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ENTERED

Office of Proceedings

June 27, 2017

Part of

Public Record

Attorneys for Plaintiff

SURFACE TRANSPORTATION BOARD

UTAH CENTRAL RAILWAY COMPANY,)

LLC,)

Petitioner,)

vs.)

KENCO LOGISTICS SERVICES, LLC, a)

Delaware limited liability company, and)

KENCO GROUP, and SPECIALIZED RAIL)

SERVICE, INC.,)

Respondents.)

**PETITION FOR DECLARATORY
ORDER**

Docket No. FD 36131

Utah Central Railway Company, LLC hereby petitions the Surface Transportation Board for a declaratory order in its favor and against Kenco Logistics Services, LLC, Kenco Group and Specialized Rail Services, Inc.

THE PARTIES

1. The petitioner Utah Central Railway Company, LLC ("UCRY") is a Limited Liability Company organized and existing under the laws of Delaware with its principal place of business in the State of Utah. UCRY is an interstate rail carrier subject to the jurisdiction of the Surface Transportation Board.

FILED 2. The respondent Kenco Logistics Services, LLC is a Delaware Limited Liability

June 27, 2017

FEE RECEIVED

June 27, 2017

SURFACE

SURFACE

TRANSPORTATION BOARD

TRANSPORTATION BOARD

Company organized and existing under the laws of Tennessee with its principal place of business in Tennessee and the only member of that LLC is the respondent Kenco Group which is a Tennessee corporation with its principal place of business in Tennessee (collectively "Kenco"). Petitioner UCRY has provided railroad cars to Kenco for loading or unloading and Kenco has been assessed demurrage charges pursuant to certain tariffs published by UCRY.

3. The respondent Specialized Rail Service, Inc. ("SRS") is a corporation organized and existing under the laws of Nevada. The Utah Department of Commerce lists SRS as foreign corporation with its address listed as 4740 Tropical Parkway, Las Vegas, Nevada. The only Utah address listed is that of its registered agent. UCRY does not know where SRS has its principal place of business but believes that respondent's principal place of business is not in Utah. Petitioner UCRY has provided railroad cars to SRS for loading or unloading and SRS has been assessed demurrage charges pursuant to certain tariffs published by UCRY.

BACKGROUND OF THE ACTION

4. On or about February 6, 2017, UCRY filed a complaint against SRS in the United States District Court for the District of Utah, Northern Division. This case is entitled *Utah Central Railway Company, LLC v. Specialized Rail Service, Inc.*, Civil No. 1:17-cv-00019-RJS. In that complaint UCRY alleged that it assessed SRS demurrage charges pursuant to published and filed tariffs which SRS did not pay. The amount of unpaid demurrage charges at issue in that lawsuit total \$85,530. The complaint further alleges that UCRY is entitled to a judgment in the amount of the unpaid demurrage charges together with service charges that have accumulated on the unpaid balances of the assessments and that such service charges are also provided for in the relevant tariffs. A copy of this complaint is attached hereto as Exhibit "A" and by this reference

hereby incorporated into this petition.

5. On or about February 27, 2017, UCRY filed an amended complaint against Kenco also in the United States District Court for the District of Utah, Northern Division. That case is entitled *Utah Central Railway Company, LLC v. Kenco Logistics Services, LLC and Kenco Group*, Civil No. 1:17-cv-00020-DAK. In that amended complaint, UCRY alleged that it assessed Kenco demurrage charges pursuant to published and filed tariffs which Kenco did not pay. The amount of unpaid demurrage charges at issue in that lawsuit total \$106,980. The amended complaint further alleges that UCRY is entitled to a judgment in the amount of the unpaid demurrage charges together with service charges that have accumulated on the unpaid balances of the assessments and that such service charges are also provided for in the relevant tariffs. A copy of this amended complaint is attached hereto as Exhibit "B" and by this reference hereby incorporated into this petition.

6. In each of the aforementioned cases, the defendant (and now respondent) denied the reasonableness of the demurrage charges.

7. In both of the aforementioned cases, the defendant moved to refer the case to the Surface Transportation Board ("STB") and UCRY did not oppose those motions.

8. On April 17, 2017, the Court in the case of *Utah Central Railway Company, LLC v. Specialized Rail Service, Inc.*, Civil No. 1:17-cv-00019-RJS entered an Order referring this case to the STB for resolution of "all matters that fall within the STB's jurisdiction". The District Court action was stayed until the STB issues a decision. A copy of this Order is attached hereto as Exhibit "C" and by this reference hereby incorporated into this petition.

9. On April 17, 2017, the Court in the case of *Utah Central Railway Company, LLC*

v. Kenco Logistics Services, LLC and Kenco Group, Civil No. 1:17-cv-00020-DAK entered an Order referring this case to the STB for resolution of "the railroad demurrage disputes" raised in that case. This District Court action also was stayed until the STB issues a decision. A copy of this Order Granting Motion to Stay is attached hereto as Exhibit "D" and by this reference hereby incorporated into this petition

10. The demurrage charges at issue in both cases arise under the same tariffs and relate to cars provided by UCRY to both respondents in the same general physical location in Ogden, Utah. The issues in both cases are sufficiently similar that the referrals of the District Court cases to the STB should be consolidated before the STB.

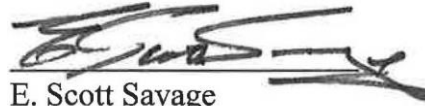
CONCLUSION

WHEREFORE, UCRY respectfully requests a declaratory order finding: (1) that UCRY has properly assessed and is entitled to collect the unpaid demurrage charges against SRS and Kenco; (2) UCRY's demurrage rates and charges are reasonable and consistent with the purposes set forth in 49 U.S.C. § 10746; (3) the manner in which UCRY calculated its demurrage charges against SRS and Kenco are reasonable and serve the purposes set forth in 49 U.S.C. § 10746; (4) the rules and/or practices pursuant to UCRY's assessment of demurrage charges against SRS and Kenco are reasonable and serve the purposes set forth in 49 U.S.C. § 10746; (5) UCRY is not responsible for and did not contribute to any backup, accumulation or stacking of rail cars ordered by the respondents and delivered to UCRY by Class 1 railroads for delivery to the respondents; (6) all rail cars for which demurrage charges were assessed against the respondents were subject to UCRY's demurrage rates and charges; (7) UCRY's switching services did not constitute a violation of 49 U.S.C. § 11101; and (8) UCRY is entitled to service charges as set

forth in the relevant tariffs for all demurrage charges which respondents have failed to pay.

,I
DATED **this S** day of June, 2017.

SAVAGE YEATES & WALDRON

A handwritten signature in black ink, appearing to read "E. Scott Savage", written over a horizontal line.

E. Scott Savage
Stephen R. Waldron
Attorneys for Petitioner

I, E. Scott Savage, declare under penalty of perjury that the foregoing is true and correct.
Further, I certify that I am qualified and authorized to file this pleading.

