



May 8, 2019

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The Honorable Ann D. Begeman
Chairman
Surface Transportation Board
395 E St., S.W.
Washington, DC 20423-0001

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The Honorable Patrick Fuchs,
Vice Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

The Honorable Martin Oberman
Commissioner
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Oversight Hearing on Demurrage and Accessorial Charges
Docket No EP-754

Comments of UGI Energy Services, LLC

Honorable Board Members:

Pursuant to the April 8, 2019 Notice of Hearing issued in the above-captioned matter, UGI Energy Services, LLC ("UGIES") hereby submits its comments with respect to its experience with demurrage and accessorial charges as both a shipper of rail cars and an interconnected terminal operator on the Norfolk Southern Corporation ("NSR") railway system in Pennsylvania. UGIES sincerely appreciates that the Board is looking into this matter as it has long felt "captive" to arbitrary changes in both transportation rules and demurrage charges that only seem to benefit the rail company.

UGIES is a Pennsylvania limited liability company, headquartered in Wyomissing, Pennsylvania. It is an indirect wholly owned subsidiary of UGI Corporation (NYSE:UGI), an international energy holding company. Among its other energy business, UGIES owns a small propane storage rail terminal in Steelton Borough, Dauphin County, Pennsylvania that operates both to support UGIES' own retail customer obligations as well as to offer storage and transshipment service to third parties. NSR is the only carrier that UGIES can access at Steelton.

UGIES' liquids fuels business has been severely adversely impacted by the demurrage and accessorial charges assessed by NSR in recent years. The Steelton rail terminal currently receives approximately 500 railcars a year that are dispatched on NSR. Prior to 2016, NSR did not actively enforce demurrage and was also offering two "loading credits" per rail car, which effectively gave UGIES two days to unload before the cars were constructively placed back on the railway system. As a consequent to this flexibility UGIES was not assessed any kind of demurrage or accessorial fees for storage of private rail cars.

However, that all abruptly changed in 2016. At that time NSR began strictly enforcing the forty-eight hour window then in effect in its tariff to order and unload railcars and assessed demurrage for cars held longer. Even with loading credits, UGIES was assessed over \$400,000 demurrage charges in 2016. And the excessive charges have been coming ever since. Because the railcars dispatched to UGIES' Steelton terminal contain propane, NSR assesses demurrage of \$60/day per car for private car storage, plus another \$100/day for each car carrying a hazardous material. As you can well imagine this is a quite a financial burden for a small terminal like Steelton.

In October 2018 we received notice from NSR that it would no longer be issuing the two loading credits and would in fact be reducing credits to zero beginning January 1, 2019 -- thus giving shippers only 24 hours to have a car ordered onto our facility for off-loading. The reduction in the credit days is a serious change and we are extremely challenged to meet these deadlines in order to avoid demurrage. The Steelton terminal has storage for only 612,000 gallons of propane and 12 spaces on its side track to move cars into and out of the loading bay efficiently. Timing for the off-loading of propane is dependent on several factors -- including the demand of sales customer and the loading schedules of through-putters. UGIES's retail propane business is weather driven to a great degree and unanticipated temperature changes can limit available storage for several days. Having only 24 hours is unrealistic for an operator like UGIES.

When we contacted our representative from NSR about the tariff change imposing demurrage after 24 hours, NSR acknowledged the punitive impact, stating that the application of this new rule would "Empower our (NSR) customers to reduce congestion in serving yards." UGIES believe that this abbreviated timeline has nothing to do with "empowerment" and everything to do with revenue generation for NSR.

In January 2019 the new tariff timeline was implemented forcing UGIES to have rail cars moved to the Steelton sidetrack within 24 hours of them arriving. This places an undue burden on the staff and the facility. NSR also informed that the only way customers would receive credits from NSR would be if NSR did not hit their projected arrival time for the railcar and, even then, could only receive up to five total credits. As a consequence of these tariff changes, UGIES incurred demurrage charges of \$70,000 in the first month of 2019 alone. Even

more disturbing is the lack of reciprocity for poor service on the part of the railroad. All potential credits that were once available to UGIES under the tariff for missed switches and other service related matters, have been removed from the tariff. NSR has no real incentive to offer superior or even satisfactory service. NSR has offered no suggestion that the tightening of unloading procedures or the increased penalty application is necessary to preserve the integrity of rail operations. UGIES feel absolutely powerless in this business relationship with no recourse. It is facile to suggest that small operators, like

UGIES recently learned only through logging onto its online NSR account that its previously agreed-upon service window for receiving rail cars had been changed from a Sunday through Thursday schedule, to scheduling cars seven days a week. NSR failed to provide any kind of notice or warning prior to the implementation of this timeline. UGIES has always maintained a Monday through Friday work week and this change is extremely impactful. UGIES must either incur the significant manpower expense of running a 24/7 basis or accept the demurrage expense for more chargeable car days because it lacks weekend unloading capability. Cars arriving Friday or Saturday evening will begin accruing demurrage before UGIES can even begin to receive and offload them. UGIES raised this change – and the lack of notice related to it – with its NSR sales representative and has not yet gotten a response.

It's facile to suggest that UGIES must simply “staff up” and discipline its terminal operations to comply with NSR's tariff requirements. UGIES' operations and the vagaries of supply, demand weather and competition that it confronts, have been the same for 15 years. What has changed is NSR's increasingly restrictive operating rules and predatory penalties. Because of the nature of its business, UGIES has little or no ability to pass demurrage charges through to retail customers in a competitive energy marketplace. Ultimately UGIES may have to stop utilizing rail altogether and find alternative ways to achieve the required movement of its inventory.

In conclusion UGIES submits that NSR, and perhaps other Class I railroads as well, are abusing the captive companies that rely on the railroad to be able to move their freight. Exorbitant demurrage charges and strict loading procedures, such as those imposed by NSR, impose a disproportionate economic hardship on small customers like UGIES. UGIES understands that there need to be consistently applied carrier tariff rules and consequences for violations in order to ensure the efficient and uninterrupted movement of freight across regional and national railway grids. The Board should give careful consideration to whether the demurrage charges currently imposed by NSR and other carriers, are necessary to achieve these goals.

Comments of UGI Energy Services, LLC

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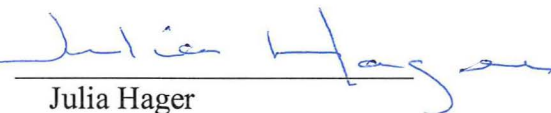
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Thank you again to the Board for giving UGIES this opportunity to speak out against what it believes are egregious business practices on the part of NSR and other similar Class I railroad companies. The Board should intervene on behalf of small terminal operators to ensure that all carriers adopt charges and procedures that reflect legitimate operating requirements and balance the unique needs of small customers and terminal operators.

Respectfully submitted,

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