

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 730 (Sub-No. 1)

ROSTER OF ARBITRATORS—ANNUAL UPDATE

Digest:<sup>1</sup> The Board revises its roster of arbitrators who are available to resolve rail rate and practice complaints through the Board's arbitration process.

Decided: March 28, 2019

By decision served February 27, 2019, the Board issued its annual update to its roster of arbitrators. See Roster of Arbitrators—Annual Update, EP 730 (Sub-No. 1) (STB served Feb. 27, 2019). On March 5, 2019, the Board received a letter from Paul R. Hitchcock, who had been included on the roster of arbitrators prior to the Board's 2019 update, stating that his notification of continued availability, dated December 7, 2018, was misaddressed and not received by the Board. Mr. Hitchcock includes a copy of his December 7 notification, in which he expresses his interest in remaining on the roster and updates his biographical information.

The Board may modify the roster "at any time by no-objection vote to include other eligible arbitrators . . . ." 49 C.F.R. § 1108.6(b). The Board has assessed Mr. Hitchcock's qualifications in light of the criteria set forth in § 1108.6(b), and, based on this assessment, will further modify the roster to include him. Indeed, the Board has previously determined that Mr. Hitchcock is qualified to serve as an arbitrator under the criteria set forth in § 1108.6(b). See Revisions to Arbitration Procedures, EP 730 (Sub-No. 1) (STB served Feb. 14, 2018).

The revised roster is appended to this decision and will be published on the Board's website.

It is ordered:

1. The Board adopts the revised roster of arbitrators appended to this decision.
2. This decision is effective on the day of service.

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

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<sup>1</sup> 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. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

## ROSTER OF ARBITRATORS

*The following is the list of persons available and qualified to be arbitrators based on the criteria established under 49 C.F.R. § 1108.6. The information provided herein is based on applications filed by each arbitrator. These applications are available on the Board's website (www.stb.gov) under Docket No. EP 730 (Sub-No. 1). The roster will be updated every year and may be modified by the Board at any time through a no-objection vote.*

### **Donald I. Baker**

- Attorney, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037, (202) 663-7820, dbaker@bakerandmiller.com
- Counsels railroad clientele on matters involving antitrust, rail transportation, and economic regulation.
- Served as arbitrator in a variety of antitrust and rail disputes; authored articles on arbitrating complex disputes; member of the Center for Public Resources Panel of Distinguished Neutrals; appointed by the Center of Public Resources Legal Program to Develop Alternatives to Litigation; designated as an arbitrator by the American Arbitration Association.
- Fee: \$425/hour, which could potentially be adjusted by an agreement with the parties.

### **David C. Barrett, Jr.**

- Attorney, Barrett, Easterday, Cunningham & Eselgroth LLP, 7259 Sawmill Road, Dublin, OH 43016, (614) 210-1840, dbarrett@farmlawyers.com
- Represents agricultural producer and agribusiness clients in matters including corporate governance, commercial transactions, commercial civil litigation, mediation, and arbitration; former member of the National Grain and Feed Association (NGFA) (in-house legal counsel, national secretary).
- Administrator of the NGFA Arbitration System; worked to establish the NGFA Rail Arbitration Rules for arbitration of specified rail issues; represented producer and agribusiness firms in arbitration before NGFA and the American Arbitration Association; member of the arbitration panel maintained by the National Futures Association; served as a mediator in a variety of cases, including court-ordered mediation cases in Ohio; completed the London-based Grain and Feed Trade Association's *Gafta* Trade Foundation Course on international grain contracts and arbitration. Fee: \$420/hour + costs and expenses incurred in serving as an arbitrator.

**Sharon G. Clark**

- SVP Transportation & Regulatory Affairs, Perdue AgriBusiness LLC, 6906 Zion Church Road, P.O. Box 1537, Salisbury, MD 21802, (410) 341-2609
- Experience in the agricultural industry, including grain merchandising, commodity trading, transportation, and regulatory affairs; former member of the Board's Railroad-Shipper Transportation Advisory Council; member of organizations/associations, including the National Grain and Feed Association (NGFA), National Grain Car Council, National Oilseeds Processors Association, North America Freight Car Association, and the National Freight Transportation Association.
- Member of NGFA's Executive Committee; nominated chair of NGFA's Arbitration Appeals Panel; member of NGFA Rail Arbitration Committee; arbitrator on NGFA arbitration cases; chair of arbitration for NGFA case; member of task force that originally crafted NGFA arbitration rules; member of an NGFA task force that performed a comprehensive review and overhaul of the NGFA arbitration procedural rules; to be appointed trustee of NGFA Foundation in 2019.
- Fee: \$400/hour + expenses.

**Lynn Hiser**

- President, Hiser Logistics, LLC, 4465 Ruch Road, Oakley, IL 62501, (217) 454-9331, [lynn.hiser@outlook.com](mailto:lynn.hiser@outlook.com)
- Experience in rail transportation as a shipper and payer of freight on Class I railroads and short line railroads; negotiated disputes with railroads involving rates and/or service, in addition to managing private railcar fleets of covered hoppers and tank cars; member of organizations/associations, including the National Grain and Feed Association (NGFA) Shipper-Receiver Committee, North America Freight Car Association, National Industrial Transportation League Rail Transportation Committee, the National Freight Transportation Association, and the Board's National Grain Car Council.
- Served on the NGFA arbitration committee; chairman of a rail transportation-related arbitration case.
- Fee: \$300/hour + travel expenses.

