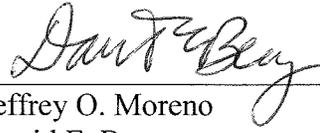


Respectfully submitted,



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July 1, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July 2013, 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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EXHIBIT 1

HIGHLY CONFIDENTIAL APPENDIX

PRELIMINARY ISSUES*Calculation of Variable Costs*

As noted in the decision, the parties have reached agreement as to seven of the Uniform Railroad Costing System (URCS) inputs used to calculate the variable costs—and the attendant R/VC ratio—associated with each of the issue movements.⁸⁴ The parties continue to disagree about the proper method for calculating “railroad miles,” at least insofar as certain lanes are concerned. In its Rebuttal Evidence, TPI accepts CSXT’s mileage calculations for all but 17 of the lanes at issue in this proceeding.⁸⁵ However, CSXT has effectively conceded that it possesses market dominance over seven of the 17 lanes identified by TPI.⁸⁶ Thus, the parties’ dispute with regard to “railroad miles” is limited to ten lanes, governed by the following six rates: Memphis-Gallaway (polyethylene HD and polypropylene), Memphis-Jackson (polypropylene), New Orleans-Baltimore (polyethylene HD), Memphis-Horse Cave (polystyrene), New Orleans-Matthews (polyethylene HD), Chicago-Terre Haute (polyethylene HD and polypropylene), and New Orleans-Covington (polystyrene and polypropylene).

The basic dispute between the parties on this issue can be summarized as follows. TPI argues that the presence of significant variations in route miles for identical origin and destination pairs contained in CSXT’s car event database—variations that TPI claims are the result of misroutes, errors, or data anomalies—necessitate the use of a “predominant route” approach—i.e., selection of the routing most commonly used by CSXT for each origin and destination pair and CSXT’s portion of each joint movement.⁸⁷ CSXT counters that the most reliable and representative approach is to use a weighted average of mileages for all of the TPI movements between each origin and destination pair, an approach that reflects the relative frequency of each routing.⁸⁸

We agree with CSXT’s weighted average approach to calculating “railroad miles” in this case because such an approach is more consistent with real-world operations than TPI’s predominant route approach. See DuPont II, slip op. at 18 n.53 (accepting the railroad’s actual mileage rather than PC*Miler/Rail calculation). This is particularly true given that (a) TPI’s shipments move in carload traffic rather than unit trains, and (b) CSXT uses a dynamic

⁸⁴ See supra p. 6.

⁸⁵ Rebuttal Evidence II-A-5.

⁸⁶ See supra note 80.

⁸⁷ Opening Evidence II-A-2 to II-A-4, Exhibit II-A-5.

⁸⁸ Reply Evidence II-3 to II-8.

network.⁸⁹ Thus, particular circumstances and network demands may make it more efficient for TPI's traffic to be moved via one route at one time and over other routes at other times, and it makes little sense to exclude certain routes from our mileage calculations simply because one route may be used slightly more often than another. See FMC Wyo. Corp. v. Union Pac. R.R., 4 S.T.B. 699, 748-49 (2000). TPI argues that in general, CSXT arbitrarily excluded routes that handled less than 10% of traffic, but then in certain cases did not follow its own rule about excluding such routes; because of this, TPI claims, CSXT's routings on certain lanes are arbitrary.⁹⁰ However, even though CSXT did not follow its own rule in its mileage calculation, we accept its evidence because CSXT's mileage calculations include more traffic overall than TPI's calculations,⁹¹ and CSXT's mileages are therefore a better representation of routes at issue. Finally, we note that CSXT argues that the 401-mile difference between the parties for the Memphis-Gallaway lanes results from the infrequent nature of those shipments and the need to send the shipments to classification yards.⁹² TPI does not address this argument,⁹³ and we find it to be a sufficient explanation of the mileage difference.

Calculation of Tariff Rates and Fuel Surcharges

TPI and CSXT have submitted different tariff rates and assessed fuel surcharges.⁹⁴ Neither party has offered an explanation for the differences. We adopt CSXT's rate and fuel surcharge figures for purposes of our market dominance analysis because doing so is more consistent with our use of CSXT's other data. However, we recalculated those figures for consistency with CSXT's variable costs and R/VC ratios. Given that we have adopted CSXT's mileage and variable cost calculations, we believe that use of CSXT's rate and fuel surcharge data will avoid the possibility of inappropriate comparisons. All data will be normalized to 1Q2011.

⁸⁹ See id. at II-4. The fact that TPI's shipments move in carload traffic means that the shipments must often be transported to one or more classification yards to be blocked and assembled into the appropriate trains for delivery. Id. In a dynamic network, for maximum efficiency traffic moving between the same origin and destination pair may be routed differently at different times. Id.

⁹⁰ Rebuttal Evidence II-A-4.

⁹¹ Reply Evidence II-7 n.8.

⁹² Id. at II-11 to II-12.

⁹³ See Rebuttal Evidence II-A-6 to II-A-7.

⁹⁴ Opening Evidence, Exhibit II-A-7; Reply Evidence, Exhibit II-B-2.

FEASIBILITY ARGUMENTS*Customer Requirements*

TPI claims that its customers require and/or clearly prefer delivery by rail, thereby rendering other transportation alternatives infeasible.⁹⁵ TPI makes a variety of arguments in support of this one basic point. First, TPI contends that issue commodities supply contracts with a number of its customers “explicitly require rail delivery,” thereby rendering delivery by truck infeasible, and that even customers whose contracts do not require rail may only accept truck delivery under special circumstances.⁹⁶ Second, it argues that a clear customer preference for rail delivery of the issue commodities can be discerned from the fact that, by case lane, TPI has delivered less than 15% of all issue commodities shipments to any customer by truck from 2006-2010.⁹⁷ Third, TPI asserts that most of its customers store the issue commodities inventory in railcars, rendering bulk shipment by truck generally cost-prohibitive; TPI claims that certain customers have no silo storage.⁹⁸ TPI explains this point by stating that construction and maintenance of storage silos at its production facilities makes little sense given the high volumes of the issue commodities that already move by rail, while the fact that most of TPI’s customers maintain little on-site storage capacity prevents them from receiving significant volumes by truck because trucks—in contrast to railcars—“cannot be used for storage.”⁹⁹

Fifth, TPI claims that the facilities of and infrastructure around certain “high-volume” customers cannot accommodate additional truck traffic, rendering issue commodity delivery by truck infeasible for these customers.¹⁰¹ Sixth, TPI claims that because certain customers have their purchased commodities delivered to compounders and third-party processors, both of which are types of manufacturers that receive many different grades and specifications of polymers, these deliveries must be made by rail for railcar storage to separately store the range of polymers that the

⁹⁵ Opening Evidence II-B-16 (citing DuPont I, slip op. at 7; McCarty Farms, 3 I.C.C.2d at 829).

⁹⁶ Id. at II-B-16 to II-B-17 (citing E.I. du Pont de Nemours & Co. v. CSX Transp., Inc. (DuPont III), NOR 42101, slip op. at 6 (STB served June 30, 2008)).

⁹⁷ Id. at II-B-17 to II-B-18.

⁹⁸ Id. at II-B-20 to II-B-21.

⁹⁹ Id. at II-B-20.

¹⁰⁰ Id. at II-B-21.

¹⁰¹ Id. at II-B-22.

compounders and third-party processors receive.¹⁰² Seventh, TPI asserts that customers that use its polymers in medical applications require rail delivery to limit contamination from transloading.¹⁰³ Eighth, TPI argues that direct truck shipment cannot replace shipment to leased tracks, which TPI uses to stage product for quick delivery to customers, allowing TPI to provide high-quality service.¹⁰⁴ Ninth, TPI claims that off-grade product, which is product that fails to meet the specifications of a particular polymer grade, must ship by rail because customers do not want to store off-grade product in their silos to avoid mixing with standard product.¹⁰⁵ Finally, TPI argues that it is powerless to influence the delivery location when customers select a bulk terminal or leased track as their delivery location, where the customer will often store the product in railcars.¹⁰⁶

CSXT responds to TPI's "customer requirement" arguments as follows. First, CSXT asserts that TPI's evidence regarding alleged customer preference for rail transportation rests on the flawed assumption that customer preferences are "completely unaffected by market forces" and that those preferences would not change if the relative prices of rail and truck service changed.¹⁰⁷ CSXT asserts that DuPont I does not support TPI's claims because the infeasibility of truck transportation in that case was based on the particular physical characteristics of the commodity that made truck transportation difficult.¹⁰⁸ Second, CSXT claims that TPI's evidence regarding customer preferences is lacking because [REDACTED]

[REDACTED] (b) an email from a customer that TPI claims shows a requirement for rail is inconsistent with the significant number of truck deliveries that customer received and, in any event, relates to a lane for which CSXT has not challenged market dominance;¹¹⁰ [REDACTED]

¹⁰² Id. at II-B-22 to II-B-23.

¹⁰³ Id. at II-B-24.

¹⁰⁴ Id. at II-B-24 to II-B-25.

¹⁰⁵ Id. at II-B-25.

¹⁰⁶ Id. at II-B-25 to II-B-27.

¹⁰⁷ Reply Evidence II-34 to II-37.

¹⁰⁸ Id. at II-37 to II-38.

¹⁰⁹ Id. at II-39 to II-46.

¹¹⁰ Id. at II-47 to II-48.

¹¹¹ Id. at II-48.

(d) the contracts that TPI claims show a requirement for rail in several cases were with customers that received many truck deliveries; and (e) the contracts can be renegotiated.¹¹²

Third, CSXT argues that TPI has produced no direct evidence to support the theory that its customers require rail delivery because they lack silo space and therefore need railcars in order to fulfill their post-delivery storage needs.¹¹³ CSXT claims that other customer preference categories TPI asserts essentially raise storage issues.¹¹⁴ CSXT notes that TPI has identified nine lanes that allegedly lack any silo storage, but CSXT claims that customers on four of these lanes have received truck deliveries, and, on two of the nine lanes, there are multiple customers, but only one of the customers alleges no silo storage.¹¹⁵ CSXT claims that trucks can load into railcars for storage as easily as they can load into silos, and that trucks offer other advantages, such as speed, over rail.¹¹⁶ CSXT also asserts that among customers who claim a need for railcar storage, many have received significant truck shipments and that many that fall into one of the storage-related preferences categories—such as off-grade shipments—also receive shipments that do not fall into any of the specialized preference categories.¹¹⁷

Fifth, CSXT maintains that none of TPI's customers are truly "high-volume," given that (a) shifting all of the issue commodity shipments of the highest-volume lane at issue from railcars to trucks would require only a total of 33 trucks per week, and (b) most other lanes would require on average only 3 trucks per week if the entire volume currently transported were shifted from rail to truck.¹¹⁹ Sixth, CSXT argues that medical applications customers have received product by truck, and that the transloading process poses a low risk of contamination.¹²⁰ Seventh, CSXT claims movements to leased tracks are not automatically market dominant because trucks could deliver product to a leased track and blow it into a railcar for storage.¹²¹

¹¹² Id. at II-48 to II-49.

¹¹³ Id. at II-50 to II-55.

¹¹⁴ Id. at II-50, II-B-55.

¹¹⁵ Id. at II-50; id. at n.63.

¹¹⁶ Id. at II-51.

¹¹⁷ Id. at II-52 to II-55.

¹¹⁸ Id. at II-55.

¹¹⁹ Id. at II-55 to II-56.

¹²⁰ Id. at II-56.

¹²¹ Id. at II-57 to II-58.

CSXT also argues that because the leased track is a waystation rather than a true destination, competitive alternatives to the ultimate destination can provide effective competition.¹²² Finally, CSXT argues that TPI has not provided any evidence supporting its claim that customer selection of a particular transloading facility establishes market dominance, and, in fact, the claims regarding lanes with a transloading facility as a destination should be dismissed because trucking is a competitive alternative for those movements, as those customers will accept truck shipments.¹²³

On rebuttal, TPI argues that the polymer industry is structured around rail transportation, which prevents supply disruptions¹²⁴ and that bulk trucks have only a niche role in polymer shipment because they must be unloaded immediately upon arrival at delivery locations.¹²⁵ TPI claims that because customers need bulk truck orders to be filled within 48 hours¹²⁶ and because direct trucking is cost-competitive with rail only at distances up to 250 miles, to deliver by truck TPI must stage product at bulk terminals.¹²⁷ TPI therefore contests CSXT's assumption that the product can simply move through the bulk terminals without incurring storage fees.¹²⁸

[REDACTED] a customer's commitment to a rail infrastructure makes truck service more expensive. TPI also argues that contrary to CSXT's claim, truck shipments have higher labor costs for customers than rail.¹³⁰ In response to CSXT examples of its own experience with customers that threatened to switch to truck shipping, TPI claims that there is either insufficient evidence regarding the credibility of the threats, or the examples are related to products other than polymers.¹³¹ TPI asserts that CSXT misrepresents TPI's use of trucks and also misrepresents examples of instances where TPI has considered truck shipping or has switched to truck shipping.¹³²

¹²² Id. at II-58.

