

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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Docket No. EP 754

OVERSIGHT HEARING ON DEMURRAGE AND ACCESSORIAL CHARGES

THE ANDERSON-DUBOSE COMPANY TESTIMONY

Honorable Chairman Ann Begeman, Honorable Vice Chairman Patrick Fuchs, and Honorable Board Member Marty Oberman, I would like to thank the Surface Transportation Board (STB) for holding this hearing and investigating the unreasonable railroad demurrage and accessorial charge practices.

I, Michael Boddy, appear before you today as the Chief Operating Officer of The Anderson – DuBose Company, a small business that utilizes inbound rail service. The Anderson-Dubose Company is a private minority-owned foodservice company that provides logistics and distribution services to McDonald's and Chipotle restaurants. We operate two distribution centers located in Lordstown, Ohio and Rochester, New York. From these locations, we service 780 restaurants in parts of Ohio, Pennsylvania, New York, and West Virginia.

In April 2012, we made a decision to consolidate two older distribution centers located in Solon, Ohio and Carnegie, Pennsylvania into one state of the art location in Lordstown, Ohio. This significant investment was made to realize long-term financial savings from a more efficient distribution center and logistic benefits from a more strategic geographical location. A key factor in our business case to build the new \$22 million center in Lordstown was the ability to utilize and leverage inbound rail service to receive several of our core refrigerated products.

Our studies and business case identified that we could fund this facility and pass on the efficiencies and savings gained to the restaurants we serve, which are primarily owned by other small business owners. Locating this center in Lordstown, Ohio also provided new well-paid jobs to a struggling local economy.

As a small business, we do not own our rail cars. We utilize rail cars that are owned by BNSF Railway (BNSF), and we receive rail service from CSX Transportation (CSX) at our Lordstown facility. The references to demurrage rules and guidelines in my testimony apply to those imposed by CSX.

Since the opening of our Lordstown facility and our use of the rail system, we have had issues with “bunching” of inbound cars. The sales of the products we receive via rail are fairly consistent, and we typically order one or two refrigerated cars daily. Our facility was designed with two inbound rail doors in order to accommodate this sales trend, and over the past seven years, these sales and ordering trends have remained consistent. While we should receive a regular flow of one or two rail cars per day based on our ordering and shipping, on a regular basis, we have had our rail cars held at CSX rail yards awaiting future cars destined for us. This practice of bunching cars causes operational challenges and inefficiencies to us.

This CSX rail car bunching has increased over the past several years with the onset of Precision Scheduled Railroading (PSR). This attempt by railroads to become more efficient by building longer, heavier trains on high volume scheduled lanes has severely impacted our operational costs. Since PSR was initiated, we now have days with zero rail cars arriving while we have other days where we receive a “bunch” of four or more rail cars. This CSX-initiated bunching causes operational issues which impact our workforce and increase operational costs through employee overtime, additional equipment needed, diminished warehouse productivity,

and the use of truck loads to supplement our needs. For example, in July 2017, we had a situation where CSX had cars bunched in several of its yards, and we did not have a car available to us for 10 days. The lack of arriving cars caused us to run extremely low on our inventory, and we were forced to order expensive rush shipments delivered via truck loads. When CSX finally released these bunched rail cars, 10 cars arrived at one time, and we began to incur daily CSX demurrage charges. The lack of available rail cars and the subsequent ordering of truckloads also impacted our warehouse capacity and throughput potential. Since the truck- loaded product replaced planned rail product, our facility was at capacity and therefore, we could not unload the 10 bunched cars immediately which added additional CSX demurrage days and charges. This entire situation which added operational costs and demurrage day charges were all beyond our control.

Although we have always had consistent bunching and added operational costs, in the first few years after opening the facility, we were able to control our CSX demurrage charges, using unload credit days provided by CSX. When we began rail service in April 2012, we negotiated with CSX a local demurrage tariff which provided for three days of credit. The three days of credits were beneficial and allowed us to accumulate credit days when we unloaded and returned cars early. These credit days were utilized to offset the additional dwell days that we accumulated when we received bunched cars from CSX. For example, when we received a single rail car, we were able to process and return the car within one day thus accruing two days of credit. When we later received a bunch of six cars and had cars exceed the three-day limit, we were able to trade the credits we previously received against the additional days we incurred due to the bunching. Although we would like to receive our one to two cars each day and eliminate the bunching that has increased with PSR, this credit mechanism provided us the ability to

mitigate our overall demurrage penalties. This local three-day credit agreement was eliminated by CSX in 2017, and we were then subject to the demurrage tariff terms outlined in the national CSX 8100 publication which only provided one day of credit. With only one day of credit, the ability to accrue credit days was essentially eliminated, exposing us to additional demurrage charges caused by CSX bunching.

In addition to the elimination of credit days, CSX has also adjusted the demurrage tariff several times since 2017, increasing the per day demurrage charge. With the CSX demurrage tariff change that was placed in effect on January 1, 2018, we now are charged \$250 per day for cars that are not processed in one day. This is a 67% increase from the \$150 per day rate that was in place prior to January 1, 2017. With the increases in the daily demurrage tariff rate and the loss of credit days previously provided, we have seen our CSX demurrage charges increase by 165% since 2016. As a small company, this exponential increase has resulted in hundreds of thousands of dollars of additional expense each year which has severely impacted our business plan and eliminated our ability to pass along the planned efficiencies gained to our customers.

If PSR practices and the current demurrage tariff policies continue, we and other small businesses that utilize rail service may be forced to abandon rail and return to truckload options. With the current and future trucking industry gap in CDL drivers and the added environmental impact of additional truckloads, we find this option less appealing. We believe that rail service can be a viable option for a small business like us by eliminating these unreasonable practices by stopping the PSR practice of bunching, increasing the credit days for unloading, and rolling back the demurrage tariff rates.

We at the Anderson-DuBose Company respectfully ask for your review of the current unreasonable practices and charges that are impacting the industry. These practices and the

imposed demurrage and accessorial charges have been particularly impactful on small businesses such as us and the customers we serve. Thank you for allowing me the opportunity to share our concerns and to be a part of this important hearing.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Michael Boddy", written in a cursive style.

Michael Boddy
Chief Operating Officer
The Anderson-DuBose Company
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Dated: May 6, 2019