**Paul R. Hitchcock**

- Senior Policy Advisor, Holland & Knight LLP, 50 North Laura Street, Suite 3900, Jacksonville, FL 32202, (904) 798-5409, [Paul.Hitchcock@hklaw.com](mailto:Paul.Hitchcock@hklaw.com)
- Supports attorneys in their representation of Class I and short line railroads and rail customers; formerly served as General Commerce Counsel, a vice president level position at CSX Transportation, Inc., responsible for matters before the Board, intercarrier arrangements, and all commercial matters involving railroad customers; experience with rate cases, unreasonable practice matters, line rationalization issues, carrier-shipper disputes, intercarrier disputes, and trackage rights agreements and disputes.

- Participated in numerous arbitrations and mediations, including Board-sponsored mediations; taught course in railroad litigation and regulation at Florida Coastal School of Law; participated in the negotiation and writing of the original National Grain and Feed Association Rail Arbitration Rules and participated in several matters resolved under that process.
- Fee: Between \$450-\$625/hour, depending on the matter, or as otherwise agreed with the parties.

**James E. Howard**

- Attorney, James E. Howard LLC, 57 Via Buena Vista, Monterey, CA 93940, (831) 324-0233, jim@jehowardlaw.com
- Represents rail carriers and other clients with interests in rail transportation matters, including regulatory issues before the Board, transactional matters involving sales and acquisitions of rail assets and litigation.
- Member of the American Arbitration Association commercial arbitration panel; served as arbitrator in transportation cases, including car hire disputes; represented clients in arbitration and mediation proceedings.
- Fee: \$300/hour.

**Paul H. Lamboley**

- Attorney/Arbitrator/Mediator/Consultant, Law Offices of Paul H. Lamboley, 575 Forest Street, Suite 200, Reno, NV 89509, (775) 786-8333, phlamboley@aol.com
- Former Commissioner of the Interstate Commerce Commission; former law practice concentrated on transportation, antitrust, energy, environment, commercial and trade-related issues.
- Serves as a neutral (arbitrator, mediator, referee, hearing officer, short trial judge) in a full-time Alternative Dispute Resolution practice; panel memberships for arbitrator and/or mediator appointments include National Mediation Board, National Association of Railroad Referees, Surface Transportation Board, and American Arbitration Association.
- Fee: \$325/hour or \$2000 per eight-hour day or part thereof, unless otherwise determined, inclusive of travel.

**Thomas F. McFarland**

- Attorney, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604, (312) 236-0204, mcfarland@aol.com
- Experience in rail transportation and economic regulation.
- Experience in conducting arbitrations and rail transportation dispute resolution.
- Fee: \$150-250/hour, depending on the complexity of the issues to be resolved + reasonable out-of-pocket costs.

**Charles D. Nottingham**

- Principal, Charles D. Nottingham PLLC, 1701 Pennsylvania Avenue, N.W., Suite 200, Washington, DC 20006, (202) 461-2229, chip@chipnottingham.com
- Served in Congress, the Commonwealth of Virginia, the U.S. Department of Transportation, and the Surface Transportation Board; worked in private practice of law and consulting, advising transportation stakeholders on regulatory, legal, legislative, policy and economic matters; areas of expertise include freight rate rail dispute analysis and resolution and unreasonable practice claims in the rail industry.
- As Commonwealth Transportation Commissioner of the Virginia Department of Transportation (VDOT), arbitrated all large construction claim disputes between contractors and VDOT; represented clients in mediation in private practice.
- Fee: \$300-475/hour, depending on the complexity of the matter in dispute and related considerations.

**Darrell R. Wallace**

- Transportation Consultant, Wallace Transportation Consultants LLC, 17884 Westhampton Woods Drive, Wildwood, MO 63005, (314) 724-6041, drwallace@hotmail.com
- Provided rail and truck service to a number of grain and processing facilities, establishing competitive rates for the movement of those bulk grains and grain products; served as Executive Director of North America Freight Car Association and Chairman of the Board's National Grain Car Council; member of organizations/associations, including the Board's Rail Energy Transportation Advisory Council, the National Freight Transportation Association, National Industrial Transportation League, National Oilseeds Processors Association, National Council of Farmer Cooperatives, and the National Grain and Feed Association (NGFA).
- Served on NGFA's Rail Arbitration Rules Committee; served as arbitrator for NGFA on complaints submitted for arbitration and as chairman of an NGFA arbitration proceeding.
- Fee: \$300/hour + travel expenses.

**Richard R. Wilson**

- Attorney, Richard R. Wilson, P.C., P.O. Box 752, Ebensburg, PA 15931, rwilson@rrwilson.net
- Represented numerous rail carriers and other clients with an interest in rail transportation matters, including regulatory issues before the Board, transactional matters involving the acquisition, sale, and line abandonment of rail assets, and related litigation.
- Served as arbitrator or mediator in various rail transportation cases, including rail crossing cases before the Pennsylvania Public Utility Commission.
- Fee: \$250/hour.