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May 10, 2019

Allison C. Davis
Acting Director, Office of Proceedings
Surface Transportation Board
395 E ST SW
Washington, DC 20423

Re: *Oversight Hearing on Demurrage and Accessorial Charges*, STB Docket No.
Ex Parte 754

Dear Ms. Davis,

On behalf of its U.S. rail subsidiaries, Canadian National ("CN") is submitting an amendment to the data response it filed on May 1, 2019 in the above referenced proceeding. In the interest of clarity and transparency, CN has rephrased the section of its response to Information Request 3 that was redacted as highly confidential so as to provide a public response to the Board's information request while not disclosing commercially sensitive information. The remainder of CN's response is unchanged from its May 1, 2019 filing.

Please feel free to contact me with any questions.

Regards,

/s/Kathryn Gainey

Kathryn J. Gainey

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE NO. 754

OVERSIGHT HEARING ON DEMURRAGE AND ACCESSORIAL CHARGES

AMENDED RESPONSE TO REQUEST FOR INFORMATION

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Dated: May 10, 2019

Pursuant to the Board's April 8, 2019 Notice in the above-captioned proceeding, the Grand Trunk Corporation, on behalf of the U.S. rail operating subsidiaries of Canadian National Railway Company (hereafter, "CN") are providing the following information in response to the Board's request for certain information relating to demurrage and accessorial charges. Because some of the information requested by the Board is commercially sensitive, CN is providing a highly confidential version and a public version that redacts commercially sensitive information pursuant to the motion for protective order that CN is filing today. Highly confidential information is contained in double braces (e.g., "{{}}"). CN asks the Board to only post the public version on the Board's website.

CN's responses are organized in the same order as the Board's information requests, which are reproduced below in italicized text.

Information Request 1: Provide a list of all material changes to your demurrage and accessorial tariffs since January 1, 2016, including but not limited to changes pertaining to (i) the amount of free time allowed for loading and unloading rail cars; (ii) rates for demurrage and accessorial charges; (iii) the nature and availability of credits or other relief, including for railroad errors and service failures; and (iv) procedures and time periods applicable to the process for raising and resolving disputed charges. For each such tariff change, please also specify (a) when notice of the change was given; (b) when the change became effective; and (c) the reason(s) for the change. The Board requests that this information be presented in a table.

Exhibit 1 to this filing is a table that sets forth material changes to CN's demurrage and accessorial tariffs applicable to rail movements in the United States since January 1, 2016. These tariffs are set forth in public CN Optional Services tariffs that establish policies and charges for optional services for various categories of traffic: CN 9000 (Optional Services – Carload); CN 9003 (Optional Services –

Dimensional Loads Service); CN 9004 (Optional Services – Unit Train); and CN 9100 (Optional Services – Intermodal).

Exhibit 1 includes columns that identify the “Issue Date” and the “Effective Date” for each tariff version. The Issue Date is the date that the updated tariff was published on CN’s website and disseminated to customers via email notification, and the Effective Date is the date on which the tariff change became effective. In some instances, CN provides advanced notice of a fee that will take effect after the tariff effective date. In such instances, the effective dates of specific provisions are reflected in Exhibit 1.

Consistent with the Board’s request that Class I railroads only identify “material” changes to demurrage and accessorial tariffs and its examples of the types of changes that the Board considers to be material, Exhibit 1 does not include every change to the CN Optional Services tariffs since 2016. In addition, tariff changes that only affect shipments in Canada have not been included.

Information Request 2: Provide, for each of the past three calendar years, the total dollar amounts of charges billed and charges collected pursuant to (i) all demurrage tariffs combined and (ii) all accessorial tariffs combined.

The table below presents the total amount of demurrage and accessorial revenues for calendar years 2016, 2017, and 2018. Revenues are reported in thousands and are rounded to the closest thousandth.

	2016	2017	2018
Demurrage Revenue	\$32,968	\$31,619	\$33,569
Accessorial Revenue	\$69,168	\$67,944	\$99,390

These revenue numbers are reported net of corrections and adjustments, consistent with the accrual method of accounting prescribed under U.S. GAAP. Therefore, the revenues reported are representative of what has been or will be collected. Under the accrual method of accounting, CN recognizes revenues for demurrage and accessorial services at the point in time, or over time, when performance obligations are satisfied, depending on the nature of the service. If the revenue recognized for a demurrage or accessorial charge is later reduced (for example, when CN reduces or eliminates a charge after a customer dispute), CN adjusts the revenue number in the current period.

Information Request 3: Provide a detailed explanation of the current process by which shippers, receivers, and other parties may dispute demurrage and accessorial charges. To the extent readily available, please also provide, for all demurrage tariff charges combined and all accessorial tariff charges combined, the percentage of charges, by dollar amount, that have been contested in the first quarter of 2019 and each of the past three calendar years.

The billing and dispute resolution process for optional services is set forth in CN's Optional Services tariffs. *See, e.g.,* CN 9000 –AC (S4) at 30. It is referred to as an “18-15-15” process. CN commits to bill customers within 18 business days of the service completion date; customers have 15 business days to dispute an invoice; and CN commits to respond to disputes within 15 business days.

Step One: CN Commits to Bill Optional Service Charges Within 18 Business Days.

