

LONDON AGRICULTURAL COMMODITIES, INC.

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**SUBMISSION TO THE RAIL SERVICE REVIEW PANEL
IN RESPONSE TO THE CALL LETTER FOR SUBMISSIONS**

APRIL 30 2010

Introduction

London Agricultural Commodities, Inc. (LAC) is a medium sized company located in London, Ontario. LAC trades commodities such as wheat, corn, soybeans, and by-products such as distiller's grain. The primary destinations for the products that are shipped by rail are Quebec, U.S.A and containerized soybeans for the export market overseas. The port of exit for containers is typically Vancouver.

Background

As a result of the actions of CN and CP to provide reasonable rates and adequate equipment and service to enable shippers to be competitive in the rail market there has been a loss of market share for shippers and forced shippers to look for alternative methods of shipping and make operational changes in order to be an effective rail shipper.

In addition to the rate and service issues, the unreasonable "optional charges" have become so excessive that these charges have a direct affect on the profitability of the shippers making rail much less lucrative. The expectations and demands the railroads hold shippers too is not the same standards they themselves hold. There has been an erosion of the term "customer service" by the railroads as they force more and more back onto the shipper.

Demand Forecasting

Both CN and CP have enabled their shippers through the use of technology to monitor shipments, forecast car requirements, and look up rates. For lack of a better term it has become "self serve." While the CN website tools provides adequate useful information such as if car orders are filled, the CP Rail website is more than underwhelming. Shippers are required to place car orders through DELTA within the time restrictions CP has in place. While shippers are *required* to order cars using this method, CP does not indicate to shippers if the car orders are filled or if they will be filled within the order dates. This poses serious operational issues for the shipper as plant time for loading cars is usually scheduled in order to load cars in a timely manner in order to not incur demurrage. If cars don't arrive as ordered, and if it is unknown as to whether cars are even assigned to the order there are costs to the shipper as the car loading time could be used for other processing. If a shipper has operations issues which causes railcars not to get loaded the railroads charge demurrage for cars. If the railroads do not place cars as ordered there is little recourse for the shipper to recoup any money for lost down time.

Recommendation: The railroads should have an effective communication tool to indicate to shippers the status of car orders, by supplying car numbers and if there will be any issues filling car orders.

Railroads should be held to the same standards that shippers are. This includes a reasonable method for shippers to assess charges to the railroad for operational losses due to service failures of the railroad. The railroads provide for these charges in their tariffs for charges that affect their operations and shippers should be able to apply the same type of tariff to the railroads in order to be compensated for the shippers losses.

Car Integrity

The high incident rate of “bad ordered” cars has increased over the past several years. Cars being placed that are dirty, have broken hatches, holes in the steel, broken gates is a frequent occurrence. The frequency of cars being placed that are unsuitable for loading again makes it very difficult to ship on time to meet the needs of our customers but again a financial loss due to the anticipation of having scheduled time for railcar loading and the cars not being able to be loaded. In some cases the bad ordered cars will show up at another shipper and again be rejected as a bad ordered car. This seems to not only be a costly, inefficient issue for the shipper, but it is for the railroad also.

Recommendation: Since car inspections are done by shippers prior to loading the shippers can and do report car integrity issues to the railroad. While the Canadian Grain Commission can be notified of bad ordered cars and they are able to monitor the movement of the car to insure the car issues are addressed, this is not a widely know procedure by grain shippers. There should be a more an effective way to monitor these cars so they do not keep being assigned to customers orders. If shippers choose to clean cars while on their siding, shippers should be compensated for this service by the railroad.

Optional Charges and Demurrage

We recognize that it is necessary to have optional charges. The application of these charges however, should be used for shippers who continually interfere with the operations of the railroad. For shippers who typically to no have a high reoccurrence rate there should be allowances made. The railroads have the expectation that shippers should be operational 24/7. This is somewhat of an unreasonable expectation since the railroad themselves are not operational 24/7. While there is an allowance time for loading and unloading cars, the time is unreasonable. Normal operating hours for most businesses is 7-5. If cars are placed late in the day the shipper may be closed for up to 14 hours of the allowance time. In addition, if cars are not loaded, released and billed within the allowance time demurrage will be assessed. Having said this, it is not unusual that the cars would still sit because it is not the “scheduled switch day” The railroads are charging shippers for “extended asset use” even though the cars are not going to move. There is in fact no “extended asset use.” If a shipper wanted to have the cars moved other than the day of the regular switch day, there would be a charge for the switch if it were to even happen. This is a blatant abuse of imposing charges.

For railcars that are crossing the border the cars are subject to inspection. Both CN and CP are C-TPAT approved and should be subject to the rules as stated by U.S. Customs. More often than not the notification time given to customs brokers is not complied with. In addition to this, the railroads are aware of the hours of business of the U.S. regulatory bodies (F.D.A, U.S.D.A.) and despite having this knowledge; they will build trains to cross the border when these agencies are closed. Should a railcar be tagged for inspection, the payer of the freight charges is charged for having the car pulled from the train for inspection. The shipper, payer of freight nor the railroad can control these situations if a car is tagged for inspection but to build trains with border crossing times knowingly that the commodity in the car could be tagged for inspection because the regulating body whether it be Homeland Security, FDA or USDA are not open to clear the product. In many cases the cars are not inspected it is the paperwork being cleared.

Any optional charge for services conducted by the train crews (i.e. switching) should be justified with documentation. It is not unusual to receive invoices for optional services that cannot be substantiated by the railroads when there is an expectation on shippers to provide specific documentation to the railroad in any dispute.

