

248873

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

ENTERED  
Office of Proceedings  
November 6, 2019  
Part of  
Public Record

---

**STB EX PARTE No. 759**

---

**DEMURRAGE BILLING REQUIREMENTS**

---

**COMMENTS**

RHONDA S. FERGUSON  
CRAIG V. RICHARDSON  
TONYA W. CONLEY  
Union Pacific Railroad Company  
1400 Douglas Street  
Omaha, Nebraska 68179  
(402) 544-7004

Attorneys for Union Pacific Railroad  
Company

November 6, 2019

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB EX PARTE No. 759**

---

**DEMURRAGE BILLING REQUIREMENTS**

---

**COMMENTS OF UNION PACIFIC RAILROAD COMPANY**

In its October 7, 2019 Demurrage Billing Requirements Notice of Proposed Rulemaking (“Billing NPRM”), the Surface Transportation Board (the “Board”) described minimum requirements the Board believes are needed to address issues customers raised regarding industry billing practices. Union Pacific submits that the proposed minimum requirements are likely to do more harm than good. They will make demurrage bills more complex, opaque, repetitive, and voluminous without meaningful benefit in customer understanding. This is so because customers may already obtain the *same* information the Board proposes to require affirmatively in every invoice simply by using Union Pacific’s easily available online tools. This effective combination of (i) concise, less cluttered, more readable invoices and (ii) the availability of web-based information and resources to test those invoices increases the likelihood customers will actually detect an issue, gain relevant information, and, if that self-directed process leads to a persistent concern, raise the issue with Union Pacific for timely resolution.

As we describe below, all Union Pacific customers already have access to the applicable minimum data requirements specified in the Billing NPRM. There is simply no need for well-intentioned but ultimately counterproductive, one-size-fits-all regulatory intervention in the detailed text and content of each and every accessorial and demurrage invoice that Union Pacific transmits to its customers.<sup>1</sup>

---

<sup>1</sup> Union Pacific hereby incorporates all comments submitted by the Association of American Railroads (AAR) in this docket. Union Pacific also incorporates into this filing the June 6, 2019 Supplemental Comments Union Pacific filed in EP 754.

The Billing NPRM also proposes a solution to a Board concern regarding accessorial and demurrage invoices being addressed to receivers. We will limit our remarks on this issue to the comments submitted on the industry’s behalf by AAR in this docket.

## INTRODUCTION

During its May 22 – 23, 2019 Oversight Hearing on Demurrage and Accessorial Charges (Oversight Hearing), the Board heard from customers expressing a broad range of concerns regarding the industry's accessorial and demurrage programs. Some customers expressed a need for more information from railroads relating to demurrage charges. Other customers stated their concerns that the invoices were inaccurate or included information that required verification.<sup>2</sup>

The Billing NPRM proposes a mandate for the inclusion of more information in the invoices for all customers. Several fields of information are included in the proposed mandate:

- (1) Unique car identification (e.g., reporting marks and number);
- (2) Waybill creation date;
- (3) Car status (loaded or empty);
- (4) Commodity;
- (5) Shipper, consignee, and/or care-of party identity;
- (6) Origin station and state;
- (7) Date and time for actual or constructive placement of the car;
- (8) Date and time for placement notification to shipper, consignee, or intermediary;
- (9) Release date and time for the car; and
- (10) Credits and debits attributable to each car.<sup>3</sup>

### **UNION PACIFIC CUSTOMERS RECEIVE ACCURATE INVOICES AND ACCESS TO REAL-TIME TOOLS TO VERIFY OUR ACCURACY**

Union Pacific directly addressed the concerns raised by customers during the Oversight Hearing in its Supplemental Comments. Union Pacific invests significant resources to support the issuance of consistently accurate and fair invoices:

Union Pacific maintains a billing accuracy of roughly 95%. Union Pacific maintains this high standard of billing accuracy through everyday efforts by Union Pacific employees and customers. Each month, before bills are issued, Union Pacific performs checks and reviews of the demurrage and PECS activity for the month.

