

EXPEDITED CONSIDERATION REQUESTED

238955

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
July 31, 2015
Part of
Public Record

_____)	
TOTAL PETROCHEMICALS &)	
REFINING USA, INC.)	
)	
Complainant,)	
)	
v.)	Docket No. NOR 42121
)	
CSX TRANSPORTATION, INC.)	
)	
Defendant.)	
_____)	

PETITION FOR RECONSIDERATION AND CLARIFICATION

Pursuant to 49 CFR §§ 1115.3 and 1117.1, Complainant, Total Petrochemicals & Refining USA, Inc. ("TPI"), respectfully petitions the Surface Transportation Board ("Board") to reconsider and clarify portions of the Board's decision, served July 24, 2015, directing both TPI and CSX Transportation, Inc. ("CSXT") to file certain supplemental evidence ("Supplemental Evidence Order").¹ TPI requests expedited consideration of this Petition because: (1) the procedural schedule in the Supplemental Evidence Order requires the parties to submit their first round of supplemental evidence by September 22, 2015; (2) the requested evidence will require every hour of that time to prepare; (3) but how the parties should prepare will depend upon the resolution of this Petition. **In order to facilitate expedited consideration of this Petition, TPI also asks the Board to direct that CSXT file its reply within seven days, by August 7, 2015.**

¹ The Board served two decisions in this proceeding on July 24, 2015. The other decision, which was an order to submit compliance evidence ("Compliance Order"), is not subject to this Petition except to the extent the Supplemental Evidence Order may have collateral effects upon the Compliance Order.

FEE RECEIVED
July 31, 2015
SURFACE
TRANSPORTATION BOARD

FILED
July 31, 2015
SURFACE
TRANSPORTATION BOARD

EXPEDITED CONSIDERATION REQUESTED

ARGUMENT

TPI petitions for reconsideration and clarification of portions of the Supplemental Evidence Order (slip op. at 6-9) that direct the parties to file supplemental evidence regarding their operating plans. The requested evidence extends far beyond the purpose and scope of supplemental evidence that the Board has requested in prior SAC proceedings and portions of it are not necessary even to reconcile discrepancies between the parties' evidence currently in the record. In addition, neither party can provide the requested evidence consistent with the Board's order. Moreover, the Board's order creates substantial unintended consequences and uncertainty. Finally, the requested evidence would require far more time than the Board has allotted in its procedural schedule and increase the cost of litigation for TPI by nearly \$1 million in order to comply through two rounds of evidence.

I. THE BOARD HAS REQUESTED SUPPLEMENTAL EVIDENCE FROM TPI THAT IS UNNECESSARY, AND VERY DIFFICULT, COSTLY AND TIME-CONSUMING TO GENERATE.

The Board has concluded that "neither party has provided the evidence necessary for the Board to complete its regulatory review." Supp. Ev. Order. at 6. But as to so-called "Y" trains, the Board has not identified any discrepancies in the parties' evidence that requires supplemental evidence to address. Both parties have used the same methodology to develop "Y" train statistics and operating expenses, and thus the Board need only decide which party's evidence is superior. Moreover, the requested "Y" train evidence is impossible to provide without the additional expenditure of over \$500,000 dollars and additional time, and could not be provided without revising evidence that the Board's order forbids TPI to revise. Therefore, the Board should reconsider its request that TPI add historic "Y" trains to its base year train list and model those trains in its RTC simulation. TPI does not object to the other elements of supplemental evidence requested of it.

EXPEDITED CONSIDERATION REQUESTED

In past decisions requesting supplemental evidence in SAC cases, the Board has asked the parties to submit supplemental evidence based upon select portions of the other parties' operating plan.² In the Supplemental Evidence Order, the Board discusses the parties' dispute over allegedly missing local trains and concludes by stating that "TPI's revised operating plan should include all *historic* trains that deliver and pick up SARR traffic at shipper locations." *Id.* at 7 (emphasis added). The Board then specifically directs TPI to provide the following supplemental evidence:

- "add the *historic* 'Y' trains and other local trains that deliver and/or pick up SARR traffic at shipper locations in the base year to its train list;" and
- provide a working RTC model "with all trains proposed as necessary in the operating plan."

Supp. Ev. Order, slip op. at 8 (emphasis added).³ These instructions seem to ask TPI to do what it already has done. Therefore, in order to make sense of these instructions, and to be consistent with how the Board has framed supplemental evidence requests in the past, TPI presumes that the Board is directing TPI to include all the local and "Y" trains that CSXT contends TPI omitted from its base year train list, regardless of whether CSXT included those trains in its own evidence (which it did not) or whether TPI believes that those trains actually are required to serve the SARR traffic group in the base year.