A handwritten signature in black ink, appearing to read "E. Scott Savage", written over a horizontal line.

CERTIFICATE OF SERVICE

I hereby certify that I have served this Petition for Declaratory Order upon Shawn T. Richards, attorney for the respondent, by United States mail on June: 3, 2017 addressed to:

Shawn T. Richards
Jackie Bosshardt
KIRTON McCONKIE
Kirton McConkie Building
50 East South Temple, 4th Floor
SLC UT 84145-0120

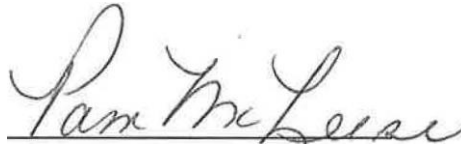
A handwritten signature in cursive script, reading "Pam McLeser", written over a horizontal line.

Exhibit *A*

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

UTAH CENTRAL RAILWAY COMPANY,)
LLC,)
)
Plaintiff,)
vs.)
)
SPECIALIZED RAIL SERVICE, INC.,)
)
Defendant.)
_____)

COMPLAINT AND JURY DEMAND

Case No. 17-cv-00019 fl ffiN
Judge A. J. Williams (.s

The plaintiff hereby complains of the defendant and for causes of action states and alleges as follows:

The Parties

1. The plaintiff Utah Central Railway Company, LLC is a limited liability company organized and existing under the laws of Delaware with its principal place of business in the State of Utah.
2. The defendant Specialized Rail Service, Inc. is a corporation organized and existing under the laws of Nevada. The Utah Department of Commerce lists Specialized Rail Service, Inc. as a foreign corporation with its address as 4740 Tropical Parkway, Las Vegas, Nevada. The only Utah address listed is that of its registered agent. The plaintiff is informed and believes that this

defendant's principal place of business is not in Utah.

Jurisdiction and Venue

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331, 1337, 49 U.S.C. § 10746 and plaintiffs published and filed tariffs.

4. Jurisdiction also is proper in this Court pursuant to 28 U.S.C. § 1332 in that complete diversity of citizenship exists between the parties and the amount in controversy exceeds seventy-five thousand dollars (\$75,000) excluding interest and costs.

5. Personal jurisdiction over the defendant is authorized by U.C.A. § 78B-3-205(1), (2), (3) and (4.)

6. Venue is proper in the above-entitled Court since the causes of action asserted herein arose within the boundaries of this Court.

FIRST CAUSE OF ACTION

Defendants' Breach of its Obligations to Pay Demurrage Charges Under Local Freight Tariff PRC6004-3

7. Plaintiff hereby incorporates paragraphs 1 through 6 as though herein fully set forth.

8. Defendants' obligations to plaintiff, from April 10, 2014 through October 31, 2015, arose under Local Freight Tariff PRC6004-3 (hereinafter "PRC6004-3"). PRC6004-3 is attached hereto and incorporated herein as "Exhibit 1."

9. Railroad cars provided to the defendant by the plaintiff for loading or unloading incur demurrage charges pursuant to PRC6004-3, Section 1 Item 3950 which provides as follows:

This charge is applied to all cars as described under the rules contained within this tariff. After the expiration of free time, as

described within Item 1300, demurrage will be charged at the following charges per car, per day or :fraction per day until car is released:

- 1) Per day for the first four chargeable days \$40.00
- 2) Per day for the next two chargeable days \$55.00
- 3) Per day for each subsequent day thereafter \$70.00

10. Section 1, Item 1300 of the PRC6004-3 provides for "free time" after which cars actually placed or constructively placed with the defendant incur demurrage charges.

11. On November 7, 2013, defendant was assessed demurrage charges in the amount of \$280, Invoice 101240. This invoice is attached hereto and incorporated herein as "Exhibit 2."

Those charges include:

Car Number 412241 1 day at \$40
Car Number 665423 1 day at \$40
Car Number 558178 1 day at \$40
Car Number 14087 1 day at \$40
Car Number 726498 1 day at \$40
Car Nwnber 405102 1 day at \$40
Car Number 405103 1 day at \$40

12. On December 4, 2013, defendant was assessed demurrage charges in the amount of \$160, Invoice 101245. This invoice is attached hereto and incorporated herein as "Exhibit 3." Those charges include:

Car Number 726321 1 day at \$40
Car Number 729077 1 day at \$40
Car Number 728850 1 day at \$40
Car Number 405124 1 day at \$40

13. On February 4, 2014, defendant was assessed demurrage charges in the amount of \$160, Invoice 101269. This invoice is attached hereto and incorporated herein as "Exhibit 4." Those charges include:

Car Number 5219 4 days at \$40 per day

14. On March 4, 2014, defendant was assessed demurrage charges in the amount of \$480, Invoice 101280. This invoice is attached hereto and incorporated herein as "Exhibit 5." Those charges include:

Car number 795091 2 days at \$40 per day
Car number 598023 2 days at \$40 per day
Car number 728902 1 day at \$40 per day
Car number 405188 2 days at \$40 per day
Car number 60838 1 day at \$40 per day
Car number 533216 1 day at \$40 per day
Car number 726494 1 day at \$40 per day
Car number 728908 1 day at \$40 per day
Car number 417353 2 days at \$40 per day

15. On April 2, 2014, defendant was assessed demurrage charges in the amount of \$80, Invoice 101288. This invoice is attached hereto and incorporated herein as "Exhibit 6." Those charges include:

Car number 794473 1 day at \$40
Car number 794861 1 day at \$40

16. On May 5, 2014, defendant was assessed demurrage charges in the amount of \$40, Invoice 101299. The actual demurrage charges represented by this invoice exceeded \$40, but following discussions with this defendant, the plaintiff adjusted this invoice to \$40. This invoice is attached hereto and incorporated herein as "Exhibit 7." Those charges include:

Car number 417353 2 days at \$40 per day

17. On May 5, 2014, defendant was assessed demurrage charges in the amount of \$1,640, Invoice 101300. This invoice is attached hereto and incorporated herein as "Exhibit 8." Those charges include:

Car number 729362 3 days at \$40 per day
Car number 405078 3 days at \$40 per day
Car number 721607 3 days at \$40 per day
Car number 721977 3 days at \$40 per day
Car number 721979 3 days at \$40 per day
Car number 727320 3 days at \$40 per day
Car number 721652 3 days at \$40 per day
Car number 598020 1 day at \$40 per day
Car number 794346 1 day at \$40 per day
Car number 721835 4 days at \$40 per day
Car number 727502 4 days at \$40 per day
Car number 721855 3 days at \$40 per day
Car number 726674 3 days at \$40 per day
Car number 721616 2 days at \$40 per day
Car number 727417 2 days at \$40 per day

