

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Ex Parte No. 334 (Sub-No. 8A)

ENTERED
Office of Chief Counsel
November 24, 2025
Part of
Public Record

**JOINT PETITION FOR EXEMPTION OF ARBITRATION RULE
FROM APPLICATION OF 49 U.S.C. § 10706 AND MOTION TO DISMISS**

UPDATE OF THE ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads (“AAR”) respectfully submits this update in response to the Surface Transportation Board’s (“STB” or “Board”) April 9, 2025 decision in EP 334 (Sub-No. 8A).¹ In that decision, the Board held in abeyance the March 25, 2024 petition submitted by the Railway Supply Institute (“RSI”) requesting that the Board reopen EP 334 (Sub-No. 8A), review Rule 25 of the Code of Car Hire (“Rule 25” or “Arbitration Rule”), and either condition or terminate the Board’s approval of Rule 25.² The Board also ordered AAR to provide an update regarding the results of a review of Rule 25 by AAR’s Equipment Assets Committee (“EAC”), which oversees the Code of Car Hire Rules, including what—if any—changes to Rule 25 were approved. AAR is pleased to report approved updates to both Code of Car Hire Rule 25 and Rule 1 resulting from the EAC’s review.

¹ STB, Joint Petition for Exemption of Arbitration Rule from Application of 49 U.S.C. § 10706 and Motion to Dismiss, EP 334 (Sub.-No. 8A) (STB served April 9, 2025).

² See id; see also RSI, Petition to Reopen and Condition or Revoke Approval, EP 334 (Sub.-No. 8A) (Mar. 25, 2024) (“Petition”).

I. The Participants

The EAC has responsibility for the AAR car hire rules, and any changes to those rules must be approved by a majority vote of the EAC members.³ The EAC is currently comprised of representatives from the six Class I railroads; The Greenbrier Companies (“GBRX”); Wells Fargo Rail (“Wells Fargo”); Ferrocarril Mexicano (“FXE”); Florida East Coast Railway; Genesee & Wyoming Inc. (“G&W”); Kansas City Southern de Mexico, S.A. de C.V.; WATCO; and Sidney and Lowe Railroad, LLC, which also serves as a representative for the members of the American Short Line and Regional Railroad Association.

The EAC formed a technical advisory group, or TAG, to review Rule 25. The TAG was comprised of volunteers from five of the six Class I railroads, GBRX, Wells Fargo, FXE, G&W, WATCO, American Industrial Transport, Inc. (“AITX”), CIT Rail, GATX Corporation (“GATX”), Modern Rail Capital (“MRC”), and TTX Company (“TTX”). A GBRX representative volunteered to chair the TAG. The Chair led the TAG’s discussions throughout and was largely responsible for setting the TAG’s agenda.

Because it is an industry association, rather than a railroad, car owner, car lessor, or other direct stakeholder, RSI does not have its own seat on the EAC nor was it on the TAG (although at least 15 individuals on the TAG represent RSI member companies). However, RSI’s outside counsel and economic expert were permitted to attend every open (*i.e.*, non-confidential) TAG meeting until the end of the process when, as explained below, it became necessary to close the meetings to TAG members only.

³ The voting procedures for changes to Rule 25 differ from other rules in the Code of Car Hire and are laid out in Rule 25.

As with most AAR committees, the committee manager (a Railinc employee) and an AAR attorney provided administrative and legal support to the EAC and the TAG during the review process. Railinc and AAR took no position on the substance of rule changes during the EAC and TAG meetings and discussions; rather, the role of AAR/Railinc was to ensure a fair and appropriate committee process within the bounds of the EAC's authority.

II. The Process

Shortly after the STB's decision, the EAC convened in Jacksonville, Florida, on May 7, 2025. During that meeting, a representative from GATX and Nicholas Powers, an economist with The Brattle Group whose opinions have been shared in previous RSI filings in this matter, presented RSI's views of the changes needed to the Code of Car Hire Rules. The TAG was formed shortly thereafter.

