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OVERSIGHT HEARING ON DEMURRAGE AND ACCESSORIAL CHARGES

UNION PACIFIC'S SUPPLEMENTAL COMMENTS

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INTRODUCTION

For over a century, Congress has recognized demurrage and accessorial charges as important tools in ensuring the smooth functioning of our Nation's freight rail system.

The Board is well acquainted with the concept and its justification. "The principle underlying demurrage is simple. When a shipper or receiver uses a railroad-owned rail car, it is depriving the railroad of an asset—the use of that car. A railroad has a right to set a reasonable time—free time—for a shipper/receiver to finish using a car and return it to the railroad. If a shipper/receiver keeps a rail car for too long (beyond the allocated free time), it compensates the railroad in the form of demurrage payments for the extended use of the car."¹ The concept applies with equal force to private-supplied equipment.² If a private car remains located on Union Pacific's property for an unreasonably long period of time, it consumes network resources the railroad can otherwise dedicate to serving other customers.

Demurrage is a tool needed to internalize the costs of a classic externality.³ "Storing empty private cars imposes costs on the railroad, including the loss of system fluidity and the opportunity cost associated with using track for long-term car storage that instead could be used to facilitate the efficient movement of freight."⁴ Clogging yards, siding, and main line track with railcars harms all of the over 10,000 customers served by Union Pacific. Unless individual customers bear the cost of that externality, they will not adjust their behavior to minimize the harm to Union Pacific and all other customers who benefit from a fluid rail network.

The government can address externalities in one of two ways. "*Command-and-control policies* regulate behavior directly. *Market-based policies* provide incentives so that private decision makers will choose to solve the problem on their own."⁵ Congress chose market-based solutions. By permitting the railroads to charge demurrage, unless the carrier is at fault, Congress

¹ *Portland & Western Railroad, Inc. – Pet. For Decl. Order – RK Storage & Warehousing, Inc.*, Docket No. FD 35406, 2011 STB LEXIS 359, at *8-9 (2011); *Railroad Salvage & Restoration, Inc. – Pet. For Decl. Order – Reasonableness of Demurrage Charges*, Docket Nos. 42102 and 42103, 2010 STB LEXIS 294, at *8 (2010); *Capitol Materials Inc. – Pet. for Decl. Order – Certain Rates & Practices of Norfolk S. Ry.*, 7 S.T.B. 576, 577 (2004).

² *North American Freight Car Association v. BNSF Ry. Co.*, STB Docket No. 42060 (Sub-No. 1) (STB served Jan. 26 2007) ("NAFCA").

³ N. Gregory Mankiw, *PRINCIPLES OF ECONOMICS* (8th Ed.) at 193 (2018) (describing "internalizing the externality" as "altering incentives so that people take into account the external effects of their actions")

⁴ *NAFCA*, slip op. at 6.

⁵ N. Gregory Mankiw, *PRINCIPLES OF ECONOMICS* (8th Ed.) at 195 (2018) (emphasis in original).

deliberately harnessed the power of price signals to drive discrete parties to make the socially responsible choices for the entire community of rail stakeholders.

The few should not burden the many. “While it is true that more efficient private car operations will benefit the entire system, it does not follow that all shippers should pay for the problems or costs generated by a relative few.”⁶ By internalizing the externality, an appropriate price signal is sent to the entire logistics chain about the high opportunity cost of increasingly scarce railroad capacity. The price signal creates the correct economic incentives for direct customers to adjust their own behavior, and other participants in the logistics chain to do the same, as direct customers incorporate the demurrage charge in their own pricing. “It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own self interests.”⁷ Firms respond to incentives.

Moreover, markets are demonstrably more efficient and effective in allocating resources than regulators. Vice Chairman Fuchs explored at the hearing whether the agency should perform a cost-benefit analysis before permitting a railroad to collect demurrage from a particular customer. Union Pacific is a champion of cost-benefit analysis in the rulemaking context, but that tool is impractical to assess demurrage charges at an individualized level. Any cost-benefit analysis would need to balance the burden on an individual customer against the harm to the *entire* network, including all customers who benefit from improved network fluidity and service reliability. Incremental impact is the wrong framework; the externality is the cumulative direct impacts on all customers and the collateral indirect impact on compliant customers.

A Board-conducted cost-benefit analysis is also unnecessary. Once the cumulative burden on the network is internalized by the demurrage charge, markets will harness the power of self-interest, and revealed behavior (rather than rent-seeking claims) will show the true myriad of customer options. Indeed, Congress has written into the Board’s governing statute a strong bias against regulation in favor of private-market solutions. 49 U.S.C. 10101(2) (establishing the national transportation policy “to minimize the need for Federal regulatory control over the rail transportation system”); *Exemption of Demurrage from Regulation*, STB Ex Parte No. 462, 1996 WL 140179, slip op. at *3 (STB served March 20, 1996) (“Indeed, as Congress recognized in passing [ICCTA], the Board’s current level of involvement in demurrage matters is minimal, and the private sector appears to be working these matters out adequately”). Specifically, the Conference Report on ICCTA stated that the demurrage provisions of the statute were not changed because “[t]he ICC’s existing rules on this subject and on car supply generally represent a *limited and negotiation-based regulatory framework* for assuring timely and efficient use of

⁶ *NAFCA*, slip op. at 7.

⁷ Adam Smith, *THE WEALTH OF NATIONS* (1776), Chapter II, p. 19.

the railcar fleet. This section makes no changes that would disturb that framework.” H. Conf. Rep. No. 104-422, 104th Cong., 1st Sess. 178 (1995) (emphasis added).

Much was made at the May 22-23 Oversight Hearing about the transformational changes that have occurred in the railroad industry since Congress enacted the Staggers Act and even the ICCTA. Those changes are undeniable. But change itself does not mean “Back to the Future” re-regulation is warranted or that the pendulum should inexorably swing back to the very same market-interventionist and distorting policies that have consistently failed over time in the railroad industry. On the contrary, Congress’ historic choice steadily to deregulate the economics of American railroading over the past forty years has *propelled* the positive changes that certain Hearing participants ironically and circuitously contend justify re-regulation. More particularly, industry changes do not support a retreat from the market-based principles that Congress expected would and should guide demurrage practices. In fact, some of the most obvious changes that have occurred should drive even *less* regulation and *greater* reliance on market forces, price signals, and a negotiation-based framework. For example, the growing presence of private-supplied equipment in the fleet (another change in the rail industry discussed repeatedly at the Oversight Hearing) *raises* – not *lowers* – the critical importance of demurrage as a tool to promote network fluidity, lest private owners flood the network with private equipment if the externality caused by congestion is not internalized by demurrage.

Nor do the *facts* support a retreat from a negotiation-based framework. The Board has wisely embraced evidence-based decision-making, and the evidence shows that UP’s demurrage program is working. As previously reported, the changes to the accessorial and demurrage programs are designed to realign the practices of a fraction of UP’s more than 10,000 customers: (i) 78% of Union Pacific’s customers never see an accessorial charge (including both customer-requested charges and all other accessorial charges); and (ii) only 19% of Union Pacific’s customers (January through April) received demurrage charges in the first few months of the new implementation period. As these data show, a distinct minority – less than one in five – of Union Pacific’s customers are encountering accessorial and demurrage charges at all.

Early indications are that accessorial and demurrage charges are improving network fluidity and system performance. For example, in just the first five months of 2019 – and despite massive weather challenges to our system – Union Pacific’s bulk lay down charges increased customer compliance by nearly 3% and improved network velocity by 150 less daily hours. Improved network velocity is highly correlated with car trip plan compliance, which explains the increasing reliability of Union Pacific’s service product. Over the same period, Union Pacific’s updated accessorial charges drove more efficient bulk customer unloading – an improvement of 12-14 hours – and a 10-12% increase in customers unloading within 24 hours. Improved unloading performance has reduced wait times and improved cycle time performance in a number of respects. These benefits will gain further momentum as customers’ supply chains

continue to react and adjust.⁸ These promising results counsel regulatory restraint and patience as adaptation and customer supply chain alignment continue to allow customers to avoid accessorial and demurrage charges altogether as well as to provide an ever-more fluid network and reliable rail service.