18. On June 3, 2014, defendant was assessed demurrage charges in the amount of \$3,525, fu invoice 101305. This invoice is attached hereto and incorporated herein as "Exhibit 9." Those charges include:

Car number 726698 1 day at \$40 per day
Car number 794720 1 day at \$40 per day
Car number 5332721 1 day at \$40 per day
Car number 726467 1 day at \$40 per day
Car number 728524 1 day at \$40 per day
Car number 795095 1 day at \$40 per day
Car number 726200 5 days at \$40 per day for 4 days and \$55 per day for 1 day
Car number 728903 5 days at \$40 per day for 4 days and \$55 per day for 1 day
Car number 533213 3 days at \$40 per day
Car number 721976 5 days at \$40 per day for 4 days and \$55 per day for 1 day
Car number 415275 2 days at \$40 per day
Car number 354510 2 days at \$40 per day
Car number 721705 7 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70 per day for 1 day
Car number 728426 7 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70 per day for 1 day
Car number 728929 7 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70 per day for 1 day
Car number 726615 5 days at \$40 per day for 4 days and \$55 per day for 1 day
Car number 726622 5 days at \$40 per day for 4 days and \$55 per day for 1 day
Car number 728809 5 days at \$40 per day for 4 days and \$55 per day for 1 day

Car number 502254 5 days at \$40 per day for 4 days and \$55 per day for 1 day
Car number 726738 4 days at \$40 per day
Car number 729226 4 days at \$40 per day
Car number 726295 4 days at \$40 per day

19. On July 7, 2014, defendant was assessed demurrage charges in the amount of \$600, Invoice 1 O1323. The actual demurrage charges represented by this invoice exceeded \$600, but following discussions with this defendant, the plaintiff adjusted this invoice to \$600. This invoice is attached hereto and incorporated herein as "Exhibit 10." Those charges include:

Car number 721567 6 days at \$40 per day for 4 days and \$55 per day for 2 days
Car number 721943 6 days at \$40 per day for 4 days and \$55 per day for 2 days
Car number 727370 5 days at \$40 per day for 4 days and \$55 per day for 1 day
Car number 14057 4 days at \$40 per day
Car number 721851 4 days at \$40 per day
Car number 794788 6 days at \$40 per day for 4 days and \$55 per day for 2 days
Car number 458112 6 days at \$40 per day for 4 days and \$55 per day for 2 days
Car number 721550 3 days at \$40 per day
Car number 414673 3 days at \$40 per day
Car number 794869 3 days at \$40 per day

20. On August 5, 2014, defendant was assessed demurrage charges in the amount of \$16,830, Invoice 101331. This invoice is attached hereto and incorporated herein as "Exhibit 11."

Those charges include:

Car number 726555 4 days at \$40 per day
Car number 726743 4 days at \$40 per day
Car number 415437 10 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 4 days
Car number 413035 10 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 4 days
Car number 721725 9 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 3 days
Car number 726589 9 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 3 days
Car number 727274 9 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 3 days
Car number 728821 9 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per

day for 3 days
Car number 405113 9 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 3 days
Car number 728447 8 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 2 days
Car number 728975 8 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 2 days
Car nwnber 558164 2 days at \$40 per day
Car number 558353 12 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70 per day for 6 days
Car nwnber 793805 2 days at \$40 per day
Car number 415817 9 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 3 days
Car number 608086 9 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 3 days
Car number 795087 8 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 2 days
Car number 598001 7 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 1 day
Car number 354571 7 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 1 day
Car number 793582 7 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 1 day
Car number 889553 7 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 1 day
Car number 726677 6 days at \$40 for 4 days, \$55 per day for 2 days
Car nwnber 608032 6 days at \$40 for 4 days, \$55 per day for 2 days
Car number 405190 6 days at \$40 for 4 days, \$55 per day for 2 days
Car number 412794 5 days at \$40 for 4 days, \$55 per day for 1 day
Car nwnber 794510 5 days at \$40 for 4 days, \$55 per day for 1 day
Car nwnber 668257 5 days at \$40 for 4 days, \$55 per day for 1 day
Car number 726302 2 days at \$40 per day
Car number 726359 2 days at \$40 per day
Car number 728674 2 days at \$40 per day
Car number 728684 2 days at \$40 per day
Car number 112024 8 days at \$40 per day, \$55 per day for 2 days and \$70 per day for 2 days
Car number 558273 8 days at \$40 for 4 days, \$55 per day for 2 days and \$70 per day for 2 days
Car number 598186 12 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70 per day for 6 days
Car number 721728 11 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70 per day for 5 days

Car number 412164 11 days at \$40 per day for 4 days, \$55 per day for 2 days and
\$70 per day for 5 days
Car number 504082 11 days at \$40 per day for 4 days, \$55 per day for 2 days and
\$70 per day for 5 days
Car number 469422 11 days at \$40 per day for 4 days, \$55 per day for 2 days and
\$70 per day for 5 days
Car number 793750 5 days at \$40 per day for 4 days, \$55 per day for 1 day
Car number 533143 5 days at \$40 per day for 4 days, \$55 per day for 1 day
Car number 405708 16 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70
per day for 10 days
Car number 533130 6 days at \$40 for 4 days, \$55 per day for 2 days
Car number 414257 6 days at \$40 for 4 days, \$55 per day for 2 days
Car number 726767 5 days at \$40 for 4 days, \$55 per day for 1 day
Car number 795149 12 days at \$40 per day for 4 days, \$55 per day for 2 days and
\$70 per day for 6 days

21. On October 2, 2015, defendant was assessed demurrage charges in the amount of
\$2,135, Invoice 101510. This invoice is attached hereto and incorporated herein as "Exhibit 12."

Those charges include:

Car number 793136 6 days at \$40 for 4 days, \$55 per day for 2 days
Car number 793353 5 days at \$40 for 4 days, \$55 per day for 1 day
Car number 794555 5 days at \$40 for 4 days, \$55 per day for 1 day
Car number 111362 5 days at \$40 for 4 days, \$55 per day for 1 day
Car number 472774 5 days at \$40 for 4 days, \$55 per day for 1 day
Car number 670085 5 days at \$40 for 4 days, \$55 per day for 1 day
Car number 78010 6 days at \$40 for 4 days, \$55 per day for 2 days
Car number 793630 2 days at \$40 per day
Car number 794281 2 days at \$40 per day
Car number 62117 1 day at \$40 per day
Car number 22325 1 day at \$40 per day
Car number 411141 1 day at \$40 per day
Car number 66118 1 day at \$40 per day
Car number 666474 1 day at \$40 per day
Car number 670505 1 day at \$40 per day
Car number 6137 1 day at \$40 per day
Car number 660973 1 day at \$40 per day
Car number 661273 1 day at \$40 per day

22. Defendant has failed to pay all of the aforementioned demurrage charges which total

\$25,970.

