BEFORE THE SURFACE TRANSPORTATION BOARD

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Docket No. EP 754, Oversight Hearing on Demurrage and Accessorial Charges

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ORAL TESTIMONY OF THE NATIONAL COAL TRANSPORTATION ASSOCIATION

Chairman Begeman, members of the Board, my name is John Ward and I serve as the executive director of the National Coal Transportation Association. On behalf of our members, I sincerely thank you for your commitment to address this issue and your stamina in seeking to understand what is happening in rail markets today.

Our organization consists of electric utilities, coal producers, and entities that produce, repair, and manage all facets of railcar component parts and systems. Our members have invested heavily in the ownership, leasing, and control of fleets of railcars, which they provide to the railroads in unit trains of up to 150 cars. These fleets represent about 45% of coal cars in service in the eastern U.S. and close to 90% of the coal cars in service in the western U.S. Today, coal represents, as a commodity, about 36% of carloads originated by Class I carriers.

At the risk of sounding like a history professor, I'd like to provide a little context concerning our members' relationship with the railroads. Railcar technology and design evolved rapidly during the early implementation of the Staggers Act. At that time, the rail carriers asked coal shippers to provide the capital to purchase unit trains of railcars to serve them, as the carriers did not have satisfactory access to credit. Coal shippers and receivers responded with many billions of dollars of capital to maintain rail as a viable option to transport coal. These investments extended far beyond the purchase of modern trainsets to include fast loading and unloading systems, multiple loop tracks, and batch weigh loadout systems. Furthermore, mines and utilities organized to meet railroad schedules on a 24/7 basis and maintain large and expensive stockpiles of product at both origin and destination. This stockpile factor allows railroads to miss delivery schedules by days and weeks and represents the largest “surge or smoothing” capacity in the rail system between origin and destination. This stockpiling of a product exists at no cost to the rail carrier.

That’s the history of Staggers implementation. Today, the table has turned. It is the railroads who are experiencing record profitability and the coal industry that is suffering from withering competition from other energy sources and adversarial public policy. Despite this change in circumstances, I am here to testify that our members are experiencing the same demurrage and accessorial fees issues related to Precision Scheduled Railroading that you have heard recounted over and over again these past two days. Our written testimony contains specific examples. I will summarize by stating that the coal transportation market is suffering from substantial increases in fees, unilateral changes to railroad policies, and systems that put the substantial burden of disproving erroneous fees solely on the backs of the shippers.

Our members still desire to have financially healthy rail carriers that can provide reasonable service at reasonable rates. We fully support the goals of improving efficiency and reducing network congestion. We continue to have productive relationships with railroads on an operational level. Our members' commitment to the maintenance, operations, and repair of the tens of thousands of coal cars in their fleets is so significant that we hold an annual conference on best practices for fleet management, which rail carriers helpfully participate in. But as you have heard during two long days of hearings in a very large room – a room where the initial shortage and now over-supply of chairs probably provides some analogy for the concept of demurrage – there is a need for the Surface Transportation Board to take actions that ensure the implementation of Precision Scheduled Railroading under any name is carried out fairly and equitably.

Taking off my history professor hat and becoming an English major for just a moment: I've noticed Member Oberman's interest in definitions. "Reciprocity" is defined as "a mutual exchange of privileges, specifically: a recognition by one of two institutions of the validity of licenses or privileges granted by the other." The coal industry was there for the railroads when they needed capital for railcars, infrastructure, and business models that offer schedule flexibility. Fair treatment during PSR implementation is not too much to ask for in return. Thank you.