



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

Office of the Chairman

April 1, 2019

The Honorable David E. Price
Chairman
House Appropriations Subcommittee on
Transportation, House and Urban
Development, and Related Agencies
2358-A Rayburn House Office Building
Washington, DC 20515

The Honorable Mario Diaz-Balart
Ranking Member
House Appropriations Subcommittee on
Transportation, Housing and Urban
Development, and Related Agencies
1016 Longworth House Office Building
Washington, DC 20515

Dear Chairman Price and Ranking Member Diaz-Balart:

On behalf of the Surface Transportation Board (STB or Board), I am pleased to provide the Board's first quarter 2019 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 first quarter's reporting information is from January 26, 2019, the first business day after the partial federal government shutdown, through March 31, 2019.

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

**Report on Pending STB Regulatory Proceedings
First Quarter 2019***

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* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this report covers the period from January 26, 2019, through the first quarter 2019.

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 2/4/2013; End of Comment Period 9/5/2013; SNPRM served 8/4/2016 (published in Fed. Reg. 8/10/2016); End of Comment Period 11/7/2016.

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 alter rail movement costs.

Effects:

Paperwork Reduction Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 2/4/2013

Docket Number: EP 431 (Sub-No. 4)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	5/2017	6/2019	N/A

Explanation for any delay: The previous projected target date of 1/2018 was changed to TBD in the April 2018 report because the Board could not reach a consensus on the next action. In January 2019, two new members joined the Board.

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 5/29/2014; 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: 5/29/2014

Docket Number: EP 661 (Sub-No. 2)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	9/2016	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. In January 2019, two new members joined the Board.

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 8/31/2016; End of Comment Period 12/19/2016. Decision served 3/28/2018 waiving the prohibition on ex parte communications in this proceeding.

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 Ex Parte Meetings:

Milestone	Scheduled Date	New Projected Date	Actual Date
Ex Parte Meetings	Beginning 3/28/2018	N/A	N/A

The subject matter of this proceeding is under review by the Board's Rate Reform Task Force. The Board expects the Rate Reform Task Force to complete its report during the second quarter of 2019.

Explanation for any delay: N/A

Federal Register Citation for Ex Parte Meetings: 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 3/23/2016; End of Comment Period 8/26/2016. Decision served 3/19/2019 waiving the prohibition on ex parte communications in this proceeding, and providing a 90-day period for meetings with Board members.

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: 3/23/2016

Docket Number: EP 704 (Sub-No. 1)

Dates for Ex Parte Meetings:

Milestone	Scheduled Date	New Projected Date	Actual Date
Ex Parte Meetings	Beginning 3/19/2019; ending 6/17/2019	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Ex Parte Meetings: N/A

Surface Transportation Board

5. Reciprocal Switching

Popular Title: Competitive Switching Rules

RIN 2140-AB32

Stage: Proposed Rule

Previous Stage: NPRM served 7/27/2016; End of Comment Period 1/13/2017.

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: 7/27/2016

Docket Number: EP 711 (Sub-No. 1)

Dates for Ex Parte Meetings:

Milestone	Scheduled Date	New Projected Date	Actual Date
Ex Parte Meetings	Beginning 1/30/2017	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 4/2/2014; End of Comment Period 11/4/2014; Hearing 7/22/2015 and 7/23/2015.

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: 4/2/2014

Docket Number: EP 722

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	10/2016	TBD	N/A

The subject matter of this proceeding is under review by the Board's Rate Reform Task Force. The Board expects the Rate Reform Task Force to complete its report during the second quarter of 2019.

Explanation for any delay: The new projected target date was modified in the April 2017 report, changing it from 6/2017 to TBD, in recognition of a changeover in administration and expected changes to the Board's membership. In January 2019, two new members joined the Board.

On March 28, 2018, the Board issued a decision clarifying that a prohibition on ex parte communications in this proceeding is not applicable.

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: Final Rule

Previous Stage: NPRM served 8/24/2018; End of Comment Period 9/24/2018; Final Rule served March 22, 2019.

