

**SURFACE TRANSPORTATION BOARD**  
**QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS**

Fourth Quarter 2018\*

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of formal service complaints received by the agency. *See* STB Reauthorization Act of 2015, Sec. 6(b), Pub. L. No. 114-110 (2015). During the fourth quarter of 2018 (October 1 – December 21), the following formal service-related complaints were pending:

<b>Date Complaint Received</b>	<b>Type of Complaint</b>	<b>Title</b>	<b>Docket No.</b>	<b>Geographic Region</b>	<b>Complainant</b>	<b>Carrier(s) Involved</b>	<b>Resolution/Status</b>
2/27/2013	Application for terminal trackage rights	BNSF Railway Company— Terminal Trackage Rights—Kansas City Southern Railway and Union Pacific Railroad Company	FD 32760 (Sub-No. 46)	Louisiana	BNSF Railway Company	BNSF Railway Company, Union Pacific Railroad Company, Kansas City Southern Railway	Decision granting BNSF’s application for terminal trackage rights served 7/5/2016.  Appeal filed with the U.S. Court of Appeals for the District of Columbia Circuit 9/1/2016. Appeal ordered to be held in abeyance by the D.C. Circuit 1/3/2017 to allow parties to reach agreement regarding certain terms and conditions.  BNSF filed petition to establish conditions of use and

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\* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this fourth quarter 2018 report reflects the status of pending formal service complaints through December 21, 2018.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<p>compensation on 1/12/2018. KCS filed motion to dismiss petition on 2/1/2018. Additional pleadings by BNSF, UP, and KCS filed. Decision denying KCS motion to dismiss served 5/1/2018.</p> <p>UP and KCS filed replies to BNSF's petition on 6/25/2018 and BNSF and KCS filed rebuttals on 7/16/2018.</p> <p>The parties also participated in Board-sponsored mediation. Although the mediation period expired at the end of August, the parties held another mediation session in September. On 10/17/2018, the Board was informed that mediation was not successful.</p> <p>By decision served on 12/7/2018, the Board directed the parties to provide additional information.</p>
3/31/2015	Unreasonable tariff and practices	North American Freight Car Association v. Union Pacific Railroad Company	NOR 42144	Nationwide	North American Freight Car Association; American Fuel & Petrochemicals Manufacturers; The Chlorine Institute; The Fertilizer	Union Pacific Railroad Company	Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received 1/26/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with

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					Institute; American Chemistry Council; Ethanol Products, LLC d/b/a Poet Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated		NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.
12/19/2016	Unreasonable practice and violation of statutory obligation to compensate car owners	Valero Marketing & Supply Company v. Union Pacific Railroad Company	NOR 42150	Unspecified	Valero Marketing & Supply Company; and Valero Rail Partners, LLC	Union Pacific Railroad Company	Complaint filed 12/19/2016. Motion for abeyance received 1/6/2017; reply and motion to consolidate received 1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150 with NOR 42152 and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.
12/30/2016	Unreasonable practice and violation of statutory obligation to compensate car owners	Tesoro Refining & Marketing Company LLC v. Union Pacific Railroad Company	NOR 42152	Unspecified	Tesoro Refining & Marketing Company LLC; Tesoro Great Plains Gathering & Marketing LLC; and Dakota Prairie Refining, LLC	Union Pacific Railroad Company	Complaint filed 12/30/2016. Motion for abeyance received 1/6/2017; reply and motion to consolidate received 1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served

