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March 5, 2019

The Honorable Ann D. Begeman
Chairman
Surface Transportation Board
395 E St., S.W.
Washington, DC 20423-0001

Dear Chairman Begeman:

The National Grain and Feed Association (NGFA) commends your actions that have put a spotlight on tariff rules, demurrage and accessorial charges implemented by the Class I railroads as most transition to a so-called "precision-scheduled railroad" operating model.

Established in 1896, the NGFA consists of more than 1,100 grain, feed, processing, exporting and other grain-related companies that operate more than 7,000 facilities and handle in excess of 70 percent of all U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the nation's grain, feed and processing industry. The NGFA also consists of 33 affiliated State and Regional Agribusiness Associations. In addition, the NGFA has a strategic alliance and is co-located with the North American Export Grain Association (NAEGA), and has a strategic alliance with the Pet Food Institute.

Your efforts dating back to November 2018 calling on Class I railroads to examine demurrage and accessorial charges set forth in their tariffs from the standpoint of commercial fairness and appropriate reciprocity is welcomed by NGFA and rail customers, and is greatly needed. So, too, are your actions to increase transparency on the extent to which Class I carriers now are generating significant additional revenues through these practices. The reports submitted in response to your request by the seven Class I railroads operating in the United States showed that in 2018 alone, more than $1.43 billion in revenue above and beyond the line-haul freight rate was generated through demurrage and accessorial charges imposed on rail customers. We appreciate your action to request such reporting continue on a quarterly basis during 2019, and respectfully ask that you consider seeking such reporting in 2020 and future years.

In many cases, NGFA members believe that the level of charges and the rules under which they are being imposed are commercially unfair and lack appropriate reciprocity when it comes to non-performance by rail carriers, and far exceed what is necessary to achieve the stated purpose of encouraging the efficient utilization of rail assets. Instead, NGFA members believe many Class I carriers increasingly are using demurrage and accessorial charges as a significant additional revenue source to reward shareholders and impress Wall Street investors.

Since the fourth quarter of 2018, the NGFA has been documenting – and continues to compile – specific examples of demurrage and accessorial charges that our members believe are commercially unfair, unreasonable and non-reciprocal. Further, there has been no letup in the rapid frequency with which these tariff rule changes are being imposed by many Class I carriers on their customers during the first quarter of 2019.

These are hugely important matters for agricultural and other rail customers. The NGFA looks forward to providing numerous carrier-specific examples of commercially unfair and non-reciprocal demurrage and accessorial charges to the Board in the near future.

Thanks again for the appropriate and much-needed attention you have brought to this important matter.

Sincerely,

Randall C. Gordon

Randall C. Gordon
President and Chief Executive Officer

cc: The Honorable Patrick Fuchs, Vice Chairman
The Honorable Martin Oberman