

EP 754
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July 12, 2019

Honorable Chairman Ann Begeman
Vice Chairman Patrick Fuchs
Board Member Marty Oberman
U.S. Surface Transportation Board
395 E. Street SW
Washington, D.C. 20423

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Dear Chairman Begeman, Vice Chairman Fuchs, Board Member Oberman,

Shippers - Receivers can appreciate the Norfolk Southern Railway's zealousness to improve service, reduce dwell time, increase network fluidity and fulfill its common carrier obligation by providing seven days service to Shippers – Receivers, but seven days service is having an adverse financial effect on Industries whose normal operating days are Mondays through Fridays.

Referencing NS Tariff 6004-D, Item 950 Subsection 6, the NSR *unreasonably* makes all days, *including weekends*, demurrage accountable. Please see attached.

No Industry, any Shipper or Receiver, should be financially impacted by being **"forced"** to operate on a weekend to avoid demurrage charges. If the railroad elects to place cars at an Industry's facility on Friday or Weekends with the interest of reducing yard dwell time and increase network fluidity, the railroad does so solely for its own benefit and the *Industry should not be penalized*.

Whereas an Industry would work a weekend *only upon customer special requests and only with the understanding the customer compensates the Industry*, customers do not want to pay overtime costs simply because the railroad's objective is to reduce dwell time and increase network fluidity. This practice is totally unreasonable, commercially unfair, lacks reciprocity, not in the Public's Interest, especially because working weekends without compensation has *never been a usual or customary practice* for decades prior to Precision Scheduled Railroading, except in instances where an Industry and a railroad agreed working on the weekend was necessary to reduce yard congestion.

Because this practice is causing an unnecessary financial burden for Shippers – Receivers that don't customarily operate on weekends, the Board should take a very dim view of "forced switching" and intervene.

The Norfolk Southern Railroad cannot expect an Industry to assume an unnecessary financial burden just because the railroad merely desires to keep its "crews busy."



Chairman Ann Begeman
Vice Chairman Patrick Fuchs
Board Member Marty Oberman

We thank you for your consideration and look forward to a favorable resolution.

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- (b) At destination: From the first 0000 hours (see Time, Item 200) after notice of arrival is given to Consignee and continuing until equipment is released from hold tracks. (Notice of arrival will be given Consignee within 24 hours after arrival of equipment at hold point).

3. STORAGE RULES:

- (a) Unless otherwise advised, charges will be assessed to Consignor, if delays occurred at origin or en route, or Consignee if storage delays occurred at destination.
- (b) Settlement of charges will be made on an individual basis for equipment released from storage during each calendar month.
- (c) Zero (0) Credit Days will be allowed on each car released from storage.
- (d) Chargeable storage rate is \$60.00 per day.

ITEM 950 - DEMURRAGE / STORAGE RULES

Billing will be rendered on a monthly basis for all cars released during a calendar month. Billing will be made per customer per station.

1. Billing cannot be combined for customers having facilities at separate stations.
2. Credit Days and Car Days for Railroad Controlled cars held for unloading or other purposes will be kept separately from cars held for loading. Except as otherwise provided in Item 1000, Credit Days and Car Days for Private Cars for loading or unloading will be combined. Credits on Private Cars cannot be combined with credits on Railroad Controlled cars.
3. Customer having two or more facilities at the same station with NS may combine the accounts into one if requested in writing.
4. Credit Days earned in one calendar month cannot be carried over to another month.
5. Demurrage/Storage charges will be assessed to Consignor at origin or to Consignee at destination as applicable.
6. All days count including Saturday and Sundays. Eleven (11) holidays will not be subject to demurrage (see Holidays, Item 200).
7. Demurrage/storage will be suspended while Cars are in bad order, pull turn, or pull weigh status.
8. Except for shipments of 45 or more cars moving under one Bill of Lading or Waybill, two (2) credits will be applied for each day for loaded railcars where NSR Original ETA is not met. Credits may be applied for early or late loaded arrivals. Combined total credits pursuant to Item 1010 and Item 950 will be limited to ten (10) per car per shipment. Credits will not be carried over to subsequent months.
9. Disputes concerning demurrage or storage charges or computations (a "Demurrage Dispute") must be submitted online through *AccessNS* by the fifth (5th) calendar day of the month following the accrual closing event in order to avoid the charge described in the next sentence. If a Demurrage Dispute is not received within the time frame described above or is received by a method other than online through *AccessNS*, a non-refundable handling charge of \$500.00 will be assessed to the party submitting the Demurrage Dispute. The time limit for submitting a Demurrage Dispute is 30 days from the demurrage/storage invoice date (the "Time Limit"). Any Demurrage Disputes received after the Time Limit will be rejected.
10. If NS offers scheduled local service less than five (5) days per week, then NS will apply demurrage/storage credits for the difference between five (5) days and the Offered Service Days. These credits are in addition to the standard demurrage credits. When Offered Service Days is equal to or greater than five (5) days per week, then standard demurrage/storage credits apply.
Example: If the Offered Service Days=3 and standard demurrage credits=1, then every railcar will get 3 credits (5-3+1=3).

ITEM 1000 - DEMURRAGE / STORAGE CALCULATION

Credit Days and Car Days will be kept separately, and the following calculations will be made separately, for cars with different Per Car Daily Charges in Item 1010:

1. Total Car Days with the same Per Car Daily Charge per customer per location will be added. (Car/days are net of holidays (see Holidays, Item 200)).
2. Total Credit Days for all cars with the same Per Car Daily Charge will be added.
3. If total Credit Days equal or exceed total net Car Days with the same Per Car Daily Charge, demurrage/storage charges will not be assessed. Any excess Credit Days cannot be applied to cars with different Per Car Daily Charges.