CN commits to bill customers for optional services that fall under our billing guarantee within 18 business days, or the customer is not obligated to pay the invoice. For most optional services, the 18 business days run from the date of the service. However, for certain services billed on a regular cycle (such as demurrage

charges or storage service), the 18 business days run from the end of the billing cycle.

Before bills for optional services go to customers, they are reviewed by CN personnel to determine whether charges are appropriate under the circumstances. For example, when railcar deliveries are delayed, CN personnel will review relevant information such as contemporaneous crew reports to determine whether demurrage charges are appropriate before charges are billed to the customers. If CN personnel determines that the delay was due to a CN service issue, adjustments are made before any bill goes to the customer.

Step Two: Customers Can Use CN's E-Billing Tools to Dispute Optional Service Charges.

Once customers receive an invoice for an optional service, CN's tariffs give customers 15 business days to dispute any charges. CN's website includes an eBill tool that allows customers to register any disputes, and CN's tariffs CN 9000, CN 9004, and CN 9100 include instructions on how to access and use the tool.

Customers are not required to use eBill to dispute a charge.

Step Three: CN Has 15 Business Days to Respond to Disputes.

If a customer disputes an optional service charge within 15 business days, CN commits to respond to that dispute within 15 business days. If CN does not respond to the dispute within that timeframe, it will accept the dispute as valid and cancel the disputed charges. On some occasions, a dispute that a customer timely raised and to which CN timely responded may take some additional time to resolve.

In all cases, CN works with its customers to resolve disputes amicably whenever possible. Customers are able to dispute invoices beyond the 15 days; however, in that instance, the guarantee of a response within 15 days is not applicable.

In response to the second half of question 3, CN's internal records indicate that the following percentages of total invoices for demurrage and accessorial charges for carload movements in the United States have been contested in the first quarter of 2019 and each of the past three calendar years:

	2016	2017	2018	1Q2019
Total Percentage of Invoices Contested	3%	4%	5%	5%

Out of these disputes, the invoices for demurrage and accessorial charges for carload movements in the United States were resolved as being "correct as billed"; as being a "valid dispute" resulting in a reduced amount billed; or as being a "valid dispute" resulting in a zero invoice.

Information Request 4: Provide a detailed explanation of any system or practice under which credits or debits have been issued in connection with the assessment of demurrage or accessorial charges since January 1, 2016, and any changes thereto. Describe how credits and debits are calculated and any limits on the amount of credits or debits that may be available or incurred.

CN uses a credit and debit system for the assessment of certain asset use fees for railroad-supplied railcars. When certain types of cars arrive for loading or unloading, customers are given a certain number of "credits" of time to load or unload those cars. If the cars are loaded or unloaded in less than the allocated time, the credits can be used to offset "debits" of asset use time that accumulate if other

cars are not loaded or unloaded within the allocated time. The debit and credit system is intended to ensure efficient use of assets and to align a customer's potential demurrage liability with its overall performance at particular locations.

There is no limit on the amount of credits that can be accumulated at an individual location. However, debits and credits are not transferable between different locations, because the debit and credit system is intended to ensure efficient use of assets at particular locations. Credits cannot be carried over from week to week.

CN currently assigns credits as follows:

Service Type	Tariff Item	Number of Credits
Railroad-Supplied Railcars at Loading	CN 9000, Item 9000	1 Credit
Railroad-Supplied Railcars at Unloading	CN 9000, Item 9050	1 Credit
Railroad Supplied U.S. Grain Shipments at Unloading	CN 9000, Item 9060	1 Credit
Empty Railroad-Provided Cars in Customer-Assigned Pools	CN 9000, Item 9500	1 Credit
Customer Locomotives or Railcars Moving on Own Wheels	CN 9000, Item 9350	1 Credit
Railroad-Provided Intermodal Units (Dry)	CN 9100, Item 6000	2 Credits
Railroad-Provided Intermodal Units (EMPs)	CN 9100, Item 6000	2 Credits
Railroad-Provided Intermodal Units (Heated)	CN 9100, Item 6000	1 Credit
Railroad-Provided Intermodal Units (Insulated)	CN 9100, Item 6000	1 Credit
Railroad-Provided Intermodal Units (Refrigerated)	CN 9100, Item 6000	1 Credit

Railroad-Provided Intermodal Units (Steamship unit – when CN provides the dray)	CN 9100, Item 6000	2 Credits
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CN does not assign credits for private railcars (whether loaded or empty), unit trains, heavy-duty, or specialized railroad-supplied railcars.

The credit system outlined above has been changed three times since January 1, 2016. First, CN reduced the credits awarded in Item 9500 for empty railroad-supplied cars in customer-assigned pools from 2 credits to 1 credit in CN 9000-AB (issued November 10, 2017 and effective January 1, 2018). Second, CN reduced the credits awarded for heated, insulated, and refrigerated intermodal units from 2 credits to 1 credit in CN 9100 –V (Supplement 5) (issued June 29, 2018 and effective August 1, 2018). Third, CN reduced the credits awarded in Item 9050 for unloading railroad-supplied cars from 2 credits to 1 credit in CN 9000-AC (issued November 2, 2018 and effective January 1, 2019). CN’s November 2, 2018 notice announcing the tariff change explained that it was “intended to encourage our customers not to let . . . railroad owned equipment dwell at customers’ facilities or serving yards.”

Respectfully submitted,

/s/ Kathryn J. Gainey

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