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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
November 6, 2019
Part of
Public Record

Docket No. EP 760 and EP 757

COMMENTS OF AURIGA POLYMERS, Inc.

a wholly owned subsidiary of INDORAMA NA on behalf of Indorama Ventures Affiliates

The purpose of this filing is to support the Policy Statement on Demurrage and Accessorial Rules and Charges as well as the Exclusion of Demurrage Regulation from Certain Class Exemptions. We thank and commend the Board for the time, effort and diligence that are being committed to gathering information from all involved parties and ensuring that the demurrage and accessorial rules and charges are fair and reasonable.

Indorama currently has eight (8) manufacturing plants throughout North America, all but one (1) are captive shippers. Three (3) of our sites are captive to the NS and have seen significant cost increases and operational issues due to the recent changes. One site in particular, StarPet Inc. was the main subject of our testimony at the Demurrage Hearing on May 22, 2019 and has seen increased demurrage charges in the amount of over \$360,000 in 12 months' time. We repeatedly hear from the railroads that the change to the tariff is to incentivize a change in shipper/receiver behavior to be more efficient, rather than to create a revenue stream.

Indorama appreciates and agrees with the Board's concerns noted in the Policy Statement on Demurrage and Accessorial Rules and Charges related to demurrage charges for delays that a

shipper or receiver did not cause or cannot control. As stated, “where demurrage charges are imposed for circumstances beyond the shipper’s or receiver’s reasonable control, they do not accomplish their purpose to incentivize behavior to encourage efficiency”. Indorama’s raw material shipments are shipped consistently and ratably, but do not arrive at our sites in the same manner. Bunching or delays occur during transit that causes multiple days’ shipments to arrive at the same time, causing a backlog on site and demurrage to be incurred.

Indorama also would like to support the Board’s concern regarding Free Time. As the Board has stated, “[a] railroad has a right to set a reasonable time – free time – for a shipper to finish using rail assets ... (rail cars or track) ... for demurrage”. Indorama continues to see inconsistent service on inbound deliveries by the NS. ETAs in some lanes vary as much as 7-8 days making it impossible to plan and bring cars on site without causing demurrage when zero (0) free days are allowed, and Indorama does not consider this to be a reasonable allotment of Free Time. Indorama has no ability to comply with the present zero free time standard in place on NS regardless of any actions it may take. NS has put Indorama in an impossible position. Indorama respectfully requests that the Board consider imposing a minimum of 48 hours, or two (2) days, free time to provide a shipper a reasonable time to load or unload its cars, especially in this environment when railroads continuously provide inconsistent and unpredictable service.

In addition to the Policy Statement, Indorama would like to commend the Board for its Notice of Proposed Rulemaking in EP 760, Exclusion of Demurrage Regulation from Certain Class Exemptions. Indorama strongly supports this proposal to clarify that various exemptions are not applicable to demurrage. Indorama appreciates this clarification and is encouraged that the Board is available for demurrage disputes involving these commodities.

Indorama thanks the Board for the opportunity to participate in the Hearing and trusts the Board's final decision herein will bring a fair solution to the demurrage issue.

Respectfully submitted,

November 5, 2019

A handwritten signature in black ink, appearing to read "Barbara Hagler". The signature is fluid and cursive, with the first name "Barbara" written in a larger, more prominent script than the last name "Hagler".

Barbara Hagler
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