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(b) The Board will grant the petition only if the petitioner shows a substantive interest in the proposed rule and good cause for the extension, and if the extension is in the public interest. If an extension is granted, notice of it will be published in the FEDERAL REGISTER, and it will apply to all persons.

[47 FR 49556, Nov. 1, 1982, as amended at 84 FR 12944, Apr. 3, 2019]

§ 1110.7 Availability of dockets.

Dockets of pending rulemaking proceedings are maintained in the Office of Proceedings. These dockets are available for inspection by any person, and copies may be obtained upon payment of the prescribed fee.

[74 FR 52907, Oct. 15, 2009]

§ 1110.8 Adoption of final rules.

If, after consideration of all comments received, final rules are adopted, notice will be published in the FEDERAL REGISTER.

§ 1110.9 Petition for waiver.

Any person may petition the Board for a permanent or temporary waiver of any rule. Petitions should be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington, DC 20423-0001, and should identify the rule involved.

[74 FR 52907, Oct. 15, 2009]

§ 1110.10 Petitions for reconsideration.

Any person may file a petition for reconsideration of the Board's decision in a rulemaking proceeding. Petitions should be filed within 20 days of the date that the final decision is published in the FEDERAL REGISTER and should identify the interest of the petitioner, the specific action sought, and the arguments favoring that action.

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

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AUTHORITY: 49 U.S.C. 10701, 10704, 11701 and 1321.

SOURCE: 82 FR 57379, Dec. 5, 2017, unless otherwise noted.

§ 1111.1 Pre-filing procedures in stand-alone cost cases.

(a) *General*. At least 70 days prior to the proposed filing of a complaint challenging the reasonableness of a rail rate based on stand-alone cost, complainant shall file a notice with the Board. The notice shall:

(1) Identify the rate to be challenged;

(2) Identify the origin/destination pair(s) to be challenged;

(3) Identify the affected commodities; and

(4) Include a motion for protective order as set forth at 49 CFR 1104.14(c).

(b) *Liaison*. Within 10 days of the filing of the pre-filing notice, the Board shall appoint a liaison to the parties.

§ 1111.2 Content of formal complaints; joinder.

(a) *General*. A formal complaint must contain the correct, unabbreviated names and addresses of each complainant and defendant. It should set forth briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Board regulations, and should advise the Board and the defendant fully in what respects these provisions or regulations have been violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed. In a complaint challenging the reasonableness of a rail rate, the complainant should indicate

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whether, in its view, the reasonableness of the rate should be examined using constrained market pricing or using the simplified standards adopted pursuant to 49 U.S.C. 10701(d)(3). If the complainant seeks to use the simplified standards, it should support this request by submitting, at a minimum, the following information:

- (1) The carrier or region identifier.
- (2) The type of shipment (local, received-terminated, etc.).
- (3) The one-way distance of the shipment.
- (4) The type of car (by URCS code).
- (5) The number of cars.
- (6) The car ownership (private or railroad).
- (7) The commodity type (STCC code).
- (8) The weight of the shipment (in tons per car).
- (9) The type of movement (individual, multi-car, or unit train).
- (10) A narrative addressing whether there is any feasible transportation alternative for the challenged movements.
- (11) For matters for which voluntary, binding arbitration is available pursuant to 49 CFR part 1108, the complaint shall state that arbitration was considered, but rejected, as a means of resolving the dispute.

(b) *Disclosure with simplified standards complaint.* The complainant must provide to the defendant all documents relied upon in formulating its assessment of a feasible transportation alternative and all documents relied upon to determine the inputs to the URCS Phase III program.

(c) *Multiple causes of action.* Two or more grounds of complaint concerning the same principle, subject, or statement of facts may be included in one complaint, but should be stated and numbered separately.

(d) *Joinder.* Two or more complainants may join in one complaint against one or more defendants if their respective causes of action concern substantially the same alleged violations and like facts.

(e) *Request for access to waybill data.* Parties needing access to the Waybill Sample to prepare their case should follow the procedures set forth at 49 CFR 1244.9.

(f) *Discovery in stand-alone cost cases.* Upon filing its complaint, the complainant shall certify that it has served its initial discovery requests on the defendant.

§ 1111.3 Amended and supplemental complaints.

(a) *Generally.* An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants. The time limits for responding to an amended or supplemental complaint are computed pursuant to §§1111.5 and 1111.6, as if the amended or supplemental complaint was an original complaint.

(b) *Stand-alone cost.* If a complainant tenders an amended or supplemental complaint in a stand-alone cost case, the complainant shall certify that it has served on the defendant those initial discovery requests affected by the amended or supplemental complaint, if any.

(c) *Simplified standards.* A complaint filed under Simplified-SAC or Three-Benchmark may be amended once before the filing of opening evidence to opt for a different rate reasonableness methodology, among Three-Benchmark, Simplified-SAC, or stand-alone cost. If so amended, the procedural schedule begins again under the new methodology as set forth at §§1111.9 and 1111.10. However, only one mediation period per complaint shall be required. A complaint filed under Final Offer Rate Review may not be amended to opt for Three-Benchmark, Simplified-SAC, or stand-alone cost, and a complaint filed under Three-Benchmark, Simplified-SAC, or stand-alone cost may not be amended to opt for Final Offer Rate Review.

[82 FR 57379, Dec. 5, 2017, as amended at 88 FR 318, Jan. 4, 2023]

§ 1111.4 Service.

A complainant is responsible for serving formal complaints, amended or supplemental complaints, and cross complaints on the defendant(s). Service