

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Public Record

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TOTAL PETROCHEMICALS &  
REFINING USA, INC. )  
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)  
Complainant, )  
)  
v. )  
)  
CSX TRANSPORTATION, INC. )  
)  
Defendant. )

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Docket No. NOR 42121

MOTION OF TOTAL PETROCHEMICALS & REFINING USA, INC.  
FOR LEAVE TO REPLY TO  
CSXT'S REPLY TO COMPLAINANT'S PETITION FOR RECONSIDERATION AND  
CLARIFICATION

Complainant, Total Petrochemicals & Refining USA, Inc. ("TPI"), respectfully requests that the Board accept the attached "Reply Of Total Petrochemicals & Refining USA, Inc. To CSXT's Reply To Complainant's Petition For Reconsideration And Clarification." Because the Board's rules do not permit replies to replies, 49 C.F.R. 1104.13(c), TPI is submitting this Motion. TPI submits that an exception is warranted in this case for the following reasons:

CSX Transportation, Inc. ("CSXT") makes several misrepresentations of key facts and arguments that are material to TPI's Petition for Reconsideration and Clarification. The principal argument in TPI's Petition is that there is no need for supplemental "Y" train evidence because both parties have employed the same methodology to account for "Y" trains and the Board need only choose which parties' analysis is superior. Consequently, there is no justification to impose the very time-consuming and costly burden that modeling "Y" trains in the RTC simulation would create. CSXT disputes both arguments based upon

misrepresentations of the record and of TPI's position that, if not corrected, could mislead the Board in its evaluation of TPI's Motion.

The attached reply is necessary to point out internal inconsistencies within CSXT's argument that actually prove TPI's point that the parties have used the same methodology to account for "Y" train operating expenses.

CSXT also presents a claim for the first time in its Reply as to what its yard job evidence in this proceeding represents. Specifically, CSXT claims that its calculation of yard train operating expenses reflect the operating expenses attributable to the same "Y" trains that are included in its MultiRail analysis. CSXT Reply at 8. That is a demonstrably false statement that TPI can only demonstrate if it is permitted to submit the attached reply.

In addition, CSXT contends that the burden upon TPI of developing "Y" train supplemental evidence is overstated and suggests ways to reduce that burden. CSXT Reply at 8-9. Neither of CSXT's suggestions would alleviate that burden for reasons presented in the attached reply.

Finally, CSXT claims that that there is a high degree of correlation between its RTC and MultiRail train lists based solely upon matching train symbols from both train lists. CSXT Reply at 12. The attached reply is needed to show why replicating train symbols is not the same as replicating actual historic train movements.

The foregoing misrepresentations are not obvious on their face. They require familiarity with the extremely dense record in this case and knowledge of precisely where and what to search. *McCarty Farms, Inc. v. Burlington Northern, Inc.*, 3 S.T.B. 102, 103 (1998) ("SAC cases involve the resolution of myriad technical, fact-based issues regarding the construction and operation of a railroad, a multitude of complex computer calculations, and the review of

thousands of pages of evidence.”). In such situations, the Board relies heavily upon the parties to identify and present this evidence:

The record in a SAC case includes thousands of pages of evidence and workpapers, along with massive electronic spreadsheets which are used by the parties to calculate the costs to build and operate the [SARR]. As a practical matter, the Board cannot verify each individual calculation performed by those spreadsheets. Rather, the Board generally relies on the adversarial process to bring...problems...to light.

*Duke Energy Co. v. Norfolk Southern Ry. Co.*, STB Docket No. 42069, slip op. at 2 (served Feb. 3, 2004). *See also, SunBelt Chlor Alkali Partnership v. Norfolk Southern Ry. Co.*, STB Docket No. 42130, slip op. at 3 (served March 27, 2013) (“the Board relies on each party to make its own case and critique the other party’s case.”). Without the ability to reply to CSXT’s Reply, TPI cannot play that essential role by bringing to light the foregoing misrepresentations. The risk of an inequitable and even inaccurate decision is high in this circumstance.

Finally, TPI is submitting this reply just two days after CSXT’s Reply in order to avoid any delay in the Board’s decision on TPI’s Petition for Reconsideration.