TPI, however, already has accounted for "Y" trains in its evidence, but through a different methodology, which is the same methodology used in prior SAC cases to develop yard

² *AEP Tex. N. Co. v. BNSF Ry. Co.*, STB Docket No. 41191 (Sub-No. 1) (served March 17, 2006); *Otter Tail Power Co. v. The Burlington N. and Santa Fe Ry. Co.*, STB Docket No. 42071 (served Dec. 13, 2004).

³ The order requests other elements of supplemental evidence from TPI, which are not the subject of this Petition.

EXPEDITED CONSIDERATION REQUESTED

train statistics and operating costs. TPI Reb. at III-C-130-38. Moreover, despite CSXT's criticism of TPI over 28,860 allegedly missing "Y" trains, CSXT did not incorporate those trains into its own train list used to develop operating statistics. In fact, CSXT used the same methodology as TPI to develop "Y" train operating statistics. *Id.* at III-C-70-71. The fact that CSXT adopted TPI's alternate methodology for accounting for the operations of all "Y" trains—both so-called "industrial yard trains" and all other yard trains—in its own Reply evidence demonstrates that TPI's methodology is sound and reasonable. Neither party included any of the 28,860 trains in their local train lists, because both parties fully accounted for them in their respective yard train matrices. Those 28,860 "Y" trains are not considered in—and have no impact on—either party's development of operating statistics and operating expenses.⁴ **In other words, there is not a mismatch between the parties' "Y" train evidence that the Board needs to reconcile through supplemental evidence.** The Board can readily resolve the "Y"

⁴ The 28,860 "Y" trains are a red herring used by CSXT to convince the Board that TPI's evidence is fatally deficient. If they were actually required, CSXT would have included them in its own train list, which it did not. CSXT Reply workpaper "TPIRR Reply Train Lists.xlsx" is the spreadsheet in which CSXT develops train operating statistics for all trains except yard trains. Although the 92 "Y" train symbols and corresponding 555 weekly train starts (which annualizes to 28,860 trains) that were modeled by CSXT in MultiRail do physically appear at range A654:L745 in level "Road_NonUnit" of this workpaper, they are not included in the calculations at level "Totals" of that same workpaper. Level "Totals" is where CSXT's Reply operating statistics are developed for Coal, General Freight, Local, and Intermodal trains. In particular, statistics for "Local" trains are compiled at range A7:S7 of level "Totals". The formulae in the relevant cells reference only the trains included at level "Road_NonUnit" that are identified in Column O as "Local" trains. None of the "Y" trains at rows 654-745 are identified in Column O of level "Road_NonUnit" as "Local." Therefore, none of the "Y" trains are included in CSXT's local train operating statistics, and no operating statistics are calculated for the "Y" trains for purposes of bringing them forward in the development of operating expenses. Nor are the 28,860 Y trains referenced anywhere in CSXT's "TPIRR Yard Operations_Reply.xlsx" workpaper in which CSXT develops yard train operating statistics. These 28,860 "Y" trains are simply not considered in any way in CSXT's development of its operating statistics and expenses. They appear in the workpapers only to falsely imply that they were required.

EXPEDITED CONSIDERATION REQUESTED

train issue by determining which party's analysis of yard jobs and locomotives constitutes the best evidence of record. Therefore, TPI asks the Board to reconsider its instruction to TPI to add historic "Y" trains to the base year train list.

Because both parties already have accounted for "Y" trains through an alternative analysis, any addition of "Y" trains to either party's base year train list and development of operating statistics associated with the movement of those trains also would double-count the "Y" trains already included in the parties' separate analyses of yard jobs and locomotives and overstate the associated operating expenses. *Id.* at III-C-61-62. This double-count creates another conundrum for TPI in responding to the Supplemental Evidence Order. In order to avoid the double-count, any addition of "Y" trains to TPI's base year train list and RTC model would require TPI to modify its yard train operating statistics and expense calculation model. But the Board has prohibited such modifications to these other parts of either party's evidence. Of course, no such modification would be needed but for the fact that both parties already have accounted for "Y" train operating expenses through similar alternative analyses. This, in turn, raises the question of why the Board needs supplemental evidence from TPI on "Y" trains at all. This presents another reason why the Board should reconsider its request for supplemental "Y" train evidence.

