

APPEARANCES:

On Behalf of the State of Louisiana:
DAVID VITTER, U.S. Senator
516 Hart Senate Office Building
Washington, D.C. 20510
(202) 224-4623

On Behalf of the State of Minnesota:
AL FRANKEN, U.S. Senator
309 Hart Senate Office Building
Washington, D.C. 20510
(202) 224-5641

On Behalf of Ameren Corporation:

JAMES A. SOBULE, Esq.
One Ameren Plaza
1901 Chouteau Avenue
P.O. Box 66149, MC 1310
St. Louis, MO 63166-6149
(314) 554-2276

On Arkansas Electric Cooperative
Corporation:

JONATHAN OLIVER, P.E.
1 Cooperative Way
P.O. Box 194208
Little Rock, AR 72219-4208
(501) 570-2488

On Behalf of Omaha Public Power

District:

THOMAS W. WILCOX
of: GKG Law, P.C.
1054 31st Street, N.W.
Suite 200
(202) 342-5248

On Behalf of CONSOL Energy, Inc.:

CHRISTOPHER T. MARSH
3800 Newgate Avenue
Baltimore, MD 21224-6404
(410) 631-6426

On Behalf of Hub Group, Inc.:

DAVID P. YEAGER
3050 Highland Parkway
Suite 100
Downers Grove, IL 60515
(630) 271-3600

On Behalf of Intermodal Association of
North America, Inc.:

STEVE RUBIN
11785 Beltsville Drive
Suite 1100
Calverton, MD 20705-4048
(609) 986-0214

On Behalf of Arkema, Inc.:

JOHN O'LEARY

900 First Avenue
King of Prussia, PA 19406-1308
(610) 205-7677

On Behalf of The Dow Chemical Company:

JEFF J. BAKER

2020 Dow Center
Midland, MI 48674
(989) 638-5345

On Behalf of E.I. du Pont de Nemours
and Company:

KEITH SMITH
of: DuPont Sourcing & Logistics
4417 Lancaster Pike
Barley Mill Plaza 22/1320
Wilmington, DE 19805
(302) 992-4221

On Behalf of Occidental Chemical
Corporation:

ROBIN A. BURNS
5005 LBJ Freeway
Suite 2200
P.O. Box 809050
Dallas, TX 75244-6119
(972) 404-3305

On Behalf of Olin Corporation:

JOHN L. MCINTOSH
190 Carondelet Plaza
Suite 1530
Clayton, MO 63105-7406
(314) 480-1407

On Behalf of PPG Industries, Inc.:

MICHAEL H. MCGARRY
Monroeville Chemicals Center
440 College Park Drive
Monroeville, PA 15146

(724) 325-5982

On Behalf of BNSF Railway Company:

JOHN P. LANIGAN
P.O. Box 961051
Fort Worth, TX 76161-2830
(817) 867-6400
RICHARD E. WEICHER
547 West Jackson
Suite 1509
Chicago, IL 60661-5717
(312) 850-5679

On Behalf of Norfolk Southern Railway
Company:

MARK A. MANION
Three Commercial Place
Norfolk, VA 23510-2191
757-629-2680
JAMES A. HIXON, Esq.
Three Commercial Place
Norfolk, VA 23510-2191
757-629-2680

On Behalf of Diversified CPC

International, Inc.:

WILLIAM A. FRAUENHEIM, III
24338 W. Durkee Road
Channahon, IL 60410
(815) 424-2000

On Behalf of M&G Polymers USA, LLC:

FRED J. FOURNIER
450 Gears Road
Suite 240
Houston, TX 77067
(281) 874-8076

On Behalf of United States Gypsum
Company:

GEORGE T. MACKO
550 West Adams Street
Chicago, IL 60661
(312) 436-4176

On Behalf of Wisconsin Central Group:

JOHN DUNCAN VARDA
of: DeWitt Ross & Stevens, S.C.
Two East Mifflin Street
Suite 600
Madison, WI 53703-2865
(608) 252-9311

On Behalf of The Mercury Group:

CRAIG DICKMAN
of: Breakthrough Fuel
400 S. Washington St.
Green Bay, WI 54301
(920) 617-3078

On Behalf of CNJ Rail Corp.:

ERIC STROHMAIER
81 Century Lane
Watchung, NJ 07069
(908) 361-2435

C-O-N-T-E-N-T-S

Page		
	Opening Remarks	
	Chairman Daniel Elliott	10
	Panel I	
	Ameren Corporation	
	James A. Sobule	12
	The State of Louisiana	
	Senator David Vitter	23
	Arkansas Electric Cooperative Corporation	
	Jonathan Oliver	34
	Omaha Public Power District	
	Thomas W. Wilcox	46
	Q&A	53
	Panel II	
	CONSOL Energy Inc.	
	Christopher T. Marsh	72
	Hub Group, Inc.	
	David P. Yeager	74
	Intermodal Association of North America, Inc.	
	Steven Rubin	79
	Q&A	86
	Panel III	
	Arkema, Inc.	
	John O' Leary	98
	The Dow Chemical Company	
	Jeff Baker	109

C-O-N-T-E-N-T-S

Page		
	E.I. du Pont de Nemours and Company	
	Keith Smith	115
	Occidental Chemical Corporation	
	Robin A. Burns	126
	Olin Corporation	
	John L. McIntosh	138
	PPG Industries, Inc.	
	Michael H. McGarry	148
	Q&A	155
	Panel IV	
	BNSF Railway Company	
	John P. Lanigan (accompanied by counsel Richard E. Weicher)	194
	Norfolk Southern Railway Company	
	Mark A. Manion	205
	James A. Hixon	213
	Q&A	214
	Panel V	
	Diversified CPC International, Inc.	
	William A. Frauenheim, III	251
	M&G Polymers USA, LLC	
	Fred J. Fournier	262
	United States Gypsum Company	
	George T. Macko	272
	The State of Minnesota	
	Senator Al Franken	278

C-O-N-T-E-N-T-S

Page

United States Gypsum Company

George T. Macko (continued) 288

Q&A 295

Panel VI

Wisconsin Central Group

John Duncan Varda 309

The Mercury Group

Craig S. Dickman 318

CNJ Rail Corp

Eric Strohmeier 330

Q&A 333

Adjourn

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

P-R-O-C-E-E-D-I-N-G-S

8:30 a.m.

CHAIRMAN ELLIOTT: Good morning.

Welcome to the second day of the hearing.

Good to see the crowd coming back, and just a few procedural matters before we get started.

I thought we had a really good day yesterday of useful testimony and some good questions and answers, so hopefully we'll have more of the same today.

First of all and most importantly, I want to warn everyone about the chairs that you're sitting in at the present time.

There's a lever on the side, I believe, so if you hit that lever, you're going to go right down, but it's very easy to get back up.

Don't panic. All you have to do is take a little pressure off and hit the lever and it will go back up. I do it all the time up in our boardroom, and it's, I know, very embarrassing when it does happen.

Second, if you have a PowerPoint,

1 just a reminder, we ask you, if you have not
2 done so already, to submit that to the Office
3 of Proceedings so that we can make it part of
4 the record, two copies.

5 You can do that I think
6 electronically also, if that poses a problem
7 for you to do it today, or you can mail it.

8 Also, the lights, for those of you
9 who haven't been here before, a yellow light
10 will come on when you have one minute to go.
11 You'll have a green light throughout.

12 When the yellow light comes on,
13 you'll have the warning. Red light will come
14 on, that means your time is up.

15 Don't stress out too much. As a
16 former practitioner, I know that's a stressful
17 thing. We won't scream at you if you go a few
18 minutes over or a few seconds over, but don't
19 push it.

