

The Final Offer Arbitration (Railway) Regulations

being

[Chapter R-1.2 Reg 1](#) (effective October 3, 2003).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

1	Title	11	Arbitrator may request further information
2	Interpretation	12	Requirements governing arbitrator's decision
3	Advance notice of final offer arbitration required	13	Incorporation in tariff
4	Required contents of submission	14	Arbitration fees to be paid equally by both parties
5	Shipper to serve a copy of its submission	15	Confidentiality of information
6	Filing of final dollar amount offer by railway company	16	If parties agree to terminate proceedings
7	If no dollar offer filed by railway company	17	Board to prepare a list of arbitrators
8	Appointment of arbitrator	18	Board to publish list of arbitrators
9	Procedure generally and evidence	19	Coming into force
10	What the arbitrator's decision must be based on		

CHAPTER R-1.2 REG 1

The Railway Act

Title

1 These regulations may be cited as *The Final Offer Arbitration (Railway) Regulations*.

Interpretation

2 In these regulations:

- (a) “**Act**” means *The Railway Act*;
- (b) “**arbitrator**” means an arbitrator appointed pursuant to subsection 40(3) of the Act;
- (c) “**final offer arbitration**” means a final offer arbitration to be conducted pursuant to section 40 of the Act;
- (d) “**submission**” means a submission made by a shipper to the board pursuant to section 40 of the Act;
- (e) “**traffic**” means the traffic that is the subject of the final offer arbitration.

17 Oct 2003 cR-1.2 Reg 1 s2.

Advance notice of final offer arbitration required

3 No final offer arbitration shall proceed unless, at least five days before submitting its submission, the shipper has served on the railway company a written notice indicating that the shipper intends to submit the matter to the board for a final offer arbitration.

17 Oct 2003 cR-1.2 Reg 1 s3.

Required contents of submission

4 Every submission must contain:

- (a) the shipper’s final offer to the railway company respecting the terms and conditions associated with the movement of the traffic, including any dollar amounts;
- (b) an undertaking by the shipper to ship the traffic in accordance with the decision of the arbitrator;
- (c) an undertaking by the shipper to the board in which the shipper agrees to pay to the arbitrator the fee for which the shipper is liable pursuant to section 14 as a party to the arbitration; and
- (d) if the shipper and the railway company have agreed, the name of the arbitrator that the shipper and the railway company request to conduct the arbitration.

17 Oct 2003 cR-1.2 Reg 1 s4.

R-1.2 REG 1**FINAL OFFER ARBITRATION (RAILWAY)****Shipper to serve a copy of its submission**

5 The shipper shall:

- (a) file a copy of its submission with the board; and
- (b) serve a copy of its submission on the railway company within five days after filing the submission with the board in accordance clause (a).

17 Oct 2003 cR-1.2 Reg 1 s5.

Filing of final dollar amount offer by railway company

6 Within 10 days after a submission is served pursuant to section 5, the railway company shall file with the board and serve on the shipper its final offer respecting dollar amounts based on the terms and conditions set out in the shipper's submission.

17 Oct 2003 cR-1.2 Reg 1 s6.

If no dollar offer filed by railway company

7 If the railway company that is named in a submission does not file a final offer with the board before the expiry of the period mentioned in section 6, the final offer filed by the shipper is deemed to be the final offer selected by the arbitrator for the purposes of subsection 40(4) of the Act.

17 Oct 2003 cR-1.2 Reg 1 s7.

Appointment of arbitrator

8 Within 30 days from the date that the railway company files with the board a final offer pursuant to section 6, the board shall appoint as an arbitrator:

- (a) one person from the list of arbitrators prepared in accordance with section 17; or
- (b) if the parties to the final offer arbitration have agreed on a person, the person agreed on by the parties.

17 Oct 2003 cR-1.2 Reg 1 s8.

Procedure generally and evidence

9(1) The arbitrator shall conduct the arbitration proceedings:

- (a) as expeditiously as possible; and
 - (b) in the manner the arbitrator considers appropriate having regard to the circumstances of the matter.
- (2) The arbitrator is not bound by the rules of evidence and has power to determine the admissibility, relevance and weight of any evidence.
- (3) The arbitrator may determine the manner in which evidence is to be admitted.

17 Oct 2003 cR-1.2 Reg 1 s9.

What the arbitrator's decision must be based on

10 The arbitrator shall decide the matter on the basis of:

- (a) the parties' final offers submitted pursuant to sections 5 and 6; and
- (c) any additional information provided by the parties pursuant to section 11.

17 Oct 2003 cR-1.2 Reg 1 s10.

Arbitrator may request further information

11 If the arbitrator considers it necessary to clarify a final offer or any matter contained in a submission, the arbitrator may:

- (a) invite the parties to make oral representations; or
- (b) ask the parties to appear before the arbitrator to provide further information.

17 Oct 2003 cR-1.2 Reg 1 s11.

Requirements governing arbitrator's decision

12(1) The decision of the arbitrator must:

- (a) be in writing; and
- (b) unless the parties agree otherwise, be rendered within 30 days after the date on which the submission for the final offer arbitration was referred to arbitration by the board.

(2) An arbitrator is not required to provide written reasons for the arbitrator's decision.

17 Oct 2003 cR-1.2 Reg 1 s12.

Incorporation in tariff

13(1) Immediately after receiving an arbitrator's decision, the railway company shall set out the rate or rates and the terms and conditions associated with the movement of traffic that have been selected by the arbitrator in a tariff of the railway company.

(2) Subsection (1) does not apply if the parties to the final offer arbitration agree to include the rate or rates and the terms and conditions in a contract that the parties agree to keep confidential.

17 Oct 2003 cR-1.2 Reg 1 s13.

Arbitration fees to be paid equally by both parties

14 The shipper and the railway company shall share equally, whether or not the proceedings are terminated pursuant to section 16, in paying the fees and expenses of the final offer arbitration.

17 Oct 2003 cR-1.2 Reg 1 s14.

Confidentiality of information

15 If a party to a final offer arbitration advises the board in writing that it wishes to keep all or any matters relating to the arbitration confidential, the board and the arbitrator shall take all reasonably necessary measures to ensure that those matters are not disclosed by the board or the arbitrator during and after the arbitration proceedings to any person other than the parties.

17 Oct 2003 cR-1.2 Reg 1 s15.

If parties agree to terminate proceedings

16 Before an arbitrator renders a decision on a final offer arbitration, if the parties advise the board or the arbitrator that they agree that the matter being arbitrated should be withdrawn from arbitration, the proceedings respecting the matter must be immediately terminated.

17 Oct 2003 cR-1.2 Reg 1 s16.

Board to prepare a list of arbitrators

17 The board shall:

- (a) consult with those representatives of shippers and railway companies that the board considers appropriate; and
- (b) after the consultations mentioned in clause (a), establish a list of persons who agree to act as arbitrators in final offer arbitration.

17 Oct 2003 cR-1.2 Reg 1 s17.

Board to publish list of arbitrators

18 The board shall make the list of arbitrators mentioned in section 17 known to representatives of shippers and railway companies throughout Saskatchewan in any manner that the board considers appropriate.

17 Oct 2003 cR-1.2 Reg 1 s18.

Coming into force

19 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

17 Oct 2003 cR-1.2 Reg 1 s19.