From late May through November 6, 2025, the TAG met more than 30 times, sometimes meeting as often as three times per week. These meetings included two separate in-person sessions at Railinc's headquarters in Cary, North Carolina, one of which stretched a day and a half, as well as multiple meetings dedicated to examining relevant data prepared by Railinc.⁴

As noted above, all open TAG meetings were attended by Dr. Powers and outside counsel for RSI. Although several RSI members were members of the TAG, and the Chair of the TAG was also an RSI member, RSI's outside counsel took an increasingly active role in

⁴ These data sets are generally available for purchase from Railinc but were provided *gratis* to the TAG to facilitate their work. Because such data are generally only shared with committee members who are bound to confidentiality as part of their seatholder agreements, AAR prepared bespoke confidentiality agreements for those members of the TAG who are not also on the EAC. These confidentiality agreements permitted signing TAG members to fully participate in all aspects of the TAG's work. TAG sessions involving proprietary Railinc data were closed to non-TAG members only during detailed data reviews.

discussions, often interrupting TAG member discussions. After multiple members of the TAG expressed concerns about the presence of outside counsel in what was meant to be non-litigious review process, counsel's continued interruptions of TAG member discussions, and counsel's inappropriate warning to non-lawyers about "justifying" their positions to the STB, the decision was made in mid-October to limit TAG meetings to TAG members only. Apart from these distractions, discussions among the TAG members were constructive and collaborative.

As discussed in detail below, on October 31, 2025, the TAG recommended to the EAC that it make certain changes to Rules 1 and 25. On November 10, 2025, the EAC voted to accept the TAG's recommendations. On November 18, 2025, these recommendations were approved by AAR's Safety & Operations Management Committee ("SOMC"), which oversees the EAC.

III. RSI's Proposals

As the Board will recall, in its STB petition RSI sought changes to Rule 25, also known as the Arbitration Rule. The premise of RSI's petition was that the Arbitration Rule failed "to provide an incentive to invest in an adequate boxcar fleet," which would result in an "impending boxcar supply crisis."⁵

⁵ RSI, Petition at 1; see also RSI, Petition at 3 ("[T]he Arbitration Rule has led to stagnant car-hire rates that do not encourage adequate investment in new boxcars to avoid the impending boxcar shortage."), 3 ("Board intervention is now necessary to address the impending boxcar supply crisis . . ."), 8 ("The design of the Arbitration Rule . . . strongly discourages investment in new and existing boxcars, which in turn threatens a boxcar supply crisis . . ."), 15 ("The national rail system is on the brink of a severe boxcar shortage."), 15 ("[T]he Arbitration Rule is not producing rates that encourage investment in boxcars to replace retiring cars at adequate levels to avert a severe shortage."), 21 ("[R]eopening this proceeding and reviewing the Arbitration Rule are necessary to avert an impending boxcar supply crisis . . ."), 21 ("[E]xpeditious resolution of the issues with the default-rate standard is necessary to address the urgent threat to boxcar supply . . .").

This argument has been made since at least 1983, when the ICC heard claims that the car hire rules “would result in inadequate compensation to car owners, choking off new investment and reducing the availability of boxcars.”⁶ AAR and others provided data rebutting this “boxcar cliff” in the current STB proceeding.⁷

Once the EAC/TAG review of Rule 25 commenced, it became apparent that RSI’s actual complaint was not about Rule 25 and was not driven by concerns about investment in new boxcars or a “boxcar cliff.” Rather, RSI was demanding an increase in the default car hire rate for cars of all types, for both newly built and existing equipment. The default rate calculation is contained in Rule 1. RSI argued that the issue was one of fairness or “market fidelity,” and demanded a “market rate” default rate for car owners and lessors that elect to opt into the Code of Car Hire.

More specifically, RSI proposed that the default rate calculation change from the lowest negotiated positive rate in effect for that equipment type in the prior quarter, to an average of all paid rates for that equipment type in the prior quarter. According to numerous statements made by RSI and its members, a default rate based on the average rate paid (versus the lowest negotiated rate) would lessen or altogether eliminate the need for “burdensome” negotiations and arbitration, which RSI members contended have high internal business costs. RSI further proposed that the default rate calculation should include data reflecting the rates set by the

⁶ Exemption from Regulation--Boxcar Traffic, EP No. 346 (Sub-No. 8), 367 I.C.C. 747, 758 (ICC served Oct. 21, 1983) (*aff’d in part, rev’d in part by Brae Corp. v. U.S.*, 740 F.2d 1023 (D.C. Cir. 1984)).

⁷ See AAR, Reply to the Petition to Reopen and Condition or Revoke Approval, Joint Petition for Exemption of Arbitration Rule from Application of 49 U.S.C. § 10706 and Motion to Dismiss, EP 334 (Sub.-No. 8A) (Apr. 15, 2024).