20 Anyhow, we'll start off with our
21 first panel of the day, and we'll begin with
22 Ameren Corporation.

1 Mr. Sobule, you have ten minutes.

2 MR. SOBULE: Thank you.

3 Good morning, Chairman Elliot,
4 Vice Chairman Begeman, and Commissioner
5 Mulvey. My name is James Sobule. I am Vice
6 President Deputy General Counsel for Ameren.

7 On behalf of Ameren, I'd like to
8 thank the Board for taking comments and
9 holding this very important hearing on
10 competition in the railroad industry.

11 Ameren's the fifth largest
12 consumer of coal in the United States,
13 consuming approximately 39 million tons
14 annually, and is the largest purchaser of
15 Powder River Basin coal. Ameren owns or
16 leases approximately 7,500 rail cars and
17 spends approximately \$650 million annually on
18 rail transportation alone.

19 Rail transportation costs are
20 approximately 55 percent of the total
21 delivered cost of coal to Ameren's plants.

22 Ameren began spending millions of

1 dollars converting its power plants from high
2 sulphur Illinois Basin coal to low sulfur PRB
3 coal in the 1990s in response to the Clean Air
4 Act.

5 While the PRB is roughly ten times
6 further from the Ameren plants than the
7 Illinois Basin coal fields, the competition
8 amongst the railroads at that time provided
9 competitive rail rates that resulted in the
10 use of PRB coal being more economical than
11 using Illinois Basin coal when you added the
12 cost of emission controls.

13 As Ameren expanded its use of PRB
14 coal, the rail rates continued to drop as a
15 result of competition at that time between the
16 Western Rail carriers until about 2004. At
17 that time, there was a marked change in the
18 competitiveness of the Western Rail carriers,
19 which resulted in rates dramatically
20 increasing.

21 Prior to 2004, Ameren found that
22 the Western carriers were interested in

1 securing additional business and would compete
2 vigorously to maintain or be rewarded new
3 traffic.

4 Rail rates gradually decreased
5 from the time that Ameren commenced using PRB
6 coal in the 1990s, largely due to the non-
7 incumbent competing railroad taking contracts
8 as they came due by offering lower rates or
9 the incumbent carrier reducing its rates to
10 keep the building.

11 As shown on the graph which is in
12 our written testimony, Ameren's rail rates
13 increased dramatically after 2004. Starting
14 in 2004, Ameren found a very different
15 competitive environment among the Western
16 railroads. Railroads appeared to be no longer
17 interested in acquiring coal traffic that was
18 being hauled by the competing carrier.

19 In every instance from 2004 to
20 2010, when Ameren issued bids for rail quotes
21 for the UP and BNSF competitive rail supply
22 plants, not a single one of the plants

1 primarily using PRB coal at that time changed
2 carriers as a result of these requests for
3 rates.

4 In other words, the railroad that
5 was shipping the PRB coal at the time of
6 contract renewal retained the business.

7 The non-incumbent railroads at the
8 time of the quote or pricing tariff quoted a
9 rate which was on average 43 percent higher
10 than the rate of the incumbent railroad.

11 Because the non-incumbent rate or pricing
12 tariff on average was 43 percent higher than
13 the incumbent rate, the incumbent railroad was
14 able to consistently impose a substantial
15 increase from the prior rate.

16 Through this 2004 to 2010 time
17 frame, the incumbent carrier was able to
18 propose rate increases to Ameren that were up
19 to an 87 percent increase at the time of
20 contract renewal.

21 Another phenomenon which began
22 occurring after 2004 was what Ameren refers to

1 as non-responsive bidding. These are carrier
2 responses to rate requests, which indicated to
3 us that the carrier was really not interested
4 in the business.

5 These types of bids include no
6 responses, responses which imposed extreme,
7 one-sided contract conditions, or which varied
8 materially from Ameren's bid parameters.

9 During this time frame, Ameren received five
10 of these non-responsive types of bids.

11 Another type of non-responsive bid
12 is the refusal to quote to a non-physical
13 point. Prior to 2004, Ameren was very active
14 in acquiring and building competitive rail
15 access to its power plant.

16 Ameren's been very supportive of
17 self-help measures and shipper investment in
18 rail transportation infrastructure. In fact,
19 Ameren believes it's been one of the most
20 active shippers in undertaking such self-help
21 measures.

22 Since 1990, Ameren has constructed

1 four build-outs at our plants to allow second
2 rail carrier access and also from three short-
3 line railroads. Ameren also purchased a rail
4 line and built numerous barge facilities to
5 allow competitive access to three additional
6 plants.

7 These facilities were often built
8 by obtaining a favorable rate prior to
9 construction from the competing carrier, which
10 justified the significant investment.

11 However, after 2004, Ameren found
12 that both the Western carriers had adopted a
13 policy of not quoting to non-physical points.
14 In other words, the railroads would not quote
15 if the physical track had not been built.

16 This further stifled competitive
17 alternatives, as a shipper is unlikely to
18 invest in new facilities if the rate at the
19 time that they're going to get for doing that
20 is unknown.

21 I'd also like to take a minute to
22 quickly address a theme that was raised by AAR

1 yesterday in their testimony regarding the
2 value of this proceeding.

3 We recently heard a similar theme
4 from a railroad in another active docket, and
5 I can assure that Ameren does not view either
6 of those dockets as a waste of resources. We
7 think it's very valuable use of time.

8 I also want to respond to a few
9 comments made in the May 27th reply comments.
10 The UP stated that shippers have stopped
11 pursuing build-outs because they believe the
12 Board will provide regulatory benefits at a
13 lower cost in the build-out.

14 I will state emphatically, that's
15 not the reason that Ameren stopped pursuing
16 the build-outs. It's the reason I stated
17 earlier.

18 UP's reply comments also address
19 the Duck Creek build-out, which the Board is
20 aware, Ameren built in 2005. While the UP did
21 receive some traffic under the build-out,
22 after it was completed, the UP refused to

1 quote a rate until the physical turnout was
2 installed.

3 Then, in 2007, Ameren had to fight
4 to protect its build-out investment in the
5 proceedings before the Board when the BNSF
6 sought to undermine the benefit of the build-
7 out by actually leasing the BNSF track to the
8 same carrier to which the build-out was made.

9 Fortunately, the Board saw this
10 and agreed with Ameren and prohibited the
11 proposed railroad transaction.

12 Ameren would also like to provide
13 some experience in relation to BNSF's witness
14 statement that assertions that some coal
15 shippers that, after 2004, no coal business
16 has shifted between BNSF and UP, are
17 categorically false.

18 Obviously, we can't speak for all
19 the shippers, and we can't view UP's highly
20 confidential material that they submitted in
21 support of this statement.

22 However, I can speak to Ameren's

1 experience from 2004 to 2010, and will once
2 again emphasize that we issued bids for rail
3 quotes for 10 of our competitive rail supply
4 plants, and not a single one of those plants
5 changed carriers as a result of these
6 requests. Very different than the pre-2004
7 experience.

8 In addition to rate increases, at
9 the same time, the railroads began imposing
10 mandatory fuel surcharges. Ameren, as you
11 know, has filed comments in the STB proceeding
12 on rail fuel surcharges, and Ameren believes
13 that the diesel fuel surcharges, in
14 combination with the fuel amount that's
15 already embedded in the rates, are allowing
16 for over-recovery of fuel costs for the
17 railroads.

18 Ameren also notes that both the UP
19 and BNSF address as part of the reply that no
20 regulatory changes are needed because shippers
21 who believe they are being charged
22 unreasonable rates have an avenue of relief at

1 the Board.

2 That's exactly what Ameren would
3 like for all shippers, including Ameren at its
4 plants where it is invested in self-help
5 infrastructure investments such as build-outs
6 or barging facilities, the right to have a
7 backstop of relief to the Board if the
8 railroad charges or attempts to charge
9 unreasonable rates.

