

ENTERED
Office of Proceedings
October 28, 2020
Part of
Public Record

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36426

PORT OF BENTON, WA

REPLY TO PETITION FOR DECLARATORY ORDER

VERIFIED STATEMENT OF WILLIAM FRIEND

1. My name is William Friend, and I am the General Manager of Henningsen Cold Storage's ("Henningsen") Richland, Washington warehouse. I have personal knowledge of the facts set forth in this Verified Statement, and I am authorized to provide this Verified Statement on behalf of Henningsen in support of its Response to Tri-City Railroad Company, LLC's ("TCRY") Motion to Dismiss the Port of Benton, WA's (the "Port") Petition for Declaratory Order (the "Petition") in this proceeding.

2. Henningsen's Richland, Washington warehouse is located at 2025 Saint Street, Richland, WA 99354, on a service spur off the railroad line owned by the Port. This facility is a large commercial freezer warehouse used for the temporary storage of frozen food product owned by our customers, with a private rail spur next to the warehouse. Henningsen does not operate as a railroad carrier; it does not own any railcars nor rail equipment.

3. Henningsen's customers contract directly with either Union Pacific Railroad Company ("UP") or Burlington Northern Santa Fe Railroad ("BNSF") for refrigerated railcar rental and nationwide rail transportation. Henningsen facilitates our customers' rail shipments by ordering refrigerated railcars from UP and BNSF as necessary to fulfill customer orders, and loading those cars at our customers' direction for pick-up and transport by either UP or BNSF. As a result, Henningsen does not pay UP or BNSF to rent or transport railcars, and Henningsen is not identified as a shipper on any UP or BNSF bill of lading.

4. Henningsen does not have a contractual or commercial relationship with TCRY, and TCRY provides no transportation or rail service, or service of any kind, to Henningsen. And Henningsen has not requested that TCRY transport goods to or on any point on the Port-owned railroad line or that TCRY provide any other service for Henningsen.

5. On July 23, 2020, Henningsen received a Supplement 1 invoice from TCRY. This invoice did not include a copy of Supplement 1. In response, Henningsen complained to the Port and informed TCRY that it would not pay the invoice. On August 12, 2020, TCRY sent Henningsen a second Supplement 1 invoice, claiming that its first invoice to Henningsen was appropriate legal notice of TCRY's tariff. Attached hereto as Exhibits A, B, and C, respectively, are TCRY's July 23 invoice to Henningsen, my e-mail to TCRY in response thereto, and TCRY's August 12 invoice to Henningsen as received in or sent from our office and retained there. On October 26, 2020, Henningsen received two more invoices from TCRY under Supplement 1, which cover August and September 2020. Attached hereto as Exhibits D and E, respectively, are TCRY's August 2020 and September 2020 invoices to Henningsen as received in our office and retained there.

VERIFICATION

I hereby verify, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on October 28, 2020.


William Friend

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by email on the following:

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Justin J. Marks
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Counsel for Port of Benton, WA

Rydel Peterson
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s/ Lynn Van Eyck
Lynn Van Eyck, Legal Assistant
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Dated: October 28, 2020.

EXHIBIT A



Tri-City Railroad Company, LLC
P.O. Box 6000
Kennewick, WA 99336

Invoice

Date	Invoice #
7/23/2020	11467

Bill To			Terms
Henningsen Cold Storage Bill Friend 2025 Saint Street Richland, WA 99354			Due upon receipt
Quantity	Description	Rate	Amount
424	Track Maintenance charges assessed on cars that entered the TCRY at Richland Connection in Kennewick, WA for the period of January 16, 2020 - June 30, 2020 - manifest cars	95.00	40,280.00
	Charges assessed per Miscellaneous Charges Tariff Supplement 1 Effective September 18, 2018 and Approved by Port of Benton January 16, 2020.		

Amounts not paid within terms are subject to a 5% late fee and 1.5% interest per month .