¹²³ Id. at II-58 to II-59.

¹²⁴ Rebuttal Evidence II-B-12 to II-B-38.

¹²⁵ Id. at II-B-17 to II-B-18.

¹²⁶ Id. at II-B-17.

¹²⁷ Id. at II-B-18 to II-B-19.

¹²⁸ Id.

¹²⁹ Id. at II-B-19 to II-B-20.

¹³⁰ Id. at II-B-20.

¹³¹ Id. at II-B-28 to II-B-31.

¹³² Id. at II-B-31 to II-B-37.

TPI argues that CSXT is wrong to suggest that the historical data reflects customer preference for lower rates rather than customer preference based on the advantages inherent in delivery by rail.¹³³ TPI reiterates its contention that the advantages of delivery by rail—e.g., the ability of the customer to use the railcar for storage, lower handling and administrative costs associated with rail delivery, and the avoidance of product integrity concerns—are the primary drivers of customer decisions regarding the preferred mode for transportation of the issue commodities.¹³⁴

TPI defends its contract evidence by asserting that references to truck deliveries in contracts that purportedly require delivery by rail simply reflect provision for the emergency truck shipments that customers occasionally require on an expedited basis, or refer to delivery at customer locations not served by rail in instances where the contract covers delivery to multiple customer locations.¹³⁵ TPI also maintains that its ability to renegotiate expiring contracts has no impact on customer preferences, and that its failure to accommodate such preferences when negotiating new contracts will result in the loss of customers.¹³⁶

TPI renews its storage-related arguments. TPI claims that it has provided evidence of customer-specific on-site storage capacity in the form of average number of days that each case customer held TPI's railcars before releasing them empty.¹³⁷

TPI claims that despite some truck deliveries to compounders and third-party processors, such truck deliveries have been minimal and are acceptable for these customers only under special circumstances.¹³⁹ TPI responds to CSXT's argument that off-grade customers likely also purchase standard product with the claim that the off-grade case customers have purchased only off-grade product with one minor exception.¹⁴⁰

¹³³ Id. at II-B-46 to II-B-48.

¹³⁴ Id. at II-B-39 to II-B-46.

¹³⁵ Id. at II-B-48 to II-B-50.

¹³⁶ Id. at II-B-50.

¹³⁷ Id. at II-B-51.

¹³⁸ Id. at II-B-54 to II-B-55.

¹³⁹ Id. at II-B-57 to II-B-58.

¹⁴⁰ Id. at II-B-62. TPI notes that one off-grade customer purchased one railcar of standard product. Id.

TPI disputes CSXT's contention that TPI has no true "high-volume" customers.¹⁴¹ TPI claims that CSXT overstates the volume required for a customer to be high volume because replacing truck with rail would result in higher labor and storage costs.¹⁴² TPI argues that the Board should consider these additional costs when it determines what volume is required for a customer to be high-volume.¹⁴³

TPI argues that medical applications customers will accept the contamination risks of truck delivery only when the alternative is a plant shut down.¹⁴⁴ TPI claims that CSXT's evidence provides insufficient information to conclude that all medical applications customers would accept truck shipments.¹⁴⁵

TPI objects to CSXT's treatment of customers that have TPI ship to leased tracks and bulk terminals. TPI claims that CSXT's argument that such leased track customers will respond to economic incentives to ship to other destinations fails because TPI charges its customers an all-inclusive rate that includes transportation, and customers choose delivery to particular leased tracks for reasons of which TPI may have no knowledge, such as incentives from the railroad or leases of track in particular locations.¹⁴⁶ TPI asserts that bulk terminals may be used by brokers for storage in a similar manner to leased tracks, and while the broker will eventually ship the product to its customer, the broker is TPI's customer, and therefore transloading to a customer facility is not an alternative for such shipments.¹⁴⁷

TPI defends [REDACTED] TPI first claims that [REDACTED] it produced other evidence of market dominance that meets the Board's standards. [REDACTED]

[REDACTED] TPI asserts that CSXT is advocating for an impossible market dominance standard

¹⁴¹ Id. at II-B-55 to II-B-57.
¹⁴² Id.
¹⁴³ Id.
¹⁴⁴ Id. at II-B-58.
¹⁴⁵ Id. at II-B-58 to II-B-59.
¹⁴⁶ Id. at II-B-62 to II-B-65.
¹⁴⁷ Id. at II-B-65.
¹⁴⁸ Id. at II-B-66 to II-B-77.
¹⁴⁹ Id. at II-B-66 to II-B-67.
¹⁵⁰ Id. at II-B-67 to II-B-68.

by claiming that both TPI's objective evidence and [REDACTED] are insufficient proof of market dominance.¹⁵¹ TPI argues that CSXT oversimplified the issues when it made arguments relating to [REDACTED] on high-volume lanes, product integrity, shipment to bulk terminals, and the costs of truck delivery, and TPI restates its position on these issues.¹⁵²

In general, with exceptions discussed below, the evidence presented by TPI regarding customer preferences/requirements is insufficient to demonstrate that delivery of the issue commodities by truck to TPI's customers is infeasible.¹⁵³ For purposes of determining whether a direct truck or transload option is practically feasible, the fact that significant volumes of the issue commodities shipped from TPI to its customers via truck is particularly relevant. From 2006 to 2010, TPI made [REDACTED] shipments of the issue commodities by direct truck or transload (out of the equivalent of [REDACTED] truck shipments had all shipments, including rail, been made by truck).¹⁵⁴ TPI thus shipped a weekly average of [REDACTED] truckloads of the issue commodities during this time period. Such statistics belie TPI's assertion that overwhelming customer preference for delivery of the issue commodities by rail renders delivery by truck practically infeasible. TPI's evidence that it delivered no more than 15% of all issue commodities to any case lane customer by truck in any year from 2006-2010, and no more than 2-11% (varying by commodity) when considering all of TPI's customers with a choice between rail and truck,¹⁵⁵ is likewise insufficient to demonstrate that overwhelming customer preference for delivery of the issue commodities by rail renders delivery by truck practically infeasible. See Amstar Corp. v. Atchison, Topeka & Santa Fe Ry., ICC Docket No. 37478, slip op. at 7 (ICC served Dec. 8, 1987) (concluding that the fact that complainants had shipped 98.5% of the issue movements by

¹⁵¹ Id. at II-B-70 to II-B-71.

¹⁵² Id. at II-B-72 to II-B-77.

¹⁵³ CSXT's evidence regarding its experiences with customers that threatened to or moved business to trucks, Reply Evidence II-25 to II-27, was not a factor in reaching this conclusion, as we did not have enough information about CSXT's claims of lost business.

¹⁵⁴ Id. at II-30. While CSXT states that the total was [REDACTED] our review of TPI's evidence, workpaper "TPI Op Ex. II-B-2.xls" results in a total of [REDACTED]. Of this total, [REDACTED] occurred over the lanes at issue in this case. Id. We reach the equivalent of [REDACTED] truck shipments by adding the total truck shipments [REDACTED] to the total rail pound shipments converted to a truck equivalent. "TPI Op Ex. II-B-2.xls" supplies the total pounds shipped by rail. We divided that by the standard volume in one truck shipment (47,745 pounds), resulting in an estimate that the equivalent of [REDACTED] truck shipments occurred by rail over the 2006-2010 period.

¹⁵⁵ The fact that TPI regularly supplies the issue commodities to customers whose transportation options are limited to motor carriage is a strong indicator that truck delivery as a general matter is not infeasible.

rail failed to demonstrate that effective competition did not exist).¹⁵⁶ We note that these TPI figures are for customers on case lanes only.¹⁵⁷ As to all of its customers during the period 2006-2010, TPI shipped 17-21% of polyethylene, 12-14% of polypropylene, and 30-38% of polystyrene by truck.¹⁵⁸ TPI discounts these significant truck shipments by arguing that they include customers that cannot receive rail deliveries,¹⁵⁹ but that argument also supports the feasibility of receiving these commodities by truck.

TPI cites DuPont I for the proposition that customer preference for rail transportation demonstrates the infeasibility of alternative modes.¹⁶⁰ The Board's decision in that case, however, does not stand for the blanket proposition that subjective customer preference for a particular mode of transportation standing alone necessarily renders other potential modes infeasible. Indeed, "customer preference" was only one of many factors which led the Board to conclude that trucking did not provide effective competition for the relevant movement in that case. DuPont I, slip op. at 7-8. Moreover, our conclusion regarding "customer preference" in DuPont I was predicated on direct evidence regarding the unusually sensitive physical characteristics of the issue commodity, id. at 6, as well as "the lack of specialty equipment needed for carriage of synthetic powder plastics by truck," id. at 7. The customer in DuPont I "preferred" delivery by rail because the particular characteristics of that commodity presented significant logistical complications for purposes of potential delivery by truck. Id. at 6. We will discuss the evidence that TPI claims establishes a customer preference for rail [REDACTED] below.

Further, TPI cites McCarty Farms for the proposition that the "'needs of the shipper or receiver' may determine" the feasibility of proposed alternatives.¹⁶² While this statement is true

¹⁵⁶ TPI argues that Amstar Corp. does not support a finding of effective competition in this proceeding because in Amstar Corp. many lanes were at issue but only two were found to be market dominant. Rebuttal Evidence I-8 to I-9. TPI notes that the 98.5% rail shipment figure included the many lanes that the ICC found to have effective competition, and that the ICC stated that the 98.5% figure was suggestive of a lack of competition, although not completely persuasive. Id. Here, however, we are considering the percentages of truck shipments as an indicator of feasibility of truck shipments, not as a measure of effective competition on the lanes.

¹⁵⁷ See Opening Evidence II-B-18.

¹⁵⁸ Id. at II-B-7 to II-B-8.

¹⁵⁹ Id. at II-B-8.

¹⁶⁰ Opening Evidence II-B-16 (citing DuPont I, slip op. at 7).
[REDACTED]

¹⁶² Id. at II-B-16 (citing McCarty Farms, 3 I.C.C.2d at 829).

and indeed reflects a valid concern, the McCarty Farms decision properly focused on customer “needs” rather than subjective preferences when considering the feasibility of proposed alternatives. For all of the case lanes, TPI did not submit evidence that shows the general infeasibility of trucks for delivery of the issue commodities, although, as discussed below, we do find that truck delivery is infeasible for some customers based on their particular circumstances

[REDACTED]

None of the “contracts” submitted by TPI specifically require delivery of the commodities by rail in all or virtually all circumstances, and TPI admits that some of the customers whose contracts TPI claims require rail delivery have received truck delivery.¹⁶³ Although TPI claims that these truck deliveries occurred in response to supply chain disruptions, the deliveries still show that truck delivery is a possibility that these customers will accept regardless of the contract terms that allegedly prevent such deliveries. This inconsistency casts doubt on the alleged infeasibility of truck delivery. TPI cites DuPont III’s statement that a contractual requirement to deliver by rail makes a switch to trucks infeasible and cites to the record in DuPont III, which TPI claims shows that the customer in that case received a small amount of truck shipments.¹⁶⁴ However, in DuPont III, slip op. at 6, the Board noted that while trucking was physically possible, the commodity involved was flammable and had skin absorption risks. Here, we have generalized evidence that customers with contract clauses that TPI claims prevent truck shipments do accept truck shipments, and there have been no safety issues identified by the parties with respect to the plastic pellet commodities at issue here.

While TPI claims that its customers require rail delivery because they lack silo space and therefore need railcars to accommodate their post-delivery storage needs, customers on four of the identified nine lanes¹⁶⁵ that TPI claims lack any silo space at all have received truck deliveries.¹⁶⁶ On two of the nine lanes that allegedly lack silo space, there are multiple customers, but only one of the customers claims to have no silo storage.¹⁶⁷ However, to the extent that the customers on these lanes [REDACTED] raising storage issues, we address those [REDACTED] below.

¹⁶³ Rebuttal Evidence II-B-49 to II-B-50.

¹⁶⁴ Opening Evidence II-B-16; Rebuttal Evidence II-B-48 to II-B-49.

¹⁶⁵ CSXT has conceded market dominance for two of these lanes: J-13 and J-46. Compare Opening Evidence II-B-20 with Reply Evidence, Exhibit II-B-2.