10 You had wanted some suggestions,
11 and I will give you those now. We've got
12 three of those.

13 Ameren offers these three
14 suggestions: one, competitive shippers are
15 not currently protected by the STB under the
16 assumption that competition among carriers
17 will protect shippers with competitive
18 options.

19 However, since 2004, this has not
20 been the case, as I have mentioned. As
21 competitive rates have often approached or
22 surpassed the 180 percent of variable cost

1 jurisdictional thresholds set for captive
2 shippers, the STB should move to interpret the
3 statute, which they can, so that if any rate
4 exceeds this threshold, that rate, prima
5 facie, demonstrates there's a clear lack of
6 effective competition, which could be
7 challenged under STB rate guidelines.

8 The bar for -- number two, the bar
9 for revenue adequacy is currently set too high
10 to provide meaningful guidance to rail rate
11 issues. This is demonstrated by the fact --
12 and we heard some testimony on this yesterday
13 -- that railroad financial performance and
14 stock price have remained high -- I'm going to
15 take about a minute here -- despite the
16 recession.

17 Privatization of the BNSF is
18 another indicator of railroad financial
19 success.

20 And third is that railroad fuel
21 surcharge recovery should be transparent. The
22 STB should use the cost data collected from

1 the railroads to determine if fuel surcharges
2 are allowing accurate recovery of the
3 railroad's fuel costs.

4 Thank you again, Commissioners,
5 for the opportunity for Ameren to provide this
6 testimony today on competition in the railroad
7 industry, and we stand ready to assist any way
8 we can.

9 CHAIRMAN ELLIOTT: Thank you.

10 We have a Senator approaching,
11 Senator Vitter, so why don't we move the panel
12 up and we'll just make a little time for him,
13 due to his busy schedule.

14 Good morning, Senator Vitter. You
15 have the floor, and if you run over, Ann's
16 going to tell you to stop.

17 SENATOR VITTER: Well, good
18 morning, Mr. Chairman. You're very kind.
19 Everybody's busy, but you're very kind to fit
20 me into the schedule so easily.

21 And Mr. Chairman and members, I am
22 David Vitter. I represent the State of

1 Louisiana and the U.S. Senate. Thank you for
2 initiating this proceeding to examine the
3 level of competition in the national freight
4 rail system and for providing me the
5 opportunity to visit with you briefly today.

6 My concern today is those rail
7 customers that are rail-dependent shippers.
8 These customers, for a variety of reasons,
9 can't use truck transportation economically,
10 and don't have available water transport.

11 And for these rail-dependent
12 customers, there's really no available
13 transportation competition unless they have
14 access to a competing major railroad for at
15 least a part of their transportation route.

16 In Louisiana, these rail-dependent
17 shippers include many of our chemical plants,
18 some of our coal-fired electric generating
19 plants, some agriculture manufacturing, forest
20 and paper products.

21 So it's a significant part of our
22 economy in several different sectors. And

1 their inability to access competing railroads
2 means that these rail customers are likely to
3 pay much higher railroad rates often to
4 significant economic detriment, and they
5 often, quite frankly, receive poor or
6 indifferent service because of this as well.

7 I understand that the record in
8 this proceeding contains a number of very
9 specific and powerful examples of this, and I
10 want to mention two specific ones in
11 Louisiana.

12 First, the city of Lafayette in
13 Louisiana is a town of about 120,000 people in
14 the heart of the southwest area of my state
15 known as Acadiana.

16 It has a municipal electric
17 utility that obtains its power from a coal-
18 fired electric plant located in central
19 Louisiana.

20 The plant uses Powder River Basin
21 coal from Wyoming to generate electricity, and
22 the coal is transported to the power plant in

1 Louisiana via unit trains and cars owned and
2 maintained by the city utility.

3 Only one of the two major freight
4 railroads serving the Western portion of the
5 US serves the power plant, although, and this
6 is very significant and powerful to me, access
7 to the second major freight railroad through
8 a large regional carrier is physically
9 available about 20 miles away.

10 If the city could obtain a rate
11 from its rail carrier for the movement between
12 the switching point with the large regional
13 carrier and the plant, the city would have a
14 chance for competitive rail transportation for
15 all but the last 20 of its 1500-mile coal
16 movement.

17 However, the rail carrier serving
18 the plant refuses to provide a rate between
19 this point of competition and the plant, thus
20 making the entire 1500-mile movement of the
21 coal to the power plant captive to that single
22 railroad.

1 According to Congressional
2 testimony by the manager of the city utility
3 system, this 1500 miles of captive coal
4 movement is a tax on a typical household of
5 four in Lafayette of about \$200 a year, and on
6 the Lafayette school system of about \$1.2
7 million a year.

8 This tax on the people of
9 Lafayette and the misallocation of our school
10 funds could be avoided if the railroads were
11 required to provide a so-called bottleneck
12 rate to their customers to move their goods to
13 or from a point where the customer would have
14 access to a second, competing railroad.

15 This is the way deregulation is
16 supposed to work. It's supposed to result in
17 competitive options. But, because of current
18 regulations, railroads would be required to
19 allow their customers access -- but for those
20 current regulations, railroads would be
21 required to allow access to competing rail
22 systems.

1 Today, you're also hear an example
2 from PPG Industries, a chemical producer with
3 plenty of facilities in Louisiana, about the
4 inflated freight rates paid on shipments from
5 Lake Charles, Louisiana to La Porte, Texas.

6 The ability of one railroad to
7 block access to another railroad has resulted
8 in 50 percent higher rail rates for captive
9 movements from Louisianan to Texas, compared
10 to that of similar movements within Texas.

11 This is another real world example
12 of how accessible reciprocal switching would
13 restore competitive access by giving PPG the
14 option of using a different carrier. This
15 also serves as yet another example of how
16 railroads have been able to protect themselves
17 from competitive markets through the current
18 regulatory policy.

19 Mr. Chairman, the Board asks if
20 there is a lack of rail-to-rail competition in
21 the rail industry. The testimony filed in
22 this proceeding trumpets what many of us know

1 from talking to our constituents for rail-
2 dependent shippers like the two I've
3 described. There is currently very little
4 rail-to-rail competition in the national
5 freight rail system.

6 Your record is already replete
7 with statements indicating the adverse effects
8 of this lack of competition on individual
9 companies and persons and local economies,
10 American exports, our national economy, and
11 American jobs.

12 It's important that the Board not
13 only find that there is a lack of rail-to-rail
14 competition, but also that the current
15 regulations and interpretation of law are part
16 of that problem that must be changed.

17 Indeed, in a network industry like
18 the national freight rail system, it's very
19 hard to imagine how competitive options can
20 exist for rail-dependent shippers, unless the
21 regulatory program allows rail customers
22 access to other railroads in the network.

1 Finally, Mr. Chairman and members,
2 I want to leave you with two more brief
3 thoughts. First, on competition issues, the
4 regulatory program today essentially protects
5 railroads from rail-to-rail competition, not
6 rail customers from railroad monopoly power.

7 This program, in my opinion, has
8 become a classic case of regulations
9 protecting the regulated industry more than
10 the customers of that industry who were the
11 intent of the original protection.

12 Rail-dependent shippers do not
13 have access to the rail-to-rail competition
14 that they were promised in the Staggers Rail
15 Act, and the rail industry is being protected
16 from operating in the competitive environment
17 that it told Congress it wanted when Congress
18 enacted that in 1980.

19 As a result, the rail industry is
20 now financially healthy, but the balance
21 between the interest of railroads and shippers
22 that Congress intended in the Staggers Act is

1 missing.

2 Second, I'm aware that the
3 railroads are making the argument that any
4 changes in the current regulatory system could
5 result in their failure to invest in their own
6 infrastructure.

7 Mr. Chairman, I simply don't
8 accept this when the proposition is moving an
9 industry from its protected, regulation-based
10 system to a competitive system. Your
11 proposals in ex parte number 705 propose to
12 remove the barriers to competition and move
13 the railroads into a more competitive
14 environment.

