

channels or stations for more than one month during the immediately preceding calendar year may elect to pay the Proxy Fee and receive the reporting waiver described in this paragraph (d)(1) during a calendar year, if it implements measures reasonably calculated to ensure that it will not make Educational Transmissions exceeding 80,000 total ATH during any month of that calendar year. The Proxy Fee is intended to defray the Collective's costs associated with the reporting waiver in this paragraph (d)(1), including development of proxy usage data. The Proxy Fee shall be paid by the date specified in paragraph (b) of this section for paying the Minimum Fee for the applicable calendar year and shall be accompanied by a certification on a form provided by the Collective, signed by a duly authorized representative of the applicable educational institution, stating that the Noncommercial Educational Webcaster is eligible for the Proxy Fee option because of its past and expected future usage and, if applicable, has implemented measures to ensure that it will not make excess Educational Transmissions in the future.

(2) *Sample-basis reports.* A Noncommercial Educational Webcaster that did not exceed 159,140 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and that does not expect to exceed 159,140 total ATH for any individual channel or station for any calendar month during the applicable calendar year may elect to provide reports of use on a sample basis (two weeks per calendar quarter) in accordance with the regulations at § 370.4 of this chapter, except that, notwithstanding § 370.4(d)(2)(vi), such an electing Noncommercial Educational Webcaster shall not be required to include ATH or actual total performances and may in lieu thereof provide channel or station name and play frequency. Notwithstanding the preceding sentence, a Noncommercial Educational Webcaster that is able to report ATH or actual total performances is encouraged to do so. These reports of use shall be submitted to the Collective no later than January 31st of the year immediately following the year to which they pertain.

(3) *Census-basis reports.* (i) If any of the conditions in paragraphs (d)(3)(i)(A) through (C) of this section is satisfied, a Noncommercial Educational Webcaster must report pursuant to paragraph (d)(3) of this section:

(A) The Noncommercial Educational Webcaster exceeded 159,140 total ATH

for any individual channel or station for more than one calendar month in the immediately preceding calendar year;

(B) The Noncommercial Educational Webcaster expects to exceed 159,140 total ATH for any individual channel or station for any calendar month in the applicable calendar year; or

(C) The Noncommercial Educational Webcaster otherwise does not elect to be subject to paragraph (d)(1) or (2) of this section.

(ii) A Noncommercial Educational Webcaster required to report pursuant to paragraph (d)(3)(i) of this section shall provide reports of use to the Collective quarterly on a census reporting basis in accordance with § 370.4 of this chapter, except that, notwithstanding § 370.4(d)(2), such a Noncommercial Educational Webcaster shall not be required to include ATH or actual total performances, and may in lieu thereof provide channel or station name and play frequency, during the first calendar year it reports in accordance with paragraph (d)(3) of this section. For the avoidance of doubt, after a Noncommercial Educational Webcaster has been required to report in accordance with paragraph (d)(3)(i) of this section for a full calendar year, it must thereafter include ATH or actual total performances in its reports of use. All reports of use under paragraph (d)(3)(i) of this section shall be submitted to the Collective no later than the 45th day after the end of each calendar quarter.

(e) *Server logs.* Noncommercial Educational Webcasters shall retain for a period of no less than three full calendar years server logs sufficient to substantiate all information relevant to eligibility, rate calculation and reporting under this subpart. To the extent that a third-party Web hosting or service provider maintains equipment or software for a Noncommercial Educational Webcaster and/or such third party creates, maintains, or can reasonably create such server logs, the Noncommercial Educational Webcaster shall direct that such server logs be created and maintained by said third party for a period of no less than three full calendar years and/or that such server logs be provided to, and maintained by, the Noncommercial Educational Webcaster.

(f) *Terms in general.* Subject to the provisions of this subpart, terms governing late fees, distribution of royalties by the Collective, unclaimed funds, record retention requirements, treatment of Licensees' confidential information, audit of royalty payments and distributions, and any definitions for applicable terms not defined in this

subpart shall be those set forth in subpart A of this part.

Dated: February 10, 2020.

Jesse M. Feder,
Chief Copyright Royalty Judge.

Approved by:

Carla D. Hayden,
Librarian of Congress.

