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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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STB Docket No. EP 757
Policy Statement on Demurrage and Accessorial Rules and Charges

STB Docket No. EP 759
Demurrage Billing Requirements

**COMMENTS ON BEHALF OF
BARILLA AMERICA, INC.**

Sandra J. Dearden
Highroad Consulting, Ltd.
9011 Indianapolis Blvd., Suite A
Highland, IN 46322
(219) 838-3800

Consultant for
Barilla America, Inc.

Dated: November 6, 2019

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BARILLA AMERICA, INC.**

Barilla America, Inc. (Barilla) hereby submits its comments on the proposed Policy Statement on Demurrage and Accessorial Rules and Charges,¹ and proposed rules on Demurrage Billing Requirements,² in response to the Surface Transportation Board's (STB or Board) notices served on October 7, 2019.

Barilla thanks the Board for promptly issuing the proposed policy and rules and we support the Board's proposals. Barilla hereby provide a few brief comments on each proposal below.

¹ *Policy Statement on Demurrage and Accessorial Rules and Charges*, STB EP 757.

² *Demurrage Billing Requirements*, STB Docket No. EP 759.

1.0 EX PARTE 757 - POLICY STATEMENT ON DEMURRAGE AND ACCESSORIAL RULES AND CHARGES.

Barilla supports the principles behind the proposed policies that (1) confirms a policy that demurrage rules are to incentivize the efficiency of the rail network and (2) addresses the unreasonableness of charges that are outside the “reasonable control of the shipper to avoid.”³

The proposed Policy Statement also includes the Board’s principles regarding the notice period provided to rail shippers and receivers for major demurrage rules changes. In the Policy Statement, the Board states that “railroads should provide sufficient notice of major changes to demurrage and accessorial tariffs to enable customers to evaluate, plan and undertake any feasible reasonable actions to avoid or mitigate new resulting charges.”⁴ The Board also encourages the railroads to work with their customers by taking other measures, including delayed billing and working with those that need more flexibility.”

Without a doubt, the rail industry and technology has changed. Capacity is a developing issue as the railroads continue to increase the assets that move on their network. At the same time, rail customers like Barilla are also experiencing significant business growth. Barilla firmly agrees with the principles set forth by the Board, and we believe they will establish a foundation for the railroads and their customers to recognize one another as partners when addressing issues and potential rules changes in the future.

2.0 EX PARTE 759 - NOTICE OF PROPOSED RULEMAKING ON DEMURRAGE BILLING REQUIREMENTS.

In the NPRM, the Board proposed to only apply demurrage billing requirements to Class I railroads, but they requested comments as to whether they should also apply to Class II and Class III railroads.⁵

³ Policy Statement at 14.

⁴ Policy Statement at 19.

⁵ NPRM at 10.

Barilla's flour mill in Avon, New York is located on a short line railroad; the Livonia, Avon & Lakeville Railroad (LAL) is an integral part of our mill's operation and they are a good logistics partner. However, any demurrage that incurs at Avon, is billed by the LAL. The people at LAL are industry professionals, so it does not seem logical to exclude the LAL and other Class II and Class III railroads from the proposed rules.

3.0 CONCLUSION

Barilla commends the Board for taking prompt action to address demurrage and accessorial rules and practices. After the hearing on May 8, 2019, STB Ex Parte 754, *Oversight Hearing on Demurrage and Accessorial Charges*, some of the rules established by the railroads effective January 1, 2019 have since been removed, and the Board's actions have opened dialogue between some railroads and their customers. Barilla supports the Board's proposed Policy Statement and rules, and we encourage the Board to act quickly to adopt its proposals consistent with our comments herein.

Respectfully submitted,

Barilla America, Inc.

By its consultant:



Sandra J. Dearden
Highroad Consulting, Ltd.
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