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Honorable Ann D. Begeman, Chairman
Surface Transportation Board
395 E Street SW
Washington, DC 20423-0001

Re: Comments of Rebel Oil Company, Inc. and Pro Petroleum, Inc.
Oversight Hearing on Demurrage and Accessorial Charges; Docket No. EP 754.

Dear Chairman Begeman:

Rebel Oil and Pro Petroleum appreciate the opportunity to provide comments in connection with the Board's oversight hearing on demurrage and accessorial charges. Rebel Oil and Pro Petroleum operate bulk fuel services and terminal services in various locations throughout the Southwest. Both companies receive renewable fuels in tank cars delivered by Union Pacific Railroad to our Las Vegas, Nevada locations. This letter provides a description of our shared experience with respect to Union Pacific demurrage charges and the contemporaneous deterioration of service provided in Las Vegas.

Prior to the Board's issuance of its April 11, 2014 decision in Docket No. EP 707 pertaining to demurrage charges, Union Pacific service in Las Vegas was highly satisfactory. Since then, there has been a dramatic reduction in the availability, timeliness, and reliability of service. Simultaneously, demurrage charges assessed by Union Pacific have increased substantially. Union Pacific's implementation of "precision railroading" principles through its Unified Plan 2020 will only exacerbate these problems.

Union Pacific's May 1, 2019 filing in this docket states that demurrage charges assessed each year by Union Pacific increased from approximately \$107 million in 2016 to approximately \$149 million in 2018, or 28%. Rebel Oil alone was assessed \$286,500 in demurrage charges in 2018, while in 2016 Union Pacific assessed Rebel Oil only \$126,250 in demurrage charges. Demurrage charges totaling almost \$1 million are the subject of an ongoing dispute between Rebel Oil and Union Pacific. Rebel Oil's position is that these charges are unfounded because they result from constraints on Union Pacific's system following the railroad's cost cutting measures and inability to retain experienced staff in the Las Vegas rail yard, among other things.

The unprecedented level of demurrage charges faced by Rebel Oil is surprising given the relatively small volume of railcar deliveries the company receives in comparison with overall traffic on the Union Pacific system. It appears that, in 2018, Rebel Oil was assessed demurrage charges representing almost 1% of the total increase in the level of demurrage charges imposed by Union Pacific across its entire system over the 2016-2018 timeframe. This is particularly surprising given that Rebel Oil only received 942 railcar deliveries from Union Pacific in 2018, which is obviously a much smaller fraction of the overall traffic on Union Pacific's system. Pro Petroleum has also faced unreasonable demurrage charges imposed by Union Pacific.

This dramatic increase in demurrage charges assessed by Union Pacific corresponds with a significant deterioration in service levels over the same period. For example, Union Pacific has reduced service from five to three, and then two days per week. Order-in deliveries are frequently missed and spot-on-arrival deliveries have been chaotic. This deterioration appears to be directly related to a reduction in force across Union Pacific's system, elimination of shifts at the Las Vegas yard, and an inability to retain experienced employees in Las Vegas.

These factors cause bunching of cars in the Las Vegas yard and increase dwell time there that Union Pacific falsely attributes to the receiving parties those railcars are destined for. Union Pacific has compounded these failures by reducing the number of demurrage credits allocated when cars arrive at the yard and reducing allocations of inventory capacity used to trigger embargoes. The effect of these impositions culminated for Rebel Oil when, in August 2018 and again in April 2019, Union Pacific imposed embargoes following bunching that directly resulted from Union Pacific's inability to place cars in a timely manner. Lifting of the April 2019 embargo was delayed due to Union Pacific's implementation of Unified Plan 2020, which reduced Rebel's serving yard allocation to 10 cars from 15 while the embargo was in place.

The Board should take note that while Union Pacific operates a common carrier railroad, Union Pacific's subsidiary Loup Logistics (formerly Union Pacific Distribution Services) is also a competitor of companies like Rebel Oil and Pro Petroleum. Loup Logistics aggressively markets services to existing customers of Rebel Oil and Pro Petroleum. This provides an incentive for Union Pacific to favor its affiliate at the expense of the competition when it comes to policies regarding assessing or waiving demurrage charges. This situation compounds the general incentive that the Board's demurrage charge policy provides for Union Pacific to under-deliver in relation to track capacity in order to intentionally drive up demurrage assessments and mask underperformance related to its reductions in workforce or otherwise.

In light of the foregoing, Rebel Oil and Pro Petroleum respectfully urge the Board to reconsider its demurrage charge policies. In particular, constructive placement coupled with a debiting scheme that automatically assesses penalties without regard to causation is patently unfair to shippers and receivers. The burden to demonstrate causation should be on the railroad in the first instance, rather than the parties upon which these penalties are assessed. The Board should also review the excessive level of these charges.

The Board should reconsider its decision to authorize charges imposed on consignees that have no relevant contractual relationship with the railroad. The Board's justification for allowing railroads to assess demurrage charges against these parties was that the charges are intended to compensate the railroad for the use of its track or yard space and to encourage more efficient use of cars. The present circumstances in Las Vegas demonstrate that Union Pacific deserves no such compensation for use of its assets and has imposed these charges in a manner that has no bearing on efficient use of cars. Simply put, Union Pacific should not be rewarded for problems of its own making.

Sincerely,

/s/Dana Cason Teepe

Dana Cason Teepe
Executive Vice President
Rebel Oil Company, Inc.
2200 S. Highland Drive
Las Vegas, NV 89102

/s/Mike Mathers

Mike Mathers
Vice President of Operations
Pro Petroleum, Inc.
4710 4th Street
Lubbock, Texas, 79416