¹⁶⁶ [REDACTED]

¹⁶⁷ Id. at II-B-92, II-B-142.

Although TPI claims that the average number of days that each case customer held TPI's railcars before releasing them empty shows the need for railcar storage,¹⁶⁸ even assuming that certain TPI customers lack on-site silo space, other evidence contradicts TPI's claims that its customers require railcars for storage. We cannot draw a broad conclusion about a general lack of storage among TPI's customers when, as discussed above, the evidence shows significant truck shipments of the issue commodities.¹⁶⁹

[REDACTED]

¹⁶⁸ Rebuttal Evidence II-B-51.

¹⁶⁹ Similarly, our conclusion that TPI has not shown a general customer need for storage applies to third party processors and compounders. See Reply Evidence II-50 n.62. [REDACTED]

[REDACTED]

¹⁷⁰ TPI has also presented a customer email that TPI claims establishes a customer preference for rail. Opening Evidence, Exhibit II-B-9. We note CSXT's comment that it is not challenging market dominance on the relevant lane, Reply Evidence II-48, and do not believe that one customer email would establish a preference for all customers, but we address the email regardless. [REDACTED]

[REDACTED]

[REDACTED]

¹⁷¹ The customers either receive deliveries at the lanes' destinations or they direct TPI to deliver the product to a third party at the lanes' destinations.

¹⁷² We have reached this conclusion by reviewing Opening Evidence, Exhibit II-B-11 [REDACTED]

[REDACTED] Accordingly, we conclude that the two lanes for customers [REDACTED] with the Social Circle destination do not have storage issues, leaving 41 lanes with potential storage issues [REDACTED]

[REDACTED] We find this statement too ambiguous and qualified because [REDACTED] purports to speak on behalf of its customers and does not explain which customers and destinations its statement applies to. We therefore do not find the [REDACTED]

We also will not give weight to [REDACTED] customers¹⁷³ that have received at least 10% of their traffic on at least one lane via trucks from 2006 to 2010.¹⁷⁴ In such instances, where [REDACTED] received at least 10% of its past shipments via truck for some or all of its facilities [REDACTED]

[REDACTED] Perhaps TPI could have explained this incongruity, but here it has not even attempted to reconcile [REDACTED]

[REDACTED] Although TPI claims that some truck shipments can be explained by the fact when a customer is low on inventory, product shipped by truck goes directly into the production process,¹⁷⁵ [REDACTED]

173 [REDACTED]

174 [REDACTED]

175 Rebuttal Evidence II-B-51.

[REDACTED] This leaves [REDACTED] further consideration as evidence of insufficient storage at particular locations.

We find that [REDACTED] [REDACTED]¹⁷⁷ provide evidence of insufficient storage capacity as to individual customers. Direct truck and transloading alternatives are therefore infeasible for the following lane/customer combinations: [REDACTED]

[REDACTED]

[REDACTED] In those instances, we cannot find that truck options are infeasible for those customers. In other words, TPI cannot demonstrate that CSXT is market dominant as to all customers on a lane with evidence of one customer's storage limitations.

[REDACTED]

176

[REDACTED]

177

[REDACTED]

¹⁷⁸ Relevant here, we find that CSXT did not adequately support its argument that TPI's customers could preposition railcars at their facilities to use as storage for product that arrives by truck. See Reply Evidence II-51. As TPI demonstrates, CSXT did not provide sufficient information for us to assess the feasibility of the option (logistics of trucks on sidings at customer facilities) or the costs of leasing and cleaning the cars. See Rebuttal Evidence II-B-53 to II-B-54.

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[REDACTED]

[REDACTED]

With respect to the broader feasibility argument, we agree with CSXT that TPI's arguments regarding [REDACTED] purportedly high-volume customers fail to demonstrate that delivery of the issue commodities by truck is an infeasible alternative.

[REDACTED]

Finally, while we acknowledge that the infrastructure surrounding certain high-volume customers might pose insurmountable impediments to delivery by truck under certain circumstances, we conclude that none of the movements at issue in this case involve shipments of a magnitude significant enough to justify such a conclusion here. For example, the contested movement with the highest carload volume is [REDACTED] over which TPI ships an annual average of [REDACTED]. Shifting this entire volume from railcar to truck would translate to only approximately five trucks per day.¹⁸² This falls far below volume levels the Board has deemed infeasible in the past. See, e.g., W. Tex. Utils. v. Burlington N. R.R., 1 S.T.B. 638, 652 (1996) (concluding that trucking alternative is not an option if it would require an additional 200 truck shipments daily).

180 [REDACTED]

¹⁸¹ Opening Evidence, Exhibit II-B-11. We note that CSXT states that the highest volume lane is [REDACTED] over which TPI ships an annual average of [REDACTED] and CSXT estimates that switching this lane to truck delivery would require [REDACTED]. Reply Evidence II-55 to II-56.

¹⁸² We divided the lane average carload by an assumed 250 business days per year and multiplied by four, the number of trucks we assume it takes to equal the volume of one railcar. While TPI claims that rail-to-truck transloads may result in a "heel" (more than four trucks of product but less than five full trucks), Rebuttal Evidence II-B-23 to II-B-24, TPI assumed on opening a conversion of one railcar to four trucks, and we therefore accept that assumption. Opening Evidence II-B-42 n.49.

TPI has submitted no evidence to support its claims that medical applications customers require rail service because of product contamination concerns. [REDACTED]

[REDACTED] Issues related to medical applications customers therefore do not establish a customer preference or need that rises to the level required by Dupont I or McCarty Farms.

[REDACTED] do not sufficiently support TPI's claims that off-grade customers have unique storage issues. In response to CSXT's arguments that off-grade customers also buy standard product, TPI asserts that its off-grade customers purchase only off-grade product the vast majority of the time and that its off-grade customers are brokers that require railcars for storage until resale to an end user.¹⁸⁴ We note, however, that while TPI claims that it reviewed the purchase history of its off-grade customers,¹⁸⁵ TPI does not cite to anything in the record that supports this claim, and we did not find any supporting evidence. Moreover, TPI's claim that its off-grade customers have purchased only off-grade product with one minor exception is at odds with [REDACTED] alleged purchase of off-grade product, and also being on the list of those that have accepted truck deliveries.¹⁸⁶

TPI's arguments that direct-to-customer truck or transload shipments cannot replace service to leased tracks¹⁸⁷ and that customer preferences related to leased tracks and bulk terminals¹⁸⁸ are set¹⁸⁹ also fail. TPI's customers must be presumed to understand that their

¹⁸³ Reply Evidence II-56 to II-57.

¹⁸⁴ Rebuttal Evidence II-B-62.

¹⁸⁵ Id.

¹⁸⁶ Compare Opening Evidence [REDACTED] with id. at Exhibit II-B-11.

¹⁸⁷ Of lanes that TPI claims are market dominant because they have leased tracks as destinations, CSXT challenges market dominance for the following: J-1, J-4, J-8, and J-28. Compare Opening Evidence II-B-25 with Reply Evidence, Exhibit II-B-2. Of the lanes that TPI claims are market dominant because they have customer-selected destinations, CSXT challenges market dominance for the following: J-2, J-48, J-60, J-61, J-66, J-70, J-97, J-98, J-102, J-109, J-110, and J-112. Compare Opening Evidence II-B-27 with Reply Evidence, Exhibit II-B-2.

¹⁸⁸ CSXT raises a valid claim that “[s]uch brokers are well able to take advantage of competitive alternatives in the marketplace.” Reply Evidence II-59 (citing Coal Trading Corp. v. Balt. & Ohio R.R., 6 I.C.C.2d 361, 375-76 (1990)). However, TPI is correct that in that case the broker at issue was an actual complainant before the agency. Rebuttal Evidence II-B-65. Here, (continued . . .)

choices of delivery mode and location influence the total price they pay for the issue commodities. Even if TPI lacks knowledge of certain factors, such as rebates, influencing a customer's choice of mode and delivery location, we assume that the customer is aware of transportation alternatives and undoubtedly factors transportation costs into the total price it is willing to pay TPI for the issue commodities. While TPI claims that replacing rail transportation to leased tracks with direct truck or transload transportation to customers would decrease the quality of service, we will not exclude consideration of alternatives that are feasible on these grounds as it is more properly addressed as another factor in the limit price analysis.¹⁹⁰

As a result, we conclude that the evidence presented by TPI regarding customer preferences/requirements is insufficient to demonstrate that delivery of the issue commodities by truck to TPI's customers is infeasible as a general matter.

Shipments to Broker-Customers with Bulk Terminal Destinations

TPI argues that CSXT's transloading alternatives are inefficient and extremely difficult logistically for lanes on which the customer is a broker that directs TPI to ship to a bulk terminal.¹⁹¹ From the bulk terminal, the broker ships the products to its customers, the locations of which are not on the record. CSXT's proposed alternatives involve rail to one bulk terminal, trucking to the destination bulk terminal, and transloading into a railcar to await shipment to end customers. While these transloading alternatives may not be an ideal approach, nothing on the record establishes that they are infeasible. We will consider them as viable transportation alternatives.

Bulk Terminal Network

On opening, TPI claims that it has designed a bulk terminal network that minimizes overlapping terminal coverage and distance to customers while meeting TPI's needs for volume

(continued . . .)

we are required to address the transportation at issue, and the relevant inquiry concerns the transportation alternatives put forth by the parties.

¹⁸⁹ Opening Evidence II-B-24 to II-B-27; Rebuttal Evidence II-B-62 to II-B-65.

¹⁹⁰ In the lane-specific discussion, we find that CSXT is market dominant as to most of the lanes listed in footnote 187 on the basis of the lowest limit price R/VC ratios without requiring consideration of any intangible factors in TPI's favor. The exceptions are J-60 and J-112 where we note that the concerns over a customer's preference are not enough to overcome the preliminary conclusion of an effective transportation alternative.

¹⁹¹ Rebuttal Evidence II-B-223, II-B-251, II-B-320, II-B-324, II-B-333, II-B-360.

handling and quality standards.¹⁹² TPI claims that in order to serve its rail customers by truck, it would have to significantly expand its bulk terminal network, a project which TPI states could not be “undertaken easily or quickly.”¹⁹³ On reply, CSXT argues that TPI ships from facilities that are not part of its approved bulk terminal network, and that the facilities that CSXT proposes that are outside TPI’s network have the capacity to handle the traffic.¹⁹⁴ On rebuttal, TPI objects to CSXT’s proposed transportation alternatives that involve 10 terminals outside of TPI’s bulk terminal network.¹⁹⁵ TPI argues that it cannot add terminals to its network just to get a lower transportation cost; instead, it must consider that additional terminals would increase inventory, rail storage, and administrative costs.¹⁹⁶

TPI has not adequately supported its arguments as to why terminals could not be added to its network, and we will consider the alternative terminals proposed by CSXT except for the facility at Greer,¹⁹⁷ which TPI has shown to be closed.¹⁹⁸ TPI has raised no specific quality or capacity concerns related to CSXT’s proposed terminals, and has not quantified the claimed time and administrative costs of adding terminals to its network (except for a generalized example).¹⁹⁹ We therefore conclude that the terminals proposed by CSXT are feasible.

Intramodal Alternatives

For lane J-44, CSXT proposes a direct rail option via Norfolk Southern Railway Company (NS).²⁰⁰ According to CSXT, Advanced Composites (the compounder to which TPI’s customer on this lane ships) receives deliveries at both its facility and a leased track, and although NS cannot access the leased track, NS can serve the facility.²⁰¹ CSXT asserts that since 2007, NS has delivered three cars to Advanced Composites.²⁰² TPI responds that availability of

¹⁹² Opening Evidence II-B-31 n.23.

¹⁹³ Id.

¹⁹⁴ Reply Evidence II-B-32 to II-B-33.

¹⁹⁵ Rebuttal Evidence II-B-105.

¹⁹⁶ Id. at II-B-105 to II-B-106.

¹⁹⁷ As noted in the lane-specific discussion below, we therefore conclude that CSXT’s transloading alternative for lanes J-21, J-105, and J-106 are infeasible.

¹⁹⁸ Id. at Exhibit II-B-30.

¹⁹⁹ Id. at II-B-108.

²⁰⁰ Reply Evidence, Exhibit II-B-2.

²⁰¹ Id. at II-17.

²⁰² Id.; id. at Exhibit II-B-7 at 4.

