CSR
Consolidated Scrap Resources, Inc.

March 6, 2019

The Honorable Ann Begeman, Chairman
The Honorable Patrick J. Fuchs, Vice Chairman
The Honorable Martin J. Oberman, Member
Surface Transportation Board
395 E Street, SW
Washington, D.C 20423-0001

RE: Norfolk Southern Tariff 6004-D; Elimination of Empty Private Car Storage Credit Days

Dear Chairman Begeman, Vice Chairman Fuchs, and Member Oberman:

I write first to introduce Consolidated Scrap Resources, Inc. (CSR) to the Surface Transportation Board. CSR is a privately-held, fourth-generation scrap steel, metal, paper and plastic recycling company with six locations in Southcentral Pennsylvania. We employ approximately 135 people. We are also members of the Institute of Scrap Recycling Industries (ISRI).

For decades, we have shipped our products, in particular ferrous scrap commodities, to consumers via rail. While we also ship some of those same products by truck, our customer base is too wide-spread geographically to economically and practically deliver to all of those consumers by truck. Accordingly, we are highly dependent on rail service.

Our largest processing plant is located in Harrisburg, PA. In so far as rail service there, we are captive to the Norfolk Southern (NS). For many years, in general prior to 2012, we used NS system railcar equipment to ship our products and paid a higher shipping rate to NS for that benefit. Beginning after that, and particularly after 2014, procuring NS railcar equipment to use for our shipments became increasing difficult. Often, we would order cars and they would not be available. We came to learn over time, that NS was both reducing the amount of system cars available for use in general, and in particular to scrap steel shippers. By the later part of 2017, it was rare that we would ever receive the requested railroad car equipment to lease from NS. As a result, we initially entered into multi-year lease agreements with car lessors beginning in 2012 and continuing to the present day, as we can no longer rely at all on NS to provide the railcar equipment that they provided in the past.

In the scrap business, our revenues rise and fall each year depending on the demand for our products and the value of industrial commodities. Notwithstanding the rise and fall of the price of our materials, rail rates seem to move only higher. Indeed, the last two annual rate increases we received in 2017 and 2018 were approximately 4% and 6% respectively, well above the annual rate of inflation. There was little room for negotiation. In light of our dependence on rail service, we were forced to accept these rate increases or choose to not ship to customers to whom we can ship to only via rail and with whom we had developed solid and on-going supply arrangements.

The most difficult situation that we have faced over the last 24 months, however, has been the unilateral move by NS to progressively reduce, and now essentially eliminate, Empty Private Car Storage Credit Days ("Credit Days"). In an announcement on August 1, 2017, NS informed customers that pursuant to its Tariff 6004-D it would gradually reduce the number of Credit Days for customers' private railcars from five (5) to two (2) beginning on October 1, 2017. By June 1, 2018, customers would earn two Credit Days for each private car constructive placement. Then, in an announcement dated October 1, 2018, NS informed customers that effective January 1, 2019 it would reduce Credit Days earned for each constructive private railcar placement from two (2) days to zero (0) days.

We were stunned to receive both of these notices. After years of relying on the Credit Days to plan for capital investments, operations, shipping strategies, and overall product marketing, NS was informing us that they were changing the rules simply because they think that they can and no one could seemingly stop them. It is a simple revenue grab as demonstrated by the following excerpt from NS's January 30, 2019 letter to the STB reporting its revenue from demurrage and accessorial charges for each quarter of 2018. On their face, these figures show the dramatic increase in revenue NS has derived from the changes to its demurrage tariff that took effect in June 2018.

As requested, Norfolk Southern's quarterly revenues from demurrage and accessorial charges for each quarter of 2018 are presented below:

	2018			
	Q1	**Q2**	**Q3**	**Q4**
49 C.F.R. Pt. 1201		*($ in 000s)*		
(106) Demurrage	$ 55,501	$ 55,528	$ 62,308	$ 70,284
(110) Incidental	21,051	23,341	23,368	24,296

Indeed, CSR's demurrage costs it has paid to NS have increased dramatically as well over the last several years. Looking at our monthly demurrage costs, we paid 560% per month more in 2018 than we did in 2017. Our average per month demurrage cost through the first two months of 2019 is 80% greater than our average per month cost in 2018, and more than 1,000% greater than our per month cost in 2017. Normally, when one pays more for a service one would expect some benefit in return. That is what is most frustrating in all of this – we have not had any benefit from paying these huge cost increases from the demurrage tariff. NS is simply demanding that after doing business a certain way for years, we now have to pay up in a big way because they have decided that is what they want for their shareholders.

Even if NS were to claim that the changes to the tariff improves overall efficiency, such a claim is highly dubious. Shippers, including CSR, often cannot simply change their business plans and practices just to pull their private cars off NS rail siding more quickly. No demurrage charge is going to change that. If shippers like CSR are paying to lease cars, their incentive is to turn those cars as quickly as possible. Not using those cars costs the shipper. Now the shipper has to pay an extra charge to NS because NS sees an opportunity to squeeze the shipper as well, and they think that the shipper has no recourse.

The concept of providing five (5) Credit Days for shippers made good sense. The railroad controls when a car is constructively placed for the shipper to load. Each shipper has unique physical and space limitations at their plants for how many cars they may be able to bring onto their private rail siding at a given time. In fact, often times, it is NS that decides how many cars they are even willing to spot for loading by the shipper at a given time. Providing shippers a brief period of time (five (5) days) to request their private cars be spotted for loading once NS constructively placed the cars was a reasonable accommodation to the shipper, the party that has no control over the number of and when those cars were constructively placed. Now, the NS is expecting, indeed demanding, that if shippers want to avoid large demurrage fees they must change their operations to accommodate NS's new business plans. That is not only unreasonable, it is also completely impractical for many shippers like CSR.

Fundamentally, this is a situation of one dominant party that enjoys a clear monopoly over its customers, using that elite power position to take advantage of the customer. The NS is engaged in a pure revenue grab under the pretext of becoming efficient, ultimately to satisfy shareholders and help their stock price, all while disregarding and forsaking their common carrier obligations and duties to the shippers who are paying their bills and have no choice in the matter.

We are asking simply for a revocation of *all* the changes to the Credit Days tariff since 2017 so that small business shippers like CSR can effectively plan their investments and operations in a reasonable and relatively stable and predicable manner.

Thank you in advance for your attention to our situation.

Sincerely yours,
CONSOLIDATED SCRAP RESOURCES, INC.

By: ______________________
Benjamin C. Abrams
President and CEO

CC: Billy Johnson, ISRI