Nonetheless, the hearing revealed several ways Union Pacific can further improve its demurrage and accessorial programs. Union Pacific took immediate steps to address genuine concerns from the written comments, and appreciates the Board's recognizing those efforts at the hearing. But in light of the testimony from Union Pacific's stakeholders, more is possible. Most of the criticisms require technology improvements to better manage accessorial and demurrage charges.⁹ These improvements will take some time, but Union Pacific is already well into developing tools that make the process friendlier and more transparent to its customers. The "UP Customer Bill of Rights for Accessorial and Demurrage Charges" described below details the efforts Union Pacific will continue to take – and the broad principles it will continue to follow – to assure Union Pacific stakeholders that demurrage and accessorial charges are fair, reasonable, properly invoiced, supported by clear and transparent information, triggered only by circumstances within the reasonable control of customers, and provide modern tools to improve real-time visibility of rail shipments.

In the end, however, it is imperative that the Board not place rail carriers in a Catch 22. For years, the agency has challenged the railroad industry to elevate its game and improve its service product so that it meets the public interest in a robust and resilient national freight rail network. Union Pacific is meeting that challenge. Union Pacific has deployed a new operating plan at a measured and strategic pace, and the changes to its demurrage and accessorial programs are an important feature in helping Union Pacific strike the right, moderate balance. The Board should not simultaneously drive the railroad industry to improve its service product while depriving it of a key tool needed to meet that goal.

Managing change is never easy, not for Union Pacific, its customers, or the Board. But as customers adjust to the new programs, Union Pacific expects that the concerns from a vocal minority of its customers will dwindle. That forecast is supported by the experience of the

⁸ Attached as Exhibit A to these Supplemental Comments are slides presenting the complete data described in the preceding paragraph. One of the more important relationships suggested in Exhibit A is the one between train speed and trip plan compliance (second figure) (trip plan compliance is Union Pacific's measure of end-to-end service reliability at the car level). Union Pacific's data suggest an approximate 3-4 percentage point trip plan compliance improvement for every mile per hour gained.

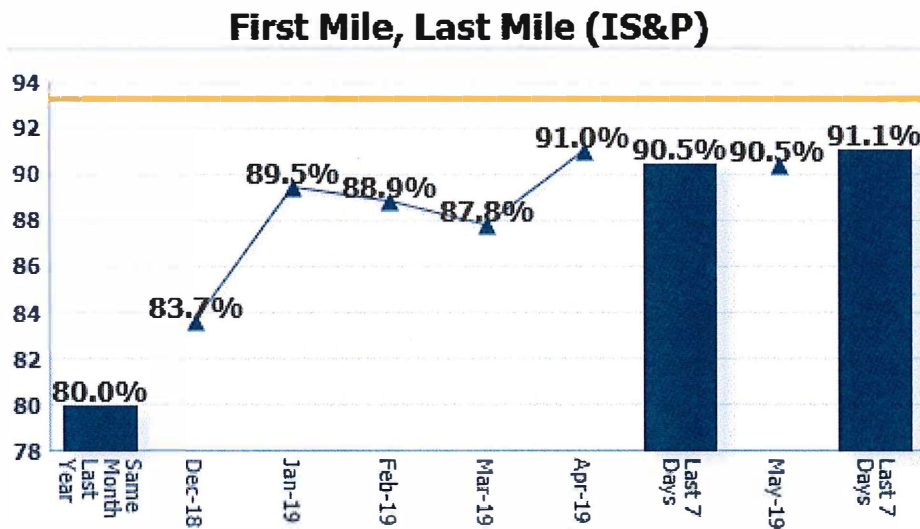
⁹ Many complaints at the hearing centered on private contract transportation terms. Union Pacific will not respond to those criticisms, as the Board lacks jurisdiction to regulate contracts, including those incorporating demurrage tariff terms. See *H.B. Fuller Co. v. S. Pac. Transp. Co.*, 2 S.T.B. 550, 1997 WL 476350 (STB served Aug. 22, 1997).

Canadian railroads. Those railroads were early adopters of more effective demurrage programs, which have been relatively unchanged now for years. Customers on those railroads have gradually grown accustomed to those long-standing demurrage programs and long ago designed their supply chains to avoid charges. Union Pacific trusts that the adjustments to its program made before the hearing and since, combined with the UP Customer Bill of Rights for Accessorial and Demurrage Charges, will assure the Board of the following: that Union Pacific is committed to listening to its customers and responding to their concerns, guided always by principles of fairness, honesty, and reciprocity as Union Pacific continues the tough but necessary transformation of its railroad into the very best rail transportation service provider in North America.

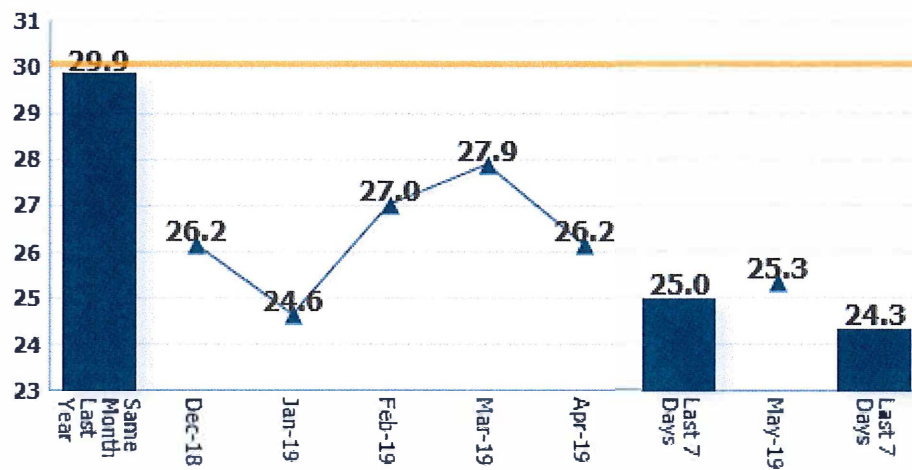
KEY ISSUES RAISED AND QUESTIONS ASKED
AT THE MAY 22-23 STB OVERSIGHT HEARING

1. Union Pacific's service is improving.

The status of railroad service was a recurring matter raised at the Board's Oversight Hearing. Union Pacific's early data on the performance of its accessorial and demurrage program suggest that program is driving service improvements. In the third quarter of 2018, only 55% of UP's bulk train customers loaded or unloaded their rail cars within 24 hours. That loaded/unloaded statistic rose to 67% for the first quarter of 2019. Over that same period, Union Pacific's service to customers improved and the network was more fluid. Union Pacific's rail car velocity for the first quarter improved by 7%, and its on-time deliveries improved by 2 percentage points. Sustaining and increasing these gains is the task ahead. Yet the new resilience of Union Pacific's network post-Unified Plan 2020 is definitely apparent. Union Pacific has quickly regained its footing after the terrible weather events that occurred between March and May 2019. The industry spot & pull and freight car dwell measures eloquently describe a story of fast railroad recovery from disastrous conditions:



Freight Car Dwell



In each measure, Union Pacific's performance upswing was affected or even arrested by the weather events of that period. But the speed of recovery was remarkable and unprecedented. By May, Union Pacific had regained all of the weather-related losses that began in March and was well on its way to either matching or far exceeding the railroad's performance measures during the same period last year. Particularly noteworthy is Union Pacific's performance in industry spot & pull, the first-mile-last-mile measure. Starting in late April and running to the present (on the very heels of the significant weather events), Union Pacific's local on time performance exceeded the mark from the same period last year by more than 10%. The pre-Unified Plan 2020 Union Pacific, with its higher dwell, unbalanced assets, and an overabundance of private and system cars flooding the network, would have taken months to recover from these intense weather events. The prior network was both fragile in the face of exogenous events and slow to recover. Assuming no additional weather disruptions, Union Pacific expects to make significant progress as Unified Plan 2020 and the accessorial and demurrage alignment become second nature to Union Pacific's customers.