23. Section 2, Item 3980 of PRC6004-3 provides that all payments pursuant to this tariff are due and payable within fifteen (15) days following the invoice date and thereafter the payments are subject to a service charge of one and one-half percent (1-1/2%) per month (or fraction thereof) of the outstanding balance.

24. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101240 from and after November 22, 2013.

25. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101245 from and after December 19, 2013.

26. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101269 from and after February 19, 2014.

27. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101280 from and after March 19, 2014.

28. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101288 from and after April 17, 2014.

29. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101299 from and after

May 20, 2014.

30. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101300 from and after May 20, 2014.

31. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101305 from and after June 18, 2014.

32. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101323 from and after July 22, 2014.

33. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101331 from and after August 20, 2014.

34. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101510 from and after October 17, 2015.

35. Plaintiff is entitled to its reasonable attorneys fees in the enforcement of Tariff PRC6004-3.

SECOND CAUSE OF ACTION

Defendants' Breach of its Obligations to Pay Demurrage Charges Under Freight Tariff No. PRC1000

36. Plaintiff hereby incorporates paragraphs 1 through and including 6 of this

Complaint as though herein fully set forth.

37. Defendants' obligations to plaintiff, from November 1, 2015 to the present, arose under Freight Tariff No. PRCJ 000 (hereinafter "PRCLOOO") and Charge Catalog 2000 (hereinafter "CC 2000") published jointly with PRCLOOO. PRCLOOO is attached hereto and incorporated herein as "Exhibit 13" and CC2000 is attached hereto and herein incorporated as "Exhibit 14.»

38. Item 1.12 of PRCI000 provides for "free time" after which cars actually placed or constructively placed with the defendant incur demurrage charges.

39. Item 3.01-3.03 of the Charge Schedule contained within CC 2000 which was published jointly with PRCLOOO, contains a demurrage charge of \$70 per day.

40. On November 2, 2015, defendant was assessed demurrage charges in the amount of \$520, Invoice 101523. The actual demurrage charges represented by this invoice exceeded \$520, but following discussions with this defendant, the plaintiff adjusted this invoice to \$520. This invoice is attached hereto and incorporated herein as "Exhibit 15." Those charges include:

Car number 793652 3 days at \$70 per day
Car number 793969 3 days at \$70 per day
Car number 795249 3 days at \$70 per day
Car number 470097 2 days at \$70 per day
Car number 110180 1 day at \$70 per day
Car number 660073 1 day at \$70 per day

4L On January 7, 2016, defendant was assessed demurrage charges in the amount of \$9,520, Invoice 101565. This invoice is attached hereto and incorporated herein as "Exhibit 16." Those charges include:

Car number 793311 5 days at \$70 per day
Car number 794345 5 days at \$70 per day

Car number 663113 5 days at \$70 per day
Car number 660698 5 days at \$70 per day
Car number 662818 5 days at \$70 per day
Car number 369103 5 days at \$70 per day
Car number 558415 4 days at \$70 per day
Car number 598162 4 days at \$70 per day
Car number 795210 4 days at \$70 per day
Car number 22385 4 days at \$70 per day
Car number 665688 5 days at \$70 per day
Car number 889230 5 days at \$70 per day
Car number 112025 4 days at \$70 per day
Car number 60812 3 days at \$70 per day
Car number 412095 3 days at \$70 per day
Car number 533284 3 days at \$70 per day
Car number 412105 5 days at \$70 per day
Car number 412769 5 days at \$70 per day
Car number 670911 3 days at \$70 per day
Car number 417538 3 days at \$70 per day
Car number 794023 3 days at \$70 per day
Car number 517899 3 days at \$70 per day
Car number 665680 3 days at \$70 per day
Car number 668274 3 days at \$70 per day
Car number 558686 1 day at \$70 per day
Car number 472733 1 day at \$70 per day
Car number 661837 1 day at \$70 per day
Car number 666359 1 day at \$70 per day
Car number 5178121 1 day at \$70 per day
Car number 663444 1 day at \$70 per day
Car number 413885 5 days at \$70 per day
Car number 413226 5 days at \$70 per day
Car number 517993 5 days at \$70 per day
Car number 1495 5 days at \$70 per day
Car number 77527 5 days at \$70 per day
Car number 77777 5 days at \$70 per day
Car number 793737 5 days at \$70 per day

42. On February 3, 2016, defendant was assessed demurrage charges in the amount of \$32,270, Invoice 101599. This invoice is attached hereto and incorporated herein as "Exhibit 17

Those charges include:

Car number 415872 3 days at \$70 per day

Car nwnber 78739 14 days at \$70 per day
Car number 794608 7 days at \$70 per day
Car number 660194 9 days at \$70 per day
Car number 662443 1 day at \$70 per day
Car number 667220 1 day at \$70 per day
Car number 558273 13 days at \$70 per day
Car number 413142 9 days at \$70 per day
Car number 417151 9 days at \$70 per day
Car number 889369 16 days at \$70 per day
Car number 536162 14 days at \$70 per day
Car number 571113 14 days at \$70 per day
Car number 536029 14 days at \$70 per day
Car number 665912 2 days at \$70 per day
Car number 667997 2 days at \$70 per day
Car number 670979 2 days at \$70 per day
Car number 7021 14 days at \$70 per day
Car number 50015 14 days at \$70 per day
Car number 600067 2 days at \$70 per day
Car number 662521 2 days at \$70 per day
Car number 665573 2 days at \$70 per day
Car number 666726 2 days at \$70 per day
Car number 354634 12 days at \$70 per day
Car number 406526 10 days at \$70 per day
Car number 412290 12 days at \$70 per day
Car number 413330 10 days at \$70 per day
Car number 795080 10 days at \$70 per day
Car number 667772 12 days at \$70 per day
Car number 7037 13 days at \$70 per day
Car number 536186 13 days at \$70 per day
Car number 794448 12 days at \$70 per day
Car number 504174 8 days at \$70 per day
Car number 670434 8 days at \$70 per day
Car number 598108 10 days at \$70 per day
Car number 470074 6 days at \$70 per day
Car number 660008 2 days at \$70 per day
Car number 662733 2 days at \$70 per day
Car number 667350 2 days at \$70 per day
Car number 667353 2 days at \$70 per day
Car number 794910 5 days at \$70 per day
Car number 470097 5 days at \$70 per day
Car number 662291 5 days at \$70 per day
Car number 663678 3 days at \$70 per day
Car number 889234 3 days at \$70 per day

Car number 369137 3 days at \$70 per day
Car number 55813 t 3 days at \$70 per day
Car number 795002 3 days at \$70 per day
Car number 795152 3 days at \$70 per day
Car number 661650 7 days at \$70 per day
Car number 60260 5 days at \$70 per day
Car number 406197 5 days at \$70 per day
Car number 413300 5 days at \$70 per day
Car number 794296 5 days at \$70 per day
Car number 794409 13 days at \$70 per day
Car number 22349 5 days at \$70 per day
Car number 77645 14 days at \$70 per day
Car number 78955 14 days at \$70 per day
Car number 469636 14 days at \$70 per day
Car number 62121 1 ldays at \$70 per day
Car number 469497 10 days at \$70 per day
Car number 471269 10 days at \$70 per day

43. On March 2, 2016, defendant was assessed demurrage charges in the amount of \$8,400, Invoice 101613. This invoice is attached hereto and incorporated herein as "Exhibit 18."

