

Surface Transportation Board
Ex Parte 704 (Sub-No. 1)—Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Summary of Ex Parte Meeting held on June 13, 2019 between
SA Recycling LLC, Consolidated Scrap Resources, Inc. and Institute of Scrap Recycling
Industries, Inc. and Board Member Oberman

SA Recycling LLC (“SAR”), Consolidated Scrap Resources, Inc. (“CSR”) and Institute of Scrap Recycling Industries, Inc. (“ISRI”) Attendees:

- Bobby Triesch, Vice President and Regional General Manager, SAR
- Silvana Jones, Logistics Director, SAR
- David Brown, Vice President and Regional General Manager, SAR
- Benjamin Abrams, CEO and President, CSR
- William Johnson, Chief Lobbyist, ISRI
- Karyn Booth, Thompson Hine LLP
- Kerem Bilge, Thompson Hine LLP

STB Attendees:

- Board Member Martin J. Oberman
- Katherine C. Bourdon, Attorney Advisor

Meeting Summary:

The meeting began with introductions, and SAR, CSR and ISRI thanked the STB Attendees for the opportunity to meet and discuss the Board’s proposed rule and the issues in this proceeding.

SAR described its company background and operations and its need for reliable and cost-effective rail service. SAR processes ferrous and non-ferrous metals and operates over 70 recycling facilities located throughout California, Texas, Arizona, Nevada, Georgia, Alabama and Tennessee. SAR relies on private cars for its Georgia region facilities, and relies on railroad owned system cars at its West Coast facilities. SAR explained that, at its Georgia region facilities, its inbound traffic is 100% by truck, and outbound traffic is 90% by rail. When rail service was particularly problematic in 2017, SAR shipped 70% outbound by rail but this was not because truck is more economical or efficient but only to meet the delivery demands of its steel mill customers. SAR stated that it is served by a single Class I railroad at the Georgia region facilities, and two Class I railroads at its West Coast facilities, as well as by some shortline carriers.

SAR explained that it is having serious rail problems related to demurrage, car supply and service reliability. Rail rates also continue to rise and it is challenging to negotiate with the railroads who have significant market power.

For its Georgia region alone, SAR stated that it currently has outstanding private car storage bills in the amount of \$900,000. SAR presented a chart showing recent rail deliveries in June 2019, the number of credits it has received for deliveries earlier or later than the railroad ETAs, as well

as the impact of a lack of credits applied to deliveries of empty cars (*See Exhibit-1*). SAR explained that the serving railroad missed its ETAs 100% of the time and yet because the railroads do not provide credits for empties this results in substantial storage fees. SAR explained that it has made significant investments in private cars in recent years due to terrible rail service and a lack of an adequate car supply of railroad owned gondolas. However, these investments have become moot and penalizing to SAR since the railroads have since increased their service levels and then assess storage on the private cars that are no longer needed. SAR has sent 100 cars to private storage to help mitigate the railroad fees but SAR still must pay its lease costs and storage fees, which are monies that it cannot use to invest and grow its business. SAR also presented a table showing the impact on its storage charges as a result of varying credit periods (*See Exhibit 2*).

Regarding its West Coast operations, SAR stated that its facilities have been placed on embargo twice in 2019, even though the congestion was created because of railroad service failures. SAR stated that its West Coast facilities are open gate but they have requested to become a closed gate customer but the railroad has refused to allow this change.

SAR also explained that a Class-I railroad provided sufficient car orders 37% of the time in a single month and caused SAR to lose \$800,000 in lost sales at its West Coast facilities by not supplying the required amount of cars (*See Exhibit-3*). SAR also explained how another Class-I railroad failed to provide sufficient cars in its bidding system which has harmed SAR's ability to meet its business requirements.

CSR described its company operations and dependence on rail for outbound deliveries. CSR is a full-service metals, paper and plastics recycler with facilities located throughout Pennsylvania. CSR is served by a single Class-I railroad as well as shortline carriers. CSR stated that rail transportation represents approximately 30-40% of its total ferrous scrap metal shipments. CSR stated that it primarily relies on rail for shipments moving at a distance of 150-miles or more. One of its primary steel mill customers is 10-miles away and it can use truck for this customer both because of the distance and the volumes shipped. Its other customers are much farther away which makes rail more economical and efficient and those customers require rail deliveries.

CSR explained that its main issues with the railroads are centered around demurrage, the cost of challenging railroad invoices, overloaded car charges, the lack of adequate railroad personnel capable of providing clear information and resolving their complaints, and rising rail rates which cannot be negotiated. CSR experienced significant increases in storage bills with the recent changes in railroad demurrage rules and practices. CSR showed the STB attendees a map of its Harrisburg facility (*See Exhibit-4*) and explained how it is restricted to add additional storage tracks to alleviate the increasing private car storage charges it has incurred since implementation of PSR by a Class-I railroad.

Member Oberman, CSR and SAR discussed the phenomena of "de-marketing" and high rail rates for shipments between Chicago and West Coast. Member Oberman and Thompson Hine also discussed the legal relationship between "de-marketing" and the railroads' common carrier obligations.

CSR and SAR explained that the industry needs access to STB oversight and an avenue for recourse against the railroads to help improve their commercial negotiations and to address service, demurrage, and unreasonable practice and rate concerns.

The meeting concluded with each side thanking the other for participating in the meeting.