15 Of course, the railroads are also
16 arguing that somehow removing regulatory
17 barriers that prevent rail customers from
18 having access to another railroad system is
19 quote "re-regulation," close quote. That,
20 too, is novel to me, and simply isn't the
21 case.

22 The railroads asked Congress in

1 1980 to allow them to compete in the
2 transportation marketplace, rather than be
3 required to obtain prior approval for almost
4 all of their actions from a federal regulatory
5 body.

6 The railroads got what they asked
7 for, and by the way, I support that, but then
8 persuaded your predecessors to adopt
9 regulatory interpretations that shield them
10 from a lot of competition.

11 Today, our national interest will
12 be served if the railroads must compete with
13 each other as well as trucks, water transport,
14 and other modes of transportation.

15 I, for one, am confident that the
16 railroads will continue to invest in their own
17 systems, even if they must participate in a
18 competitive transportation marketplace. In
19 fact, that will be all the more reason for
20 them to have to continue to invest.

21 You have the authority under
22 current law to make changes to your policies

1 just as other regulatory agencies do, so I ask
2 you humbly, Mr. Chairman, and members, to
3 remove the railroad industry's undue
4 protections from competition by adopting pro-
5 competitive rules on those issues identified
6 in this proceeding.

7 Thank you very much for the
8 invitation to appear. Thanks for all of your
9 courtesies, Mr. Chairman, and members.

10 CHAIRMAN ELLIOTT: Thank you very
11 much, Senator.

12 Just a note, I did visit the PPG
13 facility in Lake Charles, where I happen to
14 have a cousin, and I'm very familiar with the
15 situation. And next week I'm going down to
16 your great state and New Orleans, so I'm
17 looking forward to that.

18 Thank you very much for coming
19 forward today and expressing your thoughts
20 with us. We greatly appreciate it.

21 SENATOR VITTER: Thank you very
22 much to all of you.

1 CHAIRMAN ELLIOTT: Okay. Thank
2 you very much for making time for the Senator.
3 And I believe we're going to start back up
4 with Mr. Oliver.

5 MR. OLIVER: Well, good morning,
6 Mr. Chairman Elliot, Vice Chairman Begeman,
7 and Commissioner Mulvey.

8 I appreciate the time being here
9 this morning, and I guess following a US
10 senator makes it a little bit nerve-wracking
11 here for an engineer.

12 CHAIRMAN ELLIOTT: I've done that
13 before.

14 MR. OLIVER: So excuse me if I
15 speak a little fast. But I am Vice President
16 of Engineering Construction and Operations for
17 Arkansas Electric Cooperative Corporation.
18 We're a generation and transmission
19 cooperative located in Little Rock, Arkansas,
20 and I'm here to give you AECC's views on the
21 current state of competition in the railroad
22 industry, and recommendations about what the

1 Board should do to enhance competition for the
2 benefit of not only the rail customers but for
3 the public interest and for the railroads
4 themselves.

5 So, in accordance with your
6 instructions, we've provided written comments
7 and won't try to summarize those too much this
8 morning, but more to give you a view of my
9 position as an executive responsible for fuel
10 procurement for our coal plants within the
11 state of Arkansas.

12 AECC owns interest in three major
13 coal plants in Arkansas. There's five units
14 there. We ship a little over 14 million tons
15 of coal annually to those plants, and provide
16 electric service to about half a million
17 consumers in Arkansas.

18 So, we're not huge, not quite the
19 size of Ameren, but we do have a significant
20 interest in PRB coal deliveries.

21 And although the rate paid for
22 that transportation is important, I want to

1 kind of point you into some other directions
2 today, too, as far as service. Service is
3 important to us as well, and like many rail
4 customers, we have spent a lot of money
5 investing in rail cars, not to have to be
6 using the railroad industry's rail cars, but
7 have purchased our own train sets.

8 Based on cycle time, we determine
9 how many train sets we need to provide the
10 service that's reliable to our plants.

11 And so if a railroad chooses a
12 circuitous route, it increases our maintenance
13 costs on those rail cars, so that's one thing
14 to consider as you look at this.

15 In addition, if we have poor
16 service from the railroads, we have to have a
17 large stockpile of costs, which the curing
18 costs for millions of tons of coal can get
19 rather expensive.

20 So even those these real costs are
21 substantial, they can be small in comparison
22 to a problem if we have disruptions to our

1 plant operations.

2 And in the past, when we've seen
3 disruptions to our plant operations, we've had
4 to go as far as Indonesia to find suitable
5 coal as a replacement for our plants.

6 And typically, what would happen
7 if we had a disruption in operations, we would
8 try to buy power on the market. And although
9 that seems like a legitimate way to do it, the
10 cost of that power on the market can be
11 substantial compared to our costs of coal
12 generated from our own plants, and in some
13 cases, more than three times the cost of that
14 power, so, that seems like some wildly -- wild
15 situations to where we would have to go to
16 better the service that's provided from the
17 railroads, but, they're real examples. But it
18 seems to be an inefficient way for us to spend
19 our money in order to compensate for the
20 service of the railroads.

21 Events like this can cost
22 significant increase to the cost of

1 electricity to our members, and we believe
2 that increased competition could improve that,
3 improve the service level to us and other
4 customers.

5 And if I understand the Board's
6 merger rules correctly, you -- the cost
7 changes experienced by the shippers must be
8 considered equally with the cost changes
9 experienced by the railroads in analysis of
10 the public interest, and to do otherwise would
11 be improperly disregarding the impacts of some
12 effective parties, and would give the wrong
13 overall assessment of the public interest.
14 So, yet that's exactly what happens in remedy
15 of hard economic costs imposed on rail
16 shippers and ultimately the economy.

17 So AECC believes the best way to
18 improve the reliability, timeliness, and
19 efficiency of rail service to our plants and
20 other plants is to ensure competition is
21 readily available to captive facilities, at
22 least where inadequate performance by the

1 serving carrier produces tangible harm.

2 The Board has well-defined
3 regulatory measures for addressing
4 unreasonable rates, but it has no equivalent
5 procedures for addressing inefficiency and
6 inadequate service of a serving railroad.

7 The Board's ability to address
8 rail service and performance problems stemming
9 from rail carrier market power can be found
10 primarily and exclusively in its authority to
11 unleash the forces of competition.

12 So in other words, we think a
13 strong, competitive railroad market is the
14 best way to ensure adequate service to our
15 facilities.

16 So we're not asking for increased
17 regulation, I think as the Senator just
18 mentioned. We're not talking about re-
19 regulating, but we are talking about enforcing
20 the competitive market.

21 So, in most industries other than
22 the railroad industry, when you talk about

1 competition and regulation, they seem to be
2 opposites, and, you know, the railroads, in
3 this proceeding, with all seriousness, seem to
4 be saying that asking for increased
5 competition is asking for re-regulation, and
6 that's not what we're trying to do. We just
7 want to see competition, and we want to see it
8 work effectively in our industry.

9 So, going back to the 1970s, and
10 it's all been talked about, you know, prior to
11 the Staggers Act, and we don't want to see
12 that go back to that situation either, but if
13 you look at, after the Staggers Act, the
14 railroads were able to become revenue-
15 sufficient. They were able to get back on
16 their feet, produce a vibrant industry, and
17 they were able to attract the capital and
18 investment needed to generate substantial
19 ongoing productivity improvements.

20 But since the Staggers Act, and
21 since the mega-mergers, what we've seen is a
22 decrease, or it's been pretty much harmful to

1 competition.

2 What we've seen is a decrease in
3 the rate of productivity improvement and
4 substantially measured adverse impacts to the
5 railroad costs. So, mega-mergers and the
6 bottleneck rule would be one of the problems
7 that has developed a lack of investment, a
8 lack of innovation.