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							10/05/2017. Discovery in consolidated proceedings ongoing.
8/1/2017	Unreasonable practice and violation of statutory obligation to compensate car owners	Arkema Inc. v. Union Pacific Railroad Company	NOR 42153	Unspecified	Arkema Inc.	Union Pacific Railroad Company	Complaint filed 8/1/2017. Union Pacific's motion to consolidate with NOR 42150, NOR 42152, and NOR 42144, received 8/9/2017; answer to the complaint (8/23/2017), reply (8/29/2017), and supplement to the motion to consolidate (9/8/2017) received. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017. Discovery in consolidated proceedings ongoing.
5/1/2018	Unreasonable practice	Central Valley Ag Grinding, Inc., and Central Valley Ag Transport, Inc. v. Modesto and Empire Traction Company	NOR 42159	California	Central Valley Ag Grinding, Inc.; and Central Valley Ag Transport, Inc.	Modesto and Empire Traction Company	Complaint filed 5/1/2018. Petition for preliminary injunction and investigation filed 5/1/2018. Reply and motion to dismiss complaint filed 5/31/2018. Decision issuing preliminary injunction served 6/12/2018. Reply to the motion to dismiss filed 6/20/2018.  Motion to dismiss denied 7/25/2018. Parties in voluntary mediation, which has been extended until

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							<p>1/3/2019 at the parties' request.</p> <p>Petition to reopen and for clarification filed (8/14/2018); reply filed (9/4/2018); request for leave to file a rebuttal and rebuttal filed (9/17/2018).</p>
12/17/2018	Unreasonable practice and common carrier violations	Ameropan Oil Corporation v. Canadian National Railway Company	NOR 42161	Illinois	Ameropan Oil Corporation	Canadian National Railway Company	Complaint filed 12/17/2018.

**SURFACE TRANSPORTATION BOARD**  
**QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED**

Fourth Quarter 2018\*

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of informal service complaints received by the agency. *See* STB Reauthorization Act of 2015, Sec. 6(b), Pub. L. No: 114-110 (2015). During the fourth quarter of 2018 (October 1 – December 21), the STB received the following informal complaints<sup>1</sup>:

Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
7/25/2018	Railroad service issue	Midwest	Shipper contacted RCPA to request assistance with missed switches and lack of communication from serving railroads; RCPA liaised with the serving and connecting railroads to address service failures and resulting delays [ <b>Closed</b> ]	

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\* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this fourth quarter 2018 report reflects the status of informal rail service complaints through December 21, 2018.

<sup>1</sup> A table showing the quarterly inquiries received by the STB’s Rail Customer and Public Assistance (RCPA) office is attached as an Appendix to this report.

<sup>2</sup> Matters reported as “Pending” on the previous quarterly report are carried forward to the next quarterly report.

<sup>3</sup> **Northeast:** Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania; **South:** Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas; **Midwest:** North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio; **West:** Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii.

<sup>4</sup>This quarterly report may identify the complainant that submitted an informal complaint only upon the written consent of the complainant. Surface Transportation Board Reauthorization Act of 2015, Sec. 6(b).

Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
8/15/2018	Railroad service issue	Midwest	Shipper contacted RCPA to request assistance in restoring rail service at its facility; RCPA provided informal guidance on legal and commercial issues related to a request for service; in the meantime, the railroad resumed communications with the shipper to discuss operational requirements <b>[Closed]</b>	
9/5/2018	Railroad service issue	South	Shipper contacted RCPA about increased transit times on its shipments; RCPA contacted the railroad to discuss the issues and facilitate service improvements, resulting in the railroad's better coordination and communication with the shipper <b>[Closed]</b>	
9/11/2018	Railroad service issue/surcharges	Midwest/West	Shipper contacted RCPA regarding newly-imposed storage fees assessed on containers dwelling in railroad-operated intermodal facilities; RCPA contacted the railroad to discuss the charges and the implications for the shipper and facilitated a direct line of communication between the railroad and the shipper <b>[Closed]</b>	
9/12/2018	Railroad service issue/rates	Northeast	Developer sought RCPA assistance in working with two railroads to establish service and commercial terms to move freight to a planned inland port facility; RCPA assisted the developer in making contacts with the railroads to discuss operational and commercial issues, and provided informal guidance on regulatory issues <b>[Closed]</b>	
9/12/2018	Railroad service issue	Midwest	Shipper contacted RCPA about delayed railcars; RCPA liaised with the railroad to facilitate movement of the cars to destination <b>[Closed]</b>	



