

SURFACE TRANSPORTATION BOARD MODIFIES RULES TO IMPROVE AND EXPEDITE THE RATE REVIEW PROCESS

The Surface Transportation Board today issued a final rule in Expediting Rate Cases, Docket No. EP 733, to help improve and expedite the rate review process. The final rule is in response to Section 11 of the Surface Transportation Board Reauthorization Act of 2015, Pub. L. No. 114-110, 129 Stat. 2228 (2015), which required the Board to assess procedures for expediting court litigation that might be applied to agency rate cases.

In advance of the initiation of this proceeding, the Board held informal meetings between STB staff and interested stakeholders and issued an Advance Notice of Proposed Rulemaking on June 15, 2016, addressing comments expressed in those meetings and proposing specific amendments to agency regulations. The Board subsequently issued a Notice of Proposed Rulemaking (NPRM) on March 31, 2017, and asked for public comment. The Board's final rule addresses comments and suggestions received in response to the NPRM and discusses clarifications and modifications the STB adopted in its final rule. This rule is not the final action the Board plans to take to improve the Board's rate review processes.

Among other things, the final rule:

- establishes a 70-day "pre-complaint" period in stand-alone cost cases, beginning when the complainant files a "pre-filing notice" to notify the defendant of the rate and movement it intends to challenge and during which mandatory mediation would now occur;
- requires, in stand-alone cost cases, service of the complainant's and the defendant's initial discovery requests simultaneously with the complaint and the answer, respectively;
- institutes in all rate cases a meet-and-confer requirement prior to the filing of a motion to compel;
- standardizes certain practices with respect to evidentiary submissions; and
- establishes a new practice of appointing an STB staff person to serve as a liaison for the case and assist the parties with primarily procedural matters.

The Board's decision in Docket No EP 733 may be viewed and downloaded at the Board's website, www.stb.gov, under "E-LIBRARY / Decisions & Notices / 11 / 30 / 2017".

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