

Surface Transportation Board
Docket No. EP 759: Demurrage Billing Requirements

Comments by Quad, Inc.

Quad is a leading Marketing Service Provider and Commercial Printer. Quad employs nearly 20,000 people throughout the United States with a network of 53 printing plants across 23 states. This nationwide footprint relies heavily on a paper supply that is sourced throughout the United States and Canada. Shipping logistics is a significant part of the business as we work to meet our clients' needs and maintain print as a cost effective advertising media for marketers of all size and shape. Additionally, Quad is part of a mailing industry that employs over 7 million people and accounts for \$1.4 trillion of economic activity each year. Economic activity that is negatively impacted by disputes related to demurrage.

Supply chain logistics are an ever increasing cost of doing business in the printing industry. Under current practice the railroad's insistence on the receiver of, in our case, paper being responsible for demurrage fees is unsustainable and puts additional pressure on an industry already disrupted by digital substitution and an uncertain future for our primary clients...i.e. retailers. Total cost to produce the printed products, including the raw material supply chain, is a significant factor in the secular decline of the print industry and our demand for paper. Demurrage fees placed on the receiver add to the cost pressures and serve to hasten the digital shift away from paper as a cost cutting effort for our customers. It is for this reason that Quad supports the proposed rule changes contained in Docket No. EP 759.

As stated in the Docket, the Board proposes two changes to its existing demurrage regulations:

- First, the Board proposes certain requirements regarding Class I carriers' demurrage invoices, such as minimum information to be included on or with those invoices.
 - The documentation requirements, as proposed, will improve transparency and improve communication between all involved in the transaction.
 - Transparency will enable invoice recipients to verify the validity of the demurrage charges and will permit shippers and warehousemen to properly allocate demurrage responsibility amongst themselves based on contracts that are signed by mutual agreement.
 - Additionally, as the Board correctly states, such agreements will assist shippers and receivers in determining how to modify their behavior to encourage the efficient use of rail assets, thereby fulfilling the purpose of demurrage.
- Second, the Board proposes a requirement for Class I carriers that if a shipper and warehouseman agree that the shipper should be responsible for paying demurrage

invoices, the rail carrier must, upon receiving notice of that agreement, send the invoices directly to the shipper, and not require the warehouseman to guarantee payment.

- This change ensures that the proper party receives the invoice and will enable the demurrage fees to be paid expeditiously and without conflict between customer and supplier.
- Notwithstanding the foregoing, we believe under no circumstances should the receiver be responsible for demurrage, regardless of whether any agreement exists between shipper and receiver. In our industry, the shipper is solely responsible for (1) timing of shipment, (2) timing of delivery, (3) volume to be shipped, including the number of rail cars that will be arriving at any given time, etc.
- Moreover, rail companies have an unfettered right to raise demurrage tariffs without any meaningful or arms-length negotiation with receiver of the tariffs or circumstances giving rise to a tariff.

Under current rules, invoices are provided to the warehouseman without the appropriate and detailed documentation of who the original shipper was, the status of each car, the commodity being shipped or the cause of the delay resulting in the demurrage fees. Due to this lack of specificity contained in the invoice warehousemen are unable to determine how to allocate demurrage fees to the shipper based on our individual agreements or even to challenge the validity of the demurrage fee resulting in misappropriation of the fees and disputes between customers, suppliers and carriers.

The proposed rule changes are common sense reforms that will ensure that agreements between suppliers and buyers are respected by the carriers, will reduce or eliminate disputes between the shipper and warehouseman which in turn will ensure prompt payment of the demurrage fees by the appropriate party based on individual contract terms.

In our situation, either Quad or in many cases our client places an order with a paper company and provides the mill with deadlines for delivering the paper to the appropriate printing plant. However, that is as involved in the shipping process as Quad can be. Quad does not decide the production schedule of the paper, nor do we decide what mode of transportation the shipper decides to use to ship the product to us or the volume of each shipment of rails that are in the network. All of these could result in a bottleneck that creates a delay for the railroad and none of them are in control of the warehouseman.

The shipper and their clients see the benefit of rail but not the impact of demurrage. Somewhat inexplicably those costs have been placed on the receiver of the product regardless of the fact that in many cases the cause of the delay is not a result of the warehouseman's actions. To be clear, when the delay is caused by the warehouseman requiring the warehouseman to pay demurrage fees is appropriate. The transparency created by these rule changes will assist with assigning the demurrage appropriately between all parties and provide for a much more efficient transaction and flow of commerce therefore reducing costs for all involved.

If the status quo continues, companies such as Quad will have no choice but to work with our clients and the paper mills that we purchase from to ensure that the paper we are ordering and receiving comes to us via truck in order to avoid the burdensome demurrage fees that are simply imposed on us by the railroad company. Especially when you consider that as stated earlier the demurrage fees cannot be validated or specifically justified. This will have a number of unintended consequences. Currently, we purchase paper from mills across the United States and Canada based on a number of criteria but price being a significant factor. When the mills have multiple options to ship the product to us that creates competition and reduces costs. However, if these arbitrary demurrage fees force Quad to only order from mills that will ship via truck shipping costs potentially will be increased and we will be compelled to alter our purchasing habits and source paper closer to Quad facilities thereby limiting the number of paper mills that can provide cost effective paper. If those facilities are not able to meet our demand and we must ship from farther distances it will result in higher costs for our customers and in turn, lower demand for paper overall.

The common sense reforms contained in Docket EP 759 will provide consistency between Class 1 carriers, ensure that agreements between suppliers and customers are honored and provide the necessary transparency to avoid needless disputes over who is responsible for demurrage fees. All of these reforms will enhance interstate commerce and promote economic development in an industry that is already dealing with intense price pressures that is driving out volume. For all these reasons, Quad encourages the Surface Transportation Board to adopt these reforms and partner with an industry that provides 7 million hard working people with family supporting jobs.

Thank you for your consideration of our comments and we look forward to working with you enact these common sense reforms.

Sincerely,

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