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9/16/2018	Railroad service issue	Northeast	Shipper contacted RCPA about a car that was not moving after being bad-ordered by the railroad; RCPA liaised with the railroad to ascertain the car's status and facilitate the railroad's communication with the shipper about necessary repairs <b>[Closed]</b>	
9/21/2018	Railroad service issue	Midwest	Shipper contacted RCPA for assistance with a service issue and a loss and damage claim; RCPA provided informal guidance on the legal issues related to the loss and damage claim but the shipper declined to have RCPA contact the railroad about this issue; however, per the shipper's request, RCPA contacted the railroad to discuss service issues <b>[Closed]</b>	
9/21/2018	Railroad service issue	Midwest	Shipper's representative contacted RCPA about inconsistent and unreliable switching being provided by its serving railroad; RCPA liaised with the railroad about the problems; service subsequently improved <b>[Closed]</b>	
9/25/2018	Railroad service issue	South	Shipper contacted RCPA about missed switches at its facility; RCPA notified the railroad, which addressed the service problems <b>[Closed]</b>	
9/25/2018 [Corrected Date]	Railroad service issue; rail demurrage charges	South	Representative of a warehouse contacted RCPA for assistance with a demurrage issue resulting from bunching and missed switches; RCPA provided guidance to the warehouse and worked with the railroad to resolve the issues <b>[Closed]</b>	

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9/26/2018	Railroad competitive access	Midwest	Shipper contacted RCPA about obtaining competitive access to another railroad; RCPA provided informal guidance on commercial and legal issues related to reciprocal switching; RCPA offered to provide further informal guidance on the EP 711 rulemaking, but the shipper did not seek additional information <b>[Closed]</b>	
10/1/2018	Railroad service issue	West	Shipper contacted RCPA to request assistance with deteriorating rail service, including missed switches and delayed shipments; RCPA liaised with the railroad on behalf of the shipper, resulting in service improvement <b>[Closed]</b>	
10/2/2018	Railroad service issue	Midwest	Shipper contacted RCPA regarding rail service problems, including missed switches and wrongly-spotted cars; RCPA liaised with the railroad to facilitate better communication between the parties to coordinate switching operations <b>[Closed]</b>	
10/4/2018	Railroad service issue	South	Shipper requested assistance from RCPA about a railroad's threat to embargo its facility due to congestion; the railroad imposed the embargo, but then lifted it prior to any RCPA intervention <b>[Closed]</b>	
10/5/2018	Railroad rates	Midwest	Shipper contacted RCPA about a railroad's proposed rate increase; RCPA liaised with the railroad about the increase; however, the railroad was not willing to reconsider the increase <b>[Closed]</b>	
10/16/18	Railroad rates	South	Shipper contacted RCPA about a significant increase in its rates, effective in 2019; RCPA liaised with the railroad about the increase; however, the railroad declined to reconsider the increase <b>[Closed]</b>	

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10/22/2018	Railroad service issue	South	Shipper contacted RCPA with concerns about poor rail service, including delayed cars and missed switches; RCPA contacted the railroad, which promptly delivered the delayed cars; RCPA and the shipper had discussions thereafter regarding steps to improve rail service <b>[Closed]</b>	
10/23/2018	Railroad service issue	Midwest	Shipper contacted RCPA about rail service problems, including missed switches and slow transit times; RCPA liaised with the railroad about the concerns; thereafter, the railroad addressed the issues directly with the shipper <b>[Closed]</b>	
10/25/2018	Railroad service issue	South	Shipper contacted RCPA about a shipment that was stranded in transit due to an embargo; RCPA contacted the railroad on the shipper's behalf, resulting in the railroad issuing a permit to move the cars to their destination <b>[Closed]</b>	
10/25/2018	Railroad service issue	Midwest	Shipper contacted RCPA about deteriorating rail service after a railroad modified its operating plan; RCPA facilitated a meeting between the shipper and the railroad to discuss and resolve service issues <b>[Closed]</b>	
11/1/2018	Railroad demurrage charges	South	Shipper's representative requested guidance from RCPA regarding modifications to a railroad's demurrage tariff; RCPA provided informal guidance on demurrage rules and practices and related commercial issues <b>[Closed]</b>	