Those charges include:

Car number 414037 6 days at \$70 per day
Car number 794783 6 days at \$70 per day
Car number 21612 6 days at \$70 per day
Car number 60266 11 days at \$70 per day
Car number 415359 9 days at \$70 per day
Car number 7029 S days at \$70 per day
Car number 660704 4 days at \$70 per day
Car number 666520 4 days at \$70 per day
Car number 668055 3 days at \$70 per day
Car number 660807 3 days at \$70 per day
Car number 665546 3 days at \$70 per day
Car number 889220 6 days at \$70 per day
Car number 79325 5 days at \$70 per day
Car number 504526 5 days at \$70 per day
Car number 536116 20 days at \$70 per day
Car number 661293 12 days at \$70 per day
Car number 662938 4 days at \$70 per day
Car number 666309 4 days at \$70 per day
Car number 666649 4 days at \$70 per day

44. On August 3, 2016, defendant was assessed demurrage charges in the amount of \$770, Invoice 101692. This invoice is attached hereto and incorporated herein as "Exhibit 19."

Those charges include:

Car number 729107 2 days at \$70 per day
Car number 412701 1 day at \$70 per day
Car number 793571 1 day at \$70 per day
Car number 504019 1 day at \$70 per day
Car number 729363 1 day at \$70 per day
Car number 504903 1 day at \$70 per day
Car number 505281 1 day at \$70 per day
Car number 729255 1 day at \$70 per day
Car number 517916 1 day at \$70 per day
Car number 667197 1 day at \$70 per day

45. On September 6, 2016, defendant was assessed demurrage charges in the amount of \$8,120, Invoice 101706. This invoice is attached hereto and incorporated herein as "Exhibit 20." Those charges include:

Car number 502731 1 day at \$70 per day
Car number 14020 3 days at \$70 per day
Car number 504299 3 days at \$70 per day
Car number 617119 3 days at \$70 per day
Car number 617180 3 days at \$70 per day
Car number 728442 2 days at \$70 per day
Car number 793493 2 days at \$70 per day
Car number 728458 1 day at \$70 per day
Car number 415264 1 day at \$70 per day
Car number 617035 4 days at \$70 per day
Car number 617073 4 days at \$70 per day
Car number 617085 4 days at \$70 per day
Car number 409695 4 days at \$70 per day
Car number 793337 4 days at \$70 per day
Car number 502018 4 days at \$70 per day
Car number 504648 4 days at \$70 per day
Car number 505794 4 days at \$70 per day
Car number 473022 4 days at \$70 per day
Car number 728784 2 days at \$70 per day
Car number 558193 2 days at \$70 per day

Car number 417437 2 days at \$70 per day
Car number 793592 2 days at \$70 per day
Car number 502261 2 days at \$70 per day
Car number 504177 2 days at \$70 per day
Car number 793098 1 day at \$70 per day
Car number 14012 1 day at \$70 per day
Car number 726267 1 day at \$70 per day
Car number 728862 1 day at \$70 per day
Car number 617122 3 days at \$70 per day
Car number 506048 1 day at \$70 per day
Car number 617166 1 day at \$70 per day
Car number 473195 1 day at \$70 per day
Car number 505371 4 days at \$70 per day
Car number 793804 4 days at \$70 per day
Car number 505563 4 days at \$70 per day
Car number 617083 4 days at \$70 per day
Car number 48006 3 days at \$70 per day
Car number 409579 3 days at \$70 per day
Car number 18870 3 days at \$70 per day
Car number 726470 2 days at \$70 per day
Car number 412102 2 days at \$70 per day
Car number 505051 2 days at \$70 per day
Car number 505183 2 days at \$70 per day
Car number 473778 2 days at \$70 per day
Car number 887198 2 days at \$70 per day
Car number 405065 1 day at \$70 per day
Car number 405102 1 day at \$70 per day

46. Defendant has not paid the \$59,600 in demurrage charges which were assessed from November 2, 2015 to the present, have breached its obligations and therefore plaintiff is entitled to interest as provided by Item 6.01.

47. Item 6.01 of Section 6 of PRC1000 provides that all payments pursuant to this tariff are due and payable within fifteen days following the invoice date and thereafter the payments are subject to a service charge of two percent (2%) per month (or fraction thereof) of the outstanding balance.

48. The plaintiff is entitled to a service charge of two percent (2%) per month or any

fractions of a month of the outstanding balance on Invoice #101523 from and after November 17, 2015.

49. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101565 from and after January 22, 2016.

50. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101599 from and after February 18, 2016.

51. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101613 from and after March 17, 2016.

52. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101692 from and after August 18, 2016.

53. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101706 from and after September 21, 2016.

54. Plaintiff is entitled to its reasonable attorneys fees in the enforcement of Tariff PRC1000.

PRAYER

Wherefore, plaintiff prays for judgment as follows:

1. With respect to plaintiffs First Cause of Action, plaintiff prays for:

- a. An award of demurrage charges pursuant to PRC6004-3 in the amount of \$25,930;
- b. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101240 from and after November 22, 2013;
- c. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101245 from and after December 19, 2013;
- d. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101269 from and after February 19, 2014;
- e. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101280 from and after March 19, 2014;
- f. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101288 from and after April 17, 2014;
- g. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101299 from and after May 20, 2014;
- h. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice

#101300 from and after May 20, 2014;

- i. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101305 from and after June 18, 2014;
 - J. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101323 from and after July 22, 2014;
 - k. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101331 from and after August 20, 2014;
 - L. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101510 from and after October 17, 2015;
 - m. An award of reasonable attorneys fees incurred by plaintiff in the enforcement of tariff PRC6004-3.
 - n. An award of its costs incurred herein, and
 - o. Such other relief as the Court deems proper.
2. With respect to plaintiffs Second Cause of Action, plaintiff prays for:.
- a. An award of demurrage charges pursuant to PRC1000 in the amount of \$59,600;
 - b. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101523

from and after November 17, 2015;

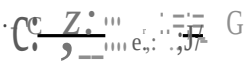
- c. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101565 from and after January 22, 2016;
- d. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101599 from and after February 18, 2016;
- e. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101613 from and after March 17, 2016;
- f. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101692 from and after August 18, 2016;
- g. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101706 from and after September 21, 2016;
- h. An award of reasonable attorneys fees incurred by plaintiff in the enforcement of tariff PRCIOOO;
- L An award of its costs incurred herein, and
- j. Such other relief as the Court deems proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

DATED this 6th day of February, 2017.