NS service to one location is insufficient because at the time of shipping TPI does not know whether the customer will require delivery to the facility or to the leased track and therefore TPI must use CSXT.²⁰³ TPI also contests whether NS was able to deliver the three cars to the destination.²⁰⁴ Finally, for all of CSXT's intramodal options, TPI notes that it is not seeking a prescribed rate for the competitive move, but only rate relief for the captive location.²⁰⁵

In this instance, we find that the NS direct rail alternative is feasible for lane J-44 regardless of whether NS can deliver to the leased track. TPI admits that when it ships to Advanced Composites, it does not know whether it will be directed to deliver to the facility or the leased track. We therefore conclude that the NS alternative is feasible at the time of shipping because the leased track is not a unique destination but rather a special service that CSXT provides to TPI and its customer. We seek to make an "apples-to-apples" comparison when considering what alternatives are feasible, and we will not eliminate alternatives because the transportation at issue includes a special service that the railroad is not required to provide (the leased track option). See Dupont III, slip op. at 5. Therefore, while it appears that NS can only ship directly to the facility, that ability still provides an alternative at the time of shipping, and we will consider that alternative as part of our limit price analysis.

For lanes J-67 and J-108, CSXT also proposes a direct rail alternative with NS service to an interchange with the Wheeling & Lake Erie Railroad Company (WE) at Bellevue, Ohio and an interchange with Akron Barberton Cluster Railway Company (AB) at Barberton, Ohio for service to Akron. CSXT explains that TPI regularly ships its products to multiple customers in Akron that can receive service from the proposed direct rail alternative.²⁰⁶ CSXT contends that while the Akron customer [REDACTED] that TPI claims as the captive shipper on this lane cannot receive service from the proposed direct rail alternative, CSXT's rate for this lane is not customer-specific; rather, the rate applies to all TPI customers in Akron, many of which have access to service from the proposed alternative. Therefore, CSXT concludes, its ability to increase rates for [REDACTED] is constrained by the fact that other customers shipping under the same rate have direct rail alternatives.²⁰⁷ TPI responds that CSXT controls the customers to which a particular rate applies and has the ability to make a tariff that applies to some locations

²⁰³ Rebuttal Evidence II-B-6.

²⁰⁴ Id. at II-B-6 to II-B-7; id. at Exhibits II-B-2, II-B-3, II-B-4.

²⁰⁵ Id. at II-B-5.

²⁰⁶ Reply Evidence II-17.

²⁰⁷ Id. at II-18 to II-19.

and not others.²⁰⁸ As previously discussed, TPI also states that it “is not seeking prescribed rates for competitively[]served destination locations.”²⁰⁹

We find that CSXT’s proposed alternative does not reach the specific customer’s delivery location and therefore is not a feasible alternative.²¹⁰ The direct rail alternative that CSXT proposes is therefore irrelevant because it does not provide an alternative for the issue traffic. However, as requested by TPI,²¹¹ any rate that we may prescribe will apply only to the traffic to [REDACTED] not to TPI’s other Akron customers. The transportation at issue is for delivery only to [REDACTED] which CSXT admits is an entirely captive destination. Evidence of competition for other locations in and around Akron would in fact represent the kind of geographic competition the Board does not consider.²¹²

For lanes J-109 and J-110, CSXT proposes direct rail service via NS from East St. Louis, Ill. for delivery by the Indiana & Ohio Railroad (IORY) to Lima, Ohio.²¹³ On opening, TPI claims that the customers on these lanes direct TPI to send shipments to a trucking facility, Luckey Logistics (Luckey),²¹⁴ at 401 E. Robb Avenue in Lima.²¹⁵ CSXT claims there are two Luckey facilities in Lima; one Luckey facility is open to both CSXT and NS-IORY service while the other is served only by CSXT.²¹⁶ CSXT asserts that despite TPI’s claim that its customers direct TPI to ship to the captive Luckey facility, TPI shipped [REDACTED] to Lima using the alternative NS-IORY service and [REDACTED] using CSXT.²¹⁷ CSXT argues that its rate for this lane is not specific to either Luckey location; rather, the same rate applies to both facilities. Therefore, CSXT concludes, its ability to increase rates for the captive Luckey facility is

²⁰⁸ Rebuttal Evidence II-B-8.

²⁰⁹ Id. at II-B-5.

²¹⁰ See id. at II-B-265.

²¹¹ Id. at II-B-5.

²¹² Geographic competition occurs when “the complaining shipper can avoid using the defendant railroad by obtaining the same product from a different source, or by shipping the same product to a different destination.” Mkt. Dominance Determinations 1998, 3 S.T.B. at 937. The Board has concluded that it will not consider geographic competition. Id. at 950.

²¹³ Reply Evidence, Exhibit II-B-2.

²¹⁴ TPI also refers to this facility as Luckey Trucking. Opening Evidence II-B-137, II-B-138 (Luckey Trucking); Rebuttal Evidence II-B-8 to II-B-9 (Luckey Logistics).

²¹⁵ Opening Evidence II-B-137.

²¹⁶ Reply Evidence II-18.

²¹⁷ Id.

constrained by the alternative available at the second Luckey facility.²¹⁸ TPI responds that CSXT admits that one of the Luckey facilities is captive and therefore agrees that there is no intramodal competition on the lane.²¹⁹ TPI argues that the car location message reports show that no cars were delivered by the NS-IORY service to the captive facility.²²⁰

Similar to our previous discussion regarding lanes J-67 and J-108, we cannot consider CSXT's proposed alternative because it constitutes geographic competition for movements to the captive location. While we recognize that the two Luckey facilities are very close to each other and that they appear to provide the same services, CSXT has proposed shipping the same product to a different destination, which is geographic competition. As previously noted, TPI is only challenging the rates to captive locations.²²¹ The fact that TPI could ship to another location is irrelevant, and any rate we prescribe will apply only to shipments to the captive location, the 401 E. Robb facility.

COSTS

On opening, TPI claims that its transload costs include bulk terminal fees and storage charges, additional personnel costs over rail transportation, additional car lease and maintenance costs, and inventory carrying costs.²²² CSXT objects to each of these costs.²²³ On rebuttal, TPI, citing Dupont III, slip op. at 5, claims that its costs are necessary for a "proper apples-to-apples" comparison of rail and truck fees.²²⁴

Bulk terminal fees and storage charges

On opening, TPI states that it calculated bulk terminal storage fees based on the average number of days ■■■■ that a TPI railcar spent in storage at a bulk terminal less the number of free storage days permitted by particular terminals.²²⁵ CSXT replies that ■■■■ of bulk terminal storage is excessive and unsupported.²²⁶ ■■■■

²¹⁸ Id. at II-18 to II-19.

²¹⁹ Rebuttal Evidence II-B-8.

²²⁰ Id. at II-B-9.

²²¹ Id. at II-B-5.

²²² Opening Evidence II-B-30 to II-B-34.

²²³ Reply Evidence II-70 to II-81.

²²⁴ Rebuttal Evidence II-B-90.

²²⁵ Opening Evidence II-B-31.

²²⁶ Reply Evidence II-72.

CSXT also argues that the use of TPI's bulk terminal data is not relevant because TPI uses bulk terminals to stage product until it is requested by customers.²²⁸ In contrast, CSXT claims, under its proposed alternatives the product would move through transload facilities within the typical 10-day free storage window.²²⁹ On rebuttal, TPI argues that its proposed costs are based on its current real-world operations, and as such are the best evidence of record.²³⁰ TPI claims that to make transloading attractive to rail-served customers, it must store product at bulk terminals in anticipation of orders; otherwise, customers will be subjected to both the slow transit times of rail and the lack of railcars for storage.²³¹

We conclude that TPI's bulk terminal storage fees are excessive and will not include them in our calculation of limit prices for transloading options. TPI's claimed average number of bulk terminal storage days is inflated by loaded railcars that are prepositioned at the terminal before customers place orders. While TPI may choose to preposition its product at bulk terminals in advance of orders, this allows TPI to provide a higher quality service to its customers than rail provides and therefore should not be part of a direct comparison of the costs of the transportation alternatives. *Cf. DuPont III*, slip op. at 5. While TPI cites *DuPont III* in support of its claimed costs,²³² the costs at issue in that case were presumably included in the adjusted rail rate in order to account for a comparable level of service between rail and truck. *Cf. id.* For the transloading alternatives under consideration here, we believe that the product can move through bulk terminals more quickly than instances where TPI prepositions the product for customer service purposes.

Car lease and maintenance costs

On opening, TPI asserts that for certain customers and movements, transloading will increase car lease and maintenance costs, while for other customers and movements, transloading will decrease those costs.²³³ TPI calculated the expected effect on each customer and lane and applied it to inventory carrying costs (discussed below).²³⁴ CSXT replies that because TPI's

²²⁷ *Id.*

²²⁸ *Id.* at II-72 to II-73.

²²⁹ *Id.* at II-73.

²³⁰ Rebuttal Evidence II-B-92 to II-B-96.

²³¹ *Id.* at II-B-94 to II-B-95.

²³² *Id.* at II-B-90.

²³³ Opening Evidence II-B-33 to II-B-34.

²³⁴ *Id.* at II-B-34.

calculations are based on the inflated assumption that railcars will spend █ days in storage at bulk terminals, and that if the assumption is adjusted, TPI will actually save money.²³⁵ On rebuttal, TPI argues that its proposed costs are based on its current real-world operations, and as such are the best evidence of record.²³⁶ TPI claims that to make transloading attractive to rail-served customers, it must store product at bulk terminals in anticipation of orders; otherwise, customers will be subjected to both the slow transit times of rail and the lack of railcars for storage.²³⁷

We will not include the additional car lease and maintenance costs in our calculation of limit prices for transloading options. TPI assumes that the hold time at terminals would be equal to TPI's current average terminal hold time, but this assumption does not recognize that reliance on railcar storage varies among TPI's customers. Instead, hold time at bulk terminals is likely to be the same as the time railcars are currently stored at a customer's facility, resulting in no additional storage time and therefore no additional railcar lease and maintenance costs. Further, as explained above, TPI's claimed average number of hold days is inflated by loaded railcars that are repositioned at the terminal before customers place orders in order to provide a higher quality service, and therefore should not be part of a direct comparison of the costs of the transportation alternatives. *Cf. DuPont III*, slip op. at 5.

Inventory carrying costs

On opening, TPI claims that except for lanes that involve shipments to █ leased tracks, the transload alternatives will result in higher inventory carrying costs. TPI asserts that when it ships a railcar directly to a customer it invoices the customer immediately and the customer takes title to the product.²³⁹ In contrast, according to TPI, transload shipments through bulk terminals are not invoiced until the truck ships from the bulk terminal, and product is staged at bulk terminals before shipping to a final destination, and TPI's costs are therefore allegedly higher for transload shipments.²⁴⁰

On reply, CSXT argues that the inventory carrying costs are unsupported.²⁴¹ CSXT describes the cost as an "accounting gimmick" that does not affect TPI's actual revenues or

²³⁵ Reply Evidence II-73 to II-74.

²³⁶ Rebuttal Evidence II-B-92 to II-B-96.

²³⁷ *Id.* at II-B-94 to II-B-95.

²³⁸ Opening Evidence II-B-32.

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ Reply Evidence II-76 to II-80.

costs.²⁴² CSXT claims that TPI failed to produce workpapers that show it considers inventory carrying costs in its normal course of business.²⁴³ In fact, CSXT argues, various TPI internal analyses show that it does not consider inventory carrying costs.²⁴⁴ [REDACTED]

[REDACTED] CSXT argues that the Generally Accepted Accounting Principles do not support such a cost.²⁴⁶ Finally, CSXT claims that the costs are inflated by assumptions of excessive storage time and cost of capital.²⁴⁷

On rebuttal, TPI argues that it does incorporate the asserted costs into its internal analyses.²⁴⁸ TPI submits a workpaper that it claims shows its internal consideration of the costs.²⁴⁹ TPI argues that the “Distribution Cost Analysis” that CSXT asserts shows TPI’s failure to actually consider inventory carrying costs does not show such consideration because that analysis considered bulk terminal shipment to a customer-designated terminal and the ownership is transferred upon arrival at the terminal, resulting in no inventory carrying costs to TPI.²⁵⁰ TPI claims that the “Modal Analysis” cited by CSXT was an incomplete draft and therefore its failure to consider inventory carrying costs is meaningless.²⁵¹ [REDACTED]

[REDACTED] TPI claims that unlike CSXT, it has supported its cost of capital, and that at any rate, CSXT apparently misunderstands what TPI means by cost of capital.²⁵³

²⁴² Id. at II-77.

²⁴³ Id. at II-77 to II-78.

²⁴⁴ Id. at II-78.

²⁴⁵ Id. at II-78 to II-79.

²⁴⁶ Id. at II-79 to II-80.

²⁴⁷ Id. at II-80.

²⁴⁸ Rebuttal Evidence at II-B-99 to II-B-100.