[FR Doc. 2020-03304 Filed 3-3-20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 20, 36, 51, 54, 61, 64, and 69

[WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; and WT Docket No. 10-208; DA 20-65; FRS 16475]

Wireline Competition Bureau Seeks To Determine Parties' Continuing Interest in Several Petitions for Reconsideration of Aspects of the USF/ICC Transformation Order

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this document, as part of the Commission's effort to manage its dockets and reduce backlog and in an effort to avoid the need to address issues unnecessarily, the Wireline Competition Bureau (Bureau) seeks to determine parties' continuing interest in eight pending petitions for reconsideration of various aspects of the intercarrier compensation provisions of the USF/ICC Transformation Order. The Bureau therefore plans to dismiss each Petition listed below with prejudice unless a Petitioner files a notice in the relevant dockets within 45 days of the date of **Federal Register** publication of this Public Notice specifying that it objects to the dismissal of its Petition.

DATES: Responses are due on or before April 20, 2020.

ADDRESSES: You may submit responses, identified by WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket No. 01-92, CC Docket No. 96-45, and WT Docket No. 10-208, by any of the following methods:

- *Federal Communications Commission's website:* <http://apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format),

send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), 844-432-2275 (videophone), or (202) 418-0432 (TTY).

A copy of each letter should be sent to: Marvin F. Sacks, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street SW, Room 5-A260, Washington, DC 20554; email: marvin.sacks@fcc.gov. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Marv Sacks, Wireline Competition Bureau, Pricing Policy Division at (202) 418-2017 or via email at: marvin.sacks@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s document, DA 20-65, released on January 14, 2020, in which the Wireline Competition Bureau (Bureau) seeks to determine parties’ continuing interest in eight pending petitions for reconsideration of various aspects of the intercarrier compensation provisions of the USF/ICC Transformation Order. 76 FR 73830, November 29, 2011. Each of

the Petitions was filed in 2011 and no entities have filed comments or *ex parte* submissions regarding these petitions for several years. In addition, the various requests for relief in the Petitions appear to be moot or are otherwise no longer relevant in light of regulatory changes, including ongoing intercarrier compensation and universal service reforms, that have occurred since these filings were made. The Petitions for Reconsideration that the Bureau plans to dismiss with prejudice unless a Petitioner files a notice of objection to the dismissal in the relevant dockets are the following:

Petitioner	Petitions	Date petition filed
Public Service Commission of the District of Columbia.	Petition for Reconsideration of an aspect of the <i>Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform—Mobility Fund</i> , WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (<i>USF/ICC Transformation Order</i>).	12/29/2011
MetroPCS Communications, Inc	Petition of MetroPCS Communications, Inc., For Clarification and Limited Reconsideration of aspects of the <i>USF/ICC Transformation Order</i> .	12/29/2011
National Exchange Carrier Association, Inc.; Organization for the Promotion and Advancement of Small Telecommunications Companies; and Western Telecommunications Alliance (Rural Associations).	Petition for Reconsideration and Clarification of aspects of the <i>USF/ICC Transformation Order</i> .	12/29/2011
NTCH, Inc	Petition for Reconsideration of aspects of the <i>USF/ICC Transformation Order</i>	12/29/2011
Onvoy, Inc. and its affiliate, 360networks (USA) inc.	Petition for Clarification or Reconsideration of an aspect of the <i>USF/ICC Transformation Order</i> .	12/23/2011
Sprint Nextel Corporation	Petition for Reconsideration and Clarification of aspects of the <i>USF/ICC Transformation Order</i> .	12/29/2011
United States Telecom Association	Petition for Reconsideration and Clarification of aspects of the <i>USF/ICC Transformation Order</i> .	12/29/2011
Verizon (Verizon Communications Inc. and Verizon Wireless).	Petition for Clarification or, in the Alternative, for Reconsideration of aspects of the <i>USF/ICC Transformation Order</i> .	12/29/2011

Filing Requirements. Pursuant to § 1.419 of the Commission’s rules, any Petitioner objecting to the dismissal of its Petition must file a letter stating its objection on or before 45 days after publication in the **Federal Register**. See 47 CFR 1.419. The letter must reference WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, and WT Docket No. 10-208, and may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- **Electronic Filers:** Letters may be filed electronically using the Commission’s online Electronic Comment filing System (ECFS): <https://www.fcc.gov/ecfs/>.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. Because more than one docket number appears in the caption of this proceeding, filers must submit two additional copies for the additional docket number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any

envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority Mail must be addressed to 445 12th Street SW, Washington DC 20554.

In addition, a copy of each letter should be sent to: Marvin F. Sacks, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street SW, Room 5-A260, Washington, DC 20554; email: marvin.sacks@fcc.gov.

Ex Parte Rules. The proceedings this Public Notice initiates shall be treated as “permit-but-disclose” proceedings in accordance with the Commission’s *ex parte* rules. 47 CFR 1.1200 *et seq*. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum

summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Kirk Burgee,

Chief of Staff, Wireline Competition Bureau.