SAVAGE, YEATES & WALDRON, P.C.



E. Scott Savage
Stephen R. Waldron
Attorneys for Plaintiff

Exhibit B

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

UTAH CENTRAL RAILWAY COMPANY,	)	
LLC,	)	
	)	
Plaintiff,	)	AMENDED COMPLAINT
vs.	)	
	)	
KENCO LOGISTIC SERVICES, LLC, a	)	Case No. 1:17-cv-00020-DAK
Delaware limited liability company, and	)	
KENCO GROUP,	)	Judge Dale A. Kimball
	)	
Defendants.	)	
_____	)	

The plaintiff hereby complains of the defendant and for causes of action states and alleges as follows:

The Parties

1. The plaintiff Utah Central Railway Company, LLC is a limited liability company organized and existing under the laws of Delaware with its principal place of business in the State of Utah.
2. The defendant Kenco Logistic Services, LLC is a Delaware limited liability company organized and existing under the laws of Tennessee with its principal place of business in Tennessee

and the only member of that LLC is Kenco Group which is a Tennessee corporation with its principal place of business in Tennessee.

Jurisdiction and Venue

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331\ 1337, 49 U.S.C. § 10746 and plaintiffs published and filed tariffs.

4. The defendant Kenco Logistic Services, LLC a Delaware limited liability company and the plaintiff has inquired of the Utah Department of Commerce and determined that Kenco Group is the only member of that LLC and is a Tennessee corporation with its principal place of business in Tennessee and all identified directors and officers of the defendant are residents of Chattanooga, Tennessee and plaintiff has been unable to discover that any members of the defendant are citizens of either Delaware or Utah. Jurisdiction is also proper **in** this Court pursuant to 28 U.S.C. § 1332 in that complete diversity of citizenship exists between the parties and the amount in controversy exceeds seventy-five thousand dollars (\$75,000) excluding interest and costs.

5. Personal jurisdiction over the defendant is authorized by U.C.A. § 78B-3-205(1), (2), (3) and (4.)

6. Venue is proper in the above-entitled Court since the causes of action asserted herein arose within the boundaries of this Court.

FIRST CAUSE OF ACTION

**Defendants' Breach of Its Obligations to Pay Damages
Charges Under Local Freight Tariff PRC6004-3**

7. Plaintiff hereby incorporates paragraphs one through 6 of this Complaint as though herein fully set forth.

8. Defendants' obligations to plaintiff, from April 10, 2014 through October 31, 2015, arose under Local Freight Tariff PRC6004-3 (hereinafter "PRC6004-3"). "PRC6004-3 is attached hereto and incorporated herein as "Exhibit 1."

9. Railroad cars provided to the defendant by the plaintiff for loading or unloading incur demurrage charges pursuant to PRC6004-3, Section 1 Item 3950 which provides as follows:

This charge is applied to all cars as described under the rules contained within this tariff. After the expiration of free time, as described within Item 1300, demurrage will be charged at the following charges per car, per day or fraction per day until car is released:

- 1) Per day for the first four chargeable days \$40.00
- 2) Per day for the next two chargeable days \$55.00
- 3) Per day for each subsequent day thereafter \$70.00

10. Section 1, Item 1300 of the PRC6004-3 provides for "free time" after which cars actually placed or constructively placed with the defendant incur demurrage charges.

11. On March 4, 2015, defendant was assessed demurrage charges pursuant to PRC6004-3 in the amount of \$1,810, Invoice #101415. This invoice is attached hereto and incorporated herein as "Exhibit 2." These charges included:

Car number 62166 for 8 days at \$40 per day for 4 days, \$55 per day for 2 days and \$70 per day for 2 days
Car number 77820 for 4 days at \$40 per day
Car number 78759 for 4 days at \$40 per day
Car number 62114 for 4 days at \$40 per day
Car number 77786 for 3 days at \$40 per day
Car number 78975 for 3 days at \$40 per day
Car number 501348 for 4 days at \$40 per day
Car number 62227 for 2 days at \$40 per day
Car number 62233 for 2 days at \$40 per day
Car number 61118 for 4 days at \$40 per day
Car number 61297 for 4 days at \$40 per day
Car number 247755 for 3 days at \$40 per day

12. On April 7, 2015, defendant was assessed demurrage charges in the amount of \$31,960, Invoice #101435. This invoice is attached hereto and incorporated herein as "Exhibit 3."

These charges included:

Car number 78190 for 6 days at \$40 per day for 4 days, \$55 per day for 2 days
Car number 79012 for 6 days at \$40 per day for 4 days, \$55 per day for 2 days
Car number 62190 for 6 days at \$40 per day for 4 days, \$55 per day for 2 days
Car number 62223 for 6 days at \$40 per day for 4 days, \$55 per day for 2 days
Car number 77605 for 5 days at \$40 per day for 4 days, \$55 per day for 1 day
Car number 78888 for 5 days at \$40 per day for 4 days, \$55 per day for 1 day
Car number 62258 for 5 days at \$40 per day for 4 days, \$55 per day for 1 day
Car number 62115 for 13 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 7 days
Car number 1832 for 13 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 7 days
Car number 77580 for 13 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 7 days
Car number 78878 for 12 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 6 days
Car number 78009 for 12 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 6 days
Car number 62178 for 12 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 6 days
Car number 77649 for 11 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 5 days
Car number 62168 for 11 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 5 days
Car number 77731 for 7 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 1 day
Car number 77758 for 7 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 1 day
Car number 78783 for 7 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 1 day
Car number 78186 for 7 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 1 day
Car number 61265 for 7 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 1 day
Car number 77003 for 5 days at \$40 per day for 4 days, \$55 per day
for 1 day
Car number 61232 for 5 days at \$40 per day for 4 days, \$55 per day

for 1 day
Car number 62177 for 5 days at \$40 per day for 4 days, \$55 per day
for 1 day
Car number 77583 for 4 days at \$40 per day
Car number 78746 for 4 days at \$40 per day
Car number 78128 for 4 days at \$40 per day
Car number 62148 for 4 days at \$40 per day
Car number 61238 for 21 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 15 days
Car number 62248 for 21 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 15 days
Car number 77587 for 21 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 15 days
Car number 77643 for 21 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 15 days
Car number 77755 for 21 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 15 days
Car number 62285 for 21 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 15 days
Car number 77776 for 20 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 14 days
Car number 61243 for 20 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 14 days
Car number 77832 for 20 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 14 days
Car number 61116 for 20 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 14 days
Car number 62311 for 20 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 14 days
Car number 62312 for 20 days at \$40 per day for 4 days, \$55 per day
for 2 days, \$70 per day for 14 days
Car number 463494 for 1 day at \$40 per day
Car number 565280 for 1 day at \$40 per day
Car number 463520 for 5 days at \$40 per day for 4 days, \$55 per day for 1 day
Car number 565227 for 5 days at \$40 per day for 4 days, \$55 per day for 1 day
Car number 62151 for 14 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 8 days
Car number 77510 for 13 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 7 days
Car number 77846 for 13 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 7 days
Car number 62287 for 13 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 7 days

Car number 62125 for 12 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 6 days
Car number 62235 for 12 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 6 days
Car number 61225 for 11 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 5 days
Car number 61267 for 11 days at \$40 per day for 4 days, \$55 per day
for 2 days and \$70 per day for 5 days

13. On October 2, 2015, defendant was assessed demurrage charges in the amount of \$200, Invoice #101509. This invoice is attached hereto and incorporated herein as "Exhibit 4."