²⁴⁹ Id. at II-B-99 (referring to Rebuttal Workpaper “ASR Analysis.”)

²⁵⁰ Id. at II-B-100.

²⁵¹ Id.

²⁵² Id.

²⁵³ Id. at II-B-101.

In this case, we will not include inventory carrying costs in our calculation of limit prices for transloading options. Inventory carrying costs are a legitimate factor to consider in a market dominance inquiry. These costs are the opportunity costs that are incurred while the inventory languishes in the transportation distribution chain between the producer and the consumer. Therefore, if a proposed competitive transportation alternative would impose significant additional inventory carrying costs on the complainant or its customers, that factor might render the proposed competitive transportation alternative ineffective in constraining the pricing of the railroad to a reasonable level. That might happen if the proposed transportation alternative was much slower than the challenged rail movement, such that the added time the inventory spends in the transportation system is a legitimate factor to consider. However, in this case the record does not support a finding that the total inventory carrying costs will increase materially. For the challenged rail movements, the inventory carrying costs are borne by TPI's customers, because when it ships a railcar directly to a customer it invoices the customer immediately and the customer takes title to the product. Under the transloading alternative proposed by CSXT, the inventory carrying costs are borne instead by TPI, because (according to TPI) transload shipments through bulk terminals are not invoiced until the truck ships from the bulk terminal. Yet the difference in billing practice does not mean the transloading alternative is increasing inventory carrying costs; inventory carrying costs are the same, it is simply a question of who bears those costs: TPI or its customers. Absent evidence that the inventory will spend more time in the transportation chain under the proposed alternative, thereby increasing the inventory carrying costs, we find no basis to consider these costs in our analysis.

Personnel costs

On opening, TPI claims that each rail or truck shipment requires a delivery note, which takes a TPI employee [REDACTED] hours to prepare at a cost [REDACTED].²⁵⁴ TPI asserts that because a rail-truck transload requires five delivery notes (for four trucks and one railcar) as opposed to one delivery note for rail the additional personnel cost for transload alternatives is [REDACTED].²⁵⁵

On reply, CSXT disputes the validity of the personnel costs.²⁵⁶ CSXT claims that TPI does not support its asserted [REDACTED] of processing time for each delivery note, and expresses skepticism that it would take a TPI employee [REDACTED] to process the delivery notes for each rail-truck shipment that moves through a transload facility.²⁵⁷ CSXT argues that because TPI did not explain what a delivery note is or why it takes so long to complete, the Board should

²⁵⁴ Opening Evidence II-B-31 to II-B-32.

²⁵⁵ Id.

²⁵⁶ Reply Evidence II-74 to II-76.

²⁵⁷ Id. at II-74 to II-75.

reject the asserted personnel costs.²⁵⁸ CSXT maintains that although TPI calculated the time to process a delivery note based on the number of its polymer order fulfillment staff and their annual working hours, TPI assumed that the staff had no other responsibilities, an assumption which CSXT argues is unsupported and difficult to believe.²⁵⁹ CSXT also contests TPI's assumption that its polymer order fulfillment staff works 40 hours a week and 52 weeks a year with no leave.²⁶⁰ CSXT claims that TPI did not provide any supporting evidence for the salary and mark-up on which the costs are based.²⁶¹

On rebuttal, TPI claims that [REDACTED] hours includes time to complete other tasks in addition to the delivery note.²⁶² TPI asserts that its assumptions regarding employee hours and leave actually lower personnel costs.²⁶³ TPI argues that the personnel costs are based on its entry-level salary and reflect a markup based on information provided by its human resources department.²⁶⁴

We do not consider TPI's personnel costs a necessary additional cost of transloading. As previously discussed, none of these lanes have a particularly high annual volume of shipments, and we find that CSXT is market dominant for many of them. The additional burden on TPI's staff therefore appears to be limited. In addition, TPI did not explain the contents of a delivery note on opening or why, when presumably significant amounts of information would be the same on the additional delivery notes, the additional delivery notes could not be completed more quickly. We therefore conclude that TPI has not shown that its existing staff would be insufficient to process additional transloaded shipments.

RATE-SPECIFIC ANALYSES

Memphis-Social Circle

²⁵⁸ Id. at II-75.

²⁵⁹ Id. at II-75 to II-76.

²⁶⁰ Id. at II-76.

²⁶¹ Id.

²⁶² Rebuttal Evidence II-B-101 to II-B-102.

²⁶³ Id. at II-B-102.

²⁶⁴ Id. at II-B-102 to II-B-103.

One contested lane, J-1, is governed by the Memphis-Social Circle rate. On opening, TPI does not propose a transportation alternative.²⁶⁵ CSXT proposes rail to Doraville, Ga. and trucking to Social Circle or to the customer,²⁶⁶ which has a price of [REDACTED].²⁶⁷ On rebuttal, TPI restates the costs of for CSXT's transloading alternative²⁶⁸ as [REDACTED]. The price of CSXT's alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. Although CSXT has changed its routing protocol and all movements of polypropylene to Social Circle now are routed through New Orleans on lane J-28,²⁷⁰ TPI argues that this movement should remain under consideration because historical volumes entitle TPI to reparations and because TPI may need to use the lane in the future,²⁷¹ and we agree. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Social Circle rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Social Circle (polypropylene) rate.²⁷²

Memphis-Evansville

²⁶⁵ Opening Evidence II-B-45.

²⁶⁶ Reply Evidence, Exhibit II-B-2.

²⁶⁷ The price and the limit price of CSXT's proposed alternatives are the same.

²⁶⁸ As discussed above, TPI includes certain costs (bulk terminal storage fees, inventory carrying costs, and personnel costs) in its prices for transloading alternatives that we do not consider to be a part of the transportation costs at issue here. See supra pp. 53-58. Accordingly, throughout these rate-specific analyses—unless otherwise noted—we do not accept TPI's restatement of the costs of CSXT's transportation alternatives. However, when we calculated limit prices for transloading alternatives proposed by TPI on opening, we removed the bulk terminal storage fees, inventory carrying costs, and personnel costs.

²⁶⁹ Rebuttal Evidence II-B-119. We note that while TPI's rebuttal estimate includes costs that we have rejected as described above, TPI's restatement of CSXT's transloading cost does not provide the lowest limit price.

²⁷⁰ Opening Evidence II-B-45.

²⁷¹ Id. at II-B-45 n.57; Rebuttal Evidence II-B-120 n.203.

²⁷² [REDACTED]

One contested lane, J-2, is governed by the Memphis-Evansville rate. On opening, TPI proposes a direct truck alternative.²⁷³ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville, Ky. with TPI-stated costs of [REDACTED] to [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Louisville and trucking to the customer,²⁷⁴ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Evansville rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Evansville (polypropylene) rate.²⁷⁶

New Orleans-Covington

Two contested lanes are governed by the New Orleans-Covington rate, the first of which is lane J-3. On opening, TPI proposes a direct truck alternative.²⁷⁷ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville, Ga. with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Doraville and trucking to the customer.²⁷⁸ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the cost of CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Covington

²⁷³ Opening Evidence II-B-46.

²⁷⁴ Reply Evidence, Exhibit II-B-2.

²⁷⁵ Rebuttal Evidence II-B-123.

²⁷⁶ [REDACTED]

²⁷⁷ Opening Evidence II-B-47.

²⁷⁸ Reply Evidence, Exhibit II-B-2.

²⁷⁹ Rebuttal Evidence II-B-130.

(polystyrene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

Lane J-43 is also governed by the New Orleans-Covington rate. On opening, TPI proposes a direct truck alternative.²⁸⁰ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] to [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Doraville and trucking to the customer.²⁸¹ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the cost of CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Covington (polypropylene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the New Orleans-Covington rate is [REDACTED] above CSXT's RSAM figure, and we therefore preliminarily conclude that the lowest limit price alternative proposed for movements governed by the New Orleans-Covington rate does not exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Covington (polystyrene and polypropylene) rate.

Chicago-Clinton

One contested lane, J-4, is governed by the Chicago-Clinton rate. [REDACTED]
[REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the Chicago-Clinton (polypropylene) rate.

New Orleans-Amphill

²⁸⁰ Opening Evidence II-B-83.

²⁸¹ Reply Evidence, Exhibit II-B-2.

²⁸² Rebuttal Evidence II-B-216.

²⁸³ See *supra* p. 46.

One contested lane, J-5, is governed by the New Orleans-Amphill rate. [REDACTED]

[REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the New Orleans-Amphill (polyethylene HD) rate.

Memphis-Bowling Green

One contested lane, J-6, is governed by the Memphis-Bowling Green rate. On opening, TPI proposes a direct truck alternative.²⁸⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Louisville and trucking to the customer,²⁸⁶ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Bowling Green rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Bowling Green (polypropylene) rate.

New Orleans-Conyers

Two contested lanes are governed by the New Orleans-Conyers rate, the first of which is lane J-7. [REDACTED]

[REDACTED] As a result there are no transportation alternatives for this lane.

Lane J-120 is also governed by the New Orleans-Conyers rate. On opening, TPI proposes a direct truck alternative.²⁸⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a

²⁸⁴ See supra p. 46.

²⁸⁵ Opening Evidence II-B-50.

²⁸⁶ Reply Evidence, Exhibit II-B-2.

²⁸⁷ Rebuttal Evidence II-B-143.

²⁸⁸ See supra p. 46.

²⁸⁹ Opening Evidence II-B-147.

limit price of [REDACTED] CSXT proposes rail service to Dalton, Ga. and trucking to the customer.²⁹⁰ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED]. The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Conyers (polypropylene) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.²⁹²

As demonstrated above, CSXT has not presented a feasible transportation alternative for lane J-7. In addition, the lowest limit price R/VC ratio for lane J-120 [REDACTED] exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that the lowest limit price alternative proposed for that movement governed by the New Orleans-Conyers rate does not exert competitive pressure sufficient to restrain that rate effectively. Furthermore, the lowest limit price alternative does not have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Conyers (polystyrene and polypropylene) rate.

New Orleans-Barnett

One contested lane, J-8, is governed by the New Orleans-Barnett rate. On opening, TPI does not propose any transportation alternatives.²⁹³ CSXT proposes rail to Augusta, Ga. and trucking to the customer,²⁹⁴ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Barnett rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As

²⁹⁰ Reply Evidence, Exhibit II-B-2.

²⁹¹ Rebuttal Evidence II-B-372.

²⁹² [REDACTED]

²⁹³ Opening Evidence II-B-52.

²⁹⁴ Reply Evidence, Exhibit II-B-2.

²⁹⁵ Rebuttal Evidence II-B-149.

a result, we conclude that CSXT is market dominant with regard to the New Orleans-Barnett (polypropylene) rate.

New Orleans-Athens

One contested lane, J-9, is governed by the New Orleans-Athens rate. On opening, TPI proposes a direct truck alternative.²⁹⁶ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Doraville and trucking to the customer, which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Athens rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Athens (polypropylene) rate.

Memphis-Vine Hill

Three contested lanes are governed by the Memphis-Vine Hill rate, the first of which is lane J-10. On opening, TPI proposes a direct truck alternative.²⁹⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Chattanooga, Tenn. with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Chattanooga and trucking to the customer.³⁰⁰ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Vine Hill

²⁹⁶ Opening Evidence II-B-53.

²⁹⁷ Reply Evidence, Exhibit II-B-2.

²⁹⁸ Rebuttal Evidence II-B-152.

²⁹⁹ Opening Evidence II-B-54.

³⁰⁰ Reply Evidence, Exhibit II-B-2.

³⁰¹ Rebuttal Evidence II-B-155.

(polypropylene) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.³⁰²

Lane J-53 is also governed by the Memphis-Vine Hill rate.³⁰³ On opening, TPI proposes a direct truck alternative.³⁰⁴ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Chattanooga with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Chattanooga and trucking to the customer.³⁰⁵ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Vine Hill (polyethylene HD) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

Lane J-74 is also governed by the Memphis-Vine Hill rate. On opening, TPI proposes a direct truck alternative.³⁰⁷ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Chattanooga with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Chattanooga and trucking to the customer.³⁰⁸ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of

302 [REDACTED]

³⁰³ We note conflicting evidence on whether lane J-53 should be considered under the Memphis-Vine Hill rate or whether it should be considered as a separate Memphis-Nashville rate. However, the parties describe this rate as the Memphis-Vine Hill rate in their lane summaries. Opening Evidence II-B-91; Reply Evidence, Exhibit II-B-2; Rebuttal Evidence II-B-232. According to TPI, the three lanes we have included in this rate group interchange through Vine Hill, have the same tariffs, and the same R/VC ratios. Opening Evidence II-B-91. We therefore conclude the same rate applies to all three movements.