Abstract: The Board adopted modifications to its rules pertaining to certain payment, filing, and service procedures. The adopted rule also updates and clarifies fees for copying, printing, and related services and removes outdated language from the Board's regulations.

Effects:

None

Prompting action: Board initiative

Legal Deadline: None

Rulemaking Project Initiated: 8/24/2018

Docket Number: EP 747

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	1/2019	3/2019	3/22/2019

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

Federal Register Citation for Next Action: TBD

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: 6/14/2018

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; End of Comment Period 3/4/2019.

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 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

Quarterly Status Report of Rate Complaint Cases Before the STB - 1ST QUARTER 2019*

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
Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint, and Discontinue the Proceeding	January 28, 2019
Decision Granting Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint, and Discontinue the Proceeding	February 7, 2019

Brief Description of the Final Decisions:	
	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. Following a complete and final commercial settlement between the parties, the Board granted a joint petition to vacate the rate prescription, dismiss the complaint with prejudice, and discontinue the proceeding.

* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this report includes updates from January 26, 2019, through the first quarter 2019.

** 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
U.S. Court of Appeals Order Granting Unopposed Joint Motion for Voluntary Dismissal of the Petitions for Review	January 5, 2019
Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint with Prejudice, and Discontinue the Proceeding	January 28, 2019
STB Decision Granting Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint with Prejudice, and Discontinue the Proceeding	February 7, 2019

* 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 3/31/2019

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	Chemical	SAC	1/7/2013	Settlement
42125	DuPont v. NS	Chemical	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	Chemical	SAC	9/14/2016	Rates Reasonable
42142	Consumers v. CSXT	Coal	SAC & Revenue Adequacy	2/7/2019	Settlement
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

First Quarter 2019

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 2019 (January 26, 2019* – March 31, 2019), 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

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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. The parties submitted responses on 2/4/2019, and replies on 2/25/2019.</p>
3/31/2015	Unreasonable tariff and practices	North American Freight Car Association v. Union Pacific	NOR 42144	Nationwide	North American Freight Car Association; American Fuel & Petrochemicals	Union Pacific Railroad Company	Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received 1/26/2017. Decision consolidating NOR 42150,

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
		Railroad Company			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		NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/5/2017. Discovery in consolidated proceedings concluded 1/22/2019. Opening evidence filed 2/22/2019.
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 concluded 1/22/2019. Opening evidence filed 2/22/2019.
12/30/2016	Unreasonable practice and violation of statutory obligation to	Tesoro Refining & Marketing Company LLC v. Union Pacific Railroad Company	NOR 42152	Unspecified	Tesoro Refining & Marketing Company LLC; Tesoro Great Plains Gathering & Marketing 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

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
	compensate car owners				and Dakota Prairie Refining, LLC		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 concluded 1/22/2019. Opening evidence filed 2/22/2019.
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 concluded 1/22/2019. Opening evidence filed 2/22/2019.
5/1/2018	Unreasonable practice	Central Valley Ag Grinding, Inc., and Central Valley	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

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
		Ag Transport, Inc. v. Modesto and Empire Traction Company					<p>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.</p> <p>Motion to dismiss denied 7/25/2018.</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> <p>Parties in voluntary mediation, which has been extended five times, most recently until 4/8/2019, at the parties' request.</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	<p>Complaint filed 12/17/2018. Motion to dismiss filed 1/28/2019. Reply to motion to dismiss filed 2/6/2019.</p> <p>On 2/6/2019, Ameropan Oil Corporation filed for leave to amend the complaint to voluntarily dismiss Canadian National Railway Company and to add Illinois Central Railroad Company (a Canadian National Railway</p>

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							Company subsidiary) as the defendant.

SURFACE TRANSPORTATION BOARD
QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED

First Quarter 2019

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 2019 (January 26, 2019* – March 31, 2019), the STB received the following informal complaints¹:

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
12/5/2018	Railroad service issue	Northeast	Shipper sought RCPA assistance to resolve issues related to railcars stranded on a railroad that had ceased operations and changed ownership; RCPA provided informal guidance to the shipper on securing movement of the cars. [Closed]	

* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this report covers the period from January 26, 2019, through the first quarter 2019.