---

<sup>2</sup> E.g., Oversight Hearing, Day 1 Transcript at 29 and 261.

<sup>3</sup> Union Pacific's accessorial and demurrage program does not balance debits and credits at the car level.

The demurrage and accessorial billing team within Finance reviews various forms of data and information to ensure that demurrage and accessorial activity is accurate before a bill is ever issued. The billing team members maintain checklists for hundreds of customers which the members use to review and issue bills. As a matter of course, the billing team references service interruption notices related to embargos, weather, or natural disasters to confirm whether or not the interruptions had an impact on a customer's facility. Additionally, service issues submitted by customers are taken into consideration by the billing team to determine if adjustments need to be made prior to billing or as part of post-billing, interactive conversations between Union Pacific and the relevant customer.

Supplemental Comments at 11.

However, Union Pacific does not expect our customers simply to accept the accuracy of the invoices they receive. Union Pacific supports our customers' real-time access to their car data. This access allows our customers to trust but verify. Union Pacific customers are able to track the work as we perform it and also verify any accessorial and demurrage charges as we assess them:

Union Pacific demurrage charges are managed within the Chargeable Events System (CES) and accessorial charges are managed within the Accessorial Management Application (AMA). Authorized individuals can access both systems at any time of the day to review the state of any demurrage or PECS charges they may be accruing, prior to any billing.

Id. at 12.

#### **UNION PACIFIC INVOICES CURRENTLY BALANCE THE NEED FOR ADEQUATE SUPPORT AGAINST CUSTOMER ACCESS TO SIGNIFICANT AMOUNTS OF DATA**

As the Board debates how best to respond to the various concerns expressed by customers during the Oversight Hearing, it should keep in mind that more is not always better — sometimes more is just more. The Billing NPRM would mandate longer and less easily reviewable invoices and thereby compromise a positive customer experience that depends greatly on understandable invoices. As noted in the Verified Statement of Bradley Stock (at 3), the standard invoice length for Union Pacific may increase by as much as 50% (depending on the individual customer).

The Billing NPRM, if finalized as written, would eliminate an important element of self-directed choice for Union Pacific's customers. Union Pacific takes the customer experience very seriously and is deliberate in determining how much information is needed to support our invoices. Yet Union Pacific fully understands that its customers may make different judgments – judgments that differ from Union Pacific's judgments and those of other customers – regarding the level of support and information they need for their invoices. Our customers are free to choose the precise level that meets their unique needs. We balance our drive for succinct, efficient invoices against an easily accessible and navigable online tool allowing our customers to access a wealth of verifying information. The Board should similarly consider the experience for all customers before making changes that will negatively impact that experience.

The truest test of whether Union Pacific has succeeded in balancing adequate invoice support with data access is the rate at which our customers actually use our online systems. Customers request that their demurrage invoices be electronically delivered, in the format Union Pacific designed to maximize their experience, 72% of the time. Stock V.S. at 2-3. The majority of Union Pacific's customers prefer short, easy-to-read electronic invoices coupled with quick, online access to simple, customizable reports providing whatever additional information is relevant to the individual customer's specific needs. As demonstrated in Video Exhibit 1, Union Pacific has succeeded in providing that balanced experience through a combination of invoicing and online access.

The Chargeable Events System (CES) demonstrated in Video Exhibit 1 allows customers instant access to accessorial and demurrage data. CES is designed to give customers a "big picture" view of its cars, facility activity, and account balances. CES also gives Union Pacific's customers the ability to review details as needed. CES gives customers both real time information to manage their shipments and historical data to validate charges for up to twelve months. The customizable report feature allows customers to determine what information is important and to exclude any unnecessary information.