Respectfully submitted,



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August 14, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of August 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:

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Jeffrey O. Moreno

# Attachment

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

<b>TOTAL PETROCHEMICALS &amp; REFINING USA, INC.</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
v.	)	<b>Docket No. NOR 42121</b>
	)	
<b>CSX TRANSPORTATION, INC.</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**REPLY OF TOTAL PETROCHEMICALS & REFINING USA, INC. TO  
CSXT’S REPLY TO COMPLAINANT’S PETITION FOR RECONSIDERATION AND  
CLARIFICATION**

Complainant, Total Petrochemicals & Refining USA, Inc. (“TPI”), respectfully submits this Reply to “CSXT’s Reply to Complainant’s Petition for Reconsideration and Clarification.” (“CSXT Reply”) By separate motion, TPI has requested that the Board accept this Reply. In this Reply, TPI addresses misstatements by CSX Transportation, Inc. (“CSXT”) of key facts and arguments that are material to TPI’s Petition, responds to assertions made by CSXT for the first time in this proceeding, and demonstrates that CSXT’s Reply actually confirms TPI’s position that there is no need to include “Y” trains in the Board’s request for supplemental evidence.

First, at pages 7-8 of its Reply, CSXT rejects TPI’s claim that the parties used the same methodology to account for “Y” trains. But in explaining the differences between the parties’ methodologies, CSXT actually proves TPI’s point. CSXT admits that it developed yard train statistics through the same yard matrix analysis as TPI, but claims that TPI “ignored entirely car handling in connection with movements to customer facilities,” which purportedly accounts for

“the lion’s share of this difference between the parties’ yard job assignments....” CSXT Reply at 7 [emphasis omitted]. CSXT confirms that it did not develop operating expenses from the allegedly missing 28,860 “Y” trains included in its MultiRail analysis.<sup>1</sup> Instead, CSXT expressly states that it “did calculate the operating expenses (locomotives and crews) attributable to all of the required industrial yard trains as part of its yard operating expenses.” CSXT Reply at 8 [underline in original]. This is precisely what TPI means when it claims both parties used the same methodology and is why TPI asserts there is no need for supplemental “Y” train evidence. TPI Pet. at 4-5.

Furthermore, CSXT’s claim that its calculation of yard train operating expenses reflects the operating expenses attributable to the same “Y” trains included in its MultiRail analysis (CSXT Reply at 8), which CSXT makes for the first time in this proceeding, is demonstrably false because it directly contradicts CSXT’s reply evidence. For example, in its MultiRail analysis, CSXT assigned the Y101 TERRE HAUTE YARD JOB train to operate 5 days per week over a 3-mile route to transport 1.19 cars per day.<sup>2</sup> However, in CSXT’s Reply Yard Train Matrix, CSXT assumed 61 total daily yard jobs for the Terre Haute Yard.<sup>3</sup> This count of 61 yard jobs is rolled into CSXT’s total count of TPIRR flat yard jobs, and ultimately into CSXT’s count of total daily yard jobs.<sup>4</sup> To develop yard train locomotive unit miles, CSXT adopted TPI’s formula from opening, which assumes an 8-hour shift at an average operating speed of 6 miles

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<sup>1</sup> In order to prove otherwise, CSXT would need to refute footnote 4 of TPI’s Petition, which CSXT all but ignores in its Reply.

<sup>2</sup> See: CSXT Reply workpaper “TPIRR Reply Train Lists.xlsx” at level “Road Non-Unit” range A654:L654 and CSXT Reply Exhibit III-C-4 at line 1.

<sup>3</sup> See: “TPIRR Yard Operations Matrix\_Reply.xlsx” at level “Sheet1”, range AE87:AG87.

<sup>4</sup> See: “TPIRR Yard Operations Matrix\_Reply.xlsx” at level “Sheet1”, cells AQ27, AQ20, AQ21.

per hour, which equates to 48 locomotive unit miles per job for all TPIRR yard jobs.<sup>5</sup> If the 61 daily Terre Haute yard jobs included in CSXT's yard operations matrix reflect the operations of the Y101 TERRE HAUTE IND YARD JOB train, as CSXT claims, then CSXT would not have assigned that train 48 miles, because its MultiRail train list indicates that the train only operates over a 3 mile route. Therefore, CSXT's claim that its operating expenses calculation for yard jobs reflects the operations of "all of the required industrial yard trains," as depicted in its MultiRail train list, cannot be true. There simply is no link between CSXT's MultiRail list of "Y" trains and its calculation of yard jobs operating expenses.

The most salient point from the preceding discussion is that the Board does not need supplemental "Y" train evidence to reconcile the parties' different positions. Because both parties have used their yard job matrices to develop "Y" train operating expenses, independent of their RTC or MultiRail analyses, the Board need only decide which parties' matrix is superior. There is no need to require the parties to add "Y" trains to their train lists and model them in the RTC simulation.

