



BUILDING AMERICA®

300848

ENTERED
Office of Proceedings
July 6, 2020
Part of
Public Record

July 6, 2020

Via E-filing

The Honorable Ann D. Begeman, Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

The Honorable Martin Oberman, Vice Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

The Honorable Patrick Fuchs
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: STB Docket No. EP 759
Demurrage Billing Requirements

Dear Chairman Begeman, Vice Chairman Oberman, and Board Member Fuchs:

Union Pacific Railroad Company hereby submits the enclosed letter of Kenny Rocker, Executive Vice President of Marketing and Sales, as its reply comment in the above-referenced matter.

Very truly yours,

Rhonda S. Ferguson

Enclosure

cc: Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings, Surface Transportation Board



BUILDING AMERICA®

July 6, 2020

Via E-filing

The Honorable Ann D. Begeman, Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

The Honorable Martin Oberman, Vice Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

The Honorable Patrick Fuchs
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: STB Docket No. EP 759
Supplemental Notice of Proposed Rulemaking

Dear Chairman Begeman, Vice Chairman Oberman, and Board Member Fuchs:

Union Pacific appreciates the opportunity to further respond to the Surface Transportation Board's invitation to comment on its Supplemental Notice of Proposed Rulemaking on demurrage billing requirements. Rather than exhaustively respond to matters raised in the opening comments, I would like to briefly address a few concerns raised in the customer filings.

As you know, Union Pacific has made refinements to its invoice design over time and has recently made significant data tool improvements to enhance shipment visibility and give our customers the ability to customize reports on charges. When the waybill is generated, Union Pacific automatically provides a railcar's original estimated time of arrival in our Shipment Tracking tool. We provide this information – and constantly update it – to assist our customers with shipment visibility. But our customers know that this rough estimate is not a guaranty of arrival time and not accurate enough to support any sort of guarantee. Union Pacific and our customers understand that a deviation from original ETA is not proof of bunching and is not an indication of responsibility for delayed freight. The original ETA is neither a part of our accessorial and demurrage charge calculations nor our Chargeable Events System. An original ETA invoicing mandate cannot help either Union Pacific or its customers determine the accuracy of our invoices or resolve our disputes.

One of the drivers of the Board's regulation on invoicing – anecdotal complaints about bunching – is less likely to be a recurring problem for Union Pacific customers. Union Pacific is well into its implementation of Unified Plan 2020, our precision scheduled railroading transportation plan shift. UP2020 has pushed Union Pacific to be laser-focused on moving railcars, reducing dwell, and aggressively addressing spots on the network where cars could end up "stored" rather than continuing to

move quickly to destination. Before the pandemic impacted the entire industry, Union Pacific's railcar terminal dwell was down and train velocity was up. The railcar dwell and train velocity metrics reflect our gains in network car velocity and focus on mitigating bunching caused by operational delays. As cars are dwelling less in terminals and train speeds increase, there are necessarily fewer opportunities for bunching. The Board need only note the trends in the Union Pacific reports submitted under EP 724 to conclude that anecdotal bunching concerns, without more, do not constitute reliable empirical data and, therefore, cannot support broad and permanent standards for Union Pacific invoices sent to every customer.

These observations regarding original ETA and bunching all lead me to respectfully reiterate our request that the Board avoid the adoption of a one-size-fits-all regulation on industry billing. Each railroad makes a different call about the approach it takes to serving its customers. Carriers that innovate and invest resources in their service products and customer interfaces – including billing – will earn the trust and commitment of their customers (particularly during those periods when carriers may underperform). Carriers that refuse to innovate or make those resource investments will ultimately provide a less competitive customer service product. We respectfully request that the Board strongly consider finding a way to embrace market solutions for those particular circumstances. For example, the Board may adopt a review and waiver process for Class I railroads rather than impose a one-size-fits-all standard. A carrier may then attempt to justify the inclusion or exclusion of particular data sets for their own invoices. But a carrier would not be forced to innovate (or stop innovating) due to over-inclusive standards that do not fit the carrier or the customer's particular circumstances.

Union Pacific again expresses its appreciation for the Board's recognition that each railroad is necessarily unique in issuing the Policy Statement on Demurrage and Accessorial Charges. We hope that the Board will continue that recognition by refusing to regulate in a way that suggests all customers and all carriers are all positioned the same when it comes to billing and to accessorial and demurrage charge dispute resolution. Of course, Union Pacific will relentlessly continue its efforts to achieve greater service consistency and billing accuracy to improve the experience of our customers.

Sincerely,

A handwritten signature in black ink, reading "Kenny Rocker". The signature is fluid and cursive, with the first name "Kenny" written in a larger, more prominent script than the last name "Rocker".

Kenny Rocker
Executive Vice President, Marketing and Sales

cc: Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings, Surface Transportation Board