³⁰⁴ Opening Evidence II-B-91.

³⁰⁵ Reply Evidence, Exhibit II-B-2.

³⁰⁶ Rebuttal Evidence II-B-232.

³⁰⁷ Opening Evidence II-B-109.

³⁰⁸ Reply Evidence, Exhibit II-B-2.

CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Vine Hill (polyethylene HD) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the Memphis-Vine Hill rate [REDACTED] exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest limit price alternatives proposed for movements governed by the Memphis-Vine Hill rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Vine Hill (polypropylene and polyethylene HD) rate.

New Orleans-Winchester

One contested lane, J-14, is governed by the New Orleans-Winchester rate. On opening, TPI proposes a direct truck alternative.³¹⁰ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Philadelphia with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Crafton/Pittsburgh, Pa. and trucking to the customer,³¹¹ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Winchester rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Winchester (polystyrene) rate.

Chicago-Orangeburg

³⁰⁹ Rebuttal Evidence II-B-280.

³¹⁰ Opening Evidence II-B-58.

³¹¹ Reply Evidence, Exhibit II-B-2.

³¹² Rebuttal Evidence II-B-159.

One contested lane, J-15, is governed by the Chicago-Orangeburg rate. [REDACTED]

[REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the Chicago-Orangeburg (polyethylene HD) rate.

Chicago-Anderson

One contested lane, J-17, is governed by the Chicago-Anderson rate. On opening, TPI proposes a direct truck alternative.³¹⁴ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail via BNSF to interchange with CN at Chicago, rail via CN to East Morris, and trucking to the customer,³¹⁵ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Anderson rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Anderson (polypropylene) rate.³¹⁷

Chicago-Cincinnati

One contested lane, J-18, is governed by the Chicago-Cincinnati rate. [REDACTED]

[REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the Chicago-Cincinnati (polyethylene HD) rate.

³¹³ See supra p. 46.

³¹⁴ Opening Evidence II-B-61.

³¹⁵ Reply Evidence, Exhibit II-B-2.

³¹⁶ Rebuttal Evidence II-B-165.

³¹⁷ [REDACTED]

³¹⁸ See supra p. 46.

Chicago-Cumberland

One contested lane, J-20, is governed by the Chicago-Cumberland rate. On opening, TPI proposes a direct truck alternative.³¹⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Philadelphia with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Crafton/Pittsburgh and trucking to the customer,³²⁰ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Cumberland rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Cumberland (polypropylene) rate.

New Orleans-Hamlet

Three contested lanes are governed by the New Orleans-Hamlet rate, the first of which is lane J-21. On opening, TPI proposes a direct truck alternative.³²² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte, N.C. with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Greer, S.C. and trucking to the customer.³²³ However, the transloading facility at Greer is closed,³²⁴ and therefore this is not a feasible alternative. The price of TPI's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Hamlet (polypropylene) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

³¹⁹ Opening Evidence II-B-64.

³²⁰ Reply Evidence, Exhibit II-B-2.

³²¹ Rebuttal Evidence II-B-172.

³²² Opening Evidence II-B-65.

³²³ Reply Evidence, Exhibit II-B-2.

³²⁴ Rebuttal Evidence, Exhibit II-B-30.

Lane J-105 is also governed by the New Orleans-Hamlet rate. On opening, TPI proposes a direct truck alternative.³²⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Greer and trucking to the customer,³²⁶ but, as previously stated, this is not a feasible alternative. The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Hamlet rate (polyethylene HD) effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

Lane J-106 is also governed by the New Orleans-Hamlet rate. On opening, TPI proposes a direct truck alternative.³²⁷ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Greer and trucking to the customer,³²⁸ but, as previously stated, this is not a feasible alternative. The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Hamlet (polystyrene) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the New Orleans-Hamlet rate exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest limit price alternatives proposed for movements governed by the New Orleans-Hamlet Hill rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Hamlet (polypropylene, polyethylene HD, and polystyrene) rate.

Chicago-Mentor

³²⁵ Opening Evidence II-B-134.

³²⁶ Reply Evidence, Exhibit II-B-2.

³²⁷ Opening Evidence II-B-135.

³²⁸ Reply Evidence, Exhibit II-B-2.

One contested lane, J-22, is governed by the Chicago-Mentor rate. On opening, TPI proposes a direct truck alternative.³²⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Euclid, Ohio with TPI-stated costs of [REDACTED] to [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Crafton/Pittsburgh and trucking to the customer,³³⁰ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Mentor rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Mentor (polypropylene) rate.³³²

New Orleans-North Cove

One contested lane, J-23, is governed by the New Orleans-North Cove rate. On opening, TPI proposes a direct truck alternative.³³³ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Augusta and trucking to the customer,³³⁴ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-North Cove rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude

³²⁹ Opening Evidence II-B-66.

³³⁰ Reply Evidence, Exhibit II-B-2.

³³¹ Rebuttal Evidence II-B-179.

³³² [REDACTED]

³³³ Opening Evidence II-B-67.

³³⁴ Reply Evidence, Exhibit II-B-2.

³³⁵ Rebuttal Evidence II-B-183.

that CSXT is not market dominant with regard to the New Orleans-North Cove (polyethylene HD) rate.

Memphis-Guthrie

One contested lane, J-25, is governed by the Memphis-Guthrie rate. On opening, TPI proposes a direct truck alternative.³³⁶ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Chattanooga with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Chattanooga and trucking to the customer,³³⁷ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Guthrie rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Guthrie (polystyrene) rate.

New Orleans-Beech Island

Two contested lanes are governed by the New Orleans-Beech Island rate, the first of which is lane J-26. On opening, TPI proposes a direct truck alternative.³³⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Pineville, N.C. and trucking to the customer,³⁴⁰ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Beech Island (polystyrene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

³³⁶ Opening Evidence II-B-68.

³³⁷ Reply Evidence, Exhibit II-B-2.

³³⁸ Rebuttal Evidence II-B-186.

³³⁹ Opening Evidence II-B-69.

³⁴⁰ Reply Evidence, Exhibit II-B-2.

³⁴¹ Rebuttal Evidence II-B-189.

Lane J-103 is also governed by the New Orleans-Beech Island rate. On opening, TPI proposes a direct truck alternative.³⁴² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Augusta, Ga. and trucking to the customer,³⁴³ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement [REDACTED] is above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Beech Island (polypropylene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the New Orleans-Beech Island rate exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest limit price alternatives proposed for movements governed by the New Orleans-Beech Island rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Beech Island (polystyrene and polypropylene) rate.

New Orleans-Social Circle

One contested lane, J-28, is governed by the New Orleans-Social Circle rate. On opening, TPI does not propose a transportation alternative.³⁴⁵ CSXT proposes rail to Doraville and trucking to Social Circle, Ga. or the customer,³⁴⁶ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Social Circle rate

³⁴² Opening Evidence II-B-132.

³⁴³ Reply Evidence, Exhibit II-B-2.

³⁴⁴ Rebuttal Evidence II-B-337.

³⁴⁵ Opening Evidence II-B-70.

³⁴⁶ Reply Evidence, Exhibit II-B-2.

³⁴⁷ Rebuttal Evidence II-B-192.

effectively, and conclude that the alternatives have no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Social Circle (polypropylene) rate.

Memphis-Piqua

One contested lane, J-29, is governed by the Memphis-Piqua rate. [REDACTED]

As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the Memphis-Piqua (polystyrene) rate.

New Orleans-Monroe

One contested lane, J-31, is governed by the New Orleans-Monroe rate. On opening, TPI proposes a direct truck alternative.³⁴⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Augusta and trucking to the customer,³⁵⁰ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Monroe rate effectively. Moreover, for this lane transloading does not have intangible disadvantages sufficient to overcome our preliminary conclusion. As discussed above, TPI argues that customers prefer direct rail for various reasons, including for the ability to use railcars for storage. TPI claims that while direct rail offers storage as an advantage and direct truck service offers speed, transloading alternatives have neither speed nor storage advantages; therefore, to make transloading attractive to customers, railcars filled with product must be prepositioned at bulk terminals in advance of orders.³⁵² However, TPI also argues that prepositioning enables it to fulfill just-in-time orders.³⁵³ We have concluded that TPI's claimed customer preference categories do not render transloading or truck service infeasible in general,

³⁴⁸ See *supra* p. 46.

³⁴⁹ Opening Evidence II-B-73.

³⁵⁰ Reply Evidence, Exhibit II-B-2.

³⁵¹ Rebuttal Evidence II-B-198.

³⁵² *Id.* at II-B-94 to II-B-95.

³⁵³ Opening Evidence II-B-24.

and we also do not believe that any of those categories implicate issues associated with transloading service sufficient to change our preliminary conclusion. TPI has not proven any product integrity issues associated with transloading.³⁵⁴ As for the delivery timing issues associated with transloading, unless a substantial percentage of the issue movements are found to be not market dominant, we believe that transloading need not be as slow of a delivery method as TPI claims, and as such conclude that neither mode has a clear timing advantage that would change our preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Monroe (polypropylene) rate.

Chicago-Terre Haute

Two contested lanes are governed by the Chicago-Terre Haute rate, the first of which is lane J-33. On opening, TPI proposes a direct truck alternative.³⁵⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service via BNSF to Chicago, switch to IHB for service to Hammond, and trucking to the customer.³⁵⁶ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Terre Haute (polyethylene HD) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.³⁵⁸

³⁵⁴ See *supra* pp. 12-13, p. 48. Compare to *M&G*, slip op. at 34, where the Board found that the record supported a conclusion that alternatives involving more than two transloads would not be feasible due to product integrity concerns.

³⁵⁵ Opening Evidence II-B-75.

³⁵⁶ Reply Evidence, Exhibit II-B-2.

³⁵⁷ Rebuttal Evidence II-B-201.

³⁵⁸ [REDACTED]

Lane J-56 is also governed by the Chicago-Terre Haute rate. On opening, TPI proposes a direct truck alternative.³⁵⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service via BNSF to interchange with CN in Chicago, switch to East Morris, and trucking to the customer.³⁶⁰ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Terre Haute (polypropylene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the Chicago-Terre Haute rate exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest limit price alternatives proposed for movements governed by the Chicago-Terre Haute rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Terre Haute (polyethylene HD and polypropylene) rate.

New Orleans-Cartersville

One contested lane, J-35, is governed by the New Orleans-Cartersville rate. On opening, TPI proposes a direct truck alternative.³⁶² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Chattanooga and trucking to the customer,³⁶³ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily

³⁵⁹ Opening Evidence II-B-94.

³⁶⁰ Reply Evidence, Exhibit II-B-2.

³⁶¹ Rebuttal Evidence II-B-239.

³⁶² Opening Evidence II-B-77.

³⁶³ Reply Evidence, Exhibit II-B-2.

³⁶⁴ Rebuttal Evidence II-B-204.

conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Cartersville rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Cartersville (polypropylene) rate.

New Orleans-Stanley

One contested lane, J-36, is governed by the New Orleans-Stanley rate. On opening, TPI proposes a direct truck alternative.³⁶⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Augusta and trucking to the customer, which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Stanley rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Stanley (polypropylene) rate.

New Orleans-Laurens

One contested lane, J-37, is governed by the New Orleans-Laurens rate. [REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the New Orleans-Laurens (polypropylene) rate.

New Orleans-Lawrenceville

One contested lane, J-39, is governed by the New Orleans-Lawrenceville rate. On opening, TPI proposes a direct truck alternative.³⁶⁹ That alternative has a price of [REDACTED] and a

³⁶⁵ Opening Evidence II-B-78.

³⁶⁶ Reply Evidence, Exhibit II-B-2.

³⁶⁷ Rebuttal Evidence II-B-207.

³⁶⁸ See *supra* p. 46.

³⁶⁹ Opening Evidence II-B-81.

limit price of [REDACTED] TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED] CSXT proposes rail to Doraville and trucking to the customer, which has a price of [REDACTED] On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]³⁷¹ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Lawrenceville rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Lawrenceville (polyethylene HD) rate.³⁷²

East St. Louis-Sidney

One contested lane, J-44, is governed by the East St. Louis-Sidney rate. On opening, TPI proposes a direct truck alternative.³⁷³ That alternative has a price of [REDACTED] and a limit price of [REDACTED] TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED] CSXT proposes rail service via BNSF to interchange with CN in Chicago, switch to East Morris, and trucking to the customer,³⁷⁴ which has a price of [REDACTED] On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED] As discussed above, CSXT also proposes direct rail via NS,³⁷⁶ and we find that direct rail is a feasible alternative.³⁷⁷ The direct rail alternative has a price of [REDACTED] The price of CSXT's direct rail alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's East St. Louis-Sidney rate effectively, and conclude that

³⁷⁰ Reply Evidence, Exhibit II-B-2.

