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TO:

The Surface Transportation Board
395 E Street, SW
Washington, DC 20423

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RE: Comments on Proposed Rulemaking in Demurrage Liability, EP 707,

To the STB,

This corporation, Continental Terminals, Inc. (CTI) is a public warehouse company operating on the Norfolk Southern Rail Road. These comments apply primarily to the Chesapeake, Virginia division but would apply to any of the four locations if they were served by rail. CTI VA has over 20 year experience with receiving rail cars to be unloaded into our warehouse for further disposition by our clients. We own nothing we handle, we do own the facility. The facility can accept 10 cars per switch and owns the 1800 feet of tracks on its property. We are closed to switching and are open-gate.

The primary type of product that arrives in railcars is rolled paper of varying grades and sizes from many different paper mills in the Eastern US. Understanding demurrage and tracking rail cars is vital for many reasons but specifically so that the railroads do not levy fees and penalties on CTI because of actions the railroad takes, which are beyond the control of the warehouseman to control or manipulate. CTI has a policy that every car delivered to our warehouses will be unloaded and returned to the railroad on the next switch. We do not create demurrage.

Background on rail demurrage is that the penalty was established for manufacturers, not warehouses. Many high volume manufacturers have had a habit of hoarding cars and leave them on sidings until they need them. Some manufacturers even use some rail cars as rolling warehouses. These actions result in low car utilization or improper use, at the manufacturing site, the penalty seems appropriate and is certainly not a "warehouseman's issue." It is what the railroad does in-between the manufacturer and the warehouse that it becomes clear that the railroad by their own actions alone creates environments where demurrage cannot be avoided by the warehouseman.

There are several points that should be considered to back-up that last statement, "*...by their own actions alone creates environments where demurrage cannot be avoided by the warehouseman.*"

The first of these is, "**BUNCHING.**" This occurs when the manufacturer releases loaded cars to the railroad and the cars are marshaled in a nearby or intermediate rail yard. The next day the manufacturer again releases more cars and they too are received in the rail yard and, so on for several days. Often the railroad will hold cars in the yard for days "For Rail Road Convenience" instead of sending them down the line when the loaded cars are released by the manufacturer. Therefore instead of getting cars from "production-day one" to unload, the railroad waits to move the cars until several days worth of production are moved together. Therefore instead of a few cars to unload each day when the train arrives in the area of the warehouse there are many more cars than the warehouse can receive. Therefore by the actions of the railroad alone they have created a demurrage issue because of "**BUNCHING**" cars along the route. This has been and continues to be an ongoing problem. Once the cars are "in the local rail yard" and ready for delivery the railroad places them in "Constructive Demurrage" and that is when the railroad starts the demurrage clock.

The next environment that creates demurrage is also one the railroad creates solely through their own actions through lack of "**SERVICE.**" CTI will receive cars whenever the railroad will deliver. CTI is a non-union, "open gate" facility, so cars can be pulled and spotted even though there are no CTI personnel site. With the previous comment on "**BUNCHING**" in mind and since the railroad does not provide more than one switch per day and, none on weekends and holidays, CTI has no access to the cars in the NS local yard yet the demurrage clock continues to run on the cars in their local yard under "Constructive Demurrage." CTI has repeatedly offered to work second and third shifts and on weekends to receive cars so as to prevent demurrage and return cars to the NS faster but the NS will not provide second switches nor spot the facility on weekends and holidays. If the warehouse cannot get the service to spot the cars, it cannot unload them and therefore again, by the railroad actions alone, demurrage is created.

The third environment which creates demurrage is "**FAILURE TO DELIVER**" cars when ordered-in to the warehouse. This is a delay in being able to unload the cars and therefore creates demurrage. Not because of the warehouseman, but because of the railroad.

The fourth environment that creates demurrage is, "**ORDER OF DELIVERY.**" This is a situation that occurs at the rail yard by the railroad delivering the last cars arriving at the yard to the warehouse first. Therefore the first cars into the local yard are left to create demurrage because of, "Constructive Placement" and being the last to leave the yard and be placed at the warehouse. The reason given by the railroad for this is they did not want to move all the cars on the track to get to the ones on the end of the string of cars, which were the first received. That is again evidence that the railroad by its actions alone creates demurrage for warehousemen.

The final environment where the rail road creates demurrage is by trying to "**CONTROL THE DELIVERY**" of cars from a central yard office in a city far away from the warehouse. The railroad has a directive that precludes direct contact with local yardmasters and trainmasters to arrange the spotting of cars. A central yard office in Atlanta, for example, has little or no knowledge of the facilities being served nor the nuances of the routes, actions of the local yards and the individual crews serving the customer warehouse.

THE PROPOSED SOLUTION: CTI thinks that the solution for warehouses and transloaders is simple and places the control of demurrage in the hands of the warehouseman. If the warehouseman does not perform, he gets a penalty. Fair enough.

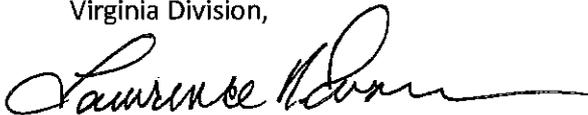
1. Start the demurrage clock when the car is delivered to the warehouse, not the local rail yard.
2. Allow two full work days to unload and return the cars to the railroad.
3. If there is no service on weekends and holidays, the demurrage clock stops.
4. Cars not returned to the rail road in the two working day preiod are subject to demurrage

Since the warehouseman should not be penalized for any action it cannot control, this action puts the control in the hands of the warehouseman. It is so simple that perhaps large corporations do not see it because it is difficult for large corporations to make simple decisions.

Interestingly enough another "for rail road convince" action that demonstrates that rail car utilization is not a justification for rail demurrage is the fact that the railroads do not always pick-up cars that are released empty. Often times the cars sit on the warehouse tracks for days and are not removed until new inbound cars are received or enough calls are made to the railroad to come get the cars. If rail car utilization was so important, why would the railroad let empty cars sit on the warehouse tracks or siding after they are released? It is so obvious that even a blind man can see that the railroad wants it both ways and rail demurrage **IS** revenue the railroad makes up for in other losses and often at the hands of the warehouseman.

Continental Terminals, Inc. is pleased to respond to questions or comments on the subject of rail car demurrage for warehouses and transloaders.

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Virginia Division,



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