The most ludicrous charge was the optional charges imposed for paying invoices and not updating the payment information on the CN website. To be charged for not updating the payment website, which is in fact doing the accounting applications for CN is the ultimate abuse of charges. You were charged for paying your bills.

Recommendations: Eliminate demurrage charge assessment and implement a train switch commitment time for the designated switch days. Cars would be released as is now which will notify the railroads to switch the cars out. Demurrage would not be applicable until the time of the switch commitment. At that time if cars are not released, billed or loaded demurrage would begin. The term "extended asset use" would be true and applicable. Example: A grain elevator has designated switch days are Monday and Wednesday with a commitment time of 10:00 a.m. The train drops 5 cars on Wednesday. All of the cars are loaded by Friday and released ready for the Monday switch. Currently demurrage would begin on Thursday but because the next switch is not scheduled until the following Monday there is no justification for the railroad to charge demurrage from Thursday to Monday because the train is not scheduled until the Monday. There is not "extended asset use" because the train would not be switching the plant between Thursday and Sunday.

CN/CP RAIL CONTAINER YARDS

The implementation of the reservation system for return of loaded containers creates timing issues that are critical for shippers. Getting reservations can be very difficult and in some cases reservations can be hard to keep. Given the proximity of shippers, shippers may be several hours from the container yards and there can be some challenges. The challenges typically are unforeseen such as traffic congestion, weather conditions and truck breakdowns. If a reservation is missed the containers cannot be dropped until another reservation can be made. When these situations arise there is a financial cost to truckers as their equipment is unable to continue working and if the containers are dropped at a yard, they must pay drop fees.

While CN Brampton's container yard is open 24 hours for dropping off containers, the CN yard in Mississauga for picking containers up is not open 24 hours. This creates additional issues as trucks dropping containers during the night cannot pick up empty containers to pull back. This is very inefficient and not very cost effective as drivers are limited by hours of service, and the possibility of returning without containers and there is dead freight. While CP Vaughn has user friendly hours, there is insufficient staff monitoring the yard and no one to fix billing problems. It is important to have customer service staff that is trained to assist with issues that arise not just being there to say it will have to wait until the morning.

Again, the railroads have the expectations that shippers should be operating 24/7 and they themselves do not practice this. When issues arise, and containers miss the close for the return to the yards it creates a domino effect. This affects truckers, rail, vessels and most importantly our customers who are anticipating the arrival of their containers.

RECOMMENDATION: The ability to make reservation for return containers should be available 24 hours a day. Container yards for returns and picking up empty containers should be open 24 hours and be adequately staffed for not only security but to handle issues with billing or technical issues. There should be some allowances for missed reservations or a system to report a potential issue. Should carriers returning containers continually have issues returning containers that meets their reservation, then those carriers should be charged a "optional service fee."

Customer Service and Marketing

CN assigns to customers a Customer Service Rep (CSR) to their company which certainly makes dealing with problems somewhat less frustrating. The CSR's are friendly and knowledgeable. The "chat" tool that CN has on their website is also a useful tool to speak to a CSR for unspecific information. CP has very poor customer service. There is multi layers of departments and people who will answer questions or assist with issues "if it is their department." When it comes to DELTA (car management) it is questionable if customer service people know how to reach that department.

Both CN and CP lack severely in the area of marketing. While the CN website provides current up to date user friendly tariffs CP's tariffs for the most part are very difficult to use and are ambiguous in some cases.

Where both railroads fail is in the marketing departments. If a rate for a move is not available in the tariffs getting a rate for a non-published move is very difficult. Quoting on a sale is a time sensitive matter for us and our customers. The inability to respond to a request from our customers is very frustrating, if the delay is due to waiting for a rate. This is especially frustrating if it is new business and more so if it is a new customer. The inability to quote on new business in a timely manner does not give any new potential customers a feeling of confidence and for us as a shipper and it prevents us from expanding into new markets. Currently it can take from one week to several weeks and in some cases no response at all to get a non-published rate from the marketing departments without continually following up with the railroad contact.

RECOMMENDATION: CP should assign a CSR to handle issues for individual customers whether it be operational issues or billing issues and have the knowledge of the proper internal personnel to who can assist with issues.

Both CN and CP need to recognize that new business is a benefit to not only us as shippers but to the railroad themselves. Prompt attention should be given to rate requests with a guarantee turn around time for the rate. Should a rate not be available within the turn around time, the railroads should give a reason and a new commitment time on the rate so shippers quoting on business can give indications to the shippers customers when quotes will be available.

Summary

The agricultural business in Canada is a multi- billion dollar business and affects all aspects of life from farmers, grain elevators, terminals, truckers, manufacturers, consumers and the railroads. Canada's reputation in the world market is one of quality and strength. In order for the supply chain to work effectively there must be co-operation throughout the supply chain and each link in the chain must be able to make a profit. The rail system in Canada is important in this chain for agricultural goods to not only get product to end users in the domestic market but to the export markets. Without reasonable rates, co operation and communication and suitable equipment the supply chain erodes which has already occurred. Due to their lack of performance and the unreasonable expectations they place on shippers we miss opportunity and in some cases can't afford to take the risk if it is to rely on the railroads. We have looked and found alternate shipping methods such as vessel and increased truck usage. Having to rely on these methods of transportation limits us because of seasons and the practicality of shipping long distances by truck.

Thank you for the opportunity to submit comments and we look forward to seeing the recommendations of the panel.

Yours truly,

London Agricultural Commodities

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