Even if supplemental "Y" train evidence were needed to resolve a discrepancy between the parties' evidence (which it is not), the Supplemental Evidence Order still places TPI in a quandary. The emphasis on "historic" trains in the Order is predicated upon the assumption that all of the allegedly missing local and "Y" trains are historic trains that can be identified as such from CSXT's traffic data. While that is true for the local trains, that is not true for the "Y" trains.

EXPEDITED CONSIDERATION REQUESTED

CSXT has alleged that TPI omitted 28,860 so-called industrial yard, or “Y,” trains from its local train list, which TPI developed from CSXT’s historical traffic data. But those 28,860 “Y” trains identified by CSXT are not historic trains and therefore do not fall within the scope of requested supplemental evidence. Although there are historic “Y” trains in CSXT’s traffic data, those are not the 28,860 “Y” trains that CSXT alleges are missing.⁵ The historic “Y” trains in the CSXT traffic data have different dispatch times, consists, routes, and mileages from the 28,860 “Y” trains CSXT put forward, even though they share common train symbols.⁶ CSXT created its list of missing “Y” trains from train profile sheets, not its historic traffic data. TPI Reb. at III-C-65-70. Neither party added any of the actual historic “Y” trains to any of its train lists in any of the evidentiary rounds, because they employed a different methodology for developing yard train statistics, as discussed above. Therefore, it would be improper for TPI to add the allegedly missing 28,860 “Y” trains to its base year train list because they do not comport with the Board’s instruction to include historic “Y” trains.

If TPI limits its supplemental evidence to historic “Y” trains as directed by the Board, TPI faces substantial hurdles. TPI estimates that there are roughly 17,000-19,000 historic “Y” trains that actually delivered and picked up SARR traffic at shipper locations in the base year, although identifying individual trains and reconstructing their route and consist information from CSXT’s traffic data will be an extremely complicated and expensive process. As TPI explained in detail in its Rebuttal Evidence at III-C-62 to 65, identifying historic “Y” trains is impractical, because CSXT’s traffic data does not identify “Y” trains with unique train symbols. The same “Y” train symbols are duplicated for multiple trains operating in multiple cities scattered across

⁵ CSXT identified just four historic “Y” trains in its reply narrative to create the false impression that it identified all 28,860 allegedly missing “Y” trains from historic data. TPI Reb. at III-C-65.

⁶ CSXT’s use of the same train symbols for these fictional trains as the train symbols assigned to real world CSXT trains does not make them interchangeable.

EXPEDITED CONSIDERATION REQUESTED

CSXT's network on the same day.⁷ As a consequence, there is no way to develop historical yard train data to include accurate delivery and pick-up events at SARR customer locations without engaging in a manual review of millions of car event records and developing surrogate data. As TPI explained in Rebuttal, at III-C-64 to 65, "Y" trains handle roughly 3.6 million cars annually on CSXT. To illustrate the challenge that TPI faced, TPI demonstrated that sorting out the cars handled by just six different trains assigned the Y101 symbol required a manual review of 137,747 car event records. *Id.* This exercise was akin to dumping all of the pieces from six large jigsaw puzzles (~23,000 pieces each) into a single pile and then attempting to reconstruct each puzzle individually.

For the foregoing reasons:

TPI used CSXT's [historic] car event data only to identify unit trains, merchandise road trains, and local trains. TPI excluded "Y" trains from its car event search criteria because it simply was not feasible to identify all of the [historic] yard trains that participated in the TPIRR traffic due to the manner in which CSXT identifies such trains in its data. Nevertheless, TPI did account for yard trains through a separate analysis, just as CSXT did.

TPI Reb. at III-C-65. Yet, for every "Y" train in CSXT's traffic data, the Supplemental Evidence Order directs TPI to do precisely what TPI has determined to be infeasible, and what CSXT has not done or even argued should be done in this case. This is an extremely laborious, time-consuming and costly endeavor to identify historical "Y" trains that actually ventured beyond their yard limits to serve customer locations, when CSXT's traffic data is not suited for such analysis. TPI estimates that it would need to spend upwards of \$500,000 and require additional time to perform this analysis for just the first round of supplemental evidence.

⁷ For example, TPI has identified at least seven, and perhaps nine, different trains identified as "Y110" in CSXT's traffic data that operated on December 13, 2012 in as many as seven different states across CSXT's network. TPI Reb. at III-C-63. Similarly, TPI identified 9,733 shipments on Train Y101 which operated in 96 different cities across 20 states. *Id.* at III-C-64.