³⁷¹ Rebuttal Evidence II-B-212.

³⁷² [REDACTED]

³⁷³ Opening Evidence II-B-84.

³⁷⁴ Reply Evidence, Exhibit II-B-2.

³⁷⁵ Rebuttal Evidence II-B-219.

³⁷⁶ Reply Evidence, Exhibit II-B-2.

³⁷⁷ See *supra* pp. 50-51.

this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the East St. Louis-Sidney (polypropylene) rate.

New Orleans-Ackerman

Two contested lanes are governed by the New Orleans-Ackerman rate, the first of which is lane J-48. [REDACTED]

[REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the New Orleans-Ackerman (polypropylene) rate.

Lane J-102 is also governed by the New Orleans-Ackerman rate. On opening, TPI does not propose a transportation alternative.³⁷⁹ CSXT proposes rail service to Chattanooga and trucking to the customer.³⁸⁰ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Ackerman (polyethylene HD) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.³⁸²

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the New Orleans-Ackerman rate significantly exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest limit price alternatives proposed for movements governed by the New Orleans-Ackerman rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have

³⁷⁸ See *supra* p. 46.

³⁷⁹ Opening Evidence II-B-131.

³⁸⁰ Reply Evidence, Exhibit II-B-2.

³⁸¹ Rebuttal Evidence II-B-333.

³⁸² [REDACTED]

intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Ackerman (polypropylene and polyethylene HD) rate.

Chicago-Westboro

One contested lane, J-49, is governed by the Chicago-Westboro rate. On opening, TPI proposes a direct truck alternative.³⁸³ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Fitchburg, Mass. with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Worcester, Mass. and trucking to the customer,³⁸⁴ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's Chicago-Westboro rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. Although this lane's lowest limit price R/VC ratio is [REDACTED] below CSXT's 284% RSAM figure, transloading of polyethylene HD does not, in general, have intangible disadvantages sufficient to overcome our preliminary conclusion, and no particular characteristics of this lane change our preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the Chicago-Westboro (polyethylene HD) rate.

Memphis-Bridgeport

One contested lane, J-52, is governed by the Memphis-Bridgeport rate. On opening, TPI proposes a direct truck alternative.³⁸⁶ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Chattanooga with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Chattanooga and trucking to the customer, which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED].

³⁸³ Opening Evidence II-B-88.

³⁸⁴ Reply Evidence, Exhibit II-B-2.

³⁸⁵ Rebuttal Evidence II-B-227.

³⁸⁶ Opening Evidence II-B-90.

³⁸⁷ Reply Evidence, Exhibit II-B-2.

³⁸⁸ Rebuttal Evidence II-B-229.

█ above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Bridgeport rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Bridgeport (polystyrene) rate.

New Orleans-LaGrange

One contested lane, J-54, is governed by the New Orleans-LaGrange rate. On opening, TPI proposes a direct truck alternative.³⁸⁹ That alternative has a price of █ and a limit price of █. TPI also proposes transloading through Doraville with TPI-stated costs of █ (TPI states that the rate varies by customer) and a limit price of █. CSXT proposes rail to Doraville and trucking to the customer,³⁹⁰ which has a price of █. On rebuttal, TPI restates the costs of CSXT's transloading alternative as █.³⁹¹ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is █ above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-LaGrange rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-LaGrange (polypropylene) rate.

Memphis-Hopkinsville

One contested lane, J-57, is governed by the Memphis-Hopkinsville rate. On opening, TPI proposes a direct truck alternative.³⁹² That alternative has a price of █ and a limit price of █. TPI also proposes transloading through Louisville with TPI-stated costs of █ and a limit price of █. CSXT proposes rail to West Memphis, Ark. and trucking to the customer,³⁹³ which has a price of █. On rebuttal, TPI restates the costs of CSXT's transloading alternative as █.³⁹⁴ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is █ above CSXT's 284% RSAM figure. We therefore

³⁸⁹ Opening Evidence II-B-92.

³⁹⁰ Reply Evidence, Exhibit II-B-2.

³⁹¹ Rebuttal Evidence II-B-235.

³⁹² Opening Evidence II-B-95.

³⁹³ Reply Evidence, Exhibit II-B-2.

³⁹⁴ Rebuttal Evidence II-B-241.

preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Hopkinsville rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Hopkinsville (polyethylene HD) rate.

New Orleans-Augusta

One contested lane, J-59, is governed by the New Orleans-Augusta rate. On opening, TPI proposes a direct truck alternative.³⁹⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Louisville and trucking to the customer,³⁹⁶ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Augusta rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Augusta (polypropylene) rate.

New Orleans-Baltimore

One contested lane, J-60, is governed by the New Orleans-Baltimore rate. On opening, TPI proposes a direct truck alternative.³⁹⁸ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Philadelphia with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Bethlehem, Pa. and trucking to the customer,³⁹⁹ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain

³⁹⁵ Opening Evidence II-B-97.

³⁹⁶ Reply Evidence, Exhibit II-B-2.

³⁹⁷ Rebuttal Evidence II-B-244.

³⁹⁸ Opening Evidence II-B-98.

³⁹⁹ Reply Evidence, Exhibit II-B-2.

⁴⁰⁰ Rebuttal Evidence II-B-247.

CSXT's New Orleans-Baltimore rate effectively. While the customers on this lane have selected a bulk terminal as their destination, [REDACTED]

[REDACTED] we conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Baltimore (polyethylene HD) rate.⁴⁰¹

Chicago-Utica

One contested lane, J-61, is governed by the Chicago-Utica rate. On opening, TPI proposes a direct truck alternative.⁴⁰² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Philadelphia with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Philadelphia and trucking to the customer,⁴⁰³ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Utica rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Utica (polyethylene HD) rate.

Chicago-Clarksburg

Two contested lanes are governed by the Chicago-Clarksburg rate, the first of which is lane J-62. On opening, TPI proposes a direct truck alternative.⁴⁰⁵ That alternative has a price of [REDACTED]

401 [REDACTED]

⁴⁰² Opening Evidence II-B-99.

⁴⁰³ Reply Evidence, Exhibit II-B-2.

⁴⁰⁴ Rebuttal Evidence II-B-251.

⁴⁰⁵ Opening Evidence II-B-100.

overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Clarksburg (polypropylene and polyethylene HD) rate.

Memphis-Madisonville

One contested lane, J-63, is governed by the Memphis-Madisonville rate. On opening, TPI proposes a direct truck alternative.⁴¹² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to West Memphis and trucking to the customer,⁴¹³ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Madisonville rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Madisonville (polypropylene) rate.

New Orleans-Wareco

One contested lane, J-66, is governed by the New Orleans-Wareco rate. On opening, TPI proposes a direct truck alternative.⁴¹⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Augusta and trucking to the customer,⁴¹⁶ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴¹⁷ The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Wareco rate effectively, and conclude that this alternative has no intangible features

⁴¹² Opening Evidence II-B-101.

⁴¹³ Reply Evidence, Exhibit II-B-2.

⁴¹⁴ Rebuttal Evidence II-B-258.

⁴¹⁵ Opening Evidence II-B-103.

⁴¹⁶ Reply Evidence, Exhibit II-B-2.

⁴¹⁷ Rebuttal Evidence II-B-261.

sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Wareco (polypropylene) rate.⁴¹⁸

Chicago-Akron

Two contested lanes are governed by the Chicago-Akron rate, the first of which is lane J-67. On opening, TPI proposes a direct truck alternative.⁴¹⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Euclid with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Euclid and trucking to the customer,⁴²⁰ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴²¹ CSXT also proposes a direct rail alternative, but as discussed above TPI has limited its request for rate relief to the captive customer on this lane⁴²² and therefore direct rail is not a feasible alternative.⁴²³ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Akron (polypropylene) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

Lane J-108 is also governed by the Chicago-Akron rate. On opening, TPI proposes a direct truck alternative.⁴²⁴ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Euclid with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to Euclid and trucking to the customer.⁴²⁵ CSXT's transloading alternative has a price of [REDACTED]. CSXT also proposes a direct rail alternative with NS service to interchange with the Wheeling & Lake Erie Railroad Company at

418 [REDACTED]

419 Opening Evidence II-B-104.

420 Reply Evidence, Exhibit II-B-2.

421 Rebuttal Evidence II-B-265.

422 Id. at II-B-5.

423 See id. at II-B-265.

424 Opening Evidence II-B-136.

425 Reply Evidence, Exhibit II-B-2.

Bellevue, Ohio and interchange with Akron Barberton Cluster Railway Company at Barberton, Ohio for service to Akron. However, as discussed above, TPI has limited its request for rate relief to the captive customers on this lane⁴²⁶ and therefore direct rail is not a feasible alternative.⁴²⁷ On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]⁴²⁸. The price of CSXT's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Akron (polyethylene HD) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the Chicago-Akron rate exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest limit price alternatives proposed for movements governed by the Chicago-Akron rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Akron (polypropylene and polyethylene HD) rate.

Memphis-Gallaway

Two contested lanes are governed by the Memphis-Gallaway rate, the first of which is lane J-69. On opening, TPI proposes a direct truck alternative.⁴²⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Memphis, Tenn. with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to West Memphis and trucking to the customer.⁴³⁰ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED]⁴³¹. The price as stated by CSXT for its transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price exerts competitive pressure sufficient to restrain CSXT's Memphis-Gallaway (polypropylene) rate

⁴²⁶ Rebuttal Evidence II-B-5.

⁴²⁷ See *id.* at II-B-345.

⁴²⁸ *Id.*

⁴²⁹ Opening Evidence II-B-105.

⁴³⁰ Reply Evidence, Exhibit II-B-2.

⁴³¹ Rebuttal Evidence II-B-268.

effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

Lane J-100 is also governed by the Memphis-Gallaway rate. On opening, TPI proposes a direct truck alternative.⁴³² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Memphis with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service to West Memphis and trucking to the customer.⁴³³ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's alternative as [REDACTED].⁴³⁴ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price exerts competitive pressure sufficient to restrain CSXT's Memphis-Gallaway (polyethylene HD) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the Memphis-Gallaway rate is below CSXT's RSAM figure, and we therefore preliminarily conclude that the lowest limit price alternatives proposed for movements governed by the Memphis-Gallaway rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the Memphis-Gallaway (polypropylene and polyethylene HD) rate.

New Orleans-Chattanooga

One contested lane, J-70, is governed by the New Orleans-Chattanooga rate. On opening, TPI does not propose any transportation alternatives.⁴³⁵ CSXT proposes rail to Chattanooga and trucking to the customer,⁴³⁶ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴³⁷ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert

⁴³² Opening Evidence II-B-129.

⁴³³ Reply Evidence, Exhibit II-B-2.

⁴³⁴ Rebuttal Evidence II-B-327.

⁴³⁵ Opening Evidence II-B-106.

⁴³⁶ Reply Evidence, Exhibit II-B-2.

⁴³⁷ Rebuttal Evidence II-B-271.

competitive pressure sufficient to restrain CSXT's New Orleans-Chattanooga rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Chattanooga (polypropylene) rate.

New Orleans-Eton

One contested lane, J-71, is governed by the New Orleans-Eton rate. [REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the New Orleans-Eton (polypropylene) rate.

New Orleans-Tyner

One contested lane, J-72, is governed by the New Orleans-Tyner rate. On opening, TPI proposes a direct truck alternative.⁴³⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Chattanooga with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Chattanooga and trucking to the customer,⁴⁴⁰ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] is above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Tyner rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Tyner (polypropylene) rate.

Memphis-Jackson

One contested lane, J-75, is governed by the Memphis-Jackson rate. On opening, TPI proposes a direct truck alternative.⁴⁴² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Memphis with TPI-stated costs of [REDACTED] and a

⁴³⁸ See *supra* p. 46.

⁴³⁹ Opening Evidence II-B-108.

⁴⁴⁰ Reply Evidence, Exhibit II-B-2.

⁴⁴¹ Rebuttal Evidence II-B-277.

⁴⁴² Opening Evidence II-B-110.

limit price of [REDACTED] CSXT proposes rail to West Memphis and trucking to the customer,⁴⁴³ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement [REDACTED] is above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Jackson rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Jackson (polypropylene) rate.

New Orleans-Helena

One contested lane, J-78, is governed by the New Orleans-Helena rate. On opening, TPI proposes a direct truck alternative.⁴⁴⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Doraville and trucking to the customer,⁴⁴⁶ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴⁴⁷ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Helena rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Helena (polypropylene) rate.

