

Surface Transportation Board Requests Comment on Whether Congress Should Prescribe Mandatory Arbitration for the Settlement of Small Railroad Rate Disputes; Focuses on Use of Voluntary Arbitration

[NOTE: THIS NEWS RELEASE CORRECTS AN IDENTICAL RELEASE ISSUED EARLIER THIS DATE THAT CONTAINED A TYPOGRAPHICAL ERROR.]

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board is initiating a proceeding that, among other things, seeks public comment to aid the agency in developing a public record that would assist Congress in considering whether binding (mandatory) arbitration should be legislatively prescribed for small railroad rate cases and, if so, how such a requirement would best work. The Board favors private-sector dispute resolution, but the availability of binding arbitration is limited under the statute the Board administers.

The proceeding addresses the situation of railroad customers who do not ship a substantial amount of traffic by rail and believe that the Board's formal rate complaint procedures are impractical for the limited amounts of traffic that they ship. The Board seeks comment on how best to identify such shippers, suggesting that they would be those lacking effective transportation alternatives for their shipments and who do not originate or receive more than a certain number of rail cars (for example, 200 or 500 cars) annually. The Board also seeks comment on the appropriate form of arbitration (such as baseball-style "final offer" arbitration that would limit an arbitrator to selecting either the rate charged by a railroad or the rate proposed by a shipper) and other relevant issues, such as arbitral criteria and appeal rights.

In the proceeding begun today, the Board also is taking measures to increase the utilization of its existing procedures for the voluntary arbitration of matters subject to the agency's jurisdiction. Under the procedures in Part 1109 of Title 49, *Code of Federal Regulations* (49 CFR Part 1109), any formal Board proceeding may be held in abeyance at the request of involved parties while they pursue alternative dispute resolution procedures, such as mediation or arbitration. Additionally, under the procedures in 49 CFR Part 1108, parties may choose to arbitrate certain rail disputes instead of bringing those disputes to the Board initially.

The Board is proposing to add a requirement that a party filing a formal complaint include a statement attesting that it first considered arbitration, but either decided against it or could not obtain an agreement from other involved parties to use arbitration. The Board also asked that arbitrators experienced in rail transportation or economic issues similar to those arising before the Board provide the agency with updated information as to their availability for arbitration service.

Comments on the matters addressed in the Board's decision are due on **November 23, 2001**, with replies due 30 days thereafter, on **December 24, 2001**.

The Board issued its decision today in the case entitled *Arbitration--Various Matters Relating To Its Use As An Effective Means Of Resolving Disputes That Are Subject To The Board's Jurisdiction*, STB Ex Parte No. 586. A printed copy of the decision is available for a fee by contacting **D~ 2 D~ Legal, Room 405, 1925 K Street, NW, Washington, DC 20006, telephone (202) 293-7776**, or via http://Da_To_Da@Hotmail.com. The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>