9 And I think Commissioner Mulvey,
10 you questioned that yesterday about how can
11 you get into a situation with competition.
12 Competition does seem to improve innovation
13 for those industries that are involved in a
14 competitive market.

15 If I'm looking at a competitive
16 market, I want to distinguish my service or
17 distinguish my product from everybody else.
18 And one way to do that is through innovation,
19 and our written testimony gives evidence of
20 that.

21 Our expert witness, Mr. Michael
22 Nelson, discussed this further in detail of

1 the importance of innovation and productivity
2 improvement in ensuring the long-run health of
3 the railroad industry.

4 So a modest increase in
5 competition, that's all we're talking about
6 here is a modest increase, would not undermine
7 the railroads' ability to earn sufficient
8 revenues to attract the capital that they
9 need, and it would provide the needed
10 incentive to encourage the railroads to
11 provide good, reliable, and efficient service.

12 Now, I don't want to talk about
13 our recent case involving paper barriers, but
14 that recent experience does give evidence for
15 one of the reasons why we need to change the
16 rules.

17 In that particular case where our
18 co-owner Entergy and ourselves filed a
19 petition to provide service to the independent
20 steam electrics station, we asked the Board to
21 provide a through route.

22 And although the Board found that

1 the incumbent carrier had provided inadequate
2 service over extended periods of time, and
3 further found that the through route would
4 have been somewhat more efficient than the
5 existing route, the Board concluded that this
6 was not enough to justify prescribing the
7 through route, and I'm not going to argue
8 about that decision.

9 However, I have to presume that
10 your decision on that was an accurate
11 interpretation of the existing rules, which I
12 think is evidence of why the rules need to
13 change and provide a little bit more of an
14 obligation on the carrier to prove the reason
15 why competitive access should not be
16 prescribed in that case.

17 So here's the point I want to
18 make, and the primary purpose that I think the
19 railroads have missed, that the revised
20 competitive access rules would be to provide
21 an incentive for the railroads to improve
22 their service, and right now, the railroads

1 have no reason to fear if they provide poor
2 service, and have any adverse impact or any
3 adverse consequences if those controls are not
4 in place.

5 The Board has not been applying
6 competitive access remedies for poor service,
7 and therefore, no other railroads can threaten
8 to take that business away, so, but if
9 competitive access rules are modified such
10 that a railroad knows that the consequence of
11 providing poor service will be that another
12 railroad will be authorized to compete for
13 that business, then the incumbent railroad
14 will have a strong incentive to provide good
15 service, and I think that's the bottom line
16 today, that competition should provide strong
17 incentive for the railroads to provide good
18 service.

19 Sow we're asking that the Board
20 make its actions clear and credible that in
21 the future it would apply competitive access
22 remedies for inefficient, inadequate service,

1 and other specific circumstances. Then the
2 railroads would experience a greatly increased
3 incentive to ensure that those circumstances
4 do not occur.

5 And as I conclude, since I see my
6 yellow light, let me applaud you for taking on
7 this issue. I know it's going to be tough,
8 and I think what you've seen with the amount
9 of comments you received, the time spent here
10 over the last couple of days, that it's very
11 important.

12 And I think the charge was laid
13 out by Senator Rockefeller yesterday, as he
14 said it very well, be scrupulous in your
15 review of competition. And I have every
16 confidence that you will do that, and I look
17 forward to the results.

18 Thank you very much.

19 CHAIRMAN ELLIOTT: Next, we'll
20 hear from Mr. Wilcox, from Omaha Public Power
21 District.

22 MR. WILCOX: Mr. Chairman, Vice

1 Chairman, Commissioner Mulvey, I'm Tom Wilcox.
2 I'm with the law firm of GKG Law PC here in
3 Washington, DC, and I am here on behalf of
4 Omaha Public Power District.

5 UNIDENTIFIED SPEAKER: Is your
6 thing on?

7 CHAIRMAN ELLIOTT: Yes, just speak
8 up a little. Thank you.

9 MR. WILCOX: Is that better?

10 UNIDENTIFIED SPEAKER: Yes.

11 CHAIRMAN ELLIOTT: Yes.

12 MR. WILCOX: Okay. OPPD was part
13 of a group of four utilities who submitted
14 joint initial comments in this proceeding and
15 then submitted a final submission on June
16 10th, but I am here solely on the behalf of
17 OPPD.

18 OPPD is an electric utility, and
19 it's a Nebraska Public Corporation and
20 political subdivision. It's headquartered in
21 Omaha. It serves about 340,000 customers in
22 eastern and southeastern Nebraska.

1 OPPD commends the Board for
2 holding this hearing. It's a timely hearing,
3 and OPPD appreciates the opportunity to add to
4 the record of the proceeding.

5 OPPD is no Ameren, but its facts
6 are similar. It's a little bit smaller. OPPD
7 owns and operates two coal-fired generating
8 stations, the Nebraska City Station and the
9 North Omaha Station. These plants burn about
10 7 million tons of PRB coal per year between
11 them.

12 The initial comments summarized
13 how OPPD first utilized the tools available
14 under the Staggers Act to establish
15 competition between UP and BNSF at its two
16 plants, and there are articles attached to the
17 joint comments that during this time frame
18 that sort of explain how the bidding process
19 went, and how the competition was reported in
20 Omaha.

21 Nebraska City was captive to BN
22 since 1978, and BN had served North Omaha

1 since 1984. But starting in the early 1990s,
2 OPPD took advantage of the remedies before the
3 Board to create competition that included
4 seeking line construction authority to
5 construct a build-out to the UP down in
6 Nebraska City.

7 At the same time, OPPD obtained
8 authority to cross the Burlington Northern
9 track coming into Nebraska City over BN's
10 objection, and those two proceedings
11 eventually resulted in OPPD becoming the owner
12 of a common carrier line of rail, similar to
13 Ameren.

14 OPPD, in exchange for -- in lieu
15 of constructing the build-out, purchased the
16 56.7 mile line -- long line of railroad that
17 serves Nebraska City plant and was formerly
18 owned by BN. And that's an example of how the
19 tools under the Staggers Act allow for
20 regulatory relief, but they also provide a
21 regulatory backstop, because the end result
22 was a commercial solution, negotiated by BN

1 and UP -- excuse me, BN and OPPD, and
2 established the competitive access.

3 As part of that process, OPPD now
4 owns a common carrier line of rail and
5 services provided via tracker's rights or
6 operating rights.

7 Now, OPPD's efforts to create
8 competition facilitated the effective
9 competition OPPD believes was envisioned by
10 the Congress when it passed the Staggers Act.

11 OPPD's investment, for one thing,
12 created new opportunity for a fellow Omahan in
13 UP. And as the articles explain, you know, in
14 1998, UP competed very hard for OPPD's
15 business and came up a little bit short, and
16 it was awarded to BNSF. But UP came back in
17 2003 and underbid -- again, competed hard and
18 won the business from BNSF.

19 The result was, at this time
20 period, rail and total delivery of fuel costs
21 were significantly reduced. OPPD was able to
22 charge its customers fair prices for

1 electricity, and whichever railroad had the
2 business we believe still operated at
3 profitable levels. And OPPD and the railroads
4 operated under detailed contracts that were
5 tailored to OPPD's movements and the party's
6 respective commercial and operational needs.

7 In short, OPPD became the rail
8 shipper that Congress envisioned. It should
9 have done -- it should have little or no need
10 to seek STB intervention in its rail
11 transactions.

12 So, why is OPPD here? Well, it's
13 -- as the joint comments lay out, OPPD's
14 participating because in 2008, they undertook
15 the exact same competitive bidding process
16 that they did in 1998 and 2003, and at the end
17 of that process, it was apparent to OPPD that
18 the prior level of competition that it had
19 enjoyed or experienced at these plants was no
20 longer present.