New Orleans-Newnan

One contested lane, J-79, is governed by the New Orleans-Newnan rate. On opening, TPI proposes a direct truck alternative.⁴⁴⁸ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Doraville and trucking to

⁴⁴³ Reply Evidence, Exhibit II-B-2.

⁴⁴⁴ Rebuttal Evidence II-B-283.

⁴⁴⁵ Opening Evidence II-B-113.

⁴⁴⁶ Reply Evidence, Exhibit II-B-2.

⁴⁴⁷ Rebuttal Evidence II-B-286.

⁴⁴⁸ Opening Evidence II-B-114.

the customer,⁴⁴⁹ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴⁵⁰ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Newnan rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Newnan (polypropylene) rate.⁴⁵¹

New Orleans-Green Spring

One contested lane, J-80, is governed by the New Orleans-Green Spring rate. On opening, TPI proposes a direct truck alternative.⁴⁵² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Euclid with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Crafton/Pittsburgh and trucking to the customer,⁴⁵³ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴⁵⁴ The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Green Spring rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. Transloading of polypropylene does not, in general, have intangible disadvantages sufficient to overcome our preliminary conclusion, and no particular characteristics of this lane change our preliminary

⁴⁴⁹ Reply Evidence, Exhibit II-B-2.

⁴⁵⁰ Rebuttal Evidence II-B-289.

⁴⁵¹ [REDACTED]

⁴⁵² Opening Evidence II-B-115.

⁴⁵³ Reply Evidence, Exhibit II-B-2.

⁴⁵⁴ Rebuttal Evidence II-B-292.

conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Green Spring (polypropylene) rate.⁴⁵⁵

Chicago-Indianapolis

Two contested lanes are governed by the Chicago-Indianapolis rate, the first of which is lane J-81. On opening, TPI proposes a direct truck alternative.⁴⁵⁶ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service via BNSF to interchange with CN in Chicago, switch to East Morris, and trucking to the customer.⁴⁵⁷ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴⁵⁸ The price as stated by CSXT for its transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Indianapolis (polystyrene) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

Lane J-115 is also governed by the Chicago-Indianapolis rate. On opening, TPI proposes a direct truck alternative.⁴⁵⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through East Morris with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service via BNSF to interchange with CN in Chicago, switch to East Morris, and trucking to the customer.⁴⁶⁰ CSXT's transloading alternative has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading

455 [REDACTED]

⁴⁵⁶ Opening Evidence II-B-116.

⁴⁵⁷ Reply Evidence, Exhibit II-B-2.

⁴⁵⁸ Rebuttal Evidence II-B-295.

⁴⁵⁹ Opening Evidence II-B-142.

⁴⁶⁰ Reply Evidence, Exhibit II-B-2.

alternative as [REDACTED]⁴⁶¹ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Indianapolis (polypropylene) rate effectively and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.⁴⁶²

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the Chicago-Indianapolis rate exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest limit price alternatives proposed for movements governed by the Chicago-Indianapolis rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest limit price alternatives have intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Indianapolis (polystyrene and polypropylene) rate.

Chicago-Livonia

One contested lane, J-82, is governed by the Chicago-Livonia rate. [REDACTED]

[REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the Chicago-Livonia (polyethylene HD) rate.

Chicago-Wapakoneta

One contested lane, J-84, is governed by the Chicago-Wapakoneta rate. On opening, TPI proposes a direct truck alternative.⁴⁶⁴ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Euclid with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail service via BNSF to Chicago and a switch to IHB for service to Hammond, and trucking to the customer,⁴⁶⁵ which has a price of [REDACTED]. On rebuttal,

⁴⁶¹ Rebuttal Evidence II-B-368.

⁴⁶² [REDACTED]

⁴⁶³ See *supra* p. 46.

⁴⁶⁴ Opening Evidence II-B-119.

⁴⁶⁵ Reply Evidence, Exhibit II-B-2.

TPI restates the costs of CSXT's transloading alternative as [REDACTED]⁴⁶⁶. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Wapakoneta rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Wapakoneta (polypropylene) rate.

New Orleans-Thomson

One contested lane, J-86, is governed by the New Orleans-Thomson rate. On opening, TPI proposes a direct truck alternative.⁴⁶⁷ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Augusta and trucking to the customer,⁴⁶⁸ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Thomson rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Thomson (polyethylene HD) rate.

Memphis-Horse Cave

One contested lane, J-89, is governed by the Memphis-Horse Cave rate. On opening, TPI proposes a direct truck alternative.⁴⁷⁰ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Chattanooga and trucking to the customer,⁴⁷¹ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading

⁴⁶⁶ Rebuttal Evidence II-B-300.

⁴⁶⁷ Opening Evidence II-B-120.

⁴⁶⁸ Reply Evidence, Exhibit II-B-2.

⁴⁶⁹ Rebuttal Evidence II-B-303.

⁴⁷⁰ Opening Evidence II-B-122.

⁴⁷¹ Reply Evidence, Exhibit II-B-2.

alternative as [REDACTED]⁴⁷² The price of TPI's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Horse Cave rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Horse Cave (polystyrene) rate.

New Orleans-Matthews

One contested lane, J-91, is governed by the New Orleans-Matthews rate. On opening, TPI proposes a direct truck alternative.⁴⁷³ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Charlotte with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Augusta and trucking to the customer,⁴⁷⁴ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Matthews rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. Transloading of polyethylene HD does not, in general, have intangible disadvantages sufficient to overcome our preliminary conclusion, and no particular characteristics of this lane change our preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Matthews (polyethylene HD) rate.

Chicago-North Vernon

One contested lane, J-93, is governed by the Chicago-North Vernon rate. On opening, TPI proposes a direct truck alternative.⁴⁷⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail from East St. Louis to

⁴⁷² Rebuttal Evidence II-B-305.

⁴⁷³ Opening Evidence II-B-123.

⁴⁷⁴ Reply Evidence, Exhibit II-B-2.

⁴⁷⁵ Rebuttal Evidence II-B-308.

⁴⁷⁶ Opening Evidence II-B-124.

Louisville and trucking to the customer,⁴⁷⁷ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴⁷⁸ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-North Vernon rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-North Vernon (polyethylene HD) rate.⁴⁷⁹

New Orleans-Pendergrass

One contested lane, J-94, is governed by the New Orleans-Pendergrass rate. On opening, TPI proposes a direct truck alternative.⁴⁸⁰ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Doraville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Doraville and trucking to the customer,⁴⁸¹ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Pendergrass rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. Transloading of polypropylene does not, in general, have intangible disadvantages sufficient to overcome our preliminary conclusion, and no particular characteristics of this lane change our preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Pendergrass (polypropylene) rate.

Chicago-Francesville

⁴⁷⁷ Reply Evidence, Exhibit II-B-2.

⁴⁷⁸ Rebuttal Evidence II-B-310.

⁴⁷⁹ [REDACTED]

⁴⁸⁰ Opening Evidence II-B-125.

⁴⁸¹ Reply Evidence, Exhibit II-B-2.

⁴⁸² Rebuttal Evidence II-B-314.

One contested lane, J-96, is governed by the Chicago-Francesville rate. On opening, TPI proposes a direct truck alternative.⁴⁸³ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through East Morris with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to Hammond and trucking to the customer,⁴⁸⁴ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Francesville rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Francesville (polyethylene HD) rate.

New Orleans-Jefferson

Two contested lanes are governed by the New Orleans-Jefferson rate, the first of which is lane J-97. On opening, TPI proposes no alternatives.⁴⁸⁶ CSXT proposes rail to Doraville and trucking to the customer,⁴⁸⁷ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁴⁸⁸ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Jefferson (polystyrene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

The second lane governed by the New Orleans-Jefferson rate is lane J-98. On opening, TPI proposes no alternatives.⁴⁸⁹ CSXT proposes rail to Doraville and trucking to the

⁴⁸³ Opening Evidence II-B-126.

⁴⁸⁴ Reply Evidence, Exhibit II-B-2.

⁴⁸⁵ Rebuttal Evidence II-B-317.

⁴⁸⁶ Opening Evidence II-B-127.

⁴⁸⁷ Reply Evidence, Exhibit II-B-2.

⁴⁸⁸ Rebuttal Evidence II-B-320.

⁴⁸⁹ Opening Evidence II-B-128.

customer,⁴⁹⁰ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Jefferson (polypropylene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the New Orleans-Jefferson rate exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest price alternatives proposed for movements governed by the New Orleans-Jefferson rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest price alternatives have intangible features sufficient to overcome our preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the New Orleans-Jefferson (polystyrene and polypropylene) rate.

Memphis-Glasgow

One contested lane, J-101, is governed by the Memphis-Glasgow rate. On opening, TPI proposes a direct truck alternative.⁴⁹² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. TPI also proposes transloading through Louisville with TPI-stated costs of [REDACTED] and a limit price of [REDACTED]. CSXT proposes rail to West Memphis and trucking to the customer,⁴⁹³ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price of TPI's opening transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Memphis-Glasgow rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Memphis-Glasgow (polypropylene) rate.

Chicago-Lima

⁴⁹⁰ Reply Evidence, Exhibit II-B-2.

⁴⁹¹ Rebuttal Evidence II-B-324.

⁴⁹² Opening Evidence II-B-130.

⁴⁹³ Reply Evidence, Exhibit II-B-2.

⁴⁹⁴ Rebuttal Evidence II-B-330.

Two contested lanes are governed by the Chicago-Lima rate, the first of which is lane J-109. On opening, TPI proposes no alternatives.⁴⁹⁵ CSXT proposes rail service via BNSF to Chicago, switch to IHB for service to Hammond, and trucking to the customer,⁴⁹⁶ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. CSXT also proposes direct rail service,⁴⁹⁸ but, as discussed above, TPI has limited its request for rate relief to the captive customers on this lane⁴⁹⁹ and therefore direct rail is not a feasible alternative.⁵⁰⁰ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Lima (polyethylene HD) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

The second lane governed by the Chicago-Lima rate is lane J-110. On opening, TPI proposes no alternatives.⁵⁰¹ CSXT proposes rail service via BNSF to Chicago, switch to IHB for service to Hammond, and trucking to the customer,⁵⁰² which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED].⁵⁰³ CSXT also proposes direct rail service,⁵⁰⁴ but, as discussed above, TPI has limited its request for rate relief to the captive customers on this lane⁵⁰⁵ and therefore direct rail is not a feasible alternative.⁵⁰⁶ The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the

⁴⁹⁵ Opening Evidence II-B-137.

⁴⁹⁶ Reply Evidence, Exhibit II-B-2.

⁴⁹⁷ Rebuttal Evidence II-B-349.

⁴⁹⁸ Reply Evidence, Exhibit II-B-2.

⁴⁹⁹ Rebuttal Evidence II-B-5.

⁵⁰⁰ See *supra* pp. 52-53.

⁵⁰¹ Opening Evidence II-B-138.

⁵⁰² Reply Evidence, Exhibit II-B-2.

⁵⁰³ Rebuttal Evidence II-B-353.

⁵⁰⁴ Reply Evidence, Exhibit II-B-2.

⁵⁰⁵ Rebuttal Evidence II-B-5.

⁵⁰⁶ See *supra* pp. 52-53.

lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Lima (polypropylene) rate effectively, and conclude that this alternative has no intangible features sufficient to overcome this preliminary conclusion.

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the Chicago-Lima rate exceeds CSXT's RSAM figure, and we therefore preliminarily conclude that none of the lowest price alternatives proposed for movements governed by the Chicago-Lima rate exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest price alternatives have intangible features sufficient to overcome our preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Lima (polyethylene HD and polypropylene) rate.

Chicago-Pittsfield

One contested lane, J-111, is governed by the Chicago-Pittsfield rate. [REDACTED] As a result there are no transportation alternatives for this lane, and we conclude that CSXT is market dominant with regard to the Chicago-Pittsfield (polypropylene) rate.

New Orleans-Dalton

One contested lane, J-112, is governed by the New Orleans-Dalton rate. On opening, TPI proposes no alternatives.⁵⁰⁷ CSXT proposes rail to Dalton and trucking to the customer,⁵⁰⁹ which has a price of [REDACTED]. On rebuttal, TPI restates the costs of CSXT's transloading alternative as [REDACTED]. The price as stated by CSXT for its transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement [REDACTED] is below CSXT's 284% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Dalton rate effectively. While the customers on this lane have selected a bulk terminal as their destination, [REDACTED] and we conclude that this alternative has no intangible features sufficient to overcome this preliminary

⁵⁰⁷ See *supra* p. 46.

⁵⁰⁸ Opening Evidence II-B-140.

⁵⁰⁹ Reply Evidence, Exhibit II-B-2.

⁵¹⁰ Rebuttal Evidence II-B-360.

conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Dalton (polypropylene) rate.⁵¹¹

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