2. Union Pacific's demurrage charge implementation is adequate and improving.

Statistics also suggest a good start (with room for progress) to Union Pacific's demurrage changes. As noted above, Union Pacific's data establish that 81% of customers were not issued a demurrage or Private Empty Car Storage charge in the first 90 days of the changed program. In the new unit train billing program, 97% of customers were not issued an accessorial bill. As Union Pacific implements these changes, the expectation is that these percentages will rise in the customers' favor – an outcome that Union Pacific would welcome.

3. Union Pacific has invested considerable resources in technological tools that make the First-Mile-Last-Mile process more transparent to its customers.

Union Pacific's crews are using their mobile devices for reporting more than 98% of the time. Union Pacific crews are required to report their work within either 30 minutes or 0.5 miles of the customer's facility. The crews are abiding by this rule more than 89% of the time. These high utilization levels ensure crew reporting is contemporaneous and highly accurate (comparing present recollection to end-of-the-day recall), giving Union Pacific's customers timely and accurate system inventory updates.

Customers can release non-hazardous cars up until the point the crews come to serve them. These dynamic cutoffs give Union Pacific's customers great flexibility and the greatest practicable time period to prepare for service.

Union Pacific's Unit Train Customer Interface (UTCI) is a forecasting tool that enables customers to update and cancel their forecasts. UTCI enables the customers to choose their asset utilization preferences. Customers may also use UTCI to set a default to automatically keep or release locomotives (adjustable as needed) or handle the release call on a case-by-case basis. UTCI enables customers to correct placement times by up to four hours as long as the adjustment occurs within the first 12 hours of crew reporting.

The "You Are Next" notification alerts customers when the Union Pacific crew reports their work at the customer immediately preceding the alerted customer. This notification began as an opt-in offering, but due to the low customer opt-in rate Union Pacific changed it to an opt-out offering and provided it to the customers by default. Using Conductor Serving Orders¹⁰ as the baseline comparison, "You Are Next" is currently 83% accurate, and Union Pacific is engaged with its crews (e.g., training) to increase that accuracy.¹¹

Union Pacific has made other customer-facing tools available to the customers. A "Customer Exception" notification alerts customers when the Union Pacific crew has reported a Not Prepared for Service issue at a customer's facility. A "Local Service Today" notification is exactly as it sounds – an alert to customers scheduled to be served that day, sent when the Union Pacific crew saves its serving order on the mobile devices at the day's start. "Shipment Management" is a pipeline management tool giving visibility to customers in connection with

¹⁰ A Conductor Serving Order is the local train's schedule of service to local facilities.

¹¹ Union Pacific was surprised by hearing testimony suggesting Union Pacific customers were either unaware of the "You Are Next" tool or did not understand its merits. Union Pacific has invested significant resources in developing its "You Are Next" tool. Union Pacific believes the tool is fundamentally sound and the merits of alerting customers who are preparing for service that crews are nearby and approaching are both intuitive and obvious. If customers are having trouble using this tool, Union Pacific asks those customers to provide that feedback so "You Are Next" can be improved.

their cars at the facility, at the serving yard, *en route* inbound, *en route* outbound, as well as a history of associated requests.

These are all examples of customer-facing, technological enhancements that Union Pacific has designed for, and made available to, its customers. This helpful technology enables Union Pacific's customers to prepare for service and helps Union Pacific crews to serve the customers efficiently. This technology assists Union Pacific customers in aligning their activity with the demands of the supply chain.

4. Union Pacific's private equipment demurrage reflects the costs of storage rather than the asset value of car.

Private Empty Car Storage (PECS) is different from demurrage because the business decisions made by Union Pacific's customers in those two contexts are quite different. In short, Union Pacific is not charging for the utilization of private rail cars in PECS. Union Pacific is charging because those private rail cars are stored on its property. As Union Pacific noted in the Introduction, storage constitutes utilization of railroad resources that could otherwise be dedicated to serving customers. Union Pacific issues customer credits and debits as part of the placement and pulling of private rail cars because Union Pacific is balancing that storage capacity, the fact that the cars are not railroad assets, and the need to maintain storage capacities and network fluidity.

Customers with private fleets must determine how many private cars they need in the pipeline to support their supply chain. Their business ebbs and flows throughout the year, so customers will have times when they have excess rail cars. If customers do not have sufficient space at their facility to store their excess rail cars, then they have to make other arrangements for storage. This decision becomes a cost-benefit question for individual customers based on their unique circumstances. Each customer must determine where it makes the most financial sense to store cars and for how long.

Customers also want the flexibility to add rail cars easily back to their active fleet to handle increases in demand. Customers seeking that particular flexibility often see Union Pacific as the superior rail car storage option. Union Pacific charges its customers for this service through PECS. In setting the PECS rates, Union Pacific looked at the market for storage to determine what a reasonable rate should be in order to stay competitive. But because Union Pacific's capacity has limits, PECS must be competitive while also discouraging customers from seeing Union Pacific as an under-priced option to avoid infrastructure investments for their rail car fleets and to shift storage costs to other customers in the form of reduced network fluidity.

For years, Union Pacific's PECS was so low that customers were not incentivized to store their cars either at an expanded facility or at another storage location. This limited Union Pacific's capacity and inhibited its ability to efficiently service all of its customers. Union Pacific's \$140 PECS differs from the \$100 rate for loaded private car demurrage to ensure customers are

properly pricing their storage options, infrastructure investments, and Union Pacific's service capacities.

5. Union Pacific only charges for customer-caused bunching.

During the hearing, at least one customer requested the Board consider requiring a "whole pipeline" bunching credit from the railroads. However, this request ignores Union Pacific's case-by-case process within which customers are credited for carrier-caused bunching. Union Pacific takes into account customer choices and actions, the actions of Union Pacific's interline partners, and Union Pacific's own actions in determining whether a customer should be charged for bunching-related demurrage.

Bunching can be caused by many things. For example, some bunching may be caused by the shipper waybilling an excess number of cars for the same date. Some bunching in interline service may be caused by network and service conditions that occurred on another railroad before or after interchange with Union Pacific. And some bunching may be caused by conditions on Union Pacific. If Union Pacific determines through its dispute process that the "bunching" is due to operating conditions on the interline railroad, is not within the reasonable control of the customer, and does not reflect a pattern of recurring behavior, then Union Pacific will certainly take those facts into account when calculating our customer's monthly bill. But Union Pacific does not charge the customer for bunching that is beyond the customer's reasonable control.

A placement scenario can demonstrate Union Pacific's approach to bunching as well as the patently reciprocal nature of its approach. Car 1 belonging to Customer H arrives at the local serving yard on Monday, just after the scheduled deliveries to that customer. Yet Customer H's next scheduled service is not until Thursday. On Thursday and the days immediately following, a combination of customer errors (Customers B, E, and G are unprepared for service, significantly hampering local crews and requiring a reallocation of resources at the serving yard), weather (a track washout due to a heavy rain storm), and a yard derailment (a misaligned switch leads to equipment on equipment contact and the derailed equipment blocking key tracks) occurs, introducing significant delay. Customer H does not receive Car 1, or the other cars that arrived before Thursday's scheduled delivery, until Saturday, the next scheduled service date.