TTX Board of Directors for use by the railroads that own TTX.⁸ In addition, RSI's proposed default rate would reset regularly, as opposed to being set for the life of the car.⁹ Finally, RSI proposed that this new default rate calculation methodology be applied to newly built equipment, as well as all existing equipment.

RSI offered no proposals for changes to the negotiation and arbitration processes laid out in Rule 25. RSI acknowledged that changes to these components of the system could be beneficial; however, RSI cautioned that no changes to Rule 25 would be sufficient without adjustments to the default rate calculation methodology in Rule 1.

IV. Compromises Reached

Notwithstanding RSI's substantial pivot in its position and thus the scope of the TAG's review, AAR's members operated in the spirit of collaboration and compromise and committed significant hours to working with RSI's members through possible changes to both Rule 1 and Rule 25. As noted above, on October 31, 2025, the TAG voted to recommend that the EAC make certain changes to the default rate, as outlined below. These proposed changes subsequently were approved by the EAC and by SOMC.¹⁰

First, RSI had asked that the default rate calculation no longer rely on negotiated rates, but instead be based on paid rates. RSI's stated concern was that it was possible to "game" the default rate by intentionally negotiating a low rate on pre-built equipment that will never

⁸ As discussed more below, TTX rates are not covered by the Code of Car Hire.

⁹ At present, default rates are applicable for the life of the car; however, they can always be replaced by a negotiated or arbitrated rate if either party is dissatisfied with the default rate. See Code of Car Hire, Rule 1, Section H. 3 ("Once a default rate is applied to a car, it will remain in effect for the life of the car," subject to various exceptions. "The effective rate paid by one railroad to another, will be the default rate until superseded by a rate established through negotiation or an arbitration decision.").

¹⁰ See Appendices A and B to this update for a redlined copy of the amended Rules 1 and 25.

actually be built. There is no evidence that such gamesmanship ever occurred intentionally.

However, the TAG participants agreed that the new default rate methodology should be based on paid rates.

Second, RSI initially requested that the default rate be adjusted from the lowest negotiated (now paid) rate to an average of all paid rates. RSI's members justified this by stating that negotiations are difficult and arbitration presents high internal costs. Accordingly, car owners and lessors would prefer a higher default rate, which would reduce the number of instances in which the car owner or lessor elects to negotiate and potentially arbitrate the rate.

The TAG discussed the fact that the purpose of deprescription was to increase negotiation over car hire rates, not minimize the need for it. As the ICC wrote in 1992, "[t]he arbitration rules . . . allow the carriers to rely on freely negotiated rates in most situations with binding arbitration as a last resort, rather than being bound by a system of . . . prescribed" rates.¹¹ TAG members expressed concerns that using an average paid rate would effectively mark a return to prescription.

In addition, a high default rate would exacerbate existing problems with the system. For example, some private shippers have been leasing railroad-marked cars operating under the Code of Car Hire from railcar manufacturers and lessors. These shippers then demand that "their" railcars are returned to them empty, as opposed to allowing railroads to find the most

¹¹ ICC, Joint Petition for Rulemaking on Railroad Car Hire Compensation, EP 334 (Sub-No. 8A), 9 I.C.C.2d 80, 90 (Oct. 23, 1992). The ICC determined that it was inappropriate to "give boxcar investors any semblance of a future guarantee concerning car compensation or the return on their investment." Rather, returns "must be dictated by forces of supply and demand"—as they presently are, following deprescription. Id. "To do otherwise . . . would be counterproductive, reducing efficiency, competitiveness and profitability of boxcar service, and it is contrary to the goals of the rail transportation policy enacted by Congress" Exemption from Regulation--Boxcar Traffic, EP No. 346 (Sub-No. 8), 367 I.C.C. at 761.

efficient, loaded return movement—thus contributing to overall inefficiency in the rail network. The shippers undertake such leases because they can charge railroads for these empty moves at a minimum of the default rate, often without the prior consultation and concurrence of the carrier involved. This practice is a violation of existing car hire and car service rules, but enforcement has been difficult. Increasing the default rate substantially (such as through use of an average rate) would further incentivize this improper practice, and contribute to network inefficiencies due to unnecessary empty moves.