[FR Doc. 2020-03835 Filed 3-3-20; 8:45 am]

BILLING CODE 6712-01-P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1039

[Docket No. EP 760]

Exclusion of Demurrage Regulation From Certain Class Exemptions

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (STB or Board) is adopting a final rule amending its regulations governing the class exemptions for the rail transportation of certain miscellaneous

commodities and rail transportation by boxcar to state more clearly that the exemptions do not apply to the regulation of demurrage. The final rule also revokes, in part, the class exemption that currently covers the rail transportation of certain agricultural commodities so that the exemption will not apply to the regulation of demurrage, thereby making the agricultural commodities exemption consistent with similar class exemptions covering non-intermodal rail transportation.

DATES: This rule will be effective on April 3, 2020.

FOR FURTHER INFORMATION CONTACT:

Amy Ziehm at (202) 245-0391.

Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The provisions of 49 U.S.C. 10502, which authorize the Board to exempt types of rail services from its regulation, also provide that the Board may revoke an exemption (in whole or in part) should it determine that regulation is necessary to carry out the rail transportation policy (RTP). See 49 U.S.C. 10502(d). Currently, the Board's regulations exempt the rail transportation of certain miscellaneous commodities (see 49 CFR 1039.11) and boxcar transportation (see 49 CFR 1039.14). Although the language in the regulations for these class exemptions has consistently been interpreted by courts and the agency to effectively exclude the regulation of demurrage, the Board finds these regulations would be more easily understood by more clearly stating the demurrage exclusion.

The rail transportation of agricultural commodities (except grain, soybeans, and sunflower seeds¹) is also exempt (see 49 CFR 1039.10). Unlike the miscellaneous commodities and boxcar transportation exemptions, however, the agricultural commodities exemption in section 1039.10 does not contain language that has been interpreted to effectively exclude the regulation of demurrage.

Last October, the Board issued a notice of proposed rulemaking to address both of the above issues. *Exclusion of Demurrage Regulation from Certain Class Exemptions (NPRM)*, EP 760 (STB served Oct. 7, 2019). The *NPRM* proposed first to modify the language in section 1039.11 and section

1039.14 to reflect the longstanding court and agency precedent by more clearly stating that the miscellaneous commodities and boxcar transportation exemptions do not apply to the regulation of demurrage. The *NPRM* also proposed to revoke, in part, the exemption applicable to non-intermodal rail transportation of agricultural commodities (section 1039.10) so that the exemption would not apply to the regulation of demurrage, thereby making the agricultural commodities exemption consistent with similar class exemptions covering non-intermodal rail transportation.²

After considering the comments, the Board will adopt the rule as proposed in the *NPRM*. Specifically, the Board will add language to section 1039.11 and section 1039.14 to state more clearly, consistent with longstanding court and agency precedent, that these exemptions do not apply to the regulation of demurrage. Additionally, the Board finds that regulation of demurrage related to the non-intermodal rail transportation of agricultural commodities is necessary to carry out the RTP of 49 U.S.C. 10101. Therefore, pursuant to 49 U.S.C. 10502(d), the Board revokes in part the exemption for agricultural commodities at section 1039.10 to provide that the exemption does not apply to the regulation of demurrage related to the non-intermodal rail transportation of these commodities.

Background

Demurrage is a charge that is assessed when rail cars are detained beyond a specified period of time (i.e., "free time") for loading and unloading. Demurrage is subject to Board regulation under 49 U.S.C. 10702, which, among other things, requires railroads to establish reasonable transportation-related rules and practices, and under 49 U.S.C. 10746, which requires railroads to compute demurrage charges, and establish rules related to those charges, in a way that will fulfill national needs related to freight car use and distribution and maintenance of an adequate car supply.³

This proceeding arose, in part, as a result of the testimony and comments submitted in *Oversight Hearing on Demurrage & Accessorial Charges*, Docket No. EP 754, in which numerous

² As noted in the *NPRM*, this partial revocation is not intended to authorize the regulation of demurrage related to intermodal transportation under the exemption at 49 CFR 1039.13.

³ In *Demurrage Liability*, EP 707, slip op. at 15-16 (STB served Apr. 11, 2014), the Board clarified that private car storage is included in the definition of demurrage for purposes of the demurrage regulations established in that decision. The Board uses the same definition in this decision.

¹ Because the agricultural commodities exemption under 49 CFR 1039.10 excepts the rail transportation of grain, soybeans, and sunflower seeds, the rail transportation of those commodities continues to be subject to the provisions of subtitle IV of title 49 and is not impacted by this decision.