



Consolidated Scrap Resources, Inc.

June 6, 2019

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Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

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**RE: STB Ex Parte 754 – Oversight Hearing on Demurrage and
Accessorial Charges**

Dear Ms. Brown:

First and foremost, I want to thank the Surface Transportation Board and in particular its three Members for holding the hearings on railroad demurrage and accessorial charges, and spending the time to hear from the various interested parties. Their willingness and great efforts to focus on the challenges shippers, especially small shippers like CSR, face are very much appreciated and a testament to their dedication in their roles as Members of the Surface Transportation Board.

I write to follow up on the testimony I gave at the May 22, 2019 hearing. I believe my written and oral testimony speaks for itself, so I will be brief and get to the heart of the matter for my company. That issue is what is a minimum, reasonable period of time for private railcars to sit on Class 1 track following constructive placement before they begin to incur demurrage?

If I had my choice, I would like for Norfolk Southern (NS), in my case, to return to providing the five (5) Credit Days as they did prior to October 1, 2017. I am still not clear about why that number of Credit Days was deemed to be a reasonable amount of time before that date, and what changed to make it unreasonable, particularly on a system-wide application. When the pre-October 2017 tariff allowing for five (5) Credit Days was in place we still paid demurrage on occasion, and the threat of paying any demurrage certainly incentivized us to move cars off the NS tracks as soon as possible.

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Particularly as NS removed their own gondolas, which we used to use, from the network and encouraged us to enter into lease agreements for private railcars, keeping the Credit Day tariff as it was seemed like a reasonable compromise to us for the additional funds we had to spend month in and out to lease the cars and still be subject to NS service challenges without much recourse.

At the hearing and in my written testimony, I mentioned that we should receive a minimum of seventy-two (72) hours or three (3) Credit Days. Others I know testified that two (2) days was reasonable for them. As we discussed at the hearing, not all shipping facilities are created equally and not all shippers have the resources or physical ability to lay more rail track within the boundaries or their facilities to accommodate more railcars. So, to some degree, what is a reasonable number of Credit Days for one customer may not be reasonable for another.

What I do know for certain, however, is that our demurrage costs began to increase dramatically in late 2017 when NS began to curtail the number of Credit Days. That cost increase was steady through 2018 until the demurrage costs increased even more sharply at the beginning of 2019 with the reduction of Credit Days to zero. When I mentioned at the hearing and in my testimony that a minimum of three (3) Credit Days was necessary for us, I was trying to appear reasonable and compromising to the Board. Even under that circumstance we would almost certainly continue to pay some material amount of demurrage fees most months because things will not always work out perfectly. If the goal is the pay no demurrage, then three (3) Credit Days is a minimum amount for us, but probably still not enough.

As an aside, over the last month, we have endeavored to sublease a significant portion of our private railcars to another user in the hope that this adjustment of our fleet size will reduce our demurrage. We are putting a lot of faith in the NS that they will turn and move our remaining cars quickly, because if they do not, we will be not be able to ship the volumes we need when we need to ship them. In a commodity market, but especially the ferrous scrap market where orders are routinely cancelled in a falling market, having cars available and being able to load them in a timely manner is extraordinarily important.

I greatly appreciated the Board's focus at the hearing on the differences between various shipping facilities' storage capabilities and challenges. That is what makes a hard and fast rule for Credit Days so difficult, especially as the railroad reduces the allotment of those Days. That is how it has always been, however,

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and we understand that. Accordingly, if there is to continue to be such a rule applicable to all shippers, and the burden is on the shippers to procure and pay for the private railcars themselves, the railroads must be reasonable in their allocation of Credit Days. The railroads cannot exercise as much control as they do over the shippers and still demand that the shippers bear the burden of making all of the changes to accommodate the railroad or otherwise pay the high price. In light of the imbalance of influence and control over shipments in favor of the railroad, it is reasonable that shippers should receive at least three (3) Credit Days before incurring demurrage for private cars spotted for loading and unloading.

Thank you again very much for your time and attention to our situations. We are very grateful and appreciative.

Sincerely yours,
CONSOLIDATED SCRAP RESOURCES, INC.

By: 

Benjamin C. Abrams
President and CEO

CC: Billy Johnson, ISRI
Karyn Booth, Esq.