In order to address RSI’s concerns about using the lowest paid rate, while still encouraging negotiations and promoting network fluidity, the TAG voted to implement a new default rate that is the *paid negotiated rate* (*i.e.*, a “market” or “spot market” rate) that first meets or exceeds a five percent usage threshold.¹² In order to determine the five percent usage threshold, all non-zero rated hourly and/or mileage paid rates are first sorted in ascending order (*i.e.*, from lowest to highest paid rates) and weighted with respect to actual hours or miles utilization respectively. The “market” or “spot market” rate that first meets or exceeds five percent usage for all cars of that type will be the new default rate.

The five percent threshold was selected because it moves away from a default rate that relies on a “lowest” rate, which RSI objected to, while still encouraging negotiations and guarding against decreased network inefficiency.¹³

¹² See Appendix A.

¹³ Based on the data prepared by Railinc, paid rates do not follow a standard bell curve. As such, anything above the five percent threshold quickly skews toward the median rate and would therefore suppress negotiations and encourage private shippers to lease additional railroad-marked cars.

Third, RSI argued that calculation of the default rate should include TTX rates. TTX cars operate outside of the Code of Car Hire. Instead, TTX acquires boxcars pursuant to “RailBox” pooling authority granted by the ICC in 1974.¹⁴ TTX rates are not included in the current default rate calculation. However, because TTX rates (as reported by Railinc) appear to be higher than the current default rate, RSI was eager to include them in the default rate calculation. To clarify matters, TTX—which is itself an RSI member—elected to provide a brief presentation to the TAG.

TTX explained that the value proposition associated with TTX cars is different than cars covered by the Code of Car Hire’s default rate. Whereas rates under the Code of Car Hire are negotiated bilaterally between owners and users, the rates paid by members of the TTX pool are established by TTX pursuant to the mechanisms set forth in the RailBox pooling agreement. In addition, while cars under the Code of Car Hire must be moved offline to avoid on-going responsibility for payment, TTX pool participants can keep TTX cars online but “off the clock” for payment purposes under a “turnback mechanism” (also known as “relief” or “storage relief”). Also, whereas lessors of rail-marked boxcars typically are not responsible for significant portions of railcar maintenance (*e.g.*, boxcar doors), TTX rates are explicitly cost-based rather than market-based. As part of this cost-based system, TTX rates cover 100% of all maintenance responsibility. In addition, participants in TTX’s railcar pools are entitled to access to a portion of the fleet to support their carloadings, whereas railroads have no entitlement to access to

¹⁴ See American Rail Box Car Co. & Trailer Train Co., et al. – for Approval of the Pooling of Car Service with Respect to Box Car, 347 I.C.C. 862 (1974). The ICC expressly approved the principles governing how TTX would set usage charges for TTX-owned boxcars and authorized TTX to do so without further agency involvement. *Id.* at 881-82.

foreign railcars subject to Rule 25, except to the extent such railcars end up online at the end of loaded interline shipments. As a result of these—and other—differences, TTX estimates that the effective rate for its boxcars is typically 10-25% below rates posted to Railinc. As such, TTX rates do not provide an appropriate basis for comparison with the rates for the same or physically similar car types subject to Rule 25.

TTX did not consent to sharing its rate data with the TAG, nor more generally to having TTX's data included in the car hire default rate calculation, because TTX does not regard those rates as providing an appropriate comparison. TAG members expressed substantive concerns about the inclusion of TTX rates in the calculation, and AAR does not believe that it has authority to compel TTX—which is a private company operating outside the Code of Car Hire—to produce data to Railinc or to others. In any event, the proposal submitted by GBRX on behalf of RSI to the TAG (and later the EAC) for vote did not include the addition of TTX rates to the default rate calculation. In light of the foregoing, the TAG elected not to include TTX rates in the revised default rate calculation.

Fourth, RSI proposed that the default rate refresh regularly (*e.g.*, annually) rather than exist for the life of the car. However, some TAG members were concerned that annual rate refreshes to the default rate would again discourage negotiations. Given the length of time it may take to negotiate a market or spot market rate, an annual resetting of the rate would be likely to undo important negotiation efforts. In addition, an annual refresh would make all cars vulnerable to a particularly bad year (*e.g.*, “a Covid year”).

Nonetheless, in the spirit of compromise, the TAG voted that the new default rate refresh after five years to a new rate based on the preceding 12-month period running from July 1 to June 30.

Fifth, RSI asked that even though its position before the STB was focused on boxcars, the new default rate be applied to all car types. The TAG concurred, and the new default rate calculation will be applied across the board to all existing cars, irrespective of whether the equipment is a boxcar or not.

