

Surface Transportation Board
395 E Street SW
Washington, DC 20423

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Office of Proceedings
May 7, 2019
Part of
Public Record

Dear Honorable Members:

Thank you for taking the time to review the concerns regarding the recent changes to Demurrage and Accessorial charges on Class I railroads. In seeking greater efficiency and profitability as a business, most Class I railroads in North America have implemented "Precision Scheduled Railroading". This methodology supports three crucial areas: shipping consistently, shipping on time, and shipping with fewer assets. The railroads and their networks in North America should be viewed as economic assets, not liabilities, to the economy. Lhoist North America support the efforts of the railroads as they would any business that is continually looking for ways to improve. Shipping in single car shipments should be operationally the most cost effective and efficient way to get bulk products to market. However, these new charges are not reciprocal to both parties, are difficult to manage and dispute, and are showing signs of pushing freight off rail and onto our highways and interstates.

One of the key principles in Precision Scheduled Railroading is running freight consistently and on time. In my experience as a logistics manager, the first implementation of scheduled railroading can be a difficult achievement. Many times, I have seen transit times deteriorate upon implementation before getting consistent. The Precision Scheduled Railroading concept, when successful, allows a logistics manager to better plan the supply of raw materials or finished goods to a customer base. It is widely known that "just in time" inventory is an active principle in the production world and the transit schedule is very important. When a shipment goes off schedule, this impacts the inventory needs of a business. A way to overcome the inventory need is to use trucks to bring material in due to the railcar not making the schedule. This solution can be expensive in short notice, and at times there is no trucking capacity. While this solution does satisfy the immediate need if a truck can be secured and thus eliminates lost production or sales, it can have consequences of Accessorial or Demurrage charges when the railcar does arrive due to storage capacity being filled by the emergency trucks. I have been involved in helping our customer base find trucking volume when a car goes off schedule. Many times, the "spot market" trucking rate can be double that of a normally scheduled truck and can far exceed the rate offered by the railroad. This issue exists not only for a business receiving goods but can severely impact shippers like Lhoist North America who are supplying the industrial market, due to constraints on storage space resulting in lost or reduced production. On several occasions we have had to slow down or cease production due to the Industry switch not being completed as scheduled. When this does occur, the existing Accessorial, Demurrage tariffs don't offer any compensation for lost production, additional transportation costs or offset the loss of equipment utilization in the case of private railcars.

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Another key principle in Precision Scheduled Railroading is limiting railroad-owned assets. This can be accomplished in a couple of different ways including quicker transit times (better use of power) and in having the customer base supply their own equipment (private cars). I support the idea of privately held equipment. This is a way to partner with a railroad and can present a “value add” to a sale of product or material. When looking at a private rail fleet several factors must be evaluated, one of which is the transit times of the origin and destination lanes of your market. This is important to get the right number of cars in your fleet, and to support good utilization. If shipments don’t make schedules this adds a need for additional rail equipment. There are no provisions in the current Accessorial, Demurrage tariffs to overcome lost utilization or costs associated with non-optimal use of private cars by the railroads.

In addition to the lack of provisions in the tariffs of protecting the shipper, these charges are administratively challenging. The charges start 24hrs after the car was available to be placed. The shipment history doesn’t seem to be considered, and an invoice for Demurrage is automatically generated. It is up to the customer base to go back into the railroads’ own online system to identify if a car was delayed or bunched with previous shipments on its transit. The charges that really impact my freight portfolio are empty cars that are deemed to be causing congestion in the railroads’ serving yards. I get daily updates on ETA notices on when the car(s) will arrive back to my serving yard. These updates are typically not operationally accurate. This makes it difficult, if not impossible, to understand how many cars I will receive daily, which makes it very difficult to manage the fleet to Precision Railroading standards. A dispute must be filed on the railroad’s online tool if you don’t agree with an invoice. The burden of “proof” falls to the customer that the Demurrage invoice is not valid. This is time consuming and burdensome. After providing a valid reasoning for disputing the charges, rarely are the charges reversed after a delayed response. If these charges are to be enforced, should there not be reciprocal charges against the railroad for failing to pick up or deliver cars on time?

The last topic is the transition of shipments off our rail lines and onto our roadways. Since the beginning of 2019 we have seen customers show rapidly increasing interest in moving their supply from rail to truck, and just last week we had yet another customer request a supply plan in truck over the existing supply plan on rail. While there has been a steady decline in rail traffic over the past several years, partly due to the issues that the railroads are trying to correct, the rate seems to be accelerating. Our experience has been once a supply plan goes to truck it rarely comes back to rail. My fear is that our 16-mile Industrial Spur in Tennessee will suffer the same fate (closure and abandonment) that our facilities in Florida and Texas have seen, and that Lhoist North America will eventually be forced to abandon rail. In time, the track will become too deteriorated to be used and the capital to reinvest too great, permanently eliminating rail as an option.

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It is crucial to our market to have efficient and cost-effective transportation. Rail shipments have the potential to be the most cost effective and safest method of transportation for bulk materials such as ours. These charges are accelerating the demise of rail shipments at an alarming rate. Once it is gone, it is gone. We are dealing here with the future of single car rail shipments in America.

Thank you for your time today, I appreciate your concern and willingness to listen to the overall markets concerns regarding the Demurrage and Accessorial charges

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