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
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 liaised with both parties to improve communications and service. [Closed]	
12/12/18	Railroad accessorial charge issue	West	Shipper contacted RCPA about a railroad's announcement of changes to its accessorial charges tariff, which the shipper believes will harm its business; RCPA liaised with the railroad on behalf of shipper to improve communications and facilitate a resolution. [Closed]	
2/1/2019	Railroad demurrage issue	South	Shipper contacted RCPA for assistance regarding a railroad's demurrage tariff and enforcement policy; RCPA provided informal guidance and offered to reach out to the railroad but the shipper declined further assistance. [Closed]	
2/7/2019	Railroad service issue	West	Shipper contacted RCPA with concerns and questions regarding a railroad's operational changes impacting its service and track capacity; RCPA provided informal guidance and offered to reach out to the railroad but the shipper declined further assistance. [Closed]	
2/8/2019	Railroad service issue	South	Potential shipper sought RCPA assistance in re-establishing rail service at its facility; RCPA reached out to the former serving railroad to facilitate reengagement among the parties. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
2/8/2019	Railroad rate issue; railroad accessorial charge issue	Midwest	Shipper contacted RCPA to discuss commercial issues related to rail rates and accessorial charges and impacts on business opportunities; RCPA provided informal guidance to the shipper on legal and commercial matters. [Closed]	
2/12/2019	Railroad service issue; railroad demurrage and accessorial charge issues	Midwest	Shipper contacted RCPA with concerns about its rail service following a railroad's implementation of a new operating plan as well as its changes to its demurrage and accessorial tariffs; RCPA provided informal guidance on service and charges and offered to reach out to the railroad but the shipper declined. [Closed]	
2/13/2019	Railroad demurrage issue	Midwest	Shipper was referred to RCPA to address its concerns about two railroads' changes to demurrage and accessorial tariffs and related impacts on the shipper's business; RCPA offered informal guidance on the tariffs and commercial circumstances, but the shipper declined RCPA outreach to the railroads. [Closed]	
2/13/2019	Railroad demurrage issue; railroad service issue	West	Shipper contacted RCPA to discuss the impact of a railroad's new operating plan, changes to service, and demurrage charges; RCPA liaised with the railroad on the shipper's behalf to improve communications between the parties and seek resolution of the shipper's concerns. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
2/14/2019	Railroad storage charge issue	South	Shipper was referred to RCPA with respect to its concerns about a railroad's operation of intermodal ramps during severe weather, which results in storage fees for customers whose trucks cannot reach the intermodal ramps; RCPA offered informal guidance to the shipper on the issue. [Closed]	
2/17/2019	Railroad rate issue	South	Shipper contacted RCPA to discuss a railroad's rate increase; RCPA offered to discuss the matter with the railroad, but the shipper did not seek further assistance. [Closed]	
2/18/2019	Railroad service issue	Northeast	Shipper informed RCPA that its containers were delayed at a port during transfer from vessel to rail due to equipment shortages and congestion; RCPA contacted the railroad to facilitate moving the containers, and relayed status updates to the shipper. [Closed]	
2/19/2019	Railroad service issue	Northeast	Shipper sought RCPA assistance in connection with a car lost in transit by a railroad; RCPA contacted the railroad, which located the missing car and delivered it to destination. [Closed]	
2/22/2019	Railroad service issue	Midwest	Shipper informed RCPA about sporadic locomotive shortages to pull loaded and released cars and other service delays on multiple railroads; the shipper did not request further RCPA action to address the matters. [Closed]	
2/22/2019	Railroad service issue	Northeast	Shipper sought RCPA assistance to address missed and delayed local switching; RCPA discussed the matter with the railroad and the railroad's service subsequently improved. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
2/25/2019	Railroad service issue	Midwest	Shipper asked RCPA for assistance to get a delayed train moving, which was held due to lack of locomotives; RCPA contacted the railroad, which dispatched locomotives to move the train. [Closed]	
