

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42165

HASA, INC.

v.

UNION PACIFIC RAILROAD COMPANY

Digest:¹ The Board orders Union Pacific Railroad Company to restore and maintain five-day per week service to Hasa, Inc.'s plant at Saugus, Cal., until the Board rules on a pending application for emergency service order and petition for temporary injunction.

Decided: August 21, 2019

On August 20, 2019, Hasa, Inc. (Hasa), a producer and distributor of sodium hypochlorite and related products, including hydrochloric acid, used for water sanitation and wastewater treatment, filed an ex parte application for an emergency service order under 49 U.S.C. § 11123. The application requests that the Board immediately direct Union Pacific Railroad Company (UP) to restore and maintain five-day per week deliveries of water sanitation commodities to Hasa's plant at Saugus, Cal., while the parties discuss and implement any reasonably necessary, mutually agreeable changes in service through the assistance of Board-sponsored mediation. In addition, or alternatively, Hasa petitions the Board to issue a temporary injunction pursuant to 49 U.S.C. § 1321(b)(4) and 49 C.F.R. § 1117.1 requiring UP to restore and maintain five-day per week service in order to prevent irreparable harm. Lastly, Hasa suggests that the Board consider whether broader measures, such as a show cause order or the initiation of an investigation pursuant to 49 U.S.C. § 11701 are warranted.

In support of the application and petition, Hasa states that it is a railroad receiver served exclusively by UP. (Hasa Pet. 7.) Hasa indicates that, after providing five-day per week service to Hasa for over 50 years, UP has announced its intention to reduce its service to three-days per week beginning on Monday, August 26, 2019.² (*Id.* at 2, 8, 10.) Hasa argues that the reduction in service will lead to product shortages, which will in turn

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

² Hasa also expresses the concern that UP may in fact reduce service to one-day per week, as UP had suggested in the past. (*Id.* at 3, 8, Ex. 3 at 2, Ex. 4 at 7.)

deprive millions of people in Southern California of safe water, thereby threatening the public health. (Id. at 2, 6, 7, 16, 25-26.) Hasa also notes there is no other substitute manufacturer or supplier of sodium hypochlorite in the area, therefore it cannot obtain chlorine deliveries from any transporter other than UP, and its customers cannot use substitute products in the short term. (Id. at 13.)

To preserve the Board's ability to provide meaningful and effective relief on the merits should Hasa prevail on its application or petition, it is necessary to temporarily maintain the status quo while the Board expeditiously considers the application and the petition. Accordingly, the Board will direct UP to maintain five-day per week service to Hasa until the Board has ruled on Hasa's application and petition.

The Board will direct UP to file its reply by September 3, 2019, and Hasa to file its rebuttal by September 10, 2019.

It is ordered:

1. UP is directed to provide five-day per week service to Hasa until the Board has ruled on Hasa's application and petition.
2. UP's reply is due by September 3, 2019. Hasa's rebuttal is due by September 10, 2019.
3. This decision is effective on the date of service.

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