While Customer H is understandably unhappy about the delay, it has been informed of the delays continuously as they occur through Union Pacific's customer-facing technology (described above) and through the phone calls, emails, or service issue web exchanges it has traded with Union Pacific employees. Customer H understands Union Pacific's timeline for resuming service once the problems have been alleviated. Customer H also knows that as long as they have available capacity, Union Pacific will issue 2 failure-to-serve credits for every day Car 1 is delayed, thereby maintaining the free time period, ensuring Customer H is not penalized for delays beyond its reasonable control, and allowing for subsequent Customer H delays due to any

further disruption to customer facility plans or “ripple effects” from the original service delay (e.g., plant staff scheduling and unavailability, challenges from loading or unloading the unexpected rush of cars):

Car 1	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Debit	--	1	1	1	1	--
Arrival Credit	--	1	0	0	0	--
Failure Credits	--	2	2	2	2	--

Union Pacific does not charge Customer H demurrage on Car 1 or the other cars received before Thursday. Union Pacific will issue a similar combination of credits and debits on the other cars that arrived for Customer H before Thursday. Union Pacific will also discuss canceling demurrage on the cars that arrived and were placed in the normal course of business by Saturday but were bunched due to factors beyond Customer H’s reasonable control.¹²

6. Union Pacific uses quality assurance and control in calculating, checking, and issuing bills while the customer has real-time access to its credit/debit status, if applicable.

Union Pacific maintains a billing accuracy of roughly 95%. Union Pacific maintains this high standard of billing accuracy through everyday efforts by Union Pacific employees and customers. Each month, before bills are issued, Union Pacific performs checks and reviews of the demurrage and PECS activity for the month.

The demurrage and accessorial billing team within Finance reviews various forms of data and information to ensure that demurrage and accessorial activity is accurate before a bill is ever issued. The billing team members maintain checklists for hundreds of customers which the members use to review and issue bills. As a matter of course, the billing team references service interruption notices related to embargos, weather, or natural disasters to confirm whether or not the interruptions had an impact on a customer’s facility. Additionally, service issues submitted by customers are taken into consideration by the billing team to determine if adjustments need to be made prior to billing or as part of post-billing, interactive conversations between Union Pacific and the relevant customer.

There is regular communication between Finance, Marketing & Sales, and Operating to discuss service issues/interruptions or to iron out any data discrepancies related to event reporting or yard capacity. If the billing team learns of an issue that is affecting the accuracy of a customer’s bill, they use all the resources available to remedy the situation as quickly as possible. If the

¹² The discussion would involve Union Pacific working with Customer H to determine the bunching disruption’s extent and duration. That conversation will ensure the ultimate call is fair to the customer, to Union Pacific, and to our other customers.

issue is not resolved before the next billing cycle, the account manager monitors and adjusts any future bills until the demurrage or accessorial reporting is accurate.

Union Pacific demurrage charges are managed within the Chargeable Events System (CES) and accessorial charges are managed within the Accessorial Management Application (AMA). Authorized individuals can access both systems at any time of the day to review the state of any demurrage or PECS charges they may be accruing.

In addition to being able to review demurrage and accessorial charges in real time, customers have the ability to receive multiple forms of notifications which can help them manage their demurrage and accessorial activity. Both CES (for demurrage) and AMA (for PECS) allow users to submit claims for their current monthly activity. A claim is often addressed before month's end, and before a bill is issued. This offers customers the opportunity to manage their inventory and provide feedback to avoid accruing charges that could lead to a bill.

7. Union Pacific does not restrict its customers to zero free time for loading and unloading railcars and believes the 24-hour expectation for loading and unloading railcars is commercially fair and reasonable.

Union Pacific believes a 24-hour loading and unloading expectation is fair, reasonable, and strikes an appropriate balance between the broad, network-related needs of Union Pacific and all its customers, on the one hand, and the specific, facility-related needs of individual Union Pacific customers, on the other hand. Union Pacific will continuously evaluate the appropriateness of that balance in the light of real world experiences. And of course, if any customer's failure to load or unload within 24 hours is due to factors beyond their reasonable control (and those factors are raised in the dispute process), Union Pacific will consider those facts in finalizing the customer's monthly bill. Union Pacific does not restrict its customers to zero free time for loading and unloading cars.

Union Pacific's belief that 24 hours is the proper expectation for improving the network and providing better service to the customers is supported by real-world data. In the third quarter of 2018, only 55% of UP's bulk train customers loaded or unloaded their rail cars within 24 hours. That loaded/unloaded statistic rose to 67% for the first quarter of 2019. Over that same period, Union Pacific's service to the customers improved and the network was more fluid; Union Pacific's rail car velocity for the first quarter improved by 7% and its on-time deliveries improved by 2 percentage points. As the balance of customers adjust, we expect the loaded/unloaded statistic to continue rising and the service metrics to also rise, reflecting a corresponding improvement.

A scenario suggested by the EP 754 record presents the question of Union Pacific's demurrage response to a customer claiming empty cars were delivered late and in the wrong quantities, preventing the customer from loading its cars within the allowed 24-hour period. In that situation, Union Pacific would engage with the customer, collect data on the customer's service

arrangement, and investigate the specific facts associated with the particular demurrage charge. Union Pacific would not collect demurrage charges if the problem truly originated with the railroad. If Union Pacific's actions proved actually to be the cause of the problem described in the hypothetical, then those charges would be promptly canceled or removed.

As described in the Customer H scenario, Union Pacific uses a credit/debit system to assess demurrage charges instead of a strict 'free time' system. When a car arrives in a customer's serving area, they essentially get one credit, which gives the customer 24 hours of free time to unload a car. But Union Pacific applies those credits in a way that ensures the customer gets the benefit of the doubt and is fairly treated.

8. Union Pacific has been treating its customers fairly and providing them with reciprocal relief in response to railroad service failures for decades.

Union Pacific believes fairness is about striking a balance between the individual customer, the other impacted customers, and the railroad. The railroad operates under a plan that rail assets will be turned in 24 hours. Union Pacific allocates credits to help offset debits when Union Pacific is the cause of any service delays resulting in accessorial charges, which we believe is fair and balanced approach to our demurrage program. It is the fair and reasonable allocation of those credits that demonstrates the reciprocal nature of the relationship both (i) between Union Pacific and its customers and (ii) between non-compliant and compliant customers.

Union Pacific applies its credits in a broad, holistic manner, ensuring customers receive their free time regardless of Union Pacific's scheduling and logistical challenges. During the hearing, much was made of an "11:59 scenario" in which a car is hypothetically made available at 11:59 pm. The implication seemed to be that the customer would receive one or two minutes of free time and that the clock would have already run several hours by the time business began for the customer that next morning. However, that is not how the clock works and the scenario fails to consider the balance of credits and debits used by Union Pacific. First, very few cars are made available at that time (just before midnight) anywhere on Union Pacific's system. Second, with the free-day clock starting after midnight, the customer in this hypothetical still has an entire 24 hours of free time – not the one or two minutes implied during the hearing. Third, if a customer loads or unloads a car and releases it within the allocated free time, but the car is not pulled (due to scheduling or a service failure by Union Pacific), then no charge is levied against the customer.

The Customer H scenario demonstrates that Union Pacific is already committed to treating its customers fairly and ensuring that the relationship is reciprocal at its very core. Customer H would receive credits during the period in which Union Pacific is unable to serve. Union Pacific staff would also engage with Customer H to determine to the extent and duration of the bunching impact on operations and reach a mutually fair solution on that less easily quantified aspect of the problem. The picture painted by testimony delivered during the hearing – of a mechanical,

non-interactive, inaccurate process supported by untrained railroad staff unwilling to investigate the problem or cooperatively reach a solution – does not portray the process at Union Pacific. Nor is it an accurate reflection of the relationship between Union Pacific and the customers it serves.

