted RCPA with questions and concerns regarding announced changes to a railroad's demurrage tariff; RCPA provided informal guidance on the modifications; the shipper chose not to pursue RCPA's direct assistance with the railroad [Closed]	
11/9/2018	Railroad service issue	Northeast	Shipper contacted RCPA regarding delayed movement of railcars; RCPA liaised with the railroad to expedite movement of the railcars [Closed]	
11/9/2018	Railroad service issue	West	Shipper contacted RCPA with questions about a railroad taking a spur track out of service; RCPA provided informal guidance on pathways for the shipper to maintain service [Closed]	
11/13/2018	Railroad demurrage charges	West	Shipper contacted RCPA with concerns about a railroad's announcement of changes to its demurrage tariff; RCPA provided informal guidance on commercial and legal issues; the shipper chose to not pursue RCPA outreach to the railroad [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
11/19/2018	Railroad demurrage charges	Northwest	Shipper requested assistance from RCPA in evaluating a railroad's right to apply demurrage charges; RCPA provided informal guidance on the STB's demurrage regulations and the railroad's tariff [Closed]	
11/21/2018	Railroad service issue	South	Shipper contacted RCPA to express concerns over its rail service, following several missed switches; RCPA liaised with the railroad to facilitate service improvement [Closed]	
11/29/2018	Railroad service issue; demurrage charges	South	Shipper's representative contacted RCPA with questions about the legality of a railroad's modifications to its demurrage tariff; RCPA provided informal guidance on legal and commercial issues [Closed]	
11/29/2018	Railroad rate increase	West	Shipper contacted RCPA about a railroad's rate increases, which impacted the shipper's ability to sell products into certain markets; RCPA liaised with the shipper about commercial issues and then contacted the railroad on behalf of the shipper; the railroad stated that it would contact the shipper directly to discuss rate levels [Closed]	
12/3/2018	Railroad rates	South	Shipper contacted RCPA about a railroad's plan to increase rates in 2019 and its modifications to operating practices for handling the shipper's traffic; RCPA liaised with the shipper about the issues and provided informal guidance [Closed]	
12/5/2018	Railroad service issue	Northeast	Shipper sought RCPA assistance to resolve issues related to railcars stranded on a railroad that has ceased operations and changed ownership; RCPA is providing informal guidance to the shipper [Pending]	

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 is providing informal guidance to the shipper [Pending]	
12/6/2018	Railroad service issue	Northeast	Shipper contacted RCPA about inconsistent and unreliable rail service at its facilities; RCPA discussed the issues with the shipper and described options for informal RCPA assistance; the shipper will communicate with RCPA on an as needed basis about service but did not want direct assistance at the time [Closed]	
12/12/18	Railroad accessorial charges	West	Shipper contacted RCPA about a railroad's announcement of changes to its accessorial tariffs, which the shipper believes will harm its business; RCPA contacted the railroad to discuss the shipper's concerns [Pending]	
12/15/2018	Railroad service issue	Midwest	Shipper contacted RCPA to relay concerns about railcars delayed in transit, and the railroad's refusal to grant extra switches to reduce a backlog of cars at its serving yard; the shipper did not request direct RCPA assistance and then reported that the railroad had reverted to its previous operating plan [Closed]	

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

4th Quarter 2018 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	46	6	14	10	7	9
Arrange Meeting	3	2	0	1	0	0
Bus Issue	1	0	0	0	1	0
Coal Dust	1	0	1	0	0	0
Educational	1	0	0	1	0	0
Household Movers	18	1	2	3	4	8
Information-Economic Data	4	0	1	2	0	1
Information-Non Economic Request	2	1	0	0	0	1
Motor Carriers (trucks)	5	0	1	0	0	4
Railroad Abandonment/Loss of Service	1	0	0	1	0	0
Railroad Amtrak/Passenger Issue	1	0	0	0	0	1
Railroad Billing Dispute	1	0	1	0	0	0
Railroad Blocked Crossings	40	0	0	31	0	8
Railroad Demurrage Charges	12	0	4	0	2	6
Railroad Embargo	3	0	2	1	0	0
Railroad Environmental Issues	1	1	0	0	0	0
Railroad Financial Issue	1	0	0	0	1	0
Railroad Grade Crossing Issues	3	0	1	1	0	1
Railroad Idling Engines/Parked Trains	1	0	0	1	0	0
Railroad Labor Issues	2	0	1	0	0	1
Railroad Lease of track or equipment	2	0	0	0	1	1
Railroad Liability Issues	1	0	1	0	0	0
Railroad Noise - Airhorn, Safety, etc	3	0	0	1	1	1
Railroad Operating Authority Issue	1	0	1	0	0	0
Railroad Preemption	6	2	1	1	1	1

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Railroad Private Car Mileage	1	0	0	0	0	1
Railroad Rate Levels/Increases	5	0	3	0	1	1
Railroad Reciprocal Switching	1	1	0	0	0	0
Railroad Service Issue	17	4	4	5	2	2
Railroad Tariff Issue	2	0	0	0	1	1
Rails to Trails	10	2	1	3	3	1
Real Estate Matter	4	0	1	2	0	1
STB Authority Question	4	2	0	2	0	0
STB Information	36	5	3	5	4	19
STB Jurisdictional Question	6	1	3	0	1	1
STB Procedural Assistance	50	7	12	4	7	20
STB Recordations or Security Interests on Rail Cars	3	0	0	1	1	1
STB Records Assistance	28	5	10	6	1	5
STB Webpage/Downloading Assistance	2	1	0	0	0	1
Water Carrier	6	0	1	1	0	3
Wrong Agency Calls	6	0	0	0	0	6
Other	5	1	2	1	0	1
Total	343	42	71	84	39	107

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

4th Quarter 2018 Cases per Commodity Group*

Commodity Group	Number
Aggregates	2
Agricultural Products	13
Automobile	2
Chemicals	5
Coal	3
Empty Freight Cars	6
Forest Products	5
Household Goods	14
Industrial Products	10
Intermodal	2
Metals and Minerals	2
Not Specified by Shipper	6
N/A	255
Other	12
Passenger	9
Total	346

*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.