Sixth, RSI argued that the new default rate should apply to all existing equipment, not just new builds. One of RSI's members explained to the EAC that his company's "bottom line" would not be impacted by the changes to the default rate "for decades" unless the changes were applied to all cars, including existing equipment.

AAR car hire rule changes are typically prospective, and do not change already existing rates. In addition, TAG members noted that RSI's basis for requesting review of Rule 25 was the alleged adverse impact of a "low" default rate on future investment.¹⁵ More than one TAG member objected that the request to apply the new default rate to existing cars was merely a request for a railroad subsidy to the car manufacturers and lessors. A short-line railroad representative on the TAG raised concerns that an increased default rate for cars already purchased and moving in the network would disproportionately negatively impact short line railroads—particularly terminating railroads and those that do not own equipment.

¹⁵ See, e.g., RSI, Petition at 3 ("[T]he Arbitration Rule has led to stagnant car-hire rates that do not **encourage adequate investment** in new boxcars to avoid the impending boxcar shortage."), 8 ("The design of the Arbitration Rule . . . strongly **discourages investment** in new and existing boxcars, which in turn threatens a boxcar supply crisis . . ."), 15 ("[T]he Arbitration Rule is not producing rates that **encourage investment** in boxcars to replace retiring cars at adequate levels to avert a severe shortage.") (emphasis added).

Accordingly, the TAG voted that the rule change will be prospective, applying only to equipment built on or after the effective date of the new default rate of January 1, 2027.¹⁶

V. Next Steps

While agreement was not reached on all of RSI's demands, the EAC/TAG's work with respect to the default rate as contained in Rule 1 (and mentioned in Rule 25) is complete.

However, the TAG members are in agreement that further work can be undertaken to refine Rule 25, including potentially improving the negotiation and arbitration procedures.

Accordingly, the TAG has scheduled future meetings to address these matters.

This is the type of work that the EAC undertakes on a regular basis. Indeed, as the Board knows, an EAC review of the car hire rules was already underway when RSI filed its petition. RSI may well continue to urge the Board to intervene in the railcar market in order to obtain additional value transfer from the railroads to car owners and lessors in the form of regulatory prescription of default rates. AAR and its members strongly believe the market-based system created by the ICC continues to effectively and appropriately balance the interests of shippers, car owners, and the railroads, and that regulatory intervention will only distort market realities. AAR will respond to the merits of a renewed RSI request for Board intervention, if and when it is made.

¹⁶ The TAG agreed to this start date in order to allow Railinc to implement the aforementioned changes, as well as to give railroads time to account for higher default rates in their budgets.

CONCLUSION

Based on the foregoing, as well as the reasons previously set forth by AAR in its oppositions to the petition, the Board should dismiss RSI's Petition to Reopen and Condition or Revoke Approval.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "K. Kirmayer", is positioned above the typed name.

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November 24, 2025

APPENDIX A

RULE 1 — Registration and Rates

A. Umler Registration

[No changes.]

B. Rate Master Registration

[No changes.]

C. Rates and Registration

[No changes.]

D. Prescribed Rates for Grandfathered Box Cars

[No changes.]

E. Market and Appurtenance Rates

[No changes.]

F. Adjustments- Appurtenance Rates

[No changes.]

G. Responsibility for Cars Delivered to Non-Subscribers

[No changes.]

H. Default Rate

Section H applies to deprescribed cars for which there are no negotiated or arbitrated rates. It does not apply to former fixed rate cars for which former prescribed rates became the default rates after January 1, 2003.

1. A car built, as defined by the Built Date in Umler, prior to January 1, 2027, for which there is no ~~that does not have a~~ negotiated or arbitrated rate will be assigned a default rate equal to the lowest negotiated positive rate in effect for that equipment type at the end of the previous quarter.
 - a. Determination of equipment type for rate purposes will be based on four-digit equipment type code; if none, on three-digit equipment type code; if none, on two-digit equipment type code; if none, on one-digit equipment type code.

