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Cargill's Remarks: STB – Docket # EP 754 hearing

Good morning. Chairman Begeman, Vice Chairman Fuchs, Member Oberman, my name is Brad Hildebrand. I am the Vice President and Global Rail and Barge Lead for Cargill, Inc. based in Minneapolis, MN. Cargill's purpose is to nourish the world in a safe, responsible and sustainable way. Cargill is a major grain trading and ag processing company with over 200 locations that are rail served here in North America. We operate in 70 countries and employ over 150,000 people around the globe.

As the Global Rail and Barge Lead for Cargill, I work closely with all of the Class I railroads to secure competitive rates and service to deliver our grains and products to customers throughout North America. I also help Cargill oversee the 19,800 private railcars that we use to transport these goods.

I appreciate the opportunity to share my views and recommendations on what should be done to curb the growing cost of demurrage and accessorial charges.

I have often referred to accessorial charges as "death by a thousand cuts." Individually, each charge is \$200 to \$500 dollars per infraction. When multiplied over the months and year, they add up to significant dollars.

Cargill spends millions of dollars each year on these charges. Over the past few years, we have invested in more track space at our facilities in an effort to reduce our demurrage costs. Despite making these investments, our demurrage cost last year was about the same as it was in 2017.

I find it interesting that the railroads will tell you that demurrage and accessorials are really a small part of their overall revenue. Many will say that they would rather not collect these charges if they can avoid them. If it was such a small part of their revenue and something that they really do not want to collect, then why would the Norfolk Southern dedicate an entire team of individuals to defending these charges when you call to dispute them? They called this team the revenue defense group.

Demurrage and accessorial charges are one sided and also difficult to dispute, get reduced or eliminated. As way of example, the NS has a tariff that states that they can charge you \$500 if you dispute a charge and they find out that they were right. We just got hit with one of these bills this week.

The latest round of demurrage and accessorial charges that have been announced are increasingly punitive and costly to shippers. Take for example the Union Pacific's charge for taking power off of unit trains. If we cannot turn a unit train around in 24 hours, we have to declare this when a train arrives. The UP then charges \$3200 to remove the locomotives. They then charge you another \$3200 when you call them out to pick the loaded train back up. We currently see these charges with our ethanol trains.

Typically we do not have a loaded unit train of cars waiting for the empty train to arrive. With this change, the UP is now collecting another \$6400 on every train of ethanol that we ship.

Imagine yourself walking into a McDonalds restaurant and being confronted with a list of charges for things like taking too long to order a meal, sitting too long to eat, or spilling trying to dispense ketchup out of one of those pump containers.

While this might seem like a far fetched extension of demurrage and accessorial charges, I have to ask you one question. Where could you get away with imposing these charges in any business today and still retain your customer's? The answer is - the railroad industry. The railroads seemingly have the unchecked power to extract these types of charges.

So what can the STB do to step in and protect shippers from these ever increasing charges? I offer the following recommendations for your consideration.

Let's start with demurrage. Currently we are paying \$100 to as much as \$200/day for railroad cars that are on demurrage. A covered hopper car costs \$80,000 today. If you apply a \$150/day demurrage rate for a railroad owned car that sits for a year, that comes to \$54,750. That is a 68% return per year. As a comparison, credit card companies charge you 15% per year on outstanding balances.

Now, let's take the barge industry. They charge demurrage like the rail industry. However, they are a competitive marketplace. They have a demurrage schedule for covered barges that gives you 3 free days to load the barge. After that, they charge \$300/day for the first 10 days and then \$400/day thereafter. A new barge costs \$600,000. A barge is 7.5 times more expensive than a hopper car. Applying this factor to the \$300/day barge demurrage rate gives you a rail car cost equivalent rate of \$40/day. Not the \$150/day that many carriers are currently charging us.

Another idea the commissioners might consider is setting the maximum demurrage rate using the weighted average cost of capital that is currently being calculated by the STB each year. This rate could be applied to the weighted average value of a carrier's car on their books to come up with a daily demurrage rate.

My first recommendation is for the STB to make a rule that sets the demurrage rate basis a competitive marketplace like the barge industry, or sets a rate that is in line with their weighted average cost of capital for railroads.

Next, I will turn your attention to private car demurrage charges. The Class I's charge anywhere from \$75 per day to \$150 per day for private car demurrage. These rates are pretty close to the railroad owned car demurrage charges as discussed earlier. The big difference is that shippers are paying for these cars. Companies that have track space to store cars in the US charge anywhere from \$3/day to as much as \$25/day. Compare this to the \$75 to \$150 per day that the Class I's charge us for private cars.

My second recommendation is for the STB to make a rule that sets the charges for private car demurrage at the national average rate for storing cars in the US. This is a market driven cost calculation that is something akin to the national average highway diesel price that the STB okayed as a cost proxy for setting fuel surcharges.

Moving on to accessorial. I would recommend that the board review the types of accessorial charges that are being imposed on shippers today looking for reasonableness within these charges. You will find

charges for diversions, reconsignments, extra switching, weighing, moving cars to pull released cars etc. There are also charges for incorrect bills of lading, disputing demurrage charges and refunding us money when we have overpaid a freight bill.

This last category of charges should be prohibited and thrown out as unreasonable. The railroads make errors and mistakes just like we do. They should not be allowed to charge us for these petty things just because they can. We currently have no way of charging them for our time to research and dispute erroneous charges. The NS does not allow us to charge them \$500 when we dispute a demurrage charge and we prevail.

The railroads are more profitable today than they have ever been. They are buying back billions of dollars of their stock each year. While we have no issue with the railroads making money, these demurrage and accessorial charges are out of hand. What I am recommending is that the Board establish some rules and guidelines that add some competitive market based costs to what can be charged for demurrage, private car storage and accessorial charges. Each category of charges should be examined for reasonableness. Let's put some fairness and balance into a system that is totally one sided.

I hope that you will give my recommendations some consideration. Thank you for your time and your support in this effort. This concludes my comments.