

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS

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

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	<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>

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<p>parties to submit a joint procedural schedule to govern discovery and briefing on the remaining issues regarding compensation.</p> <p>On 3/16/2020, the parties submitted a joint proposed procedural schedule.</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 filed on 4/26/19. Rebuttal filed on 5/31/19.</p>
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	<p>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</p>

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							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 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.

Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
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	<p>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.</p> <p>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.</p>
7/8/2019	Unreasonable practice and violation of statutory obligation to compensate car owners	Olin Corporation v. Union Pacific Railroad Company	NOR 42164	Unspecified	Olin Corporation	Union Pacific Railroad Company	<p>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 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>

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED

First 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 first quarter of 2020 (January 1, 2020 – March 31, 2020), the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
10/16/2019	Railroad demurrage issue	Midwest	Transload operator contacted RCPA about excessive demurrage charges and the railroad's inability to provide documentation in support of the charges; RCPA worked with the parties to facilitate discussion of key operational and commercial issues, and will remain available to provide assistance going forward. [Closed]	

¹ 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.

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
11/12/2019	Railroad leased track issue	West	Shipper contacted RCPA to request assistance in a dispute with a railroad over track space made available by the railroad to store railcars; RCPA liaised with the railroad and the shipper to facilitate a possible resolution; however, RCPA was unable to achieve a mutually satisfactory solution. [Closed]	
11/15/2019	Railroad rate issue	West	Shipper contacted RCPA about a railroad's refusal to quote unit train rates to a specific interchange; RCPA liaised with the railroad and the shipper to facilitate a possible resolution; however, RCPA was unable to achieve a mutually satisfactory solution. [Closed]	
11/22/2019	Railroad service issue	West	Shipper contacted RCPA about a railroad's refusal to allocate yard space to storage of railcars for the shipper; RCPA discussed regulatory and commercial issues with the shipper; however, per the shipper's request, RCPA did not contact the railroad and the shipper did not pursue further informal assistance. [Closed]	
12/09/2019	Railroad service issue	West	Shipper contacted RCPA regarding an anticipated railroad abandonment which would result in loss of service; RCPA reached out to the shipper to provide informal guidance; however, the shipper did not respond to RCPA's contact. [Closed]	
12/19/2019	Railroad demurrage issue	West	Transload facility contacted RCPA to discuss significant demurrage liability to its serving railroad and the railroad's statements that it would cease service due to the debt; RCPA provided informal guidance to the transload facility on legal and commercial issues; however, the facility declined to pursue additional RCPA assistance. [Closed]	
1/2/2020	Railroad rate issue	West	Shipper contacted RCPA to discuss a railroad's rate proposal and significant differences on rates applicable to nearby origins; RCPA provided informal guidance to the shipper on possible commercial and operational reasons for the differences; the shipper subsequently advised RCPA that it was able to negotiate a more satisfactory rate structure with the railroad. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
1/4/2020	Railroad service issue; railroad accessorial charges	West	Shipper notified RCPA of missed switches by its serving railroad and excessive charges for proposed make-up service; RCPA contacted the shipper, but shipper did not pursue the matter. [Closed]	
1/6/2020	Railroad accessorial charges	Midwest	Shipper contacted RCPA for assistance with a railroad's accessorial charges on a container that was unpacked on railroad property due to a fluid leak; the shipper objected to the railroad's charges for clean-up and storage of the container; RCPA liaised with the railroad and the shipper multiple times to foster a mutually-agreeable settlement; ultimately, the railroad offered a reduction in the charges, but the shipper declined the railroad's offer. [Closed]	
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; at present, the parties are continuing discussions independent of RCPA's involvement. [Pending]	
1/23/2020	Railroad service issue	Midwest	Shipper contacted RCPA for assistance after several missed switches at its facility; RCPA contacted the railroad about the issue; the railroad responded that it was working the remedy the situation and then followed up with RCPA after the shipper's railcars were spotted [Closed]	
1/28/2020	Railroad service issue	South	Shipper contacted RCPA for assistance after several missed switches and ineffective communications with its railroad's marketing representative; RCPA contacted the railroad to discuss the issues; the railroad then contacted the shipper, resulting in better communications and prompt make-up switches. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
1/29/2020	Railroad service issue; railroad demurrage issue	West	Shipper contacted RCPA to discuss its need to increase its number of weekly switches versus its serving railroad's proposal to reduce service and also a dispute over demurrage; RCPA provided informal guidance to the shipper on both matters, but per the shipper's request, did not contact the railroad. [Closed]	
2/18/2020	Railroad service issue	Midwest	Shipper reported irregular and inconsistent rail service, and sought RCPA assistance; RCPA contacted the railroad, which in turn, initiated discussions with the shipper to resolve the concerns. [Closed]	
2/27/2020	Railroad service issue	South	Shipper sought RCPA assistance in expediting the railroad's delivery of delayed car carrying critical product; RCPA contacted the railroad, which made delivery the same day. [Closed]	
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 and is remaining available to discuss other issues. [Pending]	
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. [Pending]	
3/4/2020	Railroad service issue	West	Shipper requested RCPA assistance for 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 RCPA is monitoring developments. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
3/5/2020	Railroad service issue	Midwest	Shipper contacted RCPA about poor railroad service and delayed delivery of its shipments; RCPA liaised with the railroad, which expedited delivery of critical carloads. [Closed]	
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. [Pending]	
3/10/2020	Railroad service issue	West	Stakeholder requested guidance from RCPA about a railroad's plan to remove a spur track serving an industrial park; RCPA discussed regulatory and commercial issues with the stakeholder, and advised the stakeholder that shippers and/or the owners of the industrial park could contact RCPA directly in order to receive informal assistance. [Closed]	
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. [Pending]	
3/25/2020	Railroad service issue	Northeast	Shipper contacted RCPA about several railcars that were stuck at an intermediate yard and not being interchanged to the shipper's serving railroad; RCPA contacted the railroad in possession of the cars and secured prompt interchange of the railcars to the serving railroad, and monitored the status through delivery. [Closed]	
3/30/2020	Railroad service issue	Midwest	Shipper contacted RCPA to discuss a railroad's restriction on reciprocal switching at its facility; RCPA provided informal guidance on potential operational issues relating to the restriction and relevant regulatory issues; however, the shipper did not seek direct RCPA assistance with the railroad. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
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. [Pending]	

