SURFACE TRANSPORTATION BOARD QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

Date: September 30, 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 July 1, 2018 – September 30, 2018 period, the following formal service-related complaints were pending:

Formal Service-Related Complaints:

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 compensation on 1/12/2018. KCS filed motion to dismiss petition on 2/1/2018. Additional pleadings by BNSF, UP, and KCS filed.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							Decision denying KCS motion to dismiss served 5/1/2018. UP and KCS filed replies to BNSF's petition on 6/25/18 and BNSF and KCS filed rebuttals on 7/16/18. The record is under Board review. 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.
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	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 NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
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 10/05/2017. Discovery in consolidated proceedings ongoing.
8/1/2017	Unreasonable practice and violation of statutory obligation to	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

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
	compensate car owners						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. 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); response to rebuttal filed (9/20/2018).

SURFACE TRANSPORTATION BOARD

QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED THIRD QUARTER 2018

Date: September 30, 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 period from July 1, 2018 through September 30, 2018, the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
4/24/2018	Railroad service issue	Midwest	Shipper contacted RCPA to discuss poor service from its serving railroad; RCPA provided the shipper with an overview of informal and formal pathways for resolving service issues; the shipper chose not to engage RCPA for additional assistance [Closed]	

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, 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
5/18/2018	Railroad service/ancillary charges	Midwest	Shipper contacted RCPA about problems with a railroad's weighing of its railcars and assessment of overweight charges on its shipments; RCPA offered to address the concerns with the railroad; however, the shipper asked that RCPA postpone outreach until further notice; the shipper ultimately declined additional assistance [Closed]	
5/18/2018	Railroad service issue	South	Shipper contacted RCPA to discuss problems with deteriorated rail service; RCPA discussed possible solutions with the shipper and contacted the railroad to discuss the shipper's concerns [Closed]	
5/25/2018	Railroad service issue/car supply	Midwest	Shipper contacted RCPA about inadequate car supply and rail service problems; RCPA advised the shipper of its informal and formal options to address the problems, and offered to provide further assistance as needed; the shipper did not seek additional assistance [Closed]	
5/31/2018	Railroad service issue	Midwest	Shipper contacted RCPA for assistance with a railcar excessively delayed in transit; RCPA contacted the railroad, which expedited movement of car [Closed]	
6/12/2018	Railroad service issues/embargo	South	Shipper contacted RCPA for assistance moving its traffic, which was restricted due to an embargo; RCPA liaised with the railroad and assisted in obtaining service for the shipper on a permit basis; RCPA maintained oversight as the railroad ameliorated congestion issues [Closed]	
6/20/2018	Railroad service issue	West	Shipper contacted RCPA for assistance with cars being held at an interchange due to a deteriorated bridge on a connecting short line; RCPA offered to assist; however, the shipper subsequently advised that bridge repair work had commenced; RCPA was informed that the cars had been delivered [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
6/21/2018	Railroad service issue	Multiple regions	Shipper association contacted RCPA about ongoing rail service problems affecting its members; RCPA offered to meet with the association to discuss the issues and encouraged it to advise its members to contact RCPA individually [Closed]	
06/27/2017	Railroad service issue/surcharges	Northeast	Shipper contacted RCPA regarding a railcar delayed in transit and surcharges being assessed by the railroad; RCPA contacted the railroad on behalf of the shipper; the railcar was delivered [Closed]	
06/28/2017	Railroad service issue	Midwest	Shipper sought RCPA advice regarding railroad delays and reduced service at its facility; RCPA provided informal guidance on service issues; the shipper advised that it would follow up with RCPA if service did not improve; the shipper did not seek additional assistance [Closed]	
07/06/2018	Railroad service issue	Midwest	Shipper contacted RCPA seeking assistance in facilitating a meeting with a railroad to discuss rail service issues; RCPA assisted in elevating the issues and scheduling a meeting [Closed]	
07/11/2018	Railroad service issue	West	State transportation agency contacted RCPA regarding options for the state's acquisition of a short line railroad; RCPA provided informal guidance on relevant options and regulatory processes [Closed]	
07/12/2018	Railroad service issue	South	Shipper contacted RCPA to discuss deferred maintenance costs and potential service outage resulting from maintenance issues; RCPA provided guidance on relevant laws and industry practices [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
07/13/2018	Railroad service issue	Midwest	Railroad historical museum contacted RCPA to inquire about the status of a rail line and switch that once provided service to its property; RCPA liaised with the railroad that currently serves the area to understand the status and necessary steps to restore service; RCPA relayed information about the line and prospects for restoration of service to the museum [Closed]	
7/20/2018	Railroad service issue	South	Shipper contacted RCPA regarding deteriorating rail service and missed switches; RCPA liaised with the railroad and facilitated communication between the parties to improve rail service [Closed]	
7/24/2018	Railroad service issue	West	Shipper contacted RCPA for assistance with restoration of rail service following maintenance issues; RCPA provided guidance on the potential means for resolving on-going maintenance problems and offered to liaise with the railroad; the shipper chose not to pursue assistance at that time [Closed]	
7/24/2018	Railroad service issue	Midwest	Shipper contacted RCPA to request assistance with service issues on both its serving and linehaul railroads, including imposition of an embargo due to congestion; RCPA liaised with the railroads to elevate service issues and facilitate better communication [Closed]	
7/25/2018	Railroad service issue	South	Shipper contacted RCPA to request assistance with delayed railcars and missed switches on its serving and linehaul railroads; RCPA liaised with the railroads to elevate the shipper's concerns and improve overall coordination and communication [Closed]	