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11/2/2018	Railroad service issue	Midwest	Shipper contacted RCPA about railcars delayed in transit due to a bridge outage; RCPA liaised with the railroad and shipper to facilitate better communications regarding the status of bridge repairs <b>[Closed]</b>	
11/5/2018	Railroad service issue	Midwest	Shipper contacted RCPA seeking assistance with inconsistent rail service, including missed switches; RCPA liaised with the railroad to address local operational issues <b>[Closed]</b>	
11/5/2018	Railroad demurrage charges	South	Shipper contacted RCPA with questions and concerns regarding announced changes to a railroad's demurrage tariff; RCPA provided informal guidance on the modifications; the shipper chose not to pursue RCPA's direct assistance with the railroad <b>[Closed]</b>	
11/9/2018	Railroad service issue	Northeast	Shipper contacted RCPA regarding delayed movement of railcars; RCPA liaised with the railroad to expedite movement of the railcars <b>[Closed]</b>	
11/9/2018	Railroad service issue	West	Shipper contacted RCPA with questions about a railroad taking a spur track out of service; RCPA provided informal guidance on pathways for the shipper to maintain service <b>[Closed]</b>	
11/13/2018	Railroad demurrage charges	West	Shipper contacted RCPA with concerns about a railroad's announcement of changes to its demurrage tariff; RCPA provided informal guidance on commercial and legal issues; the shipper chose to not pursue RCPA outreach to the railroad <b>[Closed]</b>	

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11/19/2018	Railroad demurrage charges	Northwest	Shipper requested assistance from RCPA in evaluating a railroad's right to apply demurrage charges; RCPA provided informal guidance on the STB's demurrage regulations and the railroad's tariff <b>[Closed]</b>	
11/21/2018	Railroad service issue	South	Shipper contacted RCPA to express concerns over its rail service, following several missed switches; RCPA liaised with the railroad to facilitate service improvement <b>[Closed]</b>	
11/29/2018	Railroad service issue; demurrage charges	South	Shipper's representative contacted RCPA with questions about the legality of a railroad's modifications to its demurrage tariff; RCPA provided informal guidance on legal and commercial issues <b>[Closed]</b>	
11/29/2018	Railroad rate increase	West	Shipper contacted RCPA about a railroad's rate increases, which impacted the shipper's ability to sell products into certain markets; RCPA liaised with the shipper about commercial issues and then contacted the railroad on behalf of the shipper; the railroad stated that it would contact the shipper directly to discuss rate levels <b>[Closed]</b>	
12/3/2018	Railroad rates	South	Shipper contacted RCPA about a railroad's plan to increase rates in 2019 and its modifications to operating practices for handling the shipper's traffic; RCPA liaised with the shipper about the issues and provided informal guidance <b>[Closed]</b>	
12/5/2018	Railroad service issue	Northeast	Shipper sought RCPA assistance to resolve issues related to railcars stranded on a railroad that has ceased operations and changed ownership; RCPA is providing informal guidance to the shipper <b>[Pending]</b>	

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12/5/2018	Railroad service issue	South	Shipper requested RCPA assistance to facilitate improvement of local service at its manufacturing facility; RCPA contacted the railroad about service problems and is providing informal guidance to the shipper <b>[Pending]</b>	
12/6/2018	Railroad service issue	Northeast	Shipper contacted RCPA about inconsistent and unreliable rail service at its facilities; RCPA discussed the issues with the shipper and described options for informal RCPA assistance; the shipper will communicate with RCPA on an as needed basis about service but did not want direct assistance at the time <b>[Closed]</b>	
12/12/18	Railroad accessorial charges	West	Shipper contacted RCPA about a railroad's announcement of changes to its accessorial tariffs, which the shipper believes will harm its business; RCPA contacted the railroad to discuss the shipper's concerns <b>[Pending]</b>	
12/15/2018	Railroad service issue	Midwest	Shipper contacted RCPA to relay concerns about railcars delayed in transit, and the railroad's refusal to grant extra switches to reduce a backlog of cars at its serving yard; the shipper did not request direct RCPA assistance and then reported that the railroad had reverted to its previous operating plan <b>[Closed]</b>	