Exhibit-1

[illegible]

31
cars
showed
up
6/9

Once an empty car
is PCON'd all info
on ETA disappears
from the NS System

↑
loaded
cars
missed
ERA
100%
of
the
time
16 loads

credits
we
would
have
received
for
missed
ETA
on
empty
cans
if
we
got
credits
for
missed
ETA's
on
empties

Exhibit-2

Bobby Triesch (East Point 1355)

From: Bobby Triesch (East Point 1355)
Sent: Wednesday, June 12, 2019 1:27 PM
To: Bobby Triesch (East Point 1355)
Subject: FW: 2019 Storage invoices with credits

From: Renee Quiroga (East Point 1316)
Sent: Wednesday, June 12, 2019 11:36 AM
To: Bobby Triesch (East Point 1355) <btriesch@sarecycling.com>
Subject: RE: 2019 Storage invoices with credits

		<i>if</i>	<i>if</i>	<i>if</i>
NS Storage Charges	Invoice 0 credits	Invoice 1 credits	invoice 2 credits	Invoice 3 credits
Jan-19	\$ 119,820.00	\$ 79,680.00	\$ 53,940.00	\$ 28,500.00
Feb-19	\$ 135,780.00	\$ 86,460.00	\$ 67,620.00	\$ 48,960.00
Mar-19	\$ 80,760.00	\$ 31,140.00	\$ 10,200.00	\$ -
Apr-19	\$ 85,140.00	\$ 37,200.00	\$ 18,840.00	\$ 6,720.00
May-19	\$ 76,380.00	\$ 43,680.00	\$ 23,340.00	\$ 4,200.00
Total 2019	\$ 497,880.00	\$ 278,160.00	\$ 173,940.00	\$ 88,380.00

Renée Quiroga

SA Recycling - SouthEast
 1359 Central Ave
 East Point, GA 30344
 PH: 404-669 5000 ext 1316
 Fax: 404-767 1457
mquiroga@sarecycling.com

↑
Plus the
Approximate
#400K
from
2018

Exhibit-3

Bilge, Kerem

Subject: RE: EL Paso - SA Recycling

From: Silvana Jones (HQ Orange 0470)
Sent: Thursday, May 30, 2019 3:47 PM
To: Kenny Rocker <KROCKER@up.com>
Subject: RE: EL Paso - SA Recycling

hi Kenny

Yes I try to work w Josh and Norm, however as you can see this has been going on for a month and for us this is a MAJOR issue....every month we have service failure...not related to safety...just service!! If you can see below, we have lost over \$800K this month and for this yard it is a lot of money..if I go back and report our losses for the past 6 months related to UP service failure, you would see even more the issues we have been faing... so again this is huge for us and that's the only time I reach out above those guys is when we are not seeing any improvement, support or solution..we are at a loss for awhile!!

yes great I will attend to the event in Oct.. Looking forward to see you.

Silvana Jones
Logistics Director
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Orange, CA
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www.sarecycling.com
GOT SCRAP? ®

From: Kenny Rocker [mailto:KROCKER@up.com]
Sent: Thursday, May 30, 2019 3:40 PM
To: Silvana Jones (HQ Orange 0470) <SJones@sarecycling.com>
Subject: Re: EL Paso - SA Recycling

I'm involved, and understand we opened up the service for you. This was a result of my involvement , although we need to spot more cars.

Silvana, I'd like for you to feel comfortable working through the team and only involving me in the major issues - - really major. I probably create more work for folks and less support for you/SA unless it is extremely major. Thanks for working through Josh, since I have a lot of confidence in him. We can not compromise on the safety issues, and needed to terminate service when safety was involved. Josh can give you more feedback on what we are doing to improve the yard there.

Switching gears: I'm speaking at the LA Traffic club event in October and would love for us to shake hands while I'm there. Provide an update on your business plans for El Paso, Sou CA location on the PHL.

Sent from my iPhone

On May 30, 2019, at 6:21 PM, Silvana Jones (HQ Orange 0470) <SJones@sarecycling.com> wrote:

***** STOP. EXTERNAL EMAIL. USE CAUTION *****

I wish...no...same old job title...we really need your help! This has cost us a lot of money...in El Paso!

Silvana Jones
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GOT SCRAP?®

From: Kenny Rocker [<mailto:KROCKER@up.com>]
Sent: Thursday, May 30, 2019 3:20 PM
To: Silvana Jones (HQ Orange 0470) <SJones@sarecycling.com>
Subject: Re: EL Paso - SA Recycling

Did you get a promotion?

Sent from my iPhone

On May 30, 2019, at 4:01 PM, Silvana Jones (HQ Orange 0470) <SJones@sarecycling.com> wrote:

***** STOP. EXTERNAL EMAIL. USE CAUTION *****

hello All

As you are aware of our major challenges at ELP, here is the summary of our losses and struggles:

We have ordered 36 cars for this month (MAY) and 10 remaining from April. Total of 46 cars!

According to UP website, 30 cars delivered to UP serving yard. Only 17 cars place in our yard as far as we can see or 29 cars short. There are still 13 cars on CP status since 5/9 (from the 30 cars).

This equals to 37% fulfillment for the month of MAY and about \$800,000 loss for not completing our orders and missing the sales that are due tomorrow 05/31/19.

Below is our order for 54 cars for the month of JUNE and I really would like UP to come up w a service plan to fulfill this entire order for once. I really don't know what else to do on our side. **We have offered all flexibility possible to make it happen and it doesn't work every month!**

Please advise asap what is UP's plan to assist SA Recycling El Paso in June.

Thank you

<image001.png>

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Exhibit-4

