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June 6, 2019

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VIA ELECTRONIC FILING

The Honorable Ann D. Begeman, Chairman
The Honorable Patrick J. Fuchs, Vice Chairman
The Honorable Martin Oberman, Commissioner
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

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Office of Proceedings
June 6, 2019
Part of
Public Record

Re: STB Docket No. EP 754, Oversight Hearing on Demurrage and Accessorial Charges

Dear Chairman Begeman, Vice Chairman Fuchs and Commissioner Oberman:

BNSF submits the following supplement to our appearance at the STB hearing held on May 22 and 23, 2019 in the above captioned docket. BNSF appreciates the opportunity the hearing provided to hear from our customers, including those who took the opportunity to engage one-on-one with the BNSF team in the hearing room around their experience under our program and using our tools.

BNSF listened carefully to the testimony and the Board's own questions; we have not implemented changes to our demurrage rules because we believe our program is reasonable from a commercial and legal perspective based on our years and our customers' years of experience working within the mature framework of our program. The vast majority of our customers pursue their business and plan their railroad service in a manner that incurs minimal or no demurrage charges. We are also concerned about the consequences of significant rule modifications to the majority of our customers who routinely comply with, and rely on, our demurrage program to obtain the efficiencies that support the service they expect from BNSF. We believe that the reasonableness of our rules and the balance that our program strives to achieve is part of our uniqueness and competitiveness in the freight marketplace. While as with any program of this type, our demurrage rules in the future may change from time to time to respond to current circumstances and meet the ultimate goals of the program, for the reasons above, we do not view it as necessary at this time.

In the course of the hearing, the Board indicated some intent to issue more specific guidance on certain aspects of these programs. Should the Board take such action, BNSF encourages the Board to provide a meaningful opportunity to respond to any individual changes that may be proposed (such as elimination of free time) in order to share in more detail how any proposed changes to isolated elements impact our overall program. A sufficient comment period will also allow BNSF to highlight potential unintended

consequences for those customers who do not have repeat demurrage issues and may see commercial and operational risk themselves from blanket changes in our rules of general applicability. We are not insensitive to the individual concerns of the isolated shipper who finds themselves subject to significant repeat demurrage. BNSF works hard—and effectively—with customers to address outlier facilities as detailed in BNSF's written and delivered testimony. We do think it is important to balance those isolated exceptions, however, with the interests of our overall network and the needs of the majority of our shippers who have taken appropriate steps through pipeline management, facility maximization and, at times, investment in their business to maximize throughput and avoid demurrage, and who may compete head-to-head in their own commodity markets.

In addition to the foregoing, I would also like to further respond to Commissioner Oberman's inquiry about BNSF's demurrage revenue data for the first quarter of 2019 compared to the first quarter of 2018. First, I have been able to confirm what I indicated in the hearing, which is that the change in demurrage revenue quarter over quarter for this time period was largely driven by traffic volume and mix differences, with increased petroleum/crude and plastics traffic moving in late 2018 and/or early 2019. During this time, BNSF also experienced significant car staging events due to grain elevator delays in the Pacific Northwest. In addition, Christmas Eve/Christmas Day and New Years Eve/New Years Day fell on Mondays and Tuesdays in 2018, which extended the holiday closures for industries that we served, while BNSF maintained good operating performance throughout that period. When examined compared to other historic monthly periods, January 2019 was a particularly unusual month for reasons discussed above (and not related, as we confirmed in the hearing, to changes in our program which has remained consistent); February of 2019 was almost 20% lower than January 2019, and March 2019 was almost 22% lower than February 2019. Despite that variability, for the first quarter of 2019, BNSF's demurrage revenue represented 1.0% of BNSF's total revenue, compared to 0.9% in the first quarter of 2018. The Board should expect ongoing variability in quarterly demurrage revenue numbers given changes in volume and mix, the fluidity of the markets of our customers, and shifts in demand for our services.

In closing, BNSF appreciates the opportunity the Board has provided at the hearing and in our written comments to share how our demurrage program works to support the interest we share with our customers in the efficient movement of freight across the BNSF network.

Sincerely,



Jill K. Mulligan