

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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Docket No. EP 757

POLICY STATEMENT ON DEMURRAGE AND ACCESSORIAL RULES AND CHARGES

REPLY COMMENTS OF AURIGA POLYMERS, INC.

Auriga Polymers, Inc. (“Auriga”) respectfully submits its Reply Comments in the above-captioned proceeding. The purpose of this reply is to update the Board on recent interactions between the Norfolk Southern Railroad and Indorama/StarPet (affiliated companies of Auriga) regarding demurrage and accessorial issues.

As stated in previous testimony and comments, Indorama/StarPet has advised that the change in NS Freight Tariff 6004-D tariff from 2 credit days to 0 credit days for private cars is completely unreasonable and unfair. While we have tried to work with NS and have reiterated our position on demurrage, NS has ignored the Board’s advice made in the proposed demurrage policy statement in this proceeding.

Recently, the Surface Transportation Board (“STB”) issued a Notice of Proposed Statement of Policy regarding information on principles the STB would consider in evaluating the reasonableness of demurrage and accessorial rules and charges. *Policy Statement on Demurrage and Accessorial Rules and Charges*, EP No. 757 (STB served Oct. 7, 2019). In this notice, the STB made several statements which are especially pertinent here. The STB exclaimed that it is troubled by the adverse impacts of reductions in free time to rail users and the potentially negative consequences of providing no credit days for private cars if rail carriers do not have reasonable rules and practices for dealing with, among other things, variability in service and carrier-caused bunching, and for ensuring that shippers and receivers have a reasonable opportunity to evaluate and order incoming cars before demurrage begins to accrue. The STB also stated that it has serious concerns about the reasonableness of reductions in free time that make it more difficult for shippers and receivers to contend with

variations in rail service and do not serve to incentivize their behavior to encourage the efficient use of rail assets. The STB then expressed concern that, in some circumstances, such reductions may be inconsistent with rail carriers' statutory charge to compute demurrage and establish related rules in a way that fulfills the national needs specified in 49 U.S.C. § 10746 and may be incompatible with the overarching purpose of demurrage—namely, to encourage the efficient use of equipment by penalizing the undue detention of cars. The STB emphasized, for example, that where carrier-caused circumstances give rise to a situation in which it is beyond the shipper's or receiver's reasonable control to avoid charges, demurrage does not fulfill its purpose. Slip op. at 11-12.

Despite this clear advice and warning by the STB, NS still refuses to change its demurrage rules and past charges that are inconsistent with this language. Obviously, we do not feel zero is a reasonable amount of time. The only changes NS has made either add to our cost or move it to another category. NS has recently announced additional changes to NS 6004-D effective April 2020 that will further increase their demurrage revenue from shippers like StarPet.

StarPet has seen an increase in demurrage charged over 13 months of more than \$393,000, and does not see an end in sight to these charges, versus \$855 (this not a typo) charged and paid in the 20 months between February 2017 through September 2018. We have agreed to use a SIT yard provided by the NS in late November only to help mitigate the demurrage charges but not to eliminate them, and this is still at an added cost to StarPet that equals approximately 17 days demurrage. This does not offer StarPet any relief; it just moves the expense to a different bucket.

Due to the nature of the NS operations and the 0 free days, we believe that regardless of StarPet's efforts to manage inbound and outbound shipments, use outside storage, and work on a plan for adding infrastructure to the Asheboro NC site, we will never be able to reduce demurrage to \$0 dollars. Cars are placed overnight and are on demurrage the next morning after placed construct status at midnight of the same day. The NS has removed one of the two trains that worked the High Point Yard (which is the yard that services the StarPet facility) and now the train that delivers to StarPet is built by 5:00 or 6:00 am and no changes can be made once

the StarPet group arrives to work and is made aware of the cars that arrived overnight. Even if StarPet does request the additional cars, NS cannot guarantee they will be able to add all of the cars to the train. There is no time to react before demurrage begins which means NS has effectively built in demurrage charges to our daily operations.

Transit times continue to be inconsistent, making it impossible for StarPet to make a plan that avoids demurrage and embargo. ETAs also change from initial ship date during transit from either origin or junction, making this a moving target and effecting our demurrage/credit structure in addition to not being able to effectively plan our production schedule.

To be clear, Indorama/StarPet's position on these NS tariff and service changes has not changed: They are unreasonable, unjust and unfair, and NS should take notice of the STB's clear advice. We believe they should be rolled back to mirror the 2017 tariffs. Thank you for your attention today.

Respectfully submitted,

/s/ Barbara Hagler
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