2. A car built, as defined by the Built Date in Umler, on or after January 1, 2027, will be assigned a default rate equal to the Five Percent Paid Cumulative Threshold in effect for that equipment type during Calculation Period.
 - a. For purposes of Car Hire Rules 1 and 25, the Five Percent Paid Cumulative Threshold is defined as the first Negotiated Rate Type that makes up no less than five percent of the cumulative hours or miles for that equipment type code when considering all paid rate types, except zero-rated hour or mile cycle reports. The Negotiated Rate Type is defined as Market Rates (code “M”) and Spot Market Rates (code “S”) as defined in the CHARM file and reported in the Car Hire Data Exchange (CHDX).
 - b. Computation of the Five Percent Paid Cumulative Threshold shall be done separately for each rate subcomponent with respect to hour/mile and load/empty status (*i.e.* loaded hour, loaded mile, empty hour, empty mile). To determine the cumulative hours/miles, all non-zero rated hourly and/or mileage paid rates observed in the CHDX records during the Calculation Period are first sorted in ascending order (*i.e.*, from lowest to highest rates) and weighted with respect to actual hour or mile utilization respectively.
 - c. For the purpose of Car Hire Rules 1 and 25, the Calculation Period is defined as the preceding 12-month period from July 1 to June 30 of CHDX reports.
 - d. For a car built on or after January 1, 2027, except with respect to intermodal cars (*i.e.*, AAR Equipment Type Codes starting with “S” and “Q”), determination of equipment type for rate purposes will be based on four-digit equipment type code; if none, on three-digit equipment type code; if none, on two-digit type code; if none on one-digit equipment type code. For intermodal cars determination of equipment type for rate purposes will be based four-digit equipment type code; if none, on a modified hierarchy by reversing the order of the “first and second” numeric equipment type values to first account for platform/well count rather than platform/well size. (*i.e.* In the absence of a match for ETC S365, computation will be checked for S36*, S*3*, S***, where * indicates all values in that position.)

- e. For a car built on or after January 1, 2027, once a default rate is applied to a car, it will remain in effect until the end of the fifth calendar year of implementation, subject to the exceptions in paragraphs 4. a., b., c. and d. On the beginning of the sixth calendar year and every five years going forward, the default rate shall reset to the currently in effect rate as determined in paragraph H.2.
- 3. In all cases, the effective rate paid by one railroad to another, will be the default rate until superseded by a rate established through negotiation or an arbitration decision.

[No additional changes to Section H.]

I. Merged Railroads - Payable/Receivable Car Hire Rate Application

[No changes.]

J. Railroad Acquisitions - Payable/Receivable Car Hire Rate Application

[No changes.]

APPENDIX B

RULE 25 — Car Hire Arbitration

A. Definitions

[No changes.]

B. Negotiation Process

1. Whenever an owner or a user proposes to establish a new rate or change the existing rate to be paid for the use of a car, it shall either file such proposed rate with the AAR or negotiate a bilateral agreement directly with the other party. The AAR shall permit only the owner and user of such car to have access to any proposed rate that has been filed and shall keep rates confidential.
2. If the rate proposed by the owner and the rate proposed by the user are identical, such proposed rate shall ~~automatically~~ take effect. If an owner proposes to charge less than the existing rate or a user proposes to pay more than Circular No. OT-10 65 Revised November 2025 the existing rate, such proposed rate shall ~~automatically~~ take effect, provided, however, that if such rate is proposed to be effective for a specified period of time, that rate shall be effective only for such period. At the expiration of such period of time, if any, the user shall pay the rate previously in effect. In the case of a car for which a rate is currently in effect, a change in the existing rate may be proposed to be effective for a specified period of time. If the rates proposed by the owner and the user are identical and are proposed to be effective for an identical period of time, that rate shall ~~automatically~~ take effect for such period of time. At the expiration of such period of time, the user shall pay the rate previously in effect.
3. If an owner proposes to charge more than the existing rate or the rate proposed by the user or if a user proposes to pay less than the existing rate or the rate proposed by the owner, the user shall continue to pay the rate last in effect, whether ~~prescribed by the Surface Transportation Board or~~ established by a ~~bilateral negotiated~~ agreement or an arbitration award. In the absence of an existing rate, ~~the~~ a car built before January 1, 2027 shall be ~~deemed to have assigned~~ a rate equal to the lowest negotiated positive rate in effect for that equipment type at the end of the previous quarter. ~~In the absence of an existing rate, a car built on or after January 1, 2027, shall be assigned a default rate equal to the Five Percent Paid Cumulative Threshold~~

in effect for that equipment type at the end of the previous Calculation Period.