There is also an assumption about incentives in the reciprocity question that Union Pacific needs to unpack. Given the nature of the 23-state rail network and an individual customers' experience with rail service at their facility, the incentives involved are asymmetrical. Union Pacific is in the business of running a large-scale railroad with a vast geographic network, and is laser focused on providing the best possible service to the largest number of customers. Union Pacific has built-in incentives to provide good service. When Union Pacific service is bad, Union Pacific employees notice it in real time and work hard to bring the service back to standard. Customers do not have those same incentives when it comes to rail service. Customers see only one small piece of the rail network. If a customer holds a car too long, forgets to unlock a gate to allow delivery, or orders a car it does not need, the customer does not see the resulting costs imposed on the rail network. Nor does that customer see the ripple effects to other customers. While a single customer performing in this way is a minor inconvenience, Union Pacific's network-wide service would suffer if every customer committed these small, individual, network-degrading actions on a daily basis. Union Pacific's accessorial charges are necessary to align customer incentives and behavior with a rail network that works effectively and efficiently over vast territories and for all Union Pacific customers. The charges help each customer recognize its behavior is not isolated, but rather impacts the entire system.

Again, as provided in Union Pacific's public tariff, if accessorial or demurrage charges are the result of circumstances beyond the customer's reasonable control, or the result of something Union Pacific has done or not done, Union Pacific will cancel those charges because that is the right thing to do.

9. Union Pacific does not and will not “double-dip.”

Union Pacific recognizes its customers may need time to remedy issues preventing service (e.g., a tree down on tracks). That is why Union Pacific modified its Not Prepared for Service (NPFS) tariff on May 8, 2019. Union Pacific will not bill for charges if customers have fewer than three occurrences in a calendar month. Union Pacific also modified the tariff to apply on a “per occurrence” basis instead of a “per car and per occurrence” basis. Although the tariff stated “when this charge is applied, release of the car will not stop accrual of demurrage charges or other charges that are based on the release of the car,” Union Pacific has not charged its customers for NPFS on top of demurrage charges from the very beginning of the NPFS program. Union Pacific's tariff change simply brought the words of the tariff into conformity with Union Pacific's real-world practice and provided clarity to the customers, going forward, about reasonable expectations.

Similarly, Union Pacific will not simultaneously bill customers for intra-plant switching, NPFS, or demurrage charges for the same car and for the same cause. Union Pacific's goal is to safely and efficiently move cars to and from the customer's facilities. If Union Pacific crews have time, they will perform unscheduled intra-plant switches in order to access cars that are released to be picked up. This will prevent NPFS charges as Union Pacific crews are performing additional work to access the cars that have been released. The NPFS charge only applies if Union Pacific crews are unable to deliver to, or pull cars from, a customer's facility. Union Pacific only applies demurrage charges to cars holding in the serving area or at the customer's facility beyond the allotted free time.

10. There is no such thing as a "no cost" bad release.

Bad releases place a greater strain on the network and pose a safety risk to Union Pacific crews. If a partially-loaded car is released as empty and pulled from the customer's tracks, then its status may not be ascertained until it is in position to pose a difficulty to Union Pacific and the next customer. If a partially-loaded car is sent to the one of our borders and is then discovered to be other than empty or containing undeclared cargo, then car seizure may occur and fines may be levied. Or the status of the car may be determined by our crews, who will then need to disrupt the car handling plans of the railroad to re-handle the car to return it to the customer that improperly released it. It nearly goes without saying that a partially-loaded car being handled by a crew believing it empty poses a safety risk to all that handle the car. All of the outcomes associated with a bad car release bear risks and pose costs to the railroad, to the releasing customer, and potentially to other customers.

The Board has placed great store in data. The STB has often weighed the burden of data collection and publication on the railroad industry. In the end, the Board has often acted in favor of data disclosure and the utility of those data to the public. During the Oversight Hearing, the Board was especially interested in data associated with tracking rail customer performance, data establishing the need for customer realignment, and whether the railroads are capable of understanding whether that realignment is working by tracking changes in customer activity.

The data collection efforts of the industry – and by extension, the Board's focus on evidence-based decision making – will be frustrated if customers engage in these bad release practices. If the customer reports a car as unloaded and it is not, it introduces an error into the data collection system. The status mischaracterization is either not corrected, the condition is not immediately discovered, or the mischaracterization simply introduces deliberate error into that tracking data. This action makes it more difficult to understand whether customer realignment is taking place. And it makes it much more difficult for Union Pacific to answer the Board's important questions about the success of these incentives, their impact on the network, and whether the incentives properly align customer activity with the demands of the supply chain.

The suggestion that a bad release creates no costs for the railroad does not take into account these important impacts and ripple-effects that ultimately degrade service for all customers – including the customer that performed the bad release. And they confound the Board’s interest in evidence-based decision making.

11. Those calling for one-size-fits-all uniformity overlook the unique circumstances of each railroad – tailored approaches designed to be effective in aligning customers’ interests with the differing characteristics of each railroad network are best.

During the hearing, there was discussion on whether there should be Board-imposed uniformity across the industry on tariff policies and implementation. However, Board-imposed uniform rules would undermine the goals of accessorial and demurrage charges. Each railroad currently calibrates their policies by taking into account their own mix of customer needs, customer capabilities, railroad facilities and resources, and their transportation plans. While there are some parallels between carrier programs, those parallels have much to do with the limitations and challenges inherent to the industry: the physics of locomotives and cars; the need to move limited crews from job-to-job; the demands of serving relatively large groups of different customers with varying and often competing interests; the similar mixes of fixed and movable assets. But the railroads are each quite different – while Union Pacific has more than 10,000 customers spread through 23 states, the eastern railroads may have half that number of customers spread through a very different geography and topography. Standardizing accessorial and demurrage charges runs the risk of ignoring these differences, making the system static, discouraging innovation, piloting, and experimentation of other railroads, and hampering the railroads efforts to create the right mix of incentives to align customer interests with each part of their own unique networks.

12. Union Pacific’s “deadhead” charge is appropriate and necessary.

Generally speaking, locomotive assets are a major capital investment for Union Pacific, and crew resources are a significant source of costs. For this reason, it is imperative that our locomotive assets and crews are used to their fullest extent. Charging for the deadhead of the locomotives enables Union Pacific to cover the total costs associated with repositioning the locomotives to and from the facility when not connected to a unit train. The tariff charges are intended to cover those costs, including locomotive resources, the crew delivery, and the fuel.

The tariff provides options to the customers to keep the power with the unit train for increased reliability. The customers determine whether the locomotive should remain or be released and returned at a later point. But a train departure results in locomotive usage regardless of the actual timing of the customer’s operation.

During the hearing, a customer suggested that holding a locomotive is no different from Union Pacific storing its locomotives. Setting aside the fact that the customer is essentially arguing it should be able to hold a multimillion-dollar railroad asset for its own exclusive use and until

such time as it is ready to use it, the contention ignores fundamental facts: opportunistic, self-help locomotive “storage” by customers at far-flung facilities generates crew positioning, locomotive resource, and fuel costs that have no correlate in railroad-organized locomotive storage for broader network purposes. Union Pacific’s “deadhead” charge seeks to account for those costs and to incentivize customer choices that advance the interests of network fluidity and other customers in reliable transportation service.

