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May 8, 2019

The Honorable Ann D. Begeman
Chairman
Surface Transportation Board
395 E. St., S.W.
Washington, D.C. 20423-0001

Re: Comments Regarding EP 754, Oversight Hearing on Demurrage and Accessorial Charges

Dear Chairman Begeman:

Thank you for recognizing the importance of reviewing current demurrage policies and holding the “Oversight Hearing on Demurrage and Accessorial Charges” on May 22, 2019. I am pleased to provide comments on behalf of the International Association of Refrigerated Warehouses (IARW). The IARW is a 501(c) (6) non-profit trade association representing the temperature controlled third-party logistics industry. Rail carriers’ demurrage policies have a significant impact on our member companies.

Rail is an important option for many of our warehouse members, particularly for large volume shippers and those handling slower moving SKUs. The continued truck driver shortage also contributes to the importance of rail for our members. Unfortunately, the current policies surrounding demurrage are creating significant challenges for our industry.

For example, Americold Logistics has 70 sites across the country that have the ability to ship or receive rail cars. So far in 2019, Americold has shipped or received over 4,800 railcars at these sites. Over the past three years, rail carriers have filed millions of dollars in demurrage charges against the sites, most of which relate to rail carriers bunching cars and delivering many more cars at one time than the warehouse has dock space for or can unload in the free time. This is but one example of how demurrage is impacting our warehouse members.

We applaud the STB for holding this hearing and urge for the adoption of policies that will achieve a more equitable balance regarding demurrage. We believe that adopting a policy of “Actual Placement” would be one of the most effective ways to address current challenges related to demurrage. We suggest that the demurrage clock not begin until the railcar has been actually placed in a position to be unloaded and that warehouses be given 48 business hours (Monday through Friday) to unload the railcar.

For the third-party logistics industry, “Actual Placement” is a much fairer policy for demurrage. Warehouses do not have any control over the railcar until it is actually placed in a position for loading. Warehouses also do not have any control over issues such as bunching, switching frequency, capacity, and service days.

I would like to also specifically address the issue of bunching, which is a major contributor to demurrage problems in our industry. For example, a shipper may ship 4-6 cars/day from the West Coast and the warehouse on the East Coast is set up to receive 4-6 cars/day. However, as the cars cross the US, they bunch up in hump

yards across the country and build up in locations such as Chicago and Tennessee. Warehouses then receive the cars in waves of 20+ cars. This puts warehouses at immediate risk of demurrage charges since they will not be able to unload all 20 cars within the particular Class 1's criteria.

From a logistical standpoint, the occurrence of bunching is understandable. However, warehouses have no control over bunching and it is unfair to charge the receiving location for a problem the warehouse did not create. In addition, it is very difficult to fight these demurrage charges because many players are involved. For example, one railroad may take cars to Chicago where another railroad takes over. Further down the line, the local shortline picks them up and delivers them. If a Class 1 charges demurrage fees, the warehouse cannot blame the shortline, or the other Class 1s because they won't be able to bill them back. At the end of the day the receiving location is left holding the bill. In addition, in some locations the Class 1 is also the local switch yard, in other words, they spot to the location directly. This causes tremendous service failures as spots are limited and the railroads are often poor in servicing the local receiving location.

We strongly urge the STB to adopt the policy of "Actual Placement" with 48 business hours to unload the railcar. This is an equitable solution that places demurrage liability on warehouses when they can actually control the disposition of the railcar.

Thank you for holding this important hearing. Please let us know if we can be of assistance as the process moves forward.

Sincerely,

A handwritten signature in cursive script that reads "Lowell Randel". The signature is written in dark ink and is positioned below the word "Sincerely,".

Lowell Randel
Vice President, Government and Legal Affairs