Note: A table showing the quarterly inquiries received by the STB's Rail Customer and Public Assistance (RCPA) office is attached below as an appendix to the foregoing report.

## Appendix to Quarterly Report of Informal Service Complaints

### 4th Quarter 2018 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	46	6	14	10	7	9
Arrange Meeting	3	2	0	1	0	0
Bus Issue	1	0	0	0	1	0
Coal Dust	1	0	1	0	0	0
Educational	1	0	0	1	0	0
Household Movers	18	1	2	3	4	8
Information-Economic Data	4	0	1	2	0	1
Information-Non Economic Request	2	1	0	0	0	1
Motor Carriers (trucks)	5	0	1	0	0	4
Railroad Abandonment/Loss of Service	1	0	0	1	0	0
Railroad Amtrak/Passenger Issue	1	0	0	0	0	1
Railroad Billing Dispute	1	0	1	0	0	0
Railroad Blocked Crossings	40	0	0	31	0	8
Railroad Demurrage Charges	12	0	4	0	2	6
Railroad Embargo	3	0	2	1	0	0
Railroad Environmental Issues	1	1	0	0	0	0
Railroad Financial Issue	1	0	0	0	1	0
Railroad Grade Crossing Issues	3	0	1	1	0	1
Railroad Idling Engines/Parked Trains	1	0	0	1	0	0
Railroad Labor Issues	2	0	1	0	0	1
Railroad Lease of track or equipment	2	0	0	0	1	1
Railroad Liability Issues	1	0	1	0	0	0
Railroad Noise - Airhorn, Safety, etc	3	0	0	1	1	1
Railroad Operating Authority Issue	1	0	1	0	0	0
Railroad Preemption	6	2	1	1	1	1

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Railroad Private Car Mileage	1	0	0	0	0	1
Railroad Rate Levels/Increases	5	0	3	0	1	1
Railroad Reciprocal Switching	1	1	0	0	0	0
Railroad Service Issue	17	4	4	5	2	2
Railroad Tariff Issue	2	0	0	0	1	1
Rails to Trails	10	2	1	3	3	1
Real Estate Matter	4	0	1	2	0	1
STB Authority Question	4	2	0	2	0	0
STB Information	36	5	3	5	4	19
STB Jurisdictional Question	6	1	3	0	1	1
STB Procedural Assistance	50	7	12	4	7	20
STB Recordations or Security Interests on Rail Cars	3	0	0	1	1	1
STB Records Assistance	28	5	10	6	1	5
STB Webpage/Downloading Assistance	2	1	0	0	0	1
Water Carrier	6	0	1	1	0	3
Wrong Agency Calls	6	0	0	0	0	6
Other	5	1	2	1	0	1
Total	343	42	71	84	39	107

U.S. Census Regions:

Northeast Region	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania
South Region	Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas
Midwest Region	North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio
West Region	Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii



## Appendix to Quarterly Report of Informal Service Complaints

### 4th Quarter 2018 Cases per Commodity Group\*

Commodity Group	Number
Aggregates	2
Agricultural Products	13
Automobile	2
Chemicals	5
Coal	3
Empty Freight Cars	6
Forest Products	5
Household Goods	14
Industrial Products	10
Intermodal	2
Metals and Minerals	2
Not Specified by Shipper	6
N/A	255
Other	12
Passenger	9
Total	346

\*In many instances, the commodity is not specified or material to the inquiry, therefore the total number for this data may not equal the total number of inquiries for the quarter.