These charges included:

Car number 463444 for 1 day at \$40 per day
Car number 463523 for 1 day at \$40 per day
Car number 62155 for 1 day at \$40 per day
Car number 3772 for 1 day at \$40 per day
Car number 3749 for 1 day at \$40 per day

14. Defendant has failed to pay all of the aforementioned demurrage charges which total \$33,970.

15. Section 2, Item 3980 of PRC6004-3 provides that all payments pursuant to this tariff are due and payable within fifteen (15) days following the invoice date and thereafter the payments are subject to a service charge of one and one-half percent (1-1/2%) per month (or fraction thereof) of the outstanding balance.

16. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101415 from and after March 19, 2015.

17. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on Invoice #101435 from and after

April 22, 2015.

18. The plaintiff is entitled to a service charge of one and one-half percent (1-1/2%) per month or any fractions of a month of the outstanding balance on fuvoice #101509 from and after October 17, 2015.

19. Plaintiff is entitled to its reasonable attorneys fees in the enforcement of Tariff PRC6004-3.

SECOND CAUSE OF ACTION

Defendants' Breach of its Obligations to Pay Demurrage Charges Under Freight Tariff No. PRC1000

20. Plaintiff hereby incorporates paragraphs 1 through and including 6 of this Complaint as though herein fully set forth.

21. Defendants' obligations to plaintiff, from November 1, 2015 to the present, arose under Freight Tariff No. PRC1000 (hereinafter "PRC1000") and Charge Catalog 2000 published jointly with PRC1000 (hereinafter "CC 2000"). PRC1000 is attached hereto and incorporated herein as "Exhibit 5" and CC2000 is attached hereto and herein incorporated as "Exhibit 6."

22. Item 1.12 of PRC1000 provides for "free time" after which cars actually placed or constructively placed with the defendant incur demurrage charges.

23. Item 3.01-3.03 of the Charge Schedule contained within CC 2000 which was published jointly with PRC1000, contains a demurrage charge of \$70 per day.

24. On February 3, 2016, defendant was assessed demurrage charges in the amount of \$47,600, Invoice #101597. Invoice #101597 is attached hereto and hereby incorporated as "Exhibit 7." These charges included:

Car number 62172 for 17 days at \$70 per day
Car number 172177 for 20 days at \$70 per day
Car number 172180 for 20 days at \$70 per day
Car number 61122 for 16 days at \$70 per day
Car number 61273 for 16 days at \$70 per day
Car number 172176 for 19 days at \$70 per day
Car number 3804 for 19 days at \$70 per day
Car number 77533 for 22 days at \$70 per day
Car number 77660 for 20 days at \$70 per day
Car number 78971 for 20 days at \$70 per day
Car number 18065 for 16 days at \$70 per day
Car number 77154 for 16 days at \$70 per day
Car number 3760 for 16 days at \$70 per day
Car number 3779 for 16 days at \$70 per day
Car number 172192 for 16 days at \$70 per day
Car number 61136 for 22 days at \$70 per day
Car number 61230 for 22 days at \$70 per day
Car number 62266 for 22 days at \$70 per day
Car number 78035 for 21 days at \$70 per day
Car number 62219 for 21 days at \$70 per day
Car number 62259 for 21 days at \$70 per day
Car number 61259 for J 8 days at \$70 per day
Car number 61294 for 18 days at \$70 per day
Car number 77656 for 17 days at \$70 per day
Car number 78974 for 17 days at \$70 per day
Car number 62172 for 17 days at \$70 per day
Car number 61202 for 17 days at \$70 per day
Car number 61213 for 14 days at \$70 per day
Car number 62125 for 14 days at \$70 per day
Car number 62168 for J 4 days at \$70 per day
Car number 78674 for 13 days at \$70 per day
Car number 61269 for 13 days at \$70 per day
Car number 62241 for 13 days at \$70 per day
Car number 62249 for 13 days at \$70 per day
Car number 61206 for 12 days at \$70 per day
Car number 77008 for 11 days at \$70 per day
Car number 61100 for 11 days at \$70 per day
Car number 61296 for 11 days at \$70 per day
Car number 62289 for 11 days at \$70 per day
Car number 62244 for 10 days at \$70 per day
Car number 62317 for IO days at \$70 per day
Car number 61270 for 9 days at \$70 per day
Car number 61297 for 9 days at \$70 per day

Car number 62221 for 9 days at \$70 per day

25. On March 2, 2016, defendant was assessed demurrage charges in the amount of \$22,050, Invoice #101612. Invoice #101612 is attached hereto and hereby incorporated as

"Exhibit 8." These charges included;

Car number 62114 for 27 days at \$70 per day
Car number 62159 for 27 days at \$70 per day
Car number 62186 for 27 days at \$70 per day
Car number 62208 for 27 days at \$70 per day
Car number 62294 for 27 days at \$70 per day
Car number 62108 for 26 days at \$70 per day
Car number 6121 lfor 26 days at \$70 per day
Car number 600 for 23 days at \$70 per day
Car number 62189 for 23 days at \$70 per day
Car number 62243 for 16 days at \$70 per day
Car number 61214 for 22 days at \$70 per day
Car number 62165 for 22 days at \$70 per day
Car number 62265 for 22 days at \$70 per day

26. On March 2, 2016, defendant was assessed demurrage charges in the amount of \$560, Invoice #101611. Invoice #101611 is attached hereto and hereby incorporated as "Exhibit 9." These charges included:

Car number 520060 for 6 days at \$70 per day
Car number 505860 for 2 days at \$70 per day

27. On August 3, 2016, defendant was assessed demurrage charges in the amount of \$280, Invoice #101689. Invoice #101689 is attached hereto and hereby incorporated as "Exhibit 10." These charges included:

Car number 500581 for I day at \$70 per day
Car number 565513 for 1 day at \$70 per day
Car number 463540 for I day at \$70 per day
Car number 565329 for I day at \$70 per day