21 And that process, combined with
22 higher coal prices, eventually resulted in

1 OPPD's delivered fuel costs increasing by over
2 \$100 million per year, starting in 2009, and
3 caused OPPD to impose the largest residential
4 and industrial rate increases on its customers
5 since 1973.

6 OPPD is very concerned that this
7 significant apparent change in the coal
8 transportation market -- about this change and
9 its effect on OPPD's ability to continue to
10 charge fair prices to its customers for
11 electricity.

12 So OPPD therefore reiterates, this
13 is a very timely hearing, and the Board should
14 carefully weight the extent of the material
15 that's been submitted to it, and actively look
16 for opportunities to modify its rules where
17 possible to facilitate effective competition
18 between the railroads.

19 Now, we, at the joint comments,
20 submitted several general policy ideas in
21 response to your request. But this group
22 mainly focused on providing anecdotal evidence

1 and left the specifics to some of the more --
2 the bigger groups, and spent a lot more time
3 on the actual specific proposals.

4 We also join Ameren and others,
5 asking the Board to clarify, in this
6 proceeding, that the rules concerning market
7 dominance permit a finding of qualitative
8 market dominance under Section 10707, even in
9 cases where the shipper has access to two
10 railroads and has enjoyed effective
11 competition in the past, provided that the
12 shipper can make the appropriate showing.

13 This is not a new proposal, but a
14 request for confirmation of the standard that
15 all market dominance determinations are made
16 on a case-by-case basis.

17 There is some uncertainty, as Mr.
18 Sobule discussed, uncertainty for dual-served
19 shippers now about the jurisdiction of the
20 Board over their rates, should they believe
21 that they are unreasonable.

22 Again, thank you very much for the

1 opportunity, and again, thank you for holding
2 the hearing.

3 CHAIRMAN ELLIOTT: Thank you, Mr.
4 Wilcox.

5 Thank you, panel.

6 I just have a couple specific
7 questions. I think I've already asked some of
8 the broader questions to the panel yesterday
9 that involve coal shippers, so I'll stick more
10 to the anecdotal stuff and examples that you
11 referenced in your testimony.

12 Ameren, I'm familiar with your
13 build-outs, and just so I'm clear, with
14 respect to the build-outs that have been built
15 and are in existence now, I wasn't clear if
16 you think the railroads are competing right
17 now where you've already built out, or if
18 they're not.

19 MR. SOBULE: We believe, based
20 upon responses to bids, that even that where
21 we had built out, we got the competition at
22 the time of the build-outs.

1 CHAIRMAN ELLIOT: Right.

2 MR. SOBULE: This was all pre-
3 2004. Post-2004, bids that came out, we do
4 not see that level of competition.

5 CHAIRMAN ELLIOT: Sure. And then
6 I understand your concern with respect to
7 future buildouts, because you're apparently
8 not getting a rate quote where the track
9 hasn't been built out.

10 Do you have any suggestions as far
11 as solutions for such situations where either
12 you've built out or you would like to build
13 out?

14 MR. SOBULE: Well, once again, we
15 would obviously like it very much if we could
16 go back to the way the railroads behaved when
17 we did our prior build-outs where there was a
18 willingness to quote a rate to a non-physical
19 point. We didn't have to actually go through
20 and spend the capital for the build-out.

21 You know, in terms of assistance
22 through the STB and what we could do, you

1 know, I would have to take a look and maybe we
2 could supplement with some ideas of how that
3 would maybe work so we could get back to the
4 level of competitiveness that would basically
5 encourage people to do build-outs again,
6 because frankly, based on both the Ameren
7 experience, the OPPD experience, some of the
8 other ones, I'm not sure you're going to see
9 many build-outs again.

10 CHAIRMAN ELLIOT: Thank you.

11 Just one other specific question,
12 Mr. Wilcox. I noticed in your testimony or in
13 your comments, you suggested raising the
14 limits on the simplified SAC. Am I
15 remembering correctly?

16 MR. WILCOX: That's right.

17 CHAIRMAN ELLIOT: Okay.

18 MR. WILCOX: Well, it's mainly
19 simplified SAC. I think there are some
20 utilities out there who have -- and this is
21 not the OPPD, their tonnages are sufficient
22 and they could justify probably the stand-

1 alone cost case. But the comment addresses
2 simplified SAC in that there are utilities
3 with volumes that are lower, yet they still
4 have possible -- a possible challenge of an
5 unreasonable rate, yet the prospect of
6 bringing a full-blown SAC case does not
7 justify the potential damages they could get,
8 considering that their volumes are low.

9 And so -- yet the \$5 million cap
10 that's on simplified SAC now is not, you know,
11 may not be enough in itself.

12 So that was the proposal in there.
13 And I think that's something the Board has
14 heard before in terms of the three-benchmark
15 caps and the simplified SAC, that maybe they
16 should be increased, too, and that there are
17 potential complaints out there, but the caps
18 are discouraging those type of actions.

19 CHAIRMAN ELLIOT: Thank you, Mr.
20 Wilcox. That actually perfectly answered what
21 I was going to ask next, so I have no further
22 questions.

1 Vice Chairman?

2 MR. WILCOX: It's always good when
3 I can answer two questions at once.

4 CHAIRMAN ELLIOT: We really
5 appreciate it; speeds up the thing.

6 VICE CHAIRMAN BEGEMAN: Thank you
7 all. Your testimony is somewhat enlightening,
8 informative, and alarming.

9 You know, we heard a lot yesterday
10 from the shipper interests, at least the coal
11 shipper interests, that reciprocal switching
12 was -- I'm not saying they said it was the
13 silver bullet, but that certainly is what
14 they're advocating.

15 I think the three of you, some of
16 you at least you have competition, and
17 competition isn't the silver bullet either,
18 given, at least what you're alleging is
19 happening with the industry.

20 So, if bottleneck relief and
21 reciprocal switching perhaps aren't the
22 answer, is the answer, from your perspective,

1 the ability to come to the Board to challenge
2 rates, and/or services, or perhaps service
3 issues?

4 MR. SOBULE: Vice Chairman, that
5 is exactly one of the three recommendations
6 that we made is that we should have the
7 ability, those that have supposed competition,
8 that once again, if we can make the same
9 jurisdictional prima facie case on that, that
10 as a backstop, we would have the ability to
11 say that in fact there is market dominance
12 which is the lack of effective competition.
13 Just because you have competition doesn't mean
14 it's effective, so, it's absolutely correct,
15 we would like to have that.

16 MR. WILCOX: I would modify that a
17 little bit. As a shipper like Ameren who has
18 invested a lot of time and money in
19 establishing competition, we want competition,
20 that would be the preferred way to establish
21 rates and service terms.

22 However, if you need to have some

1 avenue to try to challenge a rate, or if you
2 believe that it's unreasonable because you're
3 not getting the level of competition you need,
4 but I think the Board, you know, the coal rate
5 guidelines were initially designed to provide
6 a kind of a cookbook of a way to -- where
7 someone could calculate what a maximum rate
8 would be to encourage contractual -- you know,
9 solutions, and so I think by having a way you
10 can help competitive shippers, until
11 competition resumes.

12 And I agree with what was stated
13 yesterday that it's going to take time, it
14 probably will take time, to create a clear set
15 of rules for competitive shippers that would
16 provide that guideline or backstop to have the
17 parties come to the table rather than just
18 file a rate case, because the preferred way is
19 for people to --

20 VICE CHAIRMAN BEGEMAN: Sort of a
21 threat?

22 MR. WILCOX: Well, it's like what

1 was said yesterday. It's not re-regulation if
2 you establish the rules so people understand
3 them, and then so if you have a reciprocal
4 switching rule everybody understands, then the
5 parties can use those rules to come to an
6 agreement on the outside of the Board.