13. EP 707 properly resolved the issue of who should be billed accessorial and demurrage charges.

In EP 707, the Board began discussion of its final rules by observing that its earlier notice of proposed rulemaking “proposed rules governing demurrage that would allow rail carriers to impose demurrage liability on ‘[a]ny person receiving rail cars from a rail carrier’ if the carrier had provided actual notice of the demurrage tariff [t]he rationales behind these new demurrage rules ... are generally applicable to all receivers.”¹³ The Board later noted that “[d]isputes between carriers and receivers exist under current demurrage practices ... and this rule is intended to reduce disputes over demurrage practices by producing clear guidelines to the parties.”¹⁴ The Board also stated that “we are adopting a conduct-based approach to demurrage [A]nd 49 C.F.R. § 1333.3 will continue to refer to ‘[a]ny person receiving rail cars.’”¹⁵ It is therefore plain that the Board intended properly-notified receivers to be liable for demurrage.

Yet a number of receiver customers argued at the Oversight Hearing that the Board’s decision on demurrage liability should be revised or clarified. However, those customers failed to raise any issues suggesting that revisiting or clarifying EP 707 is remotely necessary. Reopening a rulemaking that was finalized half a decade ago and that successfully settled the broad dispute at issue is and ought to be a massively disfavored option.

Considering the policies underlying EP 707, Union Pacific believes that the outcome the Board reached in 2014 was and is correct. Carriers like Union Pacific are simply not in a position to plan for car ebbs and flows. However, the receiver is not only best positioned to plan that ebb and flow, it can also be incentivized to perform that function in a manner that does not negatively impact the network, other customers, or Union Pacific’s capacity. It is the receiver that controls the disposition of freight within their facility, allocates the related resources, and determines both the timing and the quantities ordered for shipping. The alternative would allow receivers to avoid that vital planning function, make decisions that would effectively treat Union Pacific facilities as a dedicated part of their business model, and then avoid liability by suggesting other parties were responsible.

¹³ Demurrage Liability, slip op. at 13-14, EP 707 (STB served Apr. 11, 2014).

¹⁴ Id., slip op. at 18.

¹⁵ Id., slip op. at 15.

Perhaps the most compelling reason to believe the Board made the right decision in EP 707 is the dearth of receiver complaints submitted to the agency. As noted by the Board in EP 707, “[t]o the extent [receivers] argue that warehousemen have no control over car movement as a result of railroad actions at the time of delivery or release, warehousemen are free to bring a complaint to the Board if they believe that they have been unfairly charged demurrage.” Otherwise, the Board expressed its expectation that the final rule would encourage receivers and shippers “to address demurrage liability in their commercial arrangements.”¹⁶

While EP 707 is well-decided, Union Pacific remains willing to work with receivers and receivers’ customers to cooperatively ensure demurrage is paid. As noted above, it is reasonable that receivers – the party controlling how and when cars are received and handled – pay demurrage. But if receivers and their customers are willing to work together to pay the demurrage, Union Pacific is ready to assist as that outcome would serve its demurrage goals.

14. UP strongly supports arbitration/alternative dispute resolution.

The Board is aware of Union Pacific’s long-standing commitment to mediation and arbitration before the STB. As the Board acknowledged at the hearing, Union Pacific formally committed to resolving demurrage and accessorial charge disputes in the Board’s arbitration program at the customer’s request 6 years ago. Union Pacific has also been an active participant in mediation before the STB, and reaffirms its willingness to mediate accessorial and demurrage disputes at the Board.

Union Pacific is an active participant in the NGFA rail arbitration process (it occupies a seat on the NGFA Rail Arbitration Committee) and NGFA’s process includes demurrage disputes. The NGFA rail arbitration rules encourage the business-to-business resolution of disputes which is how Union Pacific resolves disputes with its customers. That approach seems to be working. None of Union Pacific’s NGFA-related customers has taken demurrage disputes with Union Pacific to the NGFA Rail Arbitration Committee over the past few years. But if a customer requests a dispute be arbitrated, Union Pacific would welcome the use of a NGFA process in which Union Pacific actively participates and has directly supported for many years.

15. Accessorial and demurrage charges are not a revenue play.

Union Pacific reported at the Oversight Hearing the moderate, year-over-year, first quarter increase in accessorial and demurrage charge revenues. Union Pacific believes that difference is due in part to volume and traffic mix changes, and partly attributable to changes Union Pacific made to improve service. Union Pacific remains committed to partnering with its customers in helping them synchronize their facility operations with Union Pacific’s network and service product and avoid accessorial and demurrage charges. Union Pacific’s accessorial and

¹⁶ Id., slip op. at 8-9.

demurrage charges are lawfully intended to be both compensatory – to cover the costs imposed on Union Pacific when assets are not used prudently on the system – and sufficient to encourage individual shipper alignments that promote the well-being of all of Union Pacific’s customers. These charges are not a revenue play and not a source of profit. Union Pacific would rather not bill for accessorial and demurrage charges – the much more preferable alignment of customer action with network demands would obviate any need for such a bill. Union Pacific is fully committed to working with its customers to help them ensure these charges are not part of their customer experience.

Broadly speaking, Union Pacific has worked hard to realize the economic successes of these past quarters. But Union Pacific’s success has little to do with accessorial and demurrage charges. Although the numbers for those charges are significant to an individual, and certainly meaningful to the affected customers, those numbers are not significant in context. For instance, while Union Pacific received a total of \$149 million in demurrage charges in 2018, Union Pacific spent \$1.8 billion to harden its infrastructure, replace its older assets, and improve the network’s safety and resiliency. And that \$1.8 billion was only a little bit more than half of Union Pacific’s total capital spending last year. Demurrage charges also amount to less than 1% of Union Pacific’s revenues. Viewed in that context, these charges are not meaningful revenue “generators” for Union Pacific. The charges serve a different purpose – they align individual customers with Union Pacific’s network, promoting system fluidity and more reliable service for all customers.

Union Pacific notes that some of our customers took issue with industry share repurchasing. While that complaint is irrelevant to the policy issues being debated as part of EP 754, the potential for this non-sequitur to be misleading and prejudicial is sufficient to merit a response from Union Pacific. It is certainly true that Union Pacific is repurchasing shares as part of its overall financial strategy. Union Pacific believes that putting cash back in the hands of its shareholders – whether in the form of share repurchases or dividends – helps Union Pacific attract capital in the financial markets. But those share buy-backs are not coming at the expense of Union Pacific’s strong commitment to reinvesting in its network infrastructure and customer service. Union Pacific’s capital spending stands at \$3.2 billion annually, a remarkable 15% of its total revenue. That level of robust spending on reinvestment demonstrates Union Pacific’s enduring commitment to keeping its network up-to-date and well-equipped to serve customers with safe, reliable, and consistent service.

16. Any credits awarded to shippers by UP should properly expire monthly.

As described above, Union Pacific uses a credit/debit system to assess demurrage charges instead of a strict ‘free time’ system.¹⁷ When a car arrives in a customer’s serving area, they receive one credit. This crediting practice essentially gives the customer 24 hours of free time to unload a car. If a customer orders a car and Union Pacific fails to deliver that car when promised, Union

¹⁷ The credit/debit system does not apply to the handling of bulk trains.

Pacific issues additional credits (additional free time) as outlined in the tariff. If a customer believes Union Pacific unfairly assessed demurrage charges, the customer is provided with numerous avenues to dispute the charges. As previously stated, if demurrage is a result of Union Pacific's failure, then those charges are not collected.

The point of the credits and debits aspect of the program is to bring fairness to the process for the customer. But running carry-over tallies over months introduces significant accounting complications into the process. Processes and software, all currently set to track credits and debits between one month billing cycles, would have to be changed to account for longer periods or even an indefinite cycle time. Union Pacific and its customers would have to account for credits for longer periods – a development that would likely demand more, rather than less, resource commitments on both sides.

