

PURSUANT TO THE SURFACE TRANSPORTATION BOARD REAUTHORIZATION ACT OF 2015 THE STB PROPOSES RULE CHANGES TO IMPROVE AND EXPEDITE RAIL RATE REASONABLENESS CASES

The Surface Transportation Board today proposed new rules to help improve and expedite rail rate reasonableness cases. The proposed rules implement Section 11 of the Surface Transportation Board Reauthorization Act of 2015, which required the agency to consider how procedures for expediting court litigation might be applied to rate cases. The proposed rules are not the final action the Board plans to take to improve the Board's rate review processes.

In advance of this proceeding, the Board held informal, one-on-one meetings between STB staff and interested stakeholders, and subsequently issued an Advance Notice of Proposed Rulemaking (ANPRM) on June 15, 2016, which incorporated some of the ideas discussed at those meetings. The ANPRM focused on improving efficiency at distinct phases of rate cases, such as the period before the complaint is filed, discovery, evidentiary submissions, and final briefing. Today's proposal reflects public input on the ANPRM, as well as further analysis by Board staff.

Consistent with the ANPRM, the proposed rules focus on the key phases of rate reasonableness cases. The Board is proposing to establish a 70-day "pre-complaint" period, in which the complainant would notify the defendant of the rate and movement it intends to challenge and during which mandatory mediation would now occur. For discovery, the proposed rules would require service of the complainant's and the defendant's initial discovery requests with the complaint and the answer, respectively. The rule would also establish a requirement that parties meet and confer prior to the filing of a motion to compel. The Board proposes to standardize certain practices with respect to evidentiary submissions, and also proposes to establish a new practice of appointing an STB staff person to serve as a liaison for the case and assist the parties in technical and procedural matters, particularly in discovery.

The Board is seeking public comments on the proposed rules. Stakeholders are encouraged to propose and discuss potential modifications or alternatives to the proposed rules, all of which will be considered by the STB to improve and expedite rate review.

Today's [Notice of Proposed Rulemaking in Docket No. EP 733](#) may be viewed and downloaded at www.stb.gov, under "E-LIBRARY / Decisions & Notices / 03/ 31 / 17".

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