Second, CSXT understates the burden to TPI of identifying historical "Y" trains from the CSXT traffic data and modeling them in the RTC simulation. CSXT Reply at 8-9. CSXT does not really contest the burdens described by TPI (TPI Pet. at 6-7), but instead asserts that "the task...is not as insurmountable as TPI suggests." CSXT Reply at 9. CSXT suggests that TPI can "narrow its search of CSXT's records to find the corresponding 'historic' trains" to just the 92 "unique" Y train symbols in CSXT's MultiRail analysis. *Id.* But CSXT misleadingly describes these 92 train symbols as "unique." While the 92 symbols themselves undoubtedly are unique, they contain data components that CSXT added for its MultiRail analysis that are not

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<sup>5</sup> See: "TPIRR Yard Operations Matrix\_Reply.xlsx" at level "Sheet3", cell C1.

present in the historical car event data. TPI's point is that each symbol in the car event data (e.g. Y101) represents multiple different trains that CSXT has distinguished in its MultiRail train list by adding data fields from its Train Profiles data that do not appear in the car event data.<sup>6</sup> These six Y101 trains are indistinguishable in CSXT's car event data without the extensive manual review of the data that TPI has described. TPI Pet. at 7 (illustrating the massive effort associated with just train symbol Y101). In other words, the burdens described by TPI exists after TPI already has narrowed the scope of its search to these 92 train symbols.

Nor is it appropriate to adopt CSXT's alternative suggestion that TPI "simply add to its train list the 555 weekly 'Y' trains operating under the 92 train symbols shown on CSXT's Reply train list, which represent CSXT's historical 'Y' trains." CSXT Reply at 9 [underline added]. CSXT blatantly misrepresents these to be CSXT's "historical" Y trains. CSXT's attempted rebuttal of TPI's evidence that the 28,860 allegedly missing "Y" trains are not historic trains again proves TPI's point. CSXT acknowledges that it "developed its train list from the profiles for the trains that CSXT actually operated" in the base year. CSXT Reply at 9 (n. 12) [underline added]. TPI repeatedly has demonstrated that train profiles are not the same as historic trains. *See* TPI Pet. at 6, *citing* TPI Reb. at III-C-65-70. CSXT's use of train profiles, instead of historic trains, is the principal reason why CSXT's operating plan assigns zero cars or fractional cars to thousands of trains scheduled to operate every day of the year. TPI Reb. at III-C-17-18, 39-41.

Third, CSXT's claim that there is a high degree of correlation between its RTC and MultiRail train lists is deliberately misleading. CSXT Reply at 12. The correlations identified by CSXT are based upon nothing more than train symbols. But simply replicating train symbols

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<sup>6</sup> See CSXT Reply Exhibit III-C-4 (e.g., Y101 TERRE HAUTE IND YARD JOB; Y101 JACKSON YARD JOB; Y101 1<sup>ST</sup> LAFAYETTE YD JOB; Y101 1<sup>ST</sup> OAKWORTH YD JOB; Y101 HAM 1<sup>ST</sup> SHIFT TEMP, Y101 Y101).

is not the same as replicating the actual historic movements, given real world trains can—and often do—operate in a different manner than their listed profiles indicate. This is particularly true with respect to local and “Y” trains that serve customer locations, as illustrated by the fact that the local trains in both parties’ RTC simulation average 23 cars per train, while the local trains from CSXT’s MultiRail output average only 11 cars per train, and by the fact that CSXT’s MultiRail analysis instructs the “Y” trains to serve every facility on the train’s route every day the train runs regardless of whether there are any cars to pick up or drop off.<sup>7</sup> TPI Reb. at III-C-17-19 and 39-41. Despite a high correlation of train symbols in CSXT’s RTC and MultiRail train lists, CSXT’s MultiRail trains move different consists of cars and serve a different mix of customers over different routes from its historic trains with the same train symbols. *Id.* Thus, the correlation of train symbols does not mean that they are the same trains.

Respectfully submitted,



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<sup>7</sup> For example, CSXT assumes Train Y150(1) (BOWLING GREEN YARD JOB) would operate over an 89 mile route seven days a week, year-round, despite the fact that it moves zero cars per year. See: CSXT Reply workpaper “TPIRR Reply Train Lists.xlsx” at level “Road Non-Unit” range A694:L694 and CSXT Reply Exhibit III-C-4 at line 41 (roughly middle of page 1).

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of August 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:

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