7 So -- and that's the same with
8 rate rules. If you can supply the parties
9 with the guidelines, then now they know, you
10 know, if you go to the Board, here's the
11 answer, and so let's work around that.

12 And for competitive shippers,
13 there's a lot of uncertainty now, too, in one
14 of the main issues, which is jurisdiction.

15 VICE CHAIRMAN BEGEMAN: Mr.
16 Oliver, have you had a chance to utilize the
17 Board's mediation process? You laid out a lot
18 of troubling issues, particularly having to go
19 to Indonesia for your coal.

20 MR. OLIVER: I'm not sure that we
21 --

22 VICE CHAIRMAN BEGEMAN: And if you

1 haven't, I encourage you, and I know the
2 Chairman would encourage you to reach out as
3 well.

4 MR. OLIVER: And I'm not familiar,
5 and I'm not sure that we have used the
6 mediation process. It does seem interesting.
7 I know in the coal dust decision, we've asked
8 to speak with the railroads and not been able
9 to get that done, so -- but it seems like a
10 good forum in which we could, perhaps,
11 negotiate some of those.

12 And yeah, going to Indonesia is a
13 far stretch. But I think with us, you know,
14 reliability of service is very important, and
15 so being able to have that coal on the pile is
16 important, too. So we'll exhaust no means --
17 or every means in order to provide that
18 service.

19 VICE CHAIRMAN BEGEMAN: Thank you.

20 CHAIRMAN ELLIOT: Commissioner?

21 COMMISSIONER MULVEY: Thank you.

22 Indonesia is far away. Of course, China's far

1 away, too, and they're using some of our coal.
2 So, it's a global commodity.

3 With regard to Mr. Sobule's
4 question about -- issue about the BN and the
5 UP and the failure to compete after 2004, you
6 said that there was a 43 percent differential,
7 and then you said that they raised the rates
8 by 87 percent.

9 But wouldn't that have allowed the
10 43 -- wasn't that more than the 43 percent
11 difference? And wouldn't that have allowed
12 for bidding or a shift again in the supplier
13 at that point, or did they both come back with
14 the same rate?

15 MR. SOBULE: The relation, and I
16 might have been a little bit unclear in how I
17 went through this, if I can try to go back on
18 that, is that the -- no matter where the
19 incumbent carrier came in, the non-incumbent
20 rate was, on average, obviously, 43 percent
21 higher than the incumbent rate.

22 What that is is that's the rate --

1 the 43 percent higher than incumbent rate is
2 not of the existing incumbent rate. That was
3 43 percent higher than the new rate proposed
4 by the incumbent shipper.

5 COMMISSIONER MULVEY: Okay.

6 MR. SOBULE: Did that --

7 COMMISSIONER MULVEY: That's more
8 clear.

9 MR. SOBULE: And I should have
10 clarified it a little better the first time
11 through. I'm sorry.

12 COMMISSIONER MULVEY: Well, one of
13 the things that was discussed was build-outs.
14 And I recall, many, many years ago, when I
15 worked for the Congress, the build-out option
16 was not so much that you were expecting the
17 shippers to build-out.

18 That was a possibility, it was
19 kind of a threat, and that the threat of going
20 to a build-out and going out and hiring
21 surveyors and beginning to make some inquiries
22 or even some acquisitions or rights-of-way in

1 order to accommodate the build-out generally
2 was sufficient to bring the incumbent railroad
3 to the table to say okay, okay, we don't want
4 you to build-out another railroad, let's talk
5 about what a fair rate might be.

6 And you're suggesting that while
7 that worked for a while, that it -- after
8 2004, stopped working, or after 2008, stopped
9 working. Or -- is it sort of a matter of that
10 the railroad got it and figured well, this is
11 -- you know, this is -- it's like poker, after
12 a while, you can tell when somebody's
13 bluffing? Would you characterize it that way?

14 MR. SOBULE: Well, I think that in
15 some instances, what you're saying was
16 correct, that there was -- that the railroads,
17 in some instances, realized well, maybe they
18 really aren't going to spend the capital to
19 build-out.

20 In Ameren's case, we actually
21 spent the capital and did the build-out, and
22 basically, the rate reductions we got was

1 because the railroads were, in fact, anxious
2 to potentially take market away from the
3 incumbent railroad.

4 We have, as an example, at our
5 Joppa plant, which was one of the ones where
6 we did the build-out, that contract actually
7 swapped back and forth a couple times after
8 the build-out, because we had created
9 competition.

10 And at that point, the railroads
11 were interested in competing as opposed to not
12 -- the change of -- whatever reason it
13 occurred after 2004.

14 So a little bit of what you said,
15 maybe calling the bluff with some folks. With
16 Ameren, we really did do the build-out, and it
17 did result in some change of service from one
18 rail carrier to another.

19 COMMISSIONER MULVEY: Mr. Oliver,
20 you mentioned about going to Indonesia, and
21 you talk about some of the problems that
22 utilities face with dealing with higher rates

1 or dealing with higher inventory costs and the
2 like.

3 But you said that the major cost
4 or the major problem would be if you actually
5 had to shut down. And have you ever had to
6 shut down the plants because of lack of coal
7 supplies?

8 MR. OLIVER: I've only been in
9 this position for a couple of years, but I can
10 speak to some extent, that we've had --

11 COMMISSIONER MULVEY: Or even
12 brownouts.

13 MR. OLIVER: We have had to lower
14 the output of the plants due to coal supply.
15 As you begin to look at -- primarily if you
16 look in 2005, after the joint line problems,
17 we had significant decrease in coal delivery.

18 COMMISSIONER MULVEY: Yes.

19 MR. OLIVER: You're going into the
20 summer, which is our peak period, and you're
21 having to balance those piles and make sure
22 you have enough inventory to make it through

1 the summer. You don't want to shut down the
2 plant completely.

3 And so we have had to decrease
4 output at the plants due to poor service.

5 COMMISSIONER MULVEY: But the 2005
6 problem was one that was due to things that
7 were beyond the railroad's control. Have you
8 had problems -- that is now six years ago.
9 Have you had problems with supplies since
10 then?

11 MR. SOBULE: Yes, sir. It hasn't
12 been quite to that extent, obviously. That
13 was a major issue.

14 And I'm going to speak a little
15 bit out of my element, but I will say this,
16 that from my understanding, there were times
17 when the economy was really booming, when
18 Intermodal traffic was significant, that our
19 cycle times, which is the time it takes for
20 the train set to get from the PRB mine to our
21 plant and back, those cycle times increase
22 significantly, and the delivery of coal was

1 less than the contract.

2 So was it to the extent of 2005?

3 No. Have we seen impacts, due to service?

4 Yes. We have seen poor service since 2005.

5 Now, as of 2005, it's fairly good,
6 and the cycle times are low. We are
7 attributing that primarily to the fact that
8 there was probably decreasing intermodal
9 traffic. We don't have that insight, but I
10 will say there have been times since 2005 when
11 we have experienced a decrease, so.

12 COMMISSIONER MULVEY: Every cloud
13 has a silver lining. We've noted that with
14 traffic down for the railroads, that the
15 average speeds up, cycle times go down.

16 So that's a good point, but that's
17 not necessarily good for the economy as a
18 whole that there are fewer, say, unit
19 intermodal trains out there.

20 MR. SOBULE: Yes, sir. I think
21 that's correct. And I mean, everybody hopes
22 that the economy's going to rebound. And so,

1 again, that's why we're looking at it from the
2 standpoint of not just rates, but to provide
3 some relief through competition, if we do see
4 a decrease in service, because we do have a
5 definite need for reliability of supply for
6 that energy. So, I'm hoping the economy
7 rebounds, but I hope the service level stays
8 good as well.

9 COMMISSIONER MULVEY: We're often
10 told that cars on line is a bad metric, that
11 more cars on line is not a good metric -- more
12 cars on line means there's traffic out there.
13 That's not a bad thing. But anyway.

