

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42119

NORTH AMERICA FREIGHT CAR ASSOCIATION v. UNION PACIFIC RAILROAD
COMPANY

Decided: December 17, 2010

This decision extends the due date by which the parties are to file either a request for mediation or a proposed procedural schedule and holds the proceeding in abeyance until then.

On April 15, 2010, North America Freight Car Association (NAFCA) filed a complaint against Union Pacific Railroad Company (UP), alleging that provisions of Item 200-A of UP's Freight Tariff 6004 Series constitute unreasonable practices and violations of UP's common carrier obligation. On May 5, 2010, UP filed an answer to the complaint, generally denying NAFCA's allegations.

By decisions served on June 8, 2010, August 13, 2010, and September 22, 2010, the proceeding was held in abeyance until December 10, 2010, so that the parties could engage in informal discovery and consider mediation to resolve this dispute or narrow the issues.¹ The parties also were directed, jointly or separately, to file either a request for mediation or a proposed procedural schedule by December 10, 2010.

In a letter filed on December 9, 2010, NAFCA requests that the Board extend the negotiation/mediation process until March 10, 2011, and that the proceeding continue to be held in abeyance. In its letter, NAFCA states that UP joins in this request. NAFCA also states that the parties have been actively discussing and exchanging proposals that appear to be narrowing the areas of dispute. NAFCA states that both it and UP agree that the prospects for a negotiated resolution are improving.

The request is reasonable. The due date for the parties, jointly or separately, to file either a request for mediation or, if the parties no longer wish to consider mediation, a proposed procedural schedule will be extended from December 10, 2010, to March 10, 2011, and the proceeding will be held in abeyance until that date.

¹ On June 25, 2010, NAFCA filed a motion for a protective order to facilitate informal discovery, to which UP concurred. By decision served on July 12, 2010, the motion for a protective order was granted, and a protective order was adopted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The response date for the parties, jointly or separately, to file either a request for mediation or a proposed procedural schedule is extended to March 10, 2011.
2. The proceeding is held in abeyance until March 10, 2011.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.