28. On September 6, 2016, defendant was assessed demurrage charges in the amount

of \$2,310, Invoice #101703. Invoice#101703 is attached hereto and hereby incorporated as

"Exhibit 11." These charges included :

Car number 1232 for 1 day at \$70 per day
Car number 463496 for 1 day at \$70 per day
Car number 565597 for 1 day at \$70 per day
Car number 463131 for 6 days at \$70 per day
Car number 463421 for 6 days at \$70 per day
Car number 565305 for 6 days at \$70 per day
Car number 565320 for 6 days at \$70 per day
Car number 565473 for 2 days at \$70 per day
Car number 1899 for 2 days at \$70 per day
Car number 1905 for 2 days at \$70 per day

29. On September 6, 2016, defendant was assessed demurrage charges in the amount of \$70, Invoice #101702. Invoice #101702 is attached hereto and hereby incorporated as

"Exhibit 12." These charges included:

Car number 51958 for 1 day at \$70 per day

30. On October 4, 2016, defendant was assessed demurrage charges in the amount of \$140.00, Invoice #101724. Invoice #101724 is attached hereto and incorporated as "Exhibit 13." These charges included:

Car number 151201 for 2 days at \$70 per day

31. Defendant has failed to pay all of the aforementioned demurrage charges which total \$73,010.

32. Item 6.0] of Section 6 of PRCLOOO provides that all payments pursuant to this tariff are due and payable within fifteen days following the invoice date and thereafter the payments are subject to a service charge of two percent (2%) per month (or fraction thereof) of the outstanding balance.

33. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101597 from and after February 18, 2016.

34. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101612 from and after March 17, 2016.

35. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #IO**1611** from and after March 17, 2016.

36. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101689 from and after August 18, 2016.

37. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101703 from and after September 21, 2016.

38. The plaintiff is entitled to a service charge of two percent (2%) per month or any fractions of a month of the outstanding balance on Invoice #101702 from and after September 21, 2016.

39. Plaintiff is entitled to its reasonable attorneys fees in the enforcement of Tariff RC1000.

PRAYER

Wherefore, plaintiff prays for judgment as follows:

1. With respect to plaintiff's First Cause of Action, plaintiff prays for:
 - a. An award of demurrage charges pursuant to PRC6004-3 in the amount of \$33,970;
 - b. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101415 from and after March 19, 2015;
 - c. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101435 from and after April 22, 2015;
 - d. An award of a service charge of one and one-half percent (1 1/2%) per month or any fractions of any month of the outstanding balance on Invoice #101509 from and after October 17, 2015;
 - e. An award of reasonable attorneys fees incurred by plaintiff in the enforcement of tariff PRC6004-3;
 - f. An award of its costs incurred herein; and
 - g. Such other relief as the Court deems proper.
2. With respect to plaintiffs Second Cause of Action, plaintiff prays for:
 - a. An award of demurrage charges pursuant to PRC1 000 in the amount of \$73,010;
 - b. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101597 from and after February 18, 2016;

- c. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101612 from and after March 17, 2016;
- d. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #IO1611 from and after March 17, 2016;
- e. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101689 from and after August 18, 2016;
- f. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101703 from and after September 21, 2016;
- g. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #101702 from and after September 21, 2016;
- h. An award of a service charge of two percent (2%) per month or any fractions of any month of the outstanding balance on Invoice #10] 724 from and after October 4, 2016;
- i. An award of reasonable attorneys fees incurred by plaintiff in the enforcement of tariff PRCIOOO;
- j. An award of its costs incurred herein, and
- k. Such other relief as the Court deems proper.

JURYDEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

DATED this 27th day of February, 2017.

SAVAGE, YEATES & WALDRON, P.C.

/s/E. Scott Savage.

E. Scott Savage

Stephen R. Waldron

Attorneys for Plaintiff

Exhibit C

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Attorneys for Specialized Rail Service, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

UTAH CENTRAL RAILWAY COMPANY,
LLC,

Plaintiff,

v.

SPECIALIZED RAIL SERVICE, INC.,

Defendant.

**ORDER GRANTING
MOTION TO STAY**

Case No. 1:17-cv-00019-RJS

Judge Robert J. Shelby

On or about April 5, 2017, Defendant Specialized Rail Service, Inc. filed a Motion to Refer Demurrage Dispute to Surface Transportation Board and to Stay the Case (the "Motion").¹In the Motion, the Defendant asked the Court to refer the railroad demurrage disputes in this case to the Surface Transportation Board ("STB") and to stay the case until the STB issues a decision. On or about April 14, 2017, Plaintiff Utah Central Railway Company, LLC filed a Response² to Defendant's Motion in which, although disputing several of the defendant's factual assertions, it

¹ Dkt. 15.

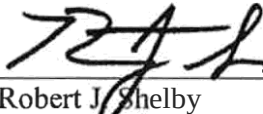
² Dkt. 17.

agreed that the issues should be referred to the STB and the case stayed in this Court until the STB renders a decision.

Therefore, based on the foregoing, and for good cause showing, IT IS HEREBY ORDERED that the Motion to Stay is GRANTED. This case is referred to the STB for resolution of all matters that fall within the STB's jurisdiction, and the case is STAYED until the STB issues a decision.

DATED this 11th day of April, 2017

BY THE COURT:



Robert J. Shelby
United States District Court Judge

APPROVED AS TO FORM

Savage, Yeates & Waldron

/s E. Scott Savage (signed with permission from counsel)
E. Scott Savage
Stephen R. Waldron
Attorneys for Plaintiff

Exhibit D

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

**UTAH CENTRAL RAILWAY
COMPANY, LLC,**

Plaintiff,

vs.

**KENCO LOGISTIC SERVICES, LLC, a
Delaware limited liability company, and
KENCO GROUP,**

Defendants.

ORDER

Case No. 1:17-CV-20-DAK

Judge Dale A. Kimball

On April 5, 2017, Defendants Kenco Logistic Services, LLC, and Kenco Group filed a Motion to Refer Demurrage Dispute to Surface Transportation Board and to Abate the Case. The motion asked the court to refer the railroad demurrage disputes in this case to the Surface Transportation Board ("STB"), the federal agency charged with overseeing demurrage calculations, and to stay the case until the STB issues a decision. On April 14, 2017, Plaintiff Utah Central Railway Company, LLC, filed a Response to Defendants' Motion, which, although it disputed several of the Defendants' facts in the motion, agreed that the issues should be referred to the STB and that the matter should be stayed in this court until the STB renders its decision.

Therefore, IT IS HEREBY ORDERED that Defendants' motion is GRANTED. This case is referred to the STB for resolution of the railroad demurrage disputes, and the case is STAYED until the STB issues a decision.

DATED this 17th day of April, 2017.

BY THE COURT:

A stylized, handwritten signature in black ink, appearing to read 'u g' with a flourish at the end.

DALE A. KIMBALL
United States District Judge