Extending the expiration period undermines the dual purposes of the program – to foster better customer service on Union Pacific and better transportation practices by Union Pacific's customers. Referring back to the Customer H scenario, the credits exceeded the debits and thereby ensured Customer H received the benefit of the doubt in the form of excess credits, an adjustment for the service failure, and its 24-hour "free" period. But if Customer H could accumulate credits for an extended period of time, its incentives to align its behaviors with the needs of the network would be significantly reduced. Customer H could opt to bank its credits during periods when network performance is more elastic (*e.g.*, low volume periods) and then use those credits when the network is much more sensitive to customer compliance (*e.g.*, high volume periods). Union Pacific would be unable to plan appropriately – resource balancing could vary wildly, depending on the cycles of various individual customers rather than the capacity and demands of a system that must serve all customers. This development would undermine the desired impact on the network, but be directly incentivized by the credit accrual. Moreover, Union Pacific's recent adjustment of its tariff to abstain from charging customers for fewer than two otherwise chargeable events per month helps mitigate the appropriate monthly expiration of credits.

The externalities that Union Pacific must address are real and, if unaddressed, have the potential to negatively impact everyone. As Union Pacific noted while describing the costs associated with private car storage (*supra.* at 1-2):

"Storing empty private cars imposes costs on the railroad, including the loss of system fluidity and the opportunity cost associated with using track for long-term car storage that instead could be used to facilitate the efficient movement of freight."¹⁸ Clogging yards, siding, and main line track with private railcars harms all of the 10,000 customers served by Union Pacific. Unless individual customers bear the cost of that externality, they will not adjust their behavior to minimize the harm to Union Pacific and all customers who benefit from a fluid rail network.

¹⁸ *NAFCA*, slip op. at 6.

* * *

By internalizing the externality, an appropriate price signal is sent to the entire logistics chain about the high opportunity cost of increasingly scarce railroad capacity.

The magnitude and nature of Union Pacific's charges must create the right economic incentives and price signals for direct customers to adjust their own behavior and other participants in the logistics chain to do the same. Union Pacific's system is calibrated to be fair, reciprocal, and sufficient to align customer interests. But modifying the system to carry credits is a change that would make the goal behind the charges – to fairly realign customer practice and thereby help Union Pacific and its customers realize a fluid, improved network and a better, safer service product – more elusive and difficult to realize.

17. UP works closely with its customers when it must change its transportation plan despite prior customer and Union Pacific investments.

Union Pacific is not in the business of arbitrarily stranding customer and railroad investments. A detail that went unmentioned during the hearing is that substantial Union Pacific investment often accompanies customer investments to improve rail service. Union Pacific has often financially incentivized customer investments and built corresponding infrastructure to support – indeed, to amortize – customer investment in Union Pacific service. When Union Pacific determines that the transportation plan must change to provide better service, it understands that both Union Pacific's investments and those of its customers may be impacted by the change. Union Pacific takes those impacts closely into account.

For this, and a number of other sound business reasons, Union Pacific works closely with its customers to find solutions when railroad changes will necessarily affect previous customer investments in railroad service. Union Pacific has worked with its customers to find a variety of mutually beneficial, short-term solutions that in some cases include: (1) pricing changes; (2) accessorial and demurrage contracts; (3) service solutions and adjustments; and, (4) customer-specific phase-ins. These solutions give customers time to adapt and adjust without immediately bearing the entire economic brunt of the service changes. Additionally, when a customer has made a particularly recent investment, Union Pacific works closely with the customer to mitigate the impact of the service changes on its investment.

UP CUSTOMER BILL OF RIGHTS **FOR ACCESSORIAL AND DEMURRAGE CHARGES**

Preamble

Mindful of the economic and other principles discussed in the Introduction and consistent with the preceding responses to issues raised and questions asked at the May 22-23 Board hearing, Union Pacific has developed the following ten principles to guide our formation and implementation of accessorial and demurrage charges applicable to our customers.

Union Pacific has termed these guiding principles a “UP Customer Bill of Rights for Accessorial and Demurrage Charges” intentionally, because they collectively describe our own accountabilities and our customers’ reasonable expectations when it comes to accessorial and demurrage charges. Union Pacific believes these principles constitute a bold but necessary move to build trust with its customers and regulatory stakeholders, promote transparency, and express Union Pacific’s overriding commitment to fairness and reciprocity.

As with any bold but necessary move, there is always risk of unforeseen impacts, unintended consequences, or even misuse or abuse. Therefore, Union Pacific wants to make clear the following:

- These principles may or may not have application to other aspects of Union Pacific’s relationship with its customers, but they are intended strictly to govern accessorial and demurrage charges, not other terms and conditions of rail service.
- These principles are tailored to reflect the unique facts and circumstances of Union Pacific, not other railroads. One-size-fits-all, industry-wide solutions in this area are unlikely to be effective or meaningful.
- These principles are not static. Consistent with the record leading up to these Supplemental Comments, Union Pacific will continue to adjust, refine, and improve these principles as it continues to learn more about the interplay of network fluidity and the incentives necessary to achieve customer alignment. Any future adjustments may or may not be perceived as favorable to all customers, but they will always reflect a Union Pacific commitment to getting things right, to fairness, to reciprocity, to honesty, and to transparency.
- Finally, consistent with the scope of the Board’s regulatory jurisdiction, these principles will not apply to negotiated contract terms. The rights and obligations of the parties to such contracts will continue to be found exclusively within the four corners of those agreements and will be defined strictly by those freely negotiated and confidential commitments.

Ten Rights and Expectations

1. UP Customers Do Not and Will Not Incur Accessorial and Demurrage Charges For Circumstances Beyond Their Reasonable Control.
2. UP Customers Will Continue to Have At Least 24 Hours To Load or Unload Cars before Demurrage or Private Empty Car Storage (PECS) Charges Begin to Accrue.
3. UP Accessorial and Demurrage Charges Will Remain Transparent and Customer-Interactive.
4. UP Accessorial and Demurrage Charges Will Remain Proportionate, Have a Rational Economic Link to the Actions and Behaviors that Trigger Them, and Reflect Their Twin Statutory Goals.
5. UP Accessorial and Demurrage Charges Will Continue to Reflect Equipment Asset Ownership.
6. UP Does Not and Will Not Impose Multiple Types of Accessorial and Demurrage Charges on the Same Car, For the Same Cause.
7. UP Customers Will Continue to Have Reasonable Notice of Accessorial and Demurrage Tariff Changes But Not Less Than 60 Days' Notice.
8. UP's Process For Resolving Accessorial and Demurrage Billing Disputes With Its Customers Will Continue to Be Governed by Fairness, Enabled by Effective Technology Tools, Free of Arbitrary Rejections and Unreasonable Time Limits, and Characterized by Diligence in Determining Charge Validity.
9. UP Does Not and Will Not Retaliate Against or Penalize a Customer for Challenging an Accessorial or Demurrage Bill.
10. UP Remains Committed To STB-Sponsored Dispute Resolution Whenever It Cannot Resolve Accessorial and Demurrage Billing Disputes Informally With Its Customers.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

By: 

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Union Pacific Railroad Company