EXPEDITED CONSIDERATION REQUESTED

Therefore, TPI is at a loss as to how it can be responsive to the Board's Supplemental Evidence Order.

For the same reasons that neither party has identified historic "Y" trains from CSXT's traffic data, they could not model those trains in their RTC simulations without undertaking an entirely new review of the CSXT traffic data—i.e., develop new evidence of record. As a threshold matter, the RTC model would never capture the vast majority of "Y" trains anyway because those trains operate almost exclusively within yard limits beyond the scope of the RTC simulation. That is why SAC litigants, including both CSXT and TPI in this case, do not use the RTC model to develop operating statistics for yard trains. The only other reason to model "Y" trains that venture beyond their yard limits in the RTC simulation would be to measure any potential interference by those trains with other train operations. Both parties have opted to do this through a sampling because it is extraordinarily difficult, for the reasons previously stated, to identify historical "Y" train operations.⁸ The Board should accept the consensus of both parties on this issue and address "Y" trains based upon the evidence currently in the record instead of through supplemental evidence.

CSXT's own evidence confirms all of the foregoing obstacles to identifying yard trains. First, CSXT itself did not include any "Y" trains in either its RTC or MultiRail local train list. TPI Reb. at III-C-61-62, 73. Second, CSXT developed "Y" train statistics using the same methodology as TPI.⁹ *Id.* at III-C-70-71. Third, the only way CSXT could include "Y" trains in its RTC simulation was to create a "sample of 16 industrial yard train," without any explanation as to why 16 is the appropriate number or what traffic requires those trains for complete

⁸ Although TPI did not include "Y" trains in its Opening RTC simulation, it added to its Rebuttal RTC simulation the same "Y" trains included by CSXT. TPI Reb. at III-C-73 (n. 132).

⁹ This fact by itself should be sufficient for the Board to accept TPI's methodology for developing "Y" train operating statistics and costs.

EXPEDITED CONSIDERATION REQUESTED

service.¹⁰ CSXT Reply at III-C-74. CSXT did not do so because it could not do so. If CSXT could not do this using its own traffic data, it is unreasonable to expect TPI to be able to do so through supplemental evidence.

TPI, therefore, asks that the Board reconsider its request for supplemental evidence from TPI to the extent that request directs TPI to add historic “Y” trains that deliver and/or pick up SARR traffic at shipper locations in the base year to its train list and to model those trains in its RTC simulation. First and foremost, there is no discrepancy between the parties’ “Y” train evidence that requires supplemental evidence to reconcile. Despite all of CSXT’s rhetoric over 28,860 allegedly missing “Y” trains, CSXT did not use those trains even in its own evidence to develop operating expenses. Instead, CSXT used the same methodology as TPI to account for “Y” trains. Consequently, there is no value to requiring TPI to undertake this effort. If that were not reason enough for the Board to reconsider its request for supplemental “Y” train evidence, it simply is not feasible for TPI to respond to this request, which is the primary reason why neither TPI nor CSXT has included “Y” trains in their base year train list used to develop operating statistics.

II. THE BOARD’S REQUEST FOR SUPPLEMENTAL EVIDENCE FROM CSXT IS INAPPROPRIATE, UNFAIR, AND HAS SUBSTANTIAL UNINTENDED CONSEQUENCES.

The Board has directed CSXT to “run its RTC model with all trains that it claims are necessary to provide service to the selected traffic group and that are included in its MultiRail train list” and to do so “as specified in its narrative statements and spreadsheets.” Supp. Ev. Order, slip op. at 8. TPI asks the Board to reconsider this request for supplemental evidence

¹⁰ Even though CSXT never explained why these particular Y trains were necessary to include in the RTC simulation, TPI accepted their inclusion in Rebuttal to ensure the issue was not contentious.

EXPEDITED CONSIDERATION REQUESTED

because it is inappropriate, unfair, and creates unintended consequences. Moreover, CSXT cannot possibly comply with it.