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 the railroads moving its traffic; RCPA liaised with the serving and connecting rail carriers to address service problems and resulting delays [Pending]	
7/31/2018	Railroad service issue	South	Third-party logistics provider contacted RCPA to express concern over railroad's management of its railcar fleet and associated costs for shippers; RCPA provided guidance on regulatory framework and legality of responsive actions [Closed]	
8/1/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with delayed rail shipment; RCPA liaised with the railroad to expedite the shipment and provide feedback to the shipper on service issues [Closed]	
8/3/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with delayed rail shipments; RCPA liaised with the railroad to address rail car delays [Closed]	
8/7/2018	Railroad service issue	Midwest	Shipper contacted RCPA to discuss the impact of an embargo and associated service issues with two connecting carriers; RCPA provided advice on the embargo and service issues and liaised with the railroads to provide feedback to the shipper [Closed]	
8/9/2018	Railroad service issue	South	Potential rail shipper contacted RCPA to request assistance in determining whether a location was rail-served; RCPA provided recommendations to determine whether rail service was available and offered to liaise with the railroad, but the shipper declined such assistance [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/10/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with service problems and communication issues with a railroad; RCPA liaised with the railroad to improve communication and address rail service issues [Closed]	
8/10/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with a railroad's reassessment of its storage track capacity; RCPA liaised with the railroad to review the track capacity and correct erroneous limitations on car storage [Closed]	
8/11/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance communicating with a railroad to establish rates and service; RCPA liaised with the railroad to facilitate improved communication with the shipper about its service needs and applicable rates [Closed]	
8/14/2018	Railroad service issue	South	Shipper contacted RCPA to request assistance with delayed inbound railcars; RCPA liaised with the railroad to expedite delivery of the shipper's rail cars [Closed]	
8/15/2018	Railroad service issue	West	Shippers contacted RCPA to request assistance with potential cessation of service arising from damaged track and other commercial issues; RCPA liaised with the railroads involved to elevate the shippers' concerns, resulting in a commitment from the railroads to maintain service [Closed]	
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 [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
8/20/2018	Railroad service issue	South	Shipper contacted RCPA to request assistance obtaining rail rates for specific lanes; RCPA contacted the railroad to request further communication with the shipper to address the shipper's request; the railroad stated that it would work with the shipper to clarify its response and provide rates [Closed]	
8/21/2018	Railroad service issue	West	Shipper trade association contacted RCPA to request guidance for a member facing a reduction in rail service or potential line abandonment; RCPA provided informal guidance on regulatory and commercial issues and offered to liaise with the railroad on behalf of the shipper; the shipper did not pursue additional assistance [Closed]	
8/27/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance expediting a delayed car; RCPA liaised with the railroad to ensure movement of the car and provided guidance to the shipper on railroad service regulations [Closed]	
8/27/2018	Railroad service issue	Northeast	Shipper contacted RCPA to request assistance with delays resulting from bad ordered rail car; RCPA liaised with the railroad to provide the shipper with more information on status of car repairs [Closed]	
9/5/2018	Railroad service issue	South	Shipper contacted RCPA regarding poor rail service, including delayed cars and extended transit times; RCPA addressed the issues with the railroad, which identified the source of the delays and promised improved performance [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 [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/6/2018	Railroad service issue	Northeast	Shipper requested RCPA assistance to facilitate delivery of significantly delayed railcars; RCPA contacted the railroad to ascertain the status of the cars, resulting in their movement to the destination [Closed]	
9/10/2018	Railroad service issue	South	Shipper contacted RCPA about poor rail service at its facility, including bunching of inbound cars and missed switches; RCPA provided informal guidance and offered to liaise with the railroad; however, the shipper declined direct RCPA involvement [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 [Pending]	
9/12/2018	Railroad service issue/rates	Northeast	Shipper sought RCPA assistance in working with a railroad to establish rates and service terms for movement of intermodal traffic to a planned transload facility; RCPA initiated contact with railroad to discuss operational and commercial issues [Pending]	
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; RCPA is monitoring the shipper's service [Pending]	
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 [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/19/2018	Railroad demurrage issue	Midwest	Shipper contacted RCPA about a demurrage charge assessed after its drayage carrier was unable to gain access to the railroad's terminal after an extended wait; RCPA offered to liaise with the railroad to discuss the issues; however, the shipper subsequently notified RCPA that the railroad had issued a credit for the amount charged [Closed]	
9/19/2018	Railroad service issue	South	Shipper contacted RCPA for assistance in having a railcar delivered from its local serving yard; RCPA contacted the railroad to request delivery of the car, resulting in the railroad switching the car the following day [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 RCPA assistance on this issue; however, per the shipper's request, RCPA contacted the railroad for purposes of discussing service issues [Pending]	
9/21/2018	Railroad service issue	Midwest	Shipper's representative contacted RCPA about inconsistent and unreliable switching service provided by its serving railroad; RCPA is in the process of setting up further discussions with the shipper to understand the specifics of the service problem [Pending]	
9/25/2018	Railroad service issue	South	Shipper contacted RCPA about missed switches at its facility; RCPA has reached out to the shipper to obtain additional information about the shipper's service and its need for assistance, going forward [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
9/26/2018	Railroad service issue; rail demurrage charges	South	Representative of warehouse contacted RCPA for assistance with demurrage issue resulting from bunching and missed switches; RCPA has contacted the warehouse to obtain additional information about the dispute [Pending]	