### **UNION PACIFIC STRIVES TO PROVIDE A SUPERIOR AND CONSISTENT SERVICE PRODUCT TO ITS CUSTOMERS**

Union Pacific allocates significant resources to our invoices and to our customers' understanding of those invoices. We do this because charges that appear obscure or inaccurate to our customers cannot inspire them to change their practices to support a more efficient, more fluid, and more consistent network. Union Pacific is therefore fully motivated to ensure clarity in invoicing and to assist our customers in harnessing the power of online tools such as CES. As Kenny Rocker, Executive Vice President of Marketing and Sales at Union Pacific Railroad, stated during his testimony:

[W]e've utilized technology to hold Union Pacific accountable and provide our customers visibility to manage their inventory levels.

Oversight Hearing Transcript at 128, lines 1-3.

We inserted technology and tools to give customers better visibility for their pipeline and [help] them manage their shipment more effectively.

Id. at 139, lines 3-6.

Union Pacific has made significant investments to give our customers transparency. But we also understand that technology is useful only if the customers know how to use it. We have trained and deployed our employees and have online demos and training tools to assist our customers, and are always ready and willing to help customers understand how to use the tools and how the data can best be applied.

### **THE MANDATE WILL INCREASE COSTS, BUT ADD NO BENEFIT FOR UNION PACIFIC CUSTOMERS**

The Billing NPRM will impose additional costs on Union Pacific and its customers without providing customers any realizable benefit. The proposed rule would require Union Pacific to take several resource-intensive steps to ensure its printed invoices meet the mandate: (1) map the newly-required data to the invoice style sheet; (2) work with the contracted printer to create the new invoice format with contracted printer; and (3) reprogram Union Pacific's invoicing systems. As noted above, the resultant invoices would be substantially longer than the current version. Stock V.S. at 3. Our customers' employees would necessarily spend more time each month examining longer, more cluttered invoices. These efforts and costs may seem intuitively modest, but they will add up to become a significant unintended burden for Union Pacific's customers. Those costs will seem even more outsized in light of the fact that all Union Pacific customers already have ready access to the data needed to both verify their invoices and dispute accessorial and demurrage charges.

### **CONCLUSION**

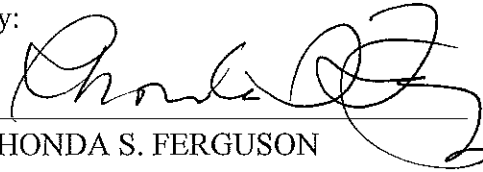
Like the Board, Union Pacific wants its customers to have full transparency to the information that will help them manage their shipments, understand their accessorial and demurrage charges, and modify their practices to best support an efficient, fluid, and reliable network for everyone. Union Pacific has made significant and deliberate investments in a robust system that is not limited to a single month of accessorial and demurrage charges (which is all the customer can ultimately find in an invoice). Customers are best served by data access they

can use to analyze, manipulate, and harness their supply chains to make their business more efficient and competitive. Union Pacific stands to benefit greatly from that enhanced customer outcome. Union Pacific respectfully submits that the Billing NPRM does not support – and will likely degrade – our efforts to realize that outcome.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

By:

A handwritten signature in black ink, appearing to read 'Rhonda S. Ferguson', written over a horizontal line.

RHONDA S. FERGUSON

CRAIG V. RICHARDSON

TONYA W. CONLEY

Union Pacific Railroad Company

1400 Douglas Street

Omaha, Nebraska 68179

(402) 544-7004

## **VERIFIED STATEMENT**

### **OF**

### **BRADLEY STOCK**

My name is Bradley Stock. I am the General Director of Revenue Accounting for Union Pacific Railroad Company. I have held this position for 6 years. In my current role, I lead the team responsible for assessing and collecting accessorial and demurrage charges including the issuance of invoices through Union Pacific's Chargeable Events System (CES).<sup>1</sup> I am submitting this statement to make three points with respect to the proposed requirements for accessorial and demurrage invoices: (1) the online tools Union Pacific makes available to its customers provide superior information to what would be required by the proposed rule; (2) most Union Pacific customers receive electronic invoices and all customers have access to online data; and (3) the proposed rule will waste resources without providing benefit to Union Pacific's customers.