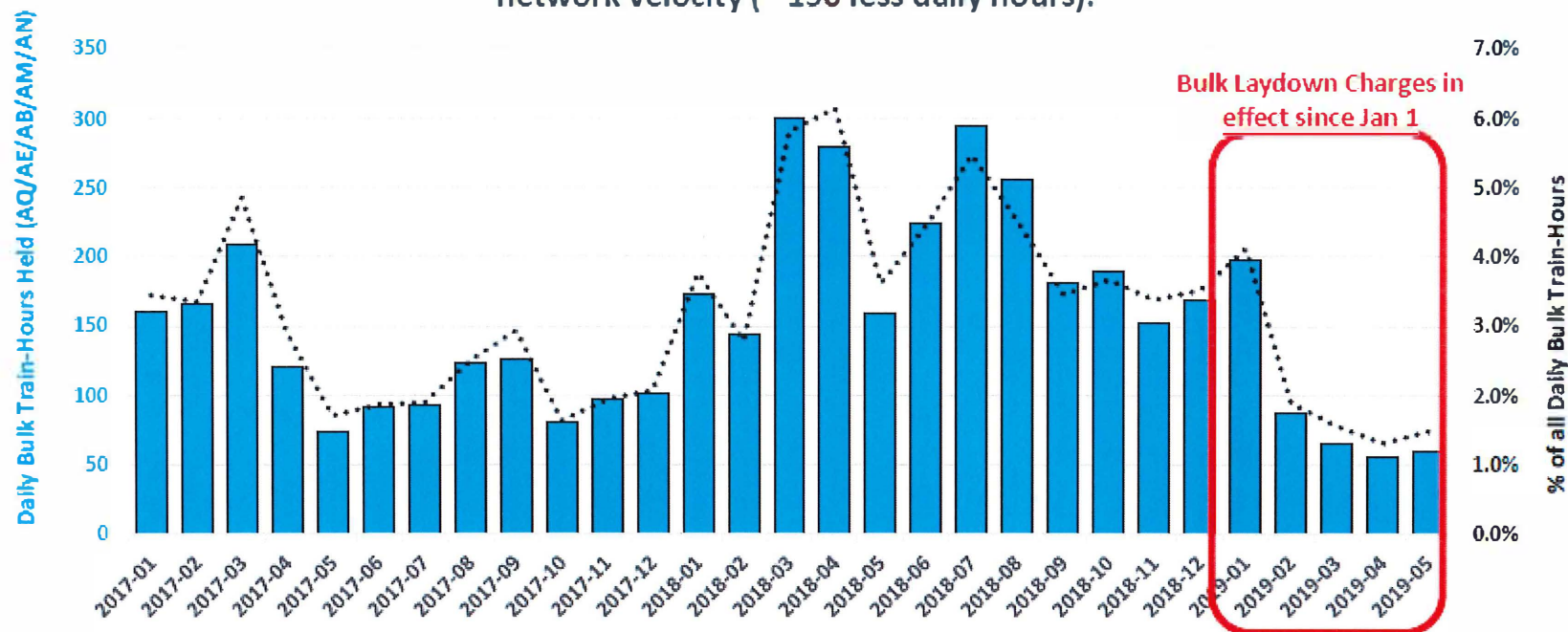
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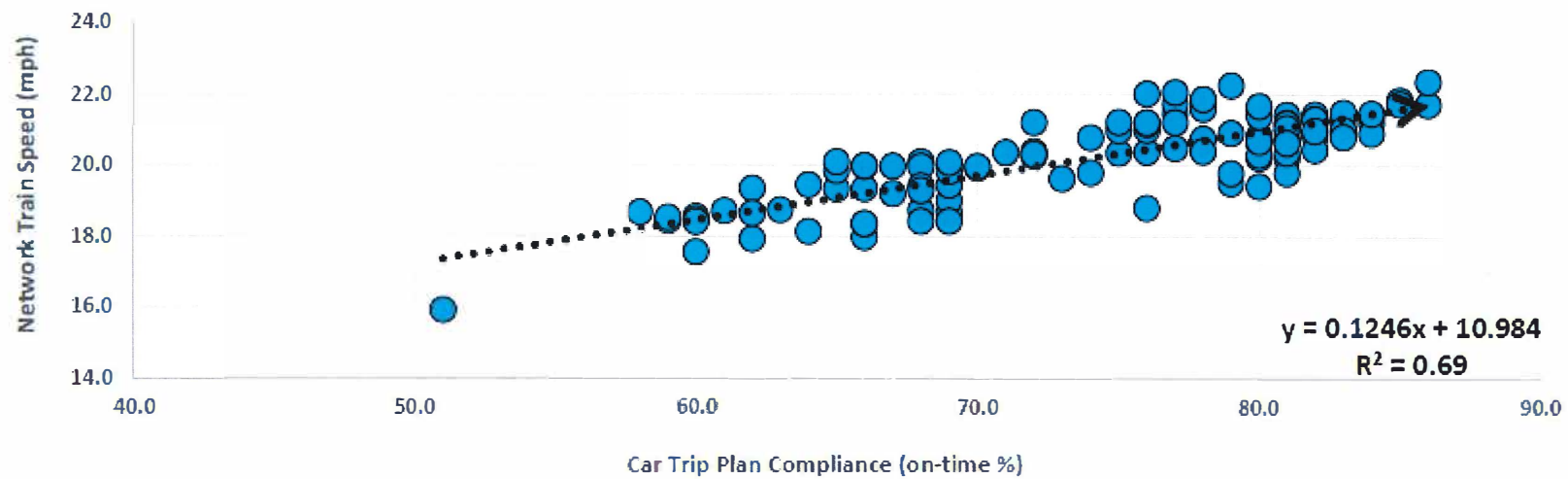
Exhibit A

Bulk laydown charges drove increased compliance (2-3 pts better) and improved network velocity (~ 150 less daily hours).

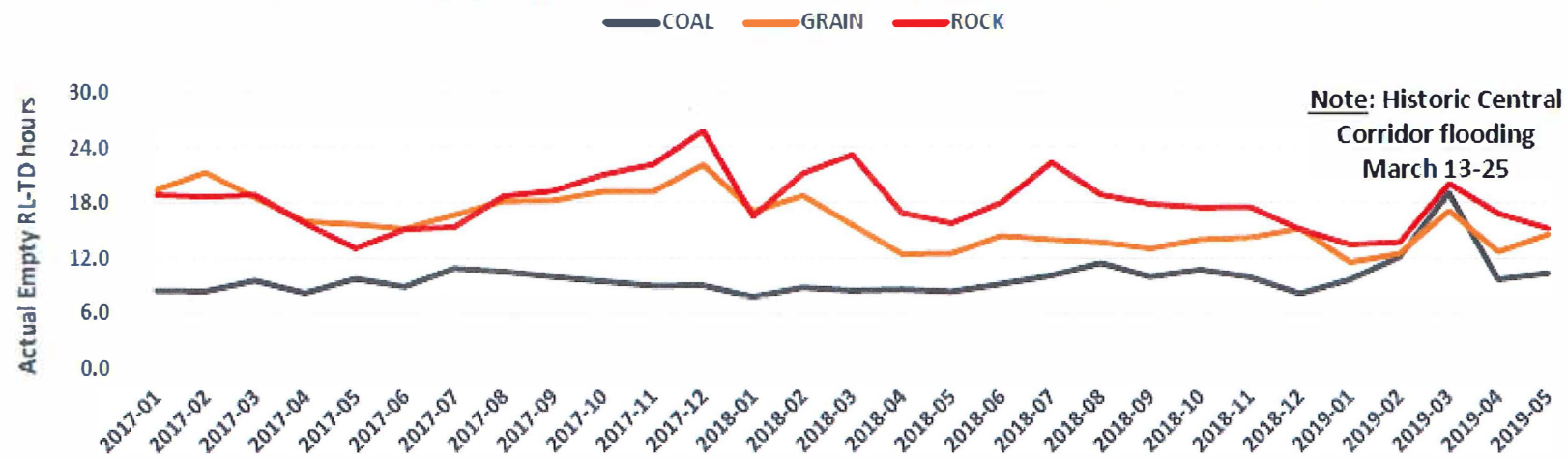


Improved network velocity supports a more reliable service product.

Scatter plot of monthly data since 2010



Improved unloading allows resources to stay with the unit train, reducing wait time once the empty train is released. Coal exemplifies the cycle time benefit.



Accessorial Changes drove more efficient Grain and Rock Bulk train unloading (12-14 hrs) and better unloading compliance with 24 hours (10-12 pts.)

