

Surface Transportation Board
Ex Parte 704—Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Summary of Ex Parte Meeting held on June 4, 2019 between
Sadoff Iron & Metal Company and Tri-State Iron & Metal Company and Member Oberman

Institute of Scrap Recycling Industries, Inc. (“ISRI”), Sadoff Iron & Metal Company (“SIMC”) and Tri-State Iron & Metal Company (“TSIMCO”) Attendees:

- David Borsuk, Senior Advisor, SIMC
- Haley Glick, Vice President, TSIMCO
- William Johnson, Chief Lobbyist, ISRI
- Karyn Booth, Thompson Hine LLP
- Kerem Bilge, Thompson Hine LLP

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STB Attendees:

- Member Martin J. Oberman (by phone)
- Ellen R. Erichsen, Attorney Advisor
- Katherine C. Bourdon, Attorney Advisor

Meeting Summary:

The meeting began with introductions, and ISRI/SIMC/TSIMCO thanked the STB Attendees for the opportunity to meet and discuss the Board’s proposed rule and the issues in this proceeding.

TSIMCO explained its generational family business operations in Texarkana, AR and high dependence on rail service for 90-95% of its outbound shipments (see map attached as **Exhibit 1**). Ms. Glick stated that its scrap yard and steel shredding facility is directly served by a large class I railroad, with a reciprocal switching agreement with a smaller class I carrier. TSIMCO generally moves about 130 rail cars per month but has the capacity to ship about 200 rail cars per month if it would receive more consistent and reliable rail service. TSIMCO explained that its relationship with the large class I railroad is very challenging and the carrier has made it clear that they are not interested in serving its facility. This carrier’s customer service interface continually changes and its dispute resolution processes have been frustrating and ineffective.

SIMC explained its business model, use of rail service, and concerns with the current exemption. SIMC explained that its rail shipments involve inbound iron/steel materials and outbound shipments to steel mills and foundries. One of its major customers is a foundry located about 40 miles away from the SIMC Wisconsin facility. This foundry has highly specific product requirements that are needed for the products that it fabricates and SIMC is not able to substitute one type of scrap for another.

SIMC stated that rail service issues, including missed switches, bunching and inconsistencies of the weight scales are major concerns. SIMC also explained that rail rates continue to increase,

and that their relationship with the railroads are one-sided as there is no true negotiation of prices or service. Thus, SIMC supports revocation of the exemption and STB oversight over its rail shipments.

Member Oberman asked whether they are concerned about retribution from the railroads. SIMC and TSIMCO responded positively.

Member Oberman inquired about the relationship between SIMC and TSIMCO and the railroads before and after the implementation of the PSR. SIMC and TSIMCO explained that they did not receive optimal service before the PSR, however the service levels significantly deteriorated after the railroads started implementing the PSR.

Member Oberman asked whether the motivations of ISRI/SIMC/TSIMCO to revoke the exemption is related to service. ISRI/SIMC/TSIMCO confirmed, and stated that they need certainty, predictability and reliability in railroad service, and they believe that having STB oversight and recourse against the railroads is needed. They also stated that they need the power to negotiate with the railroads, and the current exemption reduces their leverage, since the railroads are well aware of the exemption.

