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The Honorable Allison C. Davis
Acting Director
Surface Transportation Board
500 East Street, SW.
Washington, D.C. 20423

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RE: Docket EP 754

Acting Director Davis:

Global Harvest submits this comment in response to the notification received concerning the oversight hearing on demurrage and accessorial charges.

Global Harvest Foods is a wild bird and backyard wildlife food manufacturer with six manufacturing plants across the country. Our customer group consists of some of the largest retailers to small, independent stores in a variety of retail channels.

As of January 1, 2019, we have experienced changes with various railroads regarding demurrage including rule adjustments, offloading credits, costs, website design, tracking porthole, definition of service window, car substitution and service failure. Demurrage in our experience is driven primarily by service failure, system input error and/or malfunction, car substitution and bunching of delayed equipment. As a company we strive to manage our rail pipeline through various methods daily including proactively planning our shipments and car placement orders for the least potential of demurrage. Please see the following explanations of our experiences with demurrage.

One new method being used to replace offloading credit days allocates credit for untimely placement of cars based on original ETA issued vs. date the car becomes available. This is not a manageable solution for the customer as the original ETA is not posted until the car is made available for placement. There is no visibility to this issued date and no reliability that the date is the original ETA given by the railroad due to consistent ETA fluctuation. This makes it impossible to determine if additional credits for untimely placement are due. There is not an explanation available as to how they derive the original ETA.

Additional situations, such as car substitutions at closed gate facilities causing orders for car placement to be altered by the railroad without customer approval. For our plant this causes a 3 to 5-day interruption in planning and production driving demurrage up as cars currently available and arriving are affected by the unplanned changes. System reporting, and malfunction recently caused overcharges spanning 1 calendar year in demurrage invoices billed to our company. This was identified in August 2018 and it took 2 months to schedule a meeting to discuss the discrepancy. A 12-month audit was performed resulting in a refund due of \$13,540.00. This refund has not been received to date, 9 months after this discrepancy was found by our transportation team.

Tools to dispute demurrage exist, but do not have adequate space for explanation or a dedicated area to attach support documentation. The inability to support a dispute results in having to re-submit disputes at a later date with this documentation attached. Furthermore, service failure is not listed a reason for dispute and there is not a glossary term defining service failure. We recently received an updated glossary term from a railroad redefining their explanation of service window regarding their demurrage tariff as follows:

- **UPDATE** definition 32: Service Window: The designated block of time within a service day that **anticipates it will** physically pull and place a customer's cars. **These times are not guaranteed and delivery outside of these projected times will not impact the obligation to pay demurrage and storage charges.**

This is a broad statement that essentially eliminates the railroad from responsibility for service failure and eliminates the customers' right to dispute based on service failure, because service is not guaranteed.

Accessorial tariff difficulties primarily emerge from empty revenue charges and diversions vs. reships. We operate using both private lease equipment and railroad-owned equipment. As a company who is a producer of bird food we are an agricultural shipper. Some of the variables we must plan for include where we are able to source our commodities. These products become available at different times from different vendors across the country. We must be able to move our cars to where they are needed to accommodate our projected forecast.

An accessorial rule such as the 150-day rule which applies to our private lease cars is an easy rule to abide by if all your business can be done from one railroad. This is unfortunately unrealistic in our industry. This rule states that the issuing railroad must be involved in the loaded and empty revenue pulls of a private lease car and that the car must ship every 150 days on this railroad or be charged an empty revenue pull with an approximate average cost of \$2,500.00 per car. There is an additional complication within this rule; if you remove your lease car from this railroad and use it on another railroad the 150-day rule does not exist.

In addition, you forfeit the empty revenue pull you are entitled to, for free, following a loaded pull. Even if you are returning this car to the railroad within the 150-day rule guidelines your company will still be charged for re-introducing your lease car back onto this railroad. The railroad does not have enough equipment available for us to order and cover our forecasted needs so we must be able to depend on our lease equipment. We also need to have the availability to send our lease equipment to where our commodity is available. This rule has stopped us from bringing lease cars back onto this rail line and caused our need for rail owned equipment to increase. This has been detrimental for us as this is not timely and is costly.

In addition, there are diversion fees vs. reship fees. Recently our company had a car misrouted to an incorrect location. The railroad would not allow a diversion stating that the car had traveled too far and required a reship. The diversion fee was \$198.00, the reship \$4,890.00 to move this car approximately 18 miles.

These are some of the challenges causing multiple difficulties in doing business with the railroad. Our hope is that this information will assist you in your process of discovery. We hope to see some improvement and change come from this hearing. We appreciate your time and consideration.

Sincerely,

Charlene Hixson
Transportation & Logistics Mgr.
Global Harvest Foods