

Surface Transportation Board Chairman Roger Nober Names Clyde J. Hart, Jr. as Mediator in Rail-Rate Dispute

Surface Transportation Board Chairman Roger Nober announced today that he has named Clyde J. Hart, Jr., Esquire to mediate the recently filed railroad rate dispute between the Western Fuels Association, Inc. and the Basin Electric Power Cooperative, Inc. and The Burlington Northern and Santa Fe Railway Company.

In making today's announcement, Chairman Nober said:

"Clyde, a former Federal Maritime and Federal Motor Carrier Safety Administration Administrator, brings a wealth of experience to this case. He is scrupulously fair and will quickly earn the parties' respect. Clyde will do a good job and serve the parties and the government well."

Mr. Hart is the Vice President of Government Affairs at the American Bus Association (ABA), in which capacity he serves as the ABA's key advocate in Washington on all matters pertaining to regulation and legislation affecting the intercity bus industry.

Prior to joining the ABA, Mr. Hart served as the Acting Administrator of the Federal Motor Carrier Safety Administration of the United States Department of Transportation (DOT). From 1998 to 2001, he served as the Administrator of the United States Maritime Administration of the DOT. Mr. Hart also served as Senior Counsel of the U.S. Senate Committee on Commerce, Science and Transportation from 1994 to 1998, and as an Attorney at the former Interstate Commerce Commission from 1980 to 1994. Prior to his federal service, he was an Attorney with the Washington, D.C., law firm of Akin, Gump, Hauer and Feld.

Mr. Hart holds an M.A. in Public Policy from the George Washington University (1986), a J.D. from The Catholic University of America (1975), and a B.S. in Political Science from St. Peter's College (1972).

A fact sheet concerning mediation and the case Mr. Hart will mediate is attached.

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ATTACHMENT

FACT SHEET

Mediation at the Surface Transportation Board and the "Western Fuels Assoc. and Basin Electric Power v. Burlington Northern" Railroad-Rate Dispute

A rules change adopted by the Surface Transportation Board on April 3, 2003 in the proceeding entitled *Procedures to Expedite Resolution of Rail Rate Challenges to Be Considered under the Stand-Alone Cost Methodology*, STB Ex Parte No. 638, established mediation in railroad-rate disputes. The rules require that a party challenging the reasonableness of a rail rate before the Board must participate in mediation with the defendant railroad.

The rules provide that, upon the filing of a rail rate challenge with the STB, the agency will promptly assign a mediator to work, over a 60-day period, with the party challenging the rate and with the defendant railroad to reach a full or partial settlement of the rate dispute. The parties must include in their mediation teams at least one "principal" who has the authority to make a binding settlement on each party's behalf, and who would attend any session at which the mediator requests the principal's attendance.

Mr. Hart's appointment as mediator in the case entitled *Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. The Burlington Northern and Santa Fe Railway Company*, STB Docket No. 42088, marks the

second time the agency has used mediation in a rail-rate dispute since it adopted the new rules in Ex Parte No. 638.

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