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

3rd Quarter 2018 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	53	3	15	8	11	16
Arrange Meeting	4	0	0	0	2	2
Bus Issue	2	0	0	0	1	1
Household Movers	30	3	10	2	4	11
Information-Economic Data	2	0	1	0	0	1
Information-Non Economic Request	8	1	1	3	1	2
Motor Carriers (trucks)	5	1	2	0	0	2
National Grain Car Council	1	0	0	0	1	0
Railroad Agricultural Contract Filing	1	0	0	1	0	0
Railroad Amtrak/Passenger Issue	4	2	1	1	0	0
Railroad Blocked Crossings	9	2	1	3	0	3
Railroad Common Carrier Obligation	1	0	0	0	0	1
Railroad Cost of Capital	1	0	0	0	0	1
Railroad Demurrage Charges	2	0	1	0	0	1
Railroad Environmental Issues	2	0	1	1	0	0
Railroad Grade Crossing Issues	5	0	0	3	2	0
Railroad Idling Engines/Parked Trains	1	0	0	0	0	1
Railroad Inter-carrier disputes	1	1	0	0	0	0
Railroad Labor Issues	2	1	0	0	0	1
Railroad Liability Issues	2	0	0	1	1	0
Railroad Locomotive Issue	1	0	0	0	0	1
Railroad Noise - Airhorn, Safety, etc	4	0	0	1	1	2
Railroad Operating Authority Issue	1	0	0	0	1	0
Railroad Preemption	4	2	0	0	2	0
Railroad Rate Levels/Increases	7	1	2	2	2	0
Railroad Reciprocal Switching	2	0	0	0	0	2
Railroad Service Issue	40	1	12	11	7	8
Railroad Side Track Agreement	2	0	0	2	0	0

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Rails to Trails	21	3	6	6	4	2
STB Authority Question	2	0	0	2	0	0
STB Fees	1	0	0	1	0	0
STB Information	42	3	4	1	4	30
STB Jurisdictional Question	5	0	0	2	0	3
STB Procedural Assistance	69	6	5	12	10	36
STB Recordations or Security Interests on Rail Cars	4	1	1	0	0	0
STB Records Assistance	14	1	1	2	1	9
STB Webpage/Downloading Assistance	2	0	0	0	1	1
Water Carrier	3	1	2	0	0	0
Wrong Agency Calls	12	1	0	0	0	11
Other	5	0	1	0	1	2
Total	373	34	67	65	57	150

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

3rd Quarter 2018 Cases per Commodity Group*

Commodity Group	Number
Aggregates	1
Agricultural Products	25
Chemicals	11
Coal	2
Construction Materials	1
Empty Freight Cars	2
Forest Products	7
Hazardous Waste/Radioactive Waste	2
Household Goods	25
Industrial Products	8
Intermodal	2
Metals and Minerals	2
Not Specified by Shipper	1
N/A	279
Other	2
Passenger	7
Total	377

^{*}In many cases, the commodity is not specified or material to the case, therefore the total number for this data may not equal the total number for the quarter.