

SUPPLEMENTARY INFORMATION ON THE COMPLAINT PROCESS BEFORE THE AGENCY

A. DEALING WITH INTERROGATORIES (WRITTEN QUESTIONS)

Under the Agency Rules, parties to a complaint may direct written questions to each other. The Agency may also request additional information from either party.

Preparing written questions for the railway company

You are not required to direct written questions to the railway company and the right to do so should be used sparingly. If the railway company has not directly contradicted the information contained in your complaint, it would be prudent not to direct any questions to the railway company.

The purpose of written questions is not to seek out new information but to confirm the information you have already provided to the Agency or to complete information that the railway company may have included in its answer to your complaint. You should avoid open-ended questions that simply give the railway company an additional opportunity to explain its position.

Example 1

If the railway company's answer states that it has provided you with adequate car supply, you could ask the railway company to confirm that the data included in your intervention relating to cars ordered and cars delivered to your facility is accurate.

Example 2

If the railway company's states in its answer that you accepted certain operational changes for your facility but your understanding was that these changes were conditional on the railway company meeting certain other commitments or that these changes were to be re-examined after an initial trial period, you could direct a question to the railway company asking it to confirm these aspects of the arrangement.

Written questions must be filed with the Agency and served on the railway company.

Answering written questions

You may be required to answer written questions directed to you by the railway company, to provide copies of relevant documents or to provide additional information as ordered by the Agency.

Your answers should be truthful and, wherever possible, further explain your position and how inadequate railway service is affecting your business.

You may refuse to answer questions that are irrelevant, but you should explain why you believe they are irrelevant.

If you are asked to provide documents or information that are of a commercially sensitive nature and that you do not wish to disclose publicly, you must:

1. file two versions of the information with the Agency:
 - a. one version from which the confidential information has been deleted and
 - b. one version that contains the confidential information but that is marked “contains confidential information” at the top of each page and that identifies the information which has been deleted from the other version
2. write a covering letter, in which you
 - a. claim confidentiality for the information,
 - b. request that it not be placed on the Agency’s public record and
 - c. explain why public disclosure would be harmful to your business, being specific as to the nature and extent of the harm.

B. OTHER STEPS IN THE PROCESS

The Agency may make its decision based solely on the written material filed by the parties. Alternatively, it may decide to hold an oral hearing with respect to all or part of the issues to be addressed, in which case it will notify the parties of the time and place of the hearing and may provide additional procedural directions.

C. IMPORTANT DEADLINES

The Agency will likely issue procedural directions to all parties which specify deadlines for the filing of written questions, answers to such questions and any additional information the Agency may request. You should ensure that you comply with these deadlines.