4. The rate to be paid may be changed at any time by filing with the AAR a new rate set by a ~~bilateral~~ negotiated agreement, provided, however, that the AAR receives confirmation of such rate from both parties. The rate to be paid may be changed at any time after the expiration of the effective period (established pursuant to Paragraph C(5)(h) of this rule) for a car hire rate established by an arbitration award by filing with the AAR a certified copy of a subsequent arbitration award.
5. A new rate established pursuant to this rule will become effective on the first day of the next calendar month after such rate is filed with the AAR.
6. Notwithstanding the definition of “car” in Paragraph A of this rule:

a. ~~Either of the following:~~

~~(1) An owner and a user may conclude a bilateral agreement for a car for which a car hire rate is prescribed by the Surface Transportation Board through the use of the negotiating process established by Paragraph 3 of this rule.~~

~~(2) Any owner voluntarily electing to designate a car as one for which car hire rates are not prescribed by the Surface Transportation Board must provide notice of such election to the AAR at least 90 days prior to the effective date of such election. If the owner does not hold legal title to the car, such notice shall include a written consent to such election from the party holding legal title if such consent is required by 49 CFR 1033.1. If the car subsequently becomes subject to rates prescribed by the Surface Transportation Board pursuant to 49 CFR 1033.1, the owner shall notify the AAR.~~

- b. In the case of a car for which there is a written and binding contract to purchase or build, an owner and a user may conclude a ~~bilateral~~ negotiated agreement through the use of the negotiating process established by Paragraph B of this rule and may arbitrate pursuant to Paragraph C of this rule prior to placement of the car in service.

C. Arbitration

[Changes to Section C were made by the EAC's Car Hire Rules, Rates, and Procedures TAG, and supported by the Rule 25 TAG.]

1. If the owner and user of a car are unable successfully to conclude a bilateral agreement on car hire: a. The parties may jointly seek to resolve the dispute pursuant to any procedure they agree upon, or b. Either party may submit the matter to the American Arbitration Association for arbitration pursuant to this rule. (Disputes involving the appurtenances on V-type cars are not subject to arbitration pursuant to this rule. This exclusion does not foreclose subscribers from entering into other agreements that may differ from this rule.)
2. Regarding Best and Final offers:
 - a. Either party may require an exchange of best and final offers by notifying the other party and the AAR. Upon receipt of such request, the AAR shall notify both parties to file with the AAR best and final offers by a date certain that is 28 calendar days after the date notification is sent by the AAR. If a party fails to file a best and final offer with the AAR within the 28-day period, the proposed rate it last filed with the AAR shall be deemed to be its best and final offer. If a party that fails to file its best and final offer has also not previously filed a proposed rate with the AAR, the previously existing rate, will be deemed to be its best and final offer. The AAR shall simultaneously disclose best and final offers to the parties as soon as both best and final offers have been received.
 - ~~b. If all cars designated in an owner's or user's request for a best and final offer are new (built, Rule 88 rebuilt or Increased Life Status on January 1, 1993 or later) and the current applicable rate for all cars is the default rate, then the non-requesting party's best and final offer response will become the effective rate for all such cars on the first day of the following month, subject to arbitration as described below. If the car owner requests a best and final offer and its best and final offer (time, mileage and appurtenance rates, if applicable) is equal to or lower than the user's best and final offer, the owner's best and final offer will become effective as a market rate on the first day of the subsequent month. All other best and final offers remain binding for purposes of arbitration for a period of 180 calendar days following the date that such best and final offers were disclosed by the AAR.~~

- c. Notwithstanding, Paragraph 2.b., above, if ~~the car owner requests a best and final offer and its best and final offer (time, mileage and appurtenance rates, if applicable) is equal to or lower than the user's best and final offer, the owner's best and final offer will become effective as a market rate on the first day of the subsequent month. All other best and final offers remain binding for purposes of arbitration for a period of 180 calendar days following the date that such best and final offers were disclosed by the AAR.~~ If all cars designated in an owner's or user's request for a best and final offer are new (built, Rule 88 rebuilt or Increased Life Status on January 1, 1993 or later) and the current applicable rate for all cars is the default rate, then the non-requesting party's best and final offer response will become the effective rate for all such cars on the first day of the following month, subject to arbitration as described below.

[No additional changes to Section C.]

D. Voting Procedures

[No changes.]

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of November 2025, I caused to be served by electronic mail or FedEx a copy of the foregoing on all parties of record.

A handwritten signature in blue ink, appearing to read "Amber L. McDonald", with a stylized, cursive script.

Amber L. McDonald