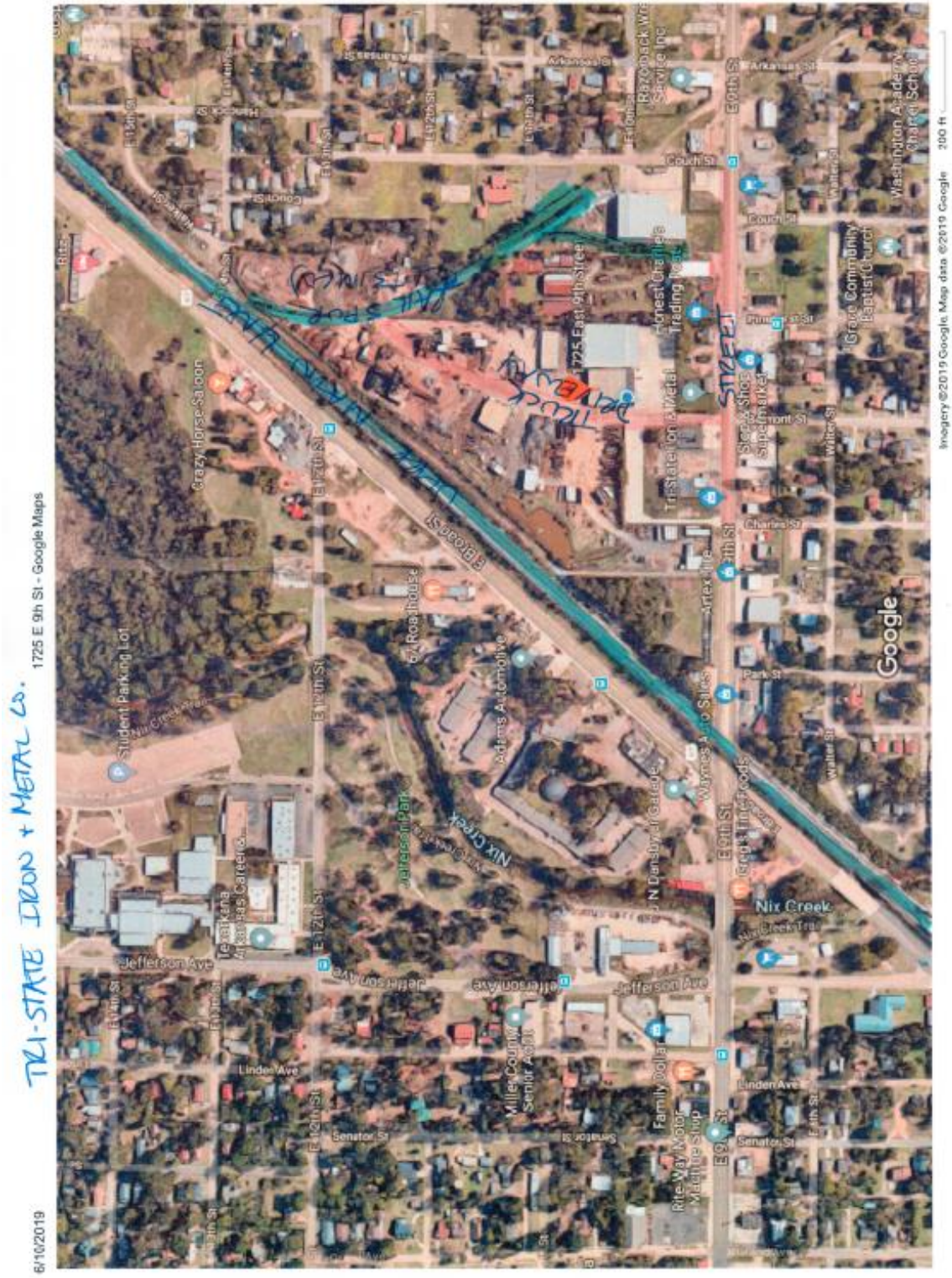
Member Oberman inquired about whether the companies have been experiencing service and demurrage issues. TSIMCO explained that they faced a \$100,000 demurrage bill in the summer of 2018 caused primarily by missed switches and bunching by the railroads but that their operations also were a factor. Even though TSIMCO was willing to accept some responsibility for a portion of the invoice, the carrier refused to negotiate and future service was threatened if the entire invoice was not paid in full. TSIMCO believes that it may have been treated differently if it was not shipping an exempt commodity. SIMC also explained that it has faced increased demurrage bills in connection with its traffic moving to the Foundry (i.e., \$50,000 for the first quarter of 2019 which is as much as it incurred in all of 2018), and they do not have any alternative other than rail because its customer requires shipments by rail with 2 rail cars per day regardless of freight costs.

SIMC explained their concerns about inconsistent weight scales of the railroads. SIMC and TSIMCO explained that the dispute resolution process of the railroads is not efficient and effective, mostly resulting in an outright rejection of their claims, and that if STB litigation was available, the railroads would hopefully change their behavior but if not than they could seek recourse at the STB when necessary.

Thompson Hine explained that at the time the ICC granted the exemption, there was a benefit to both railroads and the industry, because the rail market and regulatory system was different. However, today, the benefits of the exemption have been eliminated for iron/steel scrap shipper as many of their facilities are captive to a single railroad and the regulatory benefits were eliminated when Congress passed the ICC Termination Act. It was also explained that when the Board members balance the transportation policy factors, revenue adequacy was given substantial weight in 1995 but does not deserve the same weight today, since the railroads are far more profitable compared to 1995 and most of the major Class I carriers have been determined to be revenue adequate.

The meeting concluded with each side thanking the other for participating in the meeting.

EXHIBIT-1



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