

SURFACE TRANSPORTATION BOARD**Ex Parte 755*****Final Offer Rate Review***

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July 1, 2020
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Summary of Teleconference Meeting between U.S. rail operating subsidiaries of Canadian National Railway ("CN") and Surface Transportation Board Chairman Ann Begeman

June 24, 2020

CN Attendees: Kathryn Gainey, CN Counsel, U.S. Regulatory Affairs; David Woodruff, CN Assistant Vice President & Head of U.S. Public & Government Affairs, Matt Warren, Partner, Sidley Austin LLP.

STB Attendees: Ann Begeman, Chairman; Craig Keats, General Counsel; Bill Brennan, Director of the Office of Economics; Kim Hillenbrand, Transportation Industry Analyst; Chris Diamond, Attorney-Advisor; Adam Kress, Attorney-Advisor; Amanda Gorski, Attorney-Advisor; Valerie Quinn, Attorney-Advisor.

CN opened the meeting with a brief update on the status of operations and CN's efforts to serve customers during the COVID-19 pandemic while protecting the health and safety of CN personnel.

CN thanked the Board for conducting ex parte meetings in this proceeding and emphasized the importance of alternative dispute resolution. The discussion then turned to CN's proposal in its Ex Parte 755 comments that the Board consider reforms to the agency's voluntary arbitration process as an alternative to the STB's proposal for final offer rate review ("FORR"). CN discussed a potential framework for a voluntary arbitration program targeted to small rate disputes, and potential changes that the Board could implement to better tailor its voluntary arbitration program to small rate disputes. These changes could include enhanced confidentiality, greater flexibility in selecting arbitrators, and mediation. CN discussed both the Board's statutory authority to develop an alternative arbitration program and the policy benefits from creating a voluntary program could be used to resolve smaller rate disputes.

Chairman Begeman asked several questions about the proposed confidentiality provisions, including how the proposed confidentiality would compare to the confidentiality of final offer arbitration in Canada and what information the Board would have to monitor use of a voluntary arbitration program. CN explained that Canadian FOA is completely confidential, and that CN would recommend similarly high levels of confidentiality in the United States,

although OPAGAC would be notified when parties began an arbitration, and that could enable the Board to monitor use of the program. In addition, Chairman Begeman asked about the mechanics of arbitrator selection, and CN discussed mechanisms for the parties in a particular case to select arbitrators based on the circumstances whether or not they were currently on the STB's roster.

Chairman Begeman also asked about discussions of the potential voluntary arbitration program with other stakeholders, and CN indicated that those discussions were ongoing. CN expressed its willingness to work with other stakeholders in an effort to develop a proposal for voluntary arbitration of small rate disputes.