

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
Tucson Iron & Metal, Rocky Mountain Recycling Inc., and Institute of Scrap Recycling
Industries, Inc. and Board Member Oberman

Tucson Iron & Metal (“Tucson”), Rocky Mountain Recycling Inc. (“Rocky Mountain”) and Institute of Scrap Recycling Industries, Inc. (“ISRI”) Attendees:

- Christian Yoder, Logistics Manager, Tucson
- Brian Henesey, Vice President, Rocky Mountain
- William Johnson, Chief Lobbyist, ISRI
- Karyn Booth, Thompson Hine LLP
- Kerem Bilge, Thompson Hine LLP

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STB Attendees:

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

Meeting Summary:

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

Rocky Mountain explained its company background and operations and its need for cost-effective and reliable rail service. Rocky Mountain is a scrap metal recycling company based in Colorado and operates a single scrap yard. Rocky Mountain processes ferrous and non-ferrous metals. Rocky Mountain’s inbound traffic is primarily received by truck, however its outbound traffic is dependent on rail. Rocky Mountain described its facility on the map. (See Exhibit-1) Rocky Mountain explained that it ships around 10,000 tons of ferrous scrap outbound monthly. Approximately 7,500 tons of this volume is shipped by rail. Rocky Mountain also explained that it owns a private rail car fleet of 50 rail cars, and that 55% of this volume is shipped using private cars. Rocky Mountain stated that it does not have any other option but to ship by rail due to the rail infrastructure at its facility. Rocky Mountain also explained that it does not have any room to expand the rail track at its facility based on its location and surroundings.

Rocky Mountain explained that the recent changes introduced with PSR have had adverse effects on its business. Demurrage bills of Rocky Mountain surged in recent years from \$4,500 in 2014 to \$80,000 in 2018. In the first four months of 2019, Rocky Mountain incurred approximately \$58,000 in demurrage. Rocky Mountain stated that the main reason for this increase is the reduction of free time and railroad caused events (e.g., bunching and missed switches).

Board Member Oberman asked about the main causes for this increase. Rocky Mountain explained that the 2018 demurrage bills were partly Rocky Mountain’s responsibility due to machinery repairs, however the reduction of free time and railroad caused events (e.g., bunching

and missed switches) exacerbated its bills significantly. Rocky Mountain also explained that it has received a significant number of erroneous bills, which created a need for substantial time and resources to track down railroad data to file disputes and ensure the accuracy of the invoices.

Tucson explained the company background and operations and its dependence on rail service. Tucson explained its facility using the attached map. (See Exhibit-2) Tucson stated that its main rail traffic is inbound shipments of steel grinding balls that are sold to copper mines. Tucson explained that a Class I railroad has recently reduced the number of service days from 5 to 2 days. This has caused a significant increase in its demurrage bills where Tucson previously had none since April, 2015. This is because the reduction to 2 days of service is causing cars to accumulate at the Tucson serving rail yard. Tucson stated that it is faced with the options of either paying the increased demurrage bills or requesting an additional switch, which costs \$3,200 per occurrence. Tucson explained that it is a small business and cannot easily absorb the rising demurrage costs or pass these costs on to its customers.

Board Member Oberman asked the reason for the reduction of railroad service. Tucson explained that it has been getting 5 days a week switches for the last 18 years, however the Class I railroad decided to reduce the number of switches stating that Tucson does not need 5 service days. Tucson remarked that the 2 days of service inhibits its ability to grow its business and the serving railroad's main line is adjacent to Tucson's facility and operates with daily service. Thus, providing an additional switch should not cause substantial inefficiencies for the railroad.

Thompson Hine commented that the reduction of service raises questions about compliance with the railroad's common carrier obligation, and whether the obligation encompasses the provision of adequate of service.

Board Member Oberman asked how Tucson has been impacted by demurrage. Tucson explained that it is a small company and has received bills in the amount of \$12,000 in the last quarter of 2018 that it cannot easily absorb or pass on to its customers. Tucson also stated that they filed an informal request at the STB Rail Customer and Public Assistance Program which was helpful but that it believes broader STB oversight would be more effective in helping to discipline railroad conduct.

Board Member Oberman asked the main problems that Tucson is experiencing with the railroads. Tucson explained that its primary problems are centered around demurrage and service issues and its lack of negotiating leverage to address its concerns.

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

Exhibit-1



Exhibit-2