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

1st Quarter 2020 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	43	9	9	14	6	5
Bus Issue	2	0	1	1	0	0
Household Movers	18	0	7	2	2	7
Information-Economic Data	3	1	0	1	0	1
Information-Non Economic Request	4	0	0	1	0	3
Motor Carriers (trucks)	8	1	4	1	1	1
Railroad Abandonment/Loss of Service	2	0	0	0	1	1
Railroad Amtrak/Passenger Issue	3	1	0	0	1	1
Railroad Billing Dispute	2	0	1	1	0	0
Railroad Blocked Crossings	9	1	3	4	0	1
Railroad Car Supply	1	0	0	0	1	0
Railroad Common Carrier Obligation	1	0	0	1	0	0
Railroad Credit Terms	1	1	0	0	0	0
Railroad Demurrage Charges	3	0	1	1	0	1
Railroad Embargo	1	1	0	0	0	0
Railroad Environmental Issues	3	0	0	3	0	0
Railroad Freight Car Repair or Dispo	1	1	0	0	0	0
Railroad Grade Crossing Issues	2	0	1	1	0	0
Railroad Hazardous Waste/Radioactive Waste	1	0	0	0	1	0
Railroad Liability Issues	1	0	0	0	1	0
Railroad Maintenance Issue	2	0	2	0	0	0
Railroad Noise - Airhorn, Safety, etc	5	1	1	0	3	0
Railroad Operating Authority Issue	1	0	1	0	0	0
Railroad Preemption	2	0	1	0	0	1
Railroad Rate Levels/Increases	3	0	2	1	0	0
Railroad Reciprocal Switching	1	0	0	1	0	0
Railroad Service Issue	13	1	4	2	6	0

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Railroad Stored Freight Cars	1	0	1	0	0	0
Railroad Tariff Issue	1	0	1	0	0	0
Rails to Trails	12	2	3	4	2	1
Real Estate Matter	1	1	0	0	0	0
STB Authority Question	7	1	3	1	1	1
STB Fees	2	0	2	0	0	0
STB Information	33	7	9	6	5	5
STB Jurisdictional Question	4	0	3	0	0	1
STB Procedural Assistance	45	14	12	6	3	9
STB Recordations or Security Interests on Rail Cars	10	2	2	1	2	3
STB Records Assistance	23	5	7	3	4	4
STB Webpage/Downloading Assistance	6	3	0	1	0	2
Water Carrier	1	1	0	0	0	0
Wrong Agency Calls	2	0	0	0	1	1
Other	8	2	3	1	1	1
Total	290	56	84	58	42	50

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

1st Quarter 2020 Cases per Commodity Group*

Commodity Group	Number
Agricultural Products	10
Automobile	1
Chemicals	9
Coal	1
Construction Debris	1
Hazardous Waste/Radioactive Waste	1
Household Goods	16
Industrial Products	7
Intermodal	1
Metals and Minerals	2
Municipal Waste	2
Not Specified by Shipper	5
N/A	224
Other	2
Passenger	9
TIH	1
Total	292

*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.