

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 12, 2019 between
the Sims Group USA Holding Corporation, TMS International and Institute of Scrap Recycling
Industries, Inc. and Chairman Begeman

**Sims Group USA Holding Corporation (“SIMS”), TMS International (“TMS”) and
Institute of Scrap Recycling Industries, Inc. (“ISRI”) Attendees:**

- Steve Shinn, Vice President, SIMS
- Aaron Plitt, Vice President, TMS
- William Johnson, Chief Lobbyist, ISRI
- Karyn Booth, Thompson Hine LLP
- Kerem Bilge, Thompson Hine LLP

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STB Attendees:

- Chairman Ann D. Begeman
- Valerie Quinn, Attorney-Advisor
- Frank O’Connor, Deputy Director, Office of Economics

Meeting Summary:

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

TMS explained its company background. TMS has 50 scrap facilities in the United States. Its largest yard ships 30,000 tons a month of scrap material. TMS stated that it is heavily dependent on rail transportation for outbound shipments in its operations, as 90% of its shipments primarily to steel mills are shipped by rail. TMS stated that all inbound traffic of collected scrap comes in locally by truck. TMS stated that it has some export shipments, however it predominantly supplies scrap to domestic steel mills, shipments for which are moved by rail. TMS explained that it is dependent on rail due to the high volume of products and the rail infrastructures at the steel mills and TMS facilities. TMS also utilizes rail transportation for a steel mill near its Pittsburgh facility, explaining that it is dependent on rail even at short distances, again due to volumes and infrastructure that make use of truck for outbound moves inefficient and uneconomic.

TMS explained that it uses all the major Class I railroads and it has significant concerns with the recent changes in railroad demurrage tariffs and practices, including the reduction of free time. TMS also stated that the demurrage and private car storage rates recently have increased significantly and it has no recourse. TMS also stated that the annual increases of rail rates average around 7%, which is unreasonable.

SIMS explained its company background. SIMS stated that it has 20-25 locations served by rail. SIMS stated that it is served by all Class I railroads, and 1/3 of their facilities are served by a single railroad. SIMS explained that rail transportation is crucial for its business operations, and

other modes do not provide the same advantages. SIMS stated that current flooding in the river system creates challenges for barge, and barge options can only apply where both the origin and destination are located on a waterway. Also, its ability to use trucks is limited by its high volumes, which are better suited for rail, and the limitations on truck capacity and drivers prevent SIMS from shipping only by truck. SIMS also stated that trucks are not a reasonable option beyond 150 miles. SIMS explained that it primarily serves the export market, but also some steel mills domestically.

SIMS explained that the annual rail rate increases average 6%, and that it is unreasonable and unsustainable. SIMS explained that scrap is a commodity and the price is dictated by the market, thus SIMS is not able to transfer rising rail costs to its customers. SIMS also explained that the zero days free time policy for private car storage is unreasonable, and it does not allow any reasonable buffer against railroad caused variabilities (e.g., bunching and missed switches). SIMS also explained its challenges with reduced service, car supply, and that a railroad has stopped providing service at three of its facilities in California.

Chairman Begeman asked whether TMS and SIMS have private rail car and truck fleets. TMS stated that it owns and leases approximately 200 rail cars. SIMS stated that its private rail car fleet size is approximately 500 cars. However, both companies stated that they still rely extensively on rail supplied gondola cars and that car supply by the railroads is a problem as cars ordered are not provided consistently or timely. SIMS operates a private truck fleet for movements and volumes that are amenable to truck, but one rail car equates to 3-4 trucks, and the location of its facilities cannot support 40-50 trucks lined up at a time in the surrounding neighborhoods.

Chairman Begeman asked why SIMS and TMS have not filed for individual revocation of the exemption. SIMS and TMS explained that the added litigation for revocation would be too costly and time consuming and the outcome is too uncertain due to the lack of any recent cases. ISRI commented that the problems its members are having are widespread and that the revocation should be applied to the industry as a whole.

Both companies stated that they need STB oversight and an avenue for recourse against the railroads to resolve their problems (e.g., unreasonable rates, poor service, and unreasonable practices such as demurrage). Both companies also explained that their commercial dealings with the railroads have been very one-sided and revocation would be helpful in changing this one-sided relationship. There have been significant changes in the railroad industry since the grant of the exemption, including increased market power of the railroads and the elimination of burdensome regulations. Both companies stated that they need a more level playing field like other regulated industries.

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