2/26/2019	Railroad service issue	Midwest	Shipper asked RCPA for assistance with a unit train that was sitting in transit; RCPA liaised with the railroad and the train resumed its movement. [Closed]	
2/26/2019	Railroad service issue; railroad demurrage issue	South	Shipper contacted RCPA to discuss railcar delays and additional concerns regarding associated demurrage; RCPA is liaising with railroad. [Pending]	
2/28/2019	Railroad access issue	South	Public transportation district contacted RCPA to discuss the district's interchange access to certain railroads and potential restrictions; RCPA reviewed relevant documents and researched relevant transactions before the Interstate Commerce Commission and the STB and offered informal guidance on access issues. [Pending]	
3/4/2019	Railroad service issue	Midwest	Shipper contacted RCPA about delayed service, increased car cycle times, and resulting inability to utilize negotiated contract rates before they expired; RCPA contacted the railroad, which in turn communicated with the shipper; the shipper subsequently informed RCPA of a favorable resolution to the matter. [Closed]	
3/6/2019	Railroad service issue; railroad demurrage issue	Midwest	Shipper contacted RCPA about poor rail service, transit delays, and associated demurrage charges; RCPA provided general guidance to the shipper, but per the shipper's request, has not contacted railroad. [Pending]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
3/7/2019	Railroad service issue	Midwest	Shipper contacted RCPA about a delayed inbound shipment of empty cars and looming plant shutdown; RCPA contacted the railroad to elevate the shipper's concerns, resulting in delivery of urgently needed cars. [Closed]	
3/7/2019	Railroad rate issue		Shortline railroad contacted RCPA about a Class I railroad's rate setting practices, which affected the shortline's customers; RCPA provided informal guidance on the practices in light of relevant STB regulations; the shortline did not request that RCPA liaise with the Class I railroad about the issue. [Closed]	
3/8/2019	Railroad service issue	Midwest	Shipper informed RCPA of a unit train that had been stopped in transit for 11 days; the shipper had already elevated the matter with the railroad and did not request that RCPA take further action. [Closed]	
3/8/2019	Railroad service issue	West	Shipper contacted RCPA to about poor rail service and missed deliveries; RCPA liaised with the railroad, resulting in subsequent service improvements. [Closed]	
3/11/2019	Railroad service issue	Midwest	Shipper requested RCPA assistance in working with a railroad to expedite movement of delayed cars; RCPA contacted the railroad on the shipper's behalf to expedite the cars. [Pending]	
3/11/2019	Railroad accessorial charge issue	Multiple	Shipper contacted RCPA about a railroad's practices and charges relating to OT-5 approval; RCPA provided informal guidance to the shipper; subsequently, the shipper advised RCPA that it was able to resolve the issues directly with the railroad. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
3/12/2019	Railroad demurrage issue	Midwest	Shipper requested RCPA assistance with congestion charges assessed by the railroad serving its facility; RCPA liaised with the railroad to discuss the circumstances related to the charges and to pursue relief for the shipper. [Closed]	
3/15/2019	Railroad service issue	Midwest	Shipper sought RCPA assistance in working with a railroad to expedite movement of delayed shipments; RCPA contacted the railroad to ask about the delays, resulting in movement of needed cars. [Closed]	
3/21/2019	Railroad access issue	South	Shipper requested RCPA assistance in determining potential competitive access options at its facility; RCPA reviewed relevant STB proceedings to explain potential interchange options available to the shipper. [Pending]	
3/21/2019	Railroad demurrage issue	West	Shipper requested assistance from RCPA related to a railroad's reduction in the shipper's storage track capacity and resulting increases in demurrage charges; RCPA provided informal guidance on operational and commercial issues and offered to liaise with the railroad; however, the shipper wished to address the matter directly with the railroad before seeking further RCPA assistance. [Closed]	
3/25/2019	Railroad demurrage issue	South	Shipper requested assistance from RCPA related to increased demurrage charges; RCPA provided informal guidance on legal and commercial issues and offered to liaise with the railroad; however, the shipper wished to address the matter directly with the railroad before seeking further RCPA assistance. [Closed]	

