

SERVICE DATE – OCTOBER 3, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42165

HASA, INC.

v.

UNION PACIFIC RAILROAD COMPANY

Digest:¹ The Board vacates its August 21, 2019 order to the extent it requires Union Pacific Railroad Company to maintain five-day-per-week service to Hasa, Inc.'s plant at Saugus, Cal., continues to hold the proceeding in abeyance until October 11, 2019, and directs the parties to provide a status report by that date.

Decided: October 2, 2019

On August 20, 2019, Hasa, Inc. (Hasa), filed an ex parte application for an emergency service order under 49 U.S.C. § 11123 requesting that the Board immediately direct Union Pacific Railroad Company (UP) to restore and maintain five-day-per-week deliveries of water sanitation commodities to Hasa's plant at Saugus, Cal. In addition, or alternatively, Hasa petitioned the Board to issue a temporary injunction pursuant to 49 U.S.C. § 1321(b)(4) and 49 C.F.R. § 1117.1. Lastly, Hasa suggested that the Board consider whether broader measures, such as a show cause order or the initiation of an investigation pursuant to 49 U.S.C. § 11701, were warranted.

By decision served August 21, 2019, the Board directed UP to maintain five-day-per-week service to Hasa until the Board could rule on Hasa's application and petition. The Board stated that it was necessary to maintain the status quo temporarily in order to preserve its ability to provide meaningful and effective relief on the merits should Hasa prevail on its application or petition.²

On September 18, 2019, the Board granted Hasa and UP's joint request to hold the proceeding in abeyance while they attempted to negotiate a commercial solution that would eliminate the need for further Board action. In a joint status report filed on September 27, 2019, Hasa and UP state that negotiations to resolve the proceeding are continuing and that "Hasa has

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² The Board's August 21, 2019 decision set forth a briefing schedule, pursuant to which UP filed a reply to Hasa's application and petition on September 3, 2019, and Hasa filed a rebuttal on September 10, 2019.

concluded that Hasa's service needs do not require five-day-per-week service at this point in the year." (Joint Status Report 1.) The parties therefore request that the Board continue to hold the proceeding in abeyance until October 11, 2019, and "lift its August 21, 2019 order solely to the extent the order requires continued five-day-per-week service." (Id.)

In light of the parties' joint request and their continued negotiations, the Board will vacate its August 21, 2019 order to the extent it requires UP to maintain five-day-per-week service to Hasa. The Board will continue to hold the proceeding in abeyance until October 11, 2019, and direct the parties to provide a further status report by that date.

It is ordered:

1. The Board's August 21, 2019 order is vacated to the extent it directs UP to maintain five-day-per-week service to Hasa.
2. This proceeding is held in abeyance until October 11, 2019.
3. The parties are directed to file a status report by October 11, 2019.
4. This decision is effective on the date of service.

By the Board, Board Members Begeman, Fuchs, and Oberman.