First, the supplemental evidence requested of CSXT is inconsistent with the agency's precedent for requesting such evidence. The Board previously has requested supplemental evidence only when the parties' operating plans were so different as to preclude an apples-to-apples comparison, thereby forcing the Board to choose between the entire operating plan of one party or the other even if it does not agree with the entire position of that party.¹¹ The ensuing orders have required each party to modify its evidence based upon some elements of the other party's evidence in order to generate apples-to-apples comparisons for the Board's evaluation. In contrast, the inconsistency that the Board seeks to resolve through supplemental evidence from CSXT in this proceeding is not attributable to any differences between TPI's and CSXT's operating plans, but to internal inconsistencies within CSXT's own evidence that are the sole product of CSXT's own litigation choices. CSXT knowingly, deliberately, and inexplicably described one operating plan in its narrative based upon MultiRail and assorted academic analyses of dwell times and track capacities, but modeled a different operating plan in its RTC simulation that was based upon TPI's Opening RTC model. TPI Reb. at III-C-14-21.

In fact, complying with the Board's order will actually **increase, not decrease** the differences between the parties' evidence. TPI's evidence is based entirely on historical data. CSXT's evidence is based in part on historical data (its RTC analysis) and in part on an alternate reality scenario (its MultiRail-based operating plan). Therefore, the parties' respective operating evidence is already separated by one degree. The Board's order would explicitly break the only

¹¹ *AEP Tex. N. Co. v. BNSF Ry. Co.*, STB Docket No. 41191 (Sub-No. 1) (served March 17, 2006); *Otter Tail Power Co. v. The Burlington N. and Santa Fe Ry. Co.*, STB Docket No. 42071 (served Dec. 13, 2004).

EXPEDITED CONSIDERATION REQUESTED

link between the parties' evidence. The CSXT's operating evidence will now be entirely based upon the MultiRail construct. At present, the comparison is between an apple (TPI's evidence) and an apple-orange hybrid (CSXT's evidence). If CSXT follows the Board's instruction, the comparison will truly be an apples to oranges comparison. The Board's order will create—**not resolve**—an inappropriate apples-to-oranges comparison. If CSXT complies with the Board's order, the Board will have **forced itself** to choose between the entire operating plan of one party or the other.

Although it is appropriate for the Board to solicit supplemental evidence to reconcile discrepancies between the competing operating plans of the litigants so as not to be captive to the entire evidence of one party or the other if it does not agree with the entire position of either party, it is not appropriate to solicit such evidence to resolve discrepancies intentionally created by a single litigant within its own evidence.¹² That form of discrepancy is simply a failure of proof. The Board's order would allow CSXT to correct that failure by submitting a completely different RTC model based upon completely different trains, dwell times, and yard receiving and departure tracks. TPI Reb. at III-C-16. As the Board declared in this very same decision, "there is...a public interest in maintaining an evidentiary standard that protects litigants from unnecessary costs caused by their opponents' errors."¹³ Supp. Ev. Order, slip op. at 5. By not adhering to either its own precedent when requesting supplemental evidence or its own

¹² *Cf., Pub. Serv. Co. of Colo d/b/a Xcel Energy v. The Burlington N. and Santa Fe Ry. Co.*, 7 S.T.B. 589, 609 (2004) ("the Board must not permit a defendant railroad's litigation strategy to make meaningful regulatory review impossible.").

¹³ The Board made this statement to justify its denial of TPI's request to supplement the record with intermodal evidence that TPI overlooked in discovery. Yet, the costs that TPI will incur in responding to CSXT's supplemental RTC model evidence, to remedy inconsistencies within CSXT's Reply evidence, created by CSXT's deliberate litigation choices, will be far greater than CSXT's cost of responding to TPI's oversight error. This glaring inconsistency of logic in the same order is both arbitrary and inequitable.

EXPEDITED CONSIDERATION REQUESTED

evidentiary standard to protect litigants from unnecessary costs caused by their opponents' errors, the Board has issued an arbitrary decision that is in conflict with itself. The Board should resolve that conflict by reconsidering its decision to permit CSXT to submit an entirely new RTC model.

Second, CSXT cannot provide a working RTC model that complies with the Board's request because CSXT cannot run its RTC model to completion without revising its narrative and spreadsheet evidence, which the Board's order prohibits. Specifically, CSXT's narrative evidence developed different dwell times and yard departure and receiving tracks than CSXT used in its Reply RTC model. TPI Reb. at III-C-123-30. TPI demonstrated, however, that CSXT's Reply RTC model could not run to completion when based upon its narrative evidence, because CSXT's narrative understated the number of receiving and departure tracks required by several of CSXT's yards in the RTC simulation. TPI Reb. at III-C-123-24, 127, 129-30. CSXT was only able to complete its Reply RTC model by deviating from its narrative evidence. Adding thousands of more trains from CSXT's MultiRail train list, in accordance with the Board's order will only exacerbate this problem. Therefore, CSXT cannot possibly comply with the Supplemental Evidence Order without also changing its narrative evidence on the number of yard departure and receiving tracks.