Payments/Credits	\$0.00
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Invoice Balance	\$40,280.00
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E-mail
lisaanderson@tcry.com

EXHIBIT B

Lynn Van Eyck

From: Lynn Van Eyck
Sent: Monday, October 26, 2020 4:54 PM
To: Lynn Van Eyck
Subject: FW: [EXTERNAL] Invoice 11467 from Tri-City Railroad Company, LLC

From: Bill Friend
Sent: Thursday, August 6, 2020 5:20 PM
To: Lisa Anderson <lisaanderson@tcry.com>
Subject: RE: [EXTERNAL] Invoice 11467 from Tri-City Railroad Company, LLC

Lisa,

After speaking with our corporate office, I have been instructed to tell you that we do not have a contract with TCRY and will not be paying this invoice. I also spoke with Diana Howard at the port of Benton and they did not approve this invoice.

Sincerely,

Bill Friend | Henningsen Cold Storage Co.
General Manager, Richland WA Operations

2025 Saint Street, Richland, Washington 99354

Direct: 509-578-2002 | Cell: 509-551-1744

bill.friend@henningsen.com

Relax, it's handled! www.henningsen.com

From: Lisa Anderson <lisaanderson@tcry.com>
Sent: Thursday, July 23, 2020 2:10 PM
To: Bill Friend <bill.friend@henningsen.com>; Todd Larson <todd.larson@henningsen.com>; richland.office <richland.office@henningsen.com>
Subject: [EXTERNAL] Invoice 11467 from Tri-City Railroad Company, LLC

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Good afternoon,

Please see attached.

Hard copy to follow.

Thank you.

Lisa Anderson
Executive Vice President
Corporate Secretary
Tri-City Railroad Company, LLC
(360) 239-9067

To view attachment

Open the attached PDF file. You must have [Acrobat® Reader®](#) installed to view the attachment.

EXHIBIT C



Tri-City Railroad Company, LLC
P.O. Box 6000
Kennewick, WA 99336

Invoice

Date	Invoice #
8/12/2020	11491

Bill To
Henningsen Cold Storage Bill Friend 2025 Saint Street Richland, WA 99354

Terms
Due upon receipt

Quantity	Description	Rate	Amount
42	Track Maintenance charges assessed on cars that entered the TCRY at Richland Connection in Kennewick, WA for the period of July 23, 2020 to July 31, 2020	95.00	3,990.00
	Charges assessed per Miscellaneous Charges Tariff Supplement 1 Effective September 18, 2018 and Approved by Port of Benton January 16, 2020.		

Amounts not paid within terms are subject to a 5% late fee and 1.5% interest per month .	Payments/Credits	\$0.00
	Invoice Balance	\$3,990.00

E-mail
lisaanderson@tcry.com

EXHIBIT D



Tri-City Railroad Company, LLC
P.O. Box 6000
Kennewick, WA 99336

Invoice

Date	Invoice #
9/9/2020	11506

Bill To
Henningsen Cold Storage Bill Friend 2025 Saint Street Richland, WA 99354

Terms
Due upon receipt

Quantity	Description	Rate	Amount
14	Track Maintenance charges assessed on cars that entered the TCRY at Richland Connection in Kennewick, WA for the period of August 1, 2020 to August 31, 2020 - manifest cars Charges assessed per Miscellaneous Charges Tariff Supplement 1 Effective September 18, 2018 and Approved by Port of Benton January 16, 2020.	95.00	1,330.00

Amounts not paid within terms are subject to a 5% late fee and 1.5% interest per month .

Payments/Credits	\$0.00
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Invoice Balance	\$1,330.00
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E-mail
lisaanderson@tcry.com

EXHIBIT E



Tri-City Railroad Company, LLC
P.O. Box 6000
Kennewick, WA 99336

Invoice

Date	Invoice #
10/21/2020	11538

Bill To		Terms	
Henningsen Cold Storage Bill Friend 2025 Saint Street Richland, WA 99354		Due upon receipt	
Quantity	Description	Rate	Amount
110	Track Maintenance charges assessed on cars that entered the TCRY at Richland Connection in Kennewick, WA for the period of September 2020 Charges assessed per Miscellaneous Charges Tariff Supplement 1 Effective September 18, 2018 and Approved by Port of Benton January 16, 2020.	95.00	10,450.00

Amounts not paid within terms are subject to a 5% late fee and 1.5% interest per month .	Payments/Credits	\$0.00
	Invoice Balance	\$10,450.00

E-mail
lisaanderson@tcry.com