

October 31, 2018

Chairman Ann Begeman
Vice Chairman Deb Miller
U.S. Surface Transportation Board
395 E. Street SW
Washington, D.C. 20423

To Whom It May Concern:

The purpose of this letter is to make the Surface Transportation Board aware of changes in Norfolk Southern Railroad's Demurrage Tariff 6004-D (the "Tariff") that are to become effective on January 1, 2019 and will have a substantial, adverse financial impact on my company, Saddle Creek Corporation, and other Receivers served by Norfolk Southern. These tariff changes relate to free time to unload, demurrage rates and the timing and method of disputing demurrage charges. These changes are not driven by any sense of fairness to Receivers or any legitimate business purpose but are designed solely to unfairly generate revenue for Norfolk Southern at the expense of Receivers.

Post the decommissioning of the Interstate Commerce Commission in 1995, railroads no longer are required to file tariffs with a regulatory agency. Thus, the Board likely will not be aware of unreasonable demurrage rule changes unless a Receiver complains to the Board. This is such an occasion.

Pursuant to Rules 650 and 1010 of the Tariff, Norfolk Southern will reduce the unloading free time from forty-eight hours to twenty-four hours. See also the "Summary of Revisions" on page 14 of the Tariff. For decades, the rail industry's usual and customary standard has been forty-eight hours unloading free time. Twenty-four hours free time for a Receiver that has a large car spot capacity, like my company, does not always provide ample time to unload and release cars which will invariably result in demurrage charges under the new Rule. This will be further exacerbated by commodities that take longer to unload, such as bagged commodities.

When CSX made this same reduction in free time effective January 1, 2018, it collected seventy – one million dollars in the first quarter of 2018 alone. Like the CSX, the Norfolk Southern, pursuant to its Rule 1010, also will increase the per day demurrage charge from \$100.00 to \$150.00. There is absolutely no justification for increasing the daily demurrage charge other than revenue generation.

To make the Receiver's right to challenge demurrage charges more burdensome, the Norfolk Southern, pursuant to subparagraph 9 of Rule 950, will require the petitioner to file a dispute by the fifth calendar day of month after the accrual of the demurrage charge or be charged a non-refundable handling charge of \$500.00. If a Receiver's operation is similar to my company's operation with multiple track locations, this is simply not enough time to collect data from multiple track locations to dispute demurrage charges within the five day time period required by the Rule change. To make demurrage challenges more Receiver burdensome, if the dispute is not electronically submitted on Access NS, the Norfolk Southern will charge another non-refundable handling charge of \$500.00.

Most demurrage charge disputes are extremely complex. Limiting a Receiver's time frame to submit demurrage charge disputes to the five day time period before a \$500.00 penalty applies and requiring such disputes to be filed electronically, provide Norfolk Southern with greatly increased opportunity to unfairly generate revenue from Receivers.

The Norfolk Southern claims that these demurrage rule changes are required to reduce car dwell time and create car availability. This is simply not true. The most common commodities public warehouse operators, like Saddle Creek Logistics Services, receive by rail are paper products, food, steel, wood products and beverages. In a comparison of dwell time system wide as of October 10, 2018, the Norfolk Southern reported an average of 25 hours, BNSF an average of 27.3 hours, CSX an average of 18.2 hours, UP an average of 28.1 hours, CP an average of 22.9 hours and CN an average of 15.2 hours. In the scheme of things, Norfolk Southern's dwell time is not unusually high for the type commodities it hauls.

What really needs to be considered is overall rolling stock. Boxcars, which are the type of railcars that Saddle Creek receives from its customers, account for 5% to 8% of all railroads' rolling stock and typically are not dwell time culprits. In fact, public warehouse operators have a significant incentive to unload cars as quickly as possible because they can only invoice their customers after the inbound commodities are unloaded. It is unreasonable for the Norfolk Southern to attribute demurrage rule changes to dwell time. These changes are simply an excuse to increase revenue and profits by making it almost impossible for Receivers to avoid demurrage charges.

There is no doubt that my company and all other companies who are dependent on rail commerce will suffer unnecessary, unfair and substantial expenses as the Norfolk Southern and other railroads add to their accessorial charge coffers from rule changes specifically designed to increase revenue and profits to the detriment of Receivers. I respectfully ask the Board to investigate the Norfolk Southern demurrage Tariff Rule changes as being unreasonable rules and practices. These changes in Norfolk Southern's Tariff will become effective January 1, 2019, having been recently issued on October 1, 2018. Time is of the essence.

Thank you for your consideration.

Sincerely,



Thomas Patterson
Sr. Vice President – Transportation Services
Saddle Creek Logistics Services