#### **I. Customers Have Access To Superior Information Through Online Tools**

Over the last several years, Union Pacific worked very hard to give customers access to information. The results of these efforts are now being realized in a variety of ways. One such way is the online Chargeable Events System or CES. To assist the Board in understanding just how easy it is to use CES, we are submitting, subject to a protective order, the demonstration video that is available to all customers. The video shows customers how to access a wealth of data related to the customer's current and past demurrage charges.

When a customer logs into its myUPRR account, the customer is immediately presented with the option to go to CES. As shown in the CES demo video, the customer is presented with a

---

<sup>1</sup> As explained in Union Pacific's comments in Ex Parte 754, Union Pacific's demurrage charges are managed through CES.

snapshot of its current month demurrage charges. With just a few additional clicks, the customer can view a real-time, day-by-day inventory of cars in the customer's serving area and cars at the customer's facility along with a running total of debits, credits, and charges. The customer can click on a group of cars to receive additional information on those cars, including waybill date, load/empty status, commodity, shipper/consignee/care-of-party, origin, placement date, release date, and ordered in date. The customer can also view this car data from any invoice issued in the last 12 months.

The utility CES provides to customers exceeds any benefit customers could receive from an invoice that includes the proposed information. In addition to the CES information above, customers have the option of creating custom reports incorporating up to 28 data fields of the customer's choosing. All of this information can be exported by the customer into an Excel spreadsheet. From there, the customer can perform its own calculations or analysis or import the data into the customer's own systems.

The modified invoice described in the proposed rulemaking would be much more difficult to use. The customer would have to manually enter the information into a spreadsheet if it relied on the paper invoices. Even then, the customer would only have access to the information on the invoice. If the customer wanted additional information, it would need to do what most of our customers do on a daily basis – access CES. A customer could use CES to replicate the proposed additional information (to the extent that information is applicable to Union Pacific) and print a report mimicking the invoice.

## **II. Customers Are Using The Online Tools**

Today, 72% of the demurrage invoices Union Pacific issues are issued electronically. For an electronically-invoiced customer to view a demurrage invoice, the customer would login to its

myUPRR account and view an Adobe file (pdf). While in myUPRR, the customer would be a link or two away from all of the account information available in CES. It is unlikely that a customer would refer to information on a pdf invoice instead of using the Excel-friendly information available in CES. The vast majority of Union Pacific's customers are already accessing our online tools. Those tools provide formatted information that is superior to what would be required under the proposed rule.

Even if a customer receives paper invoices, the customer still has access to CES. While we do not have statistics on which individual customers access CES, there are currently over 38,000 active users of Union Pacific's online customer account system.<sup>2</sup> If a customer has any questions about an invoice, the customer can access CES and review all of the relevant information. We also offer support services and resources for customers that are less familiar with Union Pacific's online systems.

### **III. Adding More Information To Invoices Is Unnecessary And Would Waste Resources**

In light of the extensive, organized, and readily attainable information already at our customers' fingertips, it is unlikely the customers would gain from additional information placed on a paper invoice. However, there would be real costs associated with a mandate to supplement the invoice. Union Pacific would need to commit employees and informational technology resources to implement the proposed rules. The additional information would result in invoices twice as long as current invoices. This means each customer that receives a paper invoice will have to spend additional time each month reviewing the more cluttered invoice.

There is no reason to require this waste of resources and place this burden on all customers when every Union Pacific customer already has access to superior information.

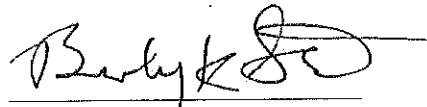
---

<sup>2</sup> A customer may have more than one user account.

### VERIFICATION

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge, belief, and information. Further, I certify that I am qualified and authorized to file this statement.

Executed on November 6<sup>th</sup>, 2019.

  
Bradley Stock

## **EXHIBIT 1**

Exhibit 1 is Highly Confidential Material subject to protective order.