Date ²	Type of Informal Complaint	Geographic Region ³	Resolution / Status	Complainant ⁴ CONFIDENTIAL
3/28/2019	Railroad rate issue	West	Shipper contacted RCPA to discuss a railroad's proposed rate for moving carloads of hazardous material; RCPA provided informal guidance on legal and commercial issues, including rate case procedures before the STB; the shipper advised that it would follow up with RCPA, if it desires further assistance. [Closed]	
3/29/2019	Railroad service issue	Northeast	Shipper contacted RCPA about erratic and delayed rail service across several railroads, including urgently needed cars that were stuck in transit; RCPA is liaising with the railroads to expedite movement of the cars and discuss overall service issues. [Pending]	
3/29/2019	Railroad demurrage issue	Midwest	Shipper contacted RCPA about a railroad's new demurrage tariff, the process for disputing charges, and related costs for the shipper; RCPA provided informal guidance on laws and regulations related to demurrage; however, the shipper did not request that RCPA liaise directly with the railroad. [Closed]	

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 2019 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	47	8	14	14	4	7
Arrange Meeting	8	7	0	0	0	1
Bus Issue	3	0	0	1	1	1
Canadian Rail Regulatory Issue	1	0	0	1	0	0
Household Movers	10	1	1	2	2	3
Information-Economic Data	5	1	2	1	1	0
Information-Non Economic Request	5	0	1	3	1	0
Motor Carriers (trucks)	7	1	0	2	1	3
Pipeline	1	0	1	0	0	0
Railroad Amtrak/Passenger Issue	3	0	0	0	2	1
Railroad Blocked Crossings	27	2	2	17	0	6
Railroad Claims	2	1	0	0	1	0
Railroad Common Carrier Obligation	4	1	1	1	0	1
Railroad Demurrage Charges	13	3	3	1	4	1
Railroad Embargo	2	0	0	1	0	1
Railroad Environmental Issues	5	0	0	1	2	2
Railroad Grade Crossing Issues	3	0	1	1	0	1
Railroad Idling Engines/Parked Trains	19	1	0	1	17	0
Railroad Intermodal Service	2	1	0	1	0	0
Railroad Labor Issues	1	0	0	0	0	1
Railroad Locomotive Issue	1	0	0	0	1	0
Railroad Maintenance Issue	1	0	0	0	1	0
Railroad Miscellaneous Charges	3	0	0	1	0	2
Railroad Preemption	3	2	0	1	0	0
Railroad Rate Levels/Increases	9	0	2	2	4	1

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Railroad Reciprocal Switching	1	0	1	0	0	0
Railroad Service Issue	21	4	1	9	5	2
Railroad Side Track Agreement	1	0	1	0	0	0
Railroad Stored Freight Cars	1	0	0	1	0	0
Railroad Tariff Issue	1	0	0	1	0	0
Rails to Trails	13	0	3	6	3	1
Real Estate Matter	3	0	2	0	1	0
STB Authority Question	8	2	3	1	0	2
STB Fees	1	1	0	0	0	0
STB Information	50	3	1	2	2	42
STB Jurisdictional Question	3	0	0	0	2	1
STB Procedural Assistance	50	5	6	5	6	27
STB Recordations/Security Interests on Rail Cars	13	1	7	1	0	4
STB Records Assistance	13	2	2	2	3	4
STB Webpage/Downloading Assistance	1	0	1	0	0	0
Water Carrier	1	0	0	0	0	1
Wrong Agency Calls	4	0	0	0	0	4
Other	4	0	1	0	1	2
Total	371	47	57	80	65	122

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 2019 Cases per Commodity Group*

Commodity Group	Number
Agricultural Products	21
Chemicals	6
Coal	7
Construction Debris	2
Empty Freight Cars	2
Forest Products	4
Hazardous Waste/Radioactive Waste	2
High/Wide Loads	1
Household Goods	8
Industrial Products	10
Intermodal	5
Metals and Minerals	3
Municipal Waste	3
Not Specified by Shipper	7
N/A	278
Other	5
Passenger	9
TIH	1
Total	374

*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.