Third, CSXT's supplemental evidence would negate TPI's rebuttal evidence to the extent that TPI adopted CSXT reply evidence and that evidence changes in CSXT's supplemental evidence. For example, on rebuttal, TPI adopted the dwell times for yard receiving and departure tracks from CSXT's Reply RTC simulation. TPI Reb. at III-C-116 (n. 248). Those dwell times are not completely consistent with CSXT's narrative. *Id.* Moreover, TPI has noted several gaps in CSXT's narrative that leave the Reply RTC model as the only evidence of record

EXPEDITED CONSIDERATION REQUESTED

from CSXT on this subject. *Id.* TPI adopted this CSXT Reply evidence as one of the options available to it under the Board's evidentiary rules.¹⁴ The Board's Supplemental Evidence Order effectively discards the very reply evidence that TPI properly adopted in rebuttal, thereby pulling the rug out from under TPI's rebuttal evidence, while simultaneously prohibiting TPI from modifying that evidence. The due process concerns in that result are self-evident.¹⁵

Notably, the consequences in the two preceding paragraphs would not exist if the Board requested supplemental evidence consistent with its precedent, as described above. By expanding the scope of supplemental evidence from resolving discrepancies between the parties' evidence to resolving discrepancies within a single party's evidence, the Board is no longer asking a party to model selected portions of the other party's evidence so that the Board has a record by which it can adopt portions of each party's evidence instead of being captive to the entire evidence of one party or the other. Rather, the Board is choosing between the inconsistent evidence of a single party and directing that party to modify its entire evidentiary presentation to comport with the Board's choice. In discarding one set of inconsistent evidence—in this case CSXT's Reply RTC model—the Board has created voids where the RTC model was the only evidence in the record submitted by CSXT on certain subjects or was adopted by TPI in its rebuttal evidence. In order to fill those voids, the Board would have to permit both parties to

¹⁴ *Duke Energy Corp. v. Norfolk Southern Ry.*, 7 S.T.B. 89, 100-101 (2003) (if a railroad challenges a portion of the shipper's opening evidence, the shipper can accept the railroad reply or assert that its own opening evidence is superior).

¹⁵ The solution is not to permit TPI to modify such portions of its evidence, because that in turn would have cascading effects upon other aspects of its evidence. Furthermore, TPI may have made different evidentiary choices in other areas had it known it could do so while preparing its rebuttal evidence. In short, the only way the requested supplemental evidence from CSXT could be fair to TPI would be if TPI had *carte blanche* to modify any of its rebuttal evidence. TPI is not advocating such a result and it has no desire to incur the time or expense of redoing such large portions of its SAC analysis. Nor should TPI be put to such time and expense in order to allow CSXT to resolve an inconsistency within its own evidence.

EXPEDITED CONSIDERATION REQUESTED

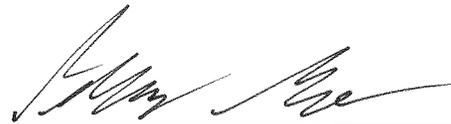
present “new” evidence not currently in the record, which of course the Supplemental Evidence Order appropriately forbids. Therefore, the Board should reconsider its request that CSXT run its RTC model based upon its MultiRail train list and make other changes to the RTC model to comport with its narrative.

CONCLUSION

For all of the foregoing reasons, TPI requests that the Board reconsider the following portions of the Supplemental Evidence Order:

- Withdraw the instruction that TPI add historic “Y” trains that deliver and/or pick up SARR traffic at shipper locations in the base year to its train list. The instruction to add historic local trains would not be modified.
- Withdraw its instruction to CSXT to run its RTC model based upon its MultiRail train list or to make other changes to the RTC model to comport with its narrative.

Respectfully submitted,



Jeffrey O. Moreno
David E. Benz
Jason D. Tutrone
Thompson Hine LLP
1919 M Street, N.W., Suite 700
Washington, D.C. 20036
(202) 331-8800

July 31, 2015

EXPEDITED CONSIDERATION REQUESTED

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July 2015, I served a copy of the foregoing upon counsel for defendant CSXT via electronic mail and U.S. first-class mail, postage prepaid, at the address below:

G. Paul Moates
Paul Hemmersbaugh
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

Counsel for CSX Transportation, Inc.



Jeffrey O. Moreno