14 Omaha Power District, Mr. Wilcox,
15 you had a successful build-out, and are you
16 still operating that short line railroad? Is
17 OPPD still operating that short line today?

18 MR. WILCOX: Well, not today, no,
19 because the UP is the current provider at
20 Nebraska City, and so they use a very small
21 piece of the 56-mile line to get into the
22 plant. The 56-mile line would come into play

1 if BNSF was to get the business back.

2 COMMISSIONER MULVEY: The Board,
3 when it looks at market dominance, has both a
4 qualitative and a quantitative measure for
5 market dominance.

6 And the qualitative-based looks
7 and sees whether or not there are other modes
8 that can be effective competitors. The
9 quantitative, of course, relies on our 180
10 percent of revenue to variable cost ratio to
11 decide market dominance.

12 Would you suggest that we drop the
13 qualitative one and focus only on a
14 quantitative measure? And is the 180 the
15 correct measure, or should it be lower?

16 Or -- I would think lower if you -
17 - but should it be higher? Or what would you
18 suggest?

19 MR. SOBULE: From our point of
20 view, we think we should still have a
21 qualitative and a quantitative measure. The
22 difference that we're saying is that for

1 quote-unquote competitive shippers, that
2 basically that whether it's 180 percent or
3 not, I'm not sure whether that's the
4 appropriate level, but that the jurisdictional
5 threshold, whatever it is, except for captive
6 shippers, that the statute be interpreted so
7 if any rate, including for quote-unquote
8 competitive shippers, exceeds the threshold,
9 that could prima facie demonstrate that
10 there's a lack of effective competition.

11 COMMISSIONER MULVEY: Anybody else
12 want to comment on that?

13 MR. WILCOX: Well, obviously, if
14 the jurisdictional threshold is lower, that's
15 beneficial. But I think this also relates to
16 the Board's review of its IRCs costing system
17 as well, in terms of what the number you end
18 up with.

19 But I do think that for dual-serve
20 shippers, that I agree with Mr. Sobule that
21 the RTC ratio, revenue to cost ratio, it
22 should be a good indicator of whether the rate

1 is presumptively or a rebuttable presumption
2 that it's unreasonable.

3 COMMISSIONER MULVEY: Thank you.
4 Thank you.

5 CHAIRMAN ELLIOTT: Thank you very
6 much for your comments today. We greatly
7 appreciate it.

8 MR. WILCOX: Thank you.

9 CHAIRMAN ELLIOTT: I now call
10 forward panel number two.

11 (Pause.)

12 Welcome. We will begin with Mr.
13 Marsh from CONSOL Energy, Inc., and I believe
14 you have five minutes.

15 MR. MARSH: I'll keep it very
16 short and brief for you. Thank you for the
17 opportunity.

18 I'm a Vice President with CONSOL
19 Energy. We're a coal and natural gas company
20 out of Pittsburgh. We move almost 35 million
21 tons on the railroads, and we're one of the
22 largest shippers on both the Norfolk Southern

1 and the CSX.

2 Our position is slightly different
3 than what I just heard. We've had an
4 excellent circumstance with both the Eastern
5 carriers over the last 15 years that I've been
6 involved with them, and over the last 130
7 years that my company has dealt with them.

8 The things I heard just a moment
9 ago would be very alarming if we experienced
10 them. We've not experienced that.

11 We've found them to be creative,
12 competitive, cooperative, and in my own
13 functionality and in our company's
14 competitiveness in the world marketplace,
15 we've benefitted significantly from these
16 partnerships.

17 So our position is, please be
18 cautious about any changes that would inhibit
19 investment, because we find this to be a
20 capital gain, a major infrastructure play, and
21 anything that would reduce the ability for our
22 product to move to market would be concerning.

1 Thank you.

2 CHAIRMAN ELLIOTT: Thank you.

3 Mr. Yeager?

4 MR. YEAGER: Very good. I
5 probably will not be quite as brief, but I'll
6 try to make this brief.

7 (Laughter.)

8 Mr. Chairman and Madam Vice
9 Chairman, Mr. Commissioner, we thank you for
10 this opportunity to speak to you today about
11 this very important subject.

12 A healthy and competitive rail
13 industry is critical to the economy of this
14 country, and also to the continued success of
15 Hub Group, of which I am Chairman and CEO.

16 Hub Group is a \$2.5 billion
17 transportation company employing 1600 white-
18 collar workers and contracting with 1800 truck
19 drivers. We arrange for the transportation of
20 trailers and containers on various Class 1
21 railroads.

22 In 2010, Hub Group shipped over 1

1 million truckloads. More than 700,000 of
2 those truckloads were transported by a rail
3 intermodal.

4 As a result of using rail
5 intermodal versus conventional over-the-road
6 services for these 700,000 truckloads, 3.1
7 billion pounds less carbon was emitted into
8 the atmosphere and over 68 million gallons of
9 fuel was saved.

10 It's obvious that it's in our
11 country's best interests to continue to
12 promote the use of the nation's rail system.

13 Hub Group, like the railroads, was
14 not always as prosperous as it is today.
15 Founded in 1971 by my father and mother, the
16 first Hub office had no windows and was on the
17 second floor over a flower shop in Hinsdale,
18 Illinois.

19 I joined this small family
20 business in '75 and have worked at Hub in the
21 intermodal industry for the last 36 years. In
22 the 1970s, unlike today, the rail industry was

1 not the model of the world. I remember well
2 when railroads offered poor service, and seven
3 railroads in the northeast were bankrupt.
4 Even worse for shippers, rates were high and
5 not very competitive with truck.

6 These difficult days for the rail
7 industry ended with the passage of the
8 Staggers Rail Act in 1980. While it took time
9 to heal this beleaguered industry, the
10 deregulation that followed this act helped
11 promote the healthy and vibrant rail network
12 that we enjoy today.

13 Since deregulation, I've seen the
14 railroads make substantial investments to
15 their infrastructure and promote new services
16 that have made rail intermodal a forceful and
17 highly efficient competitor to truck.

18 According to the Association of
19 American railroads, since 1980, average
20 inflation adjusted rail rates have fallen 55
21 percent, rail traffic volume has nearly
22 doubled, and railroads have invested \$480

1 billion in capital spending to improve those
2 networks.

3 And not only is rail less
4 expensive today, but service is much faster,
5 it's more consistent, and the loss and damage
6 claims are down substantially due to railroads
7 investing in updated tracks and rail cars.

8 The ability for the railroads to
9 continue to invest in improved service is
10 critical to the partnership that we have
11 developed with the rails. This partnership
12 has benefitted the environment, it's reduced
13 traffic on our nation's roads, it's saved
14 billions of dollars in shipping costs while
15 contributing to our country's economic growth.

16 The railroads have supported our
17 business, whether it's import, export, or just
18 purely domestic. Shippers, railroads,
19 consumers, motorists, and the environment are
20 all much better off today due to the far-
21 sighted policy that Congress implemented in
22 1980.

1 I know that a few railroad
2 customers in specific rail markets who ship
3 specific kinds of freight believe that
4 expanding rail regulation will benefit their
5 own self-interests.

6 However, such a shift will do harm
7 to many more companies and individuals in the
8 long run. Taking actions that could reduce
9 railroad efficiency will harm the interests of
10 intermodal customers, as well as the public at
11 large, who benefit from the railroads.

12 Shippers and the public at large
13 need railroads that are able to invest in the
14 infrastructure expansion, terminals, and
15 rolling stock. I'm very concerned that if the
16 Board makes changes to regulatory policies
17 that it will adversely affect the ability of
18 the railroads to continue investing in their
19 networks.

20 I'm also concerned that these
21 proposals could negatively affect rail service
22 to customers like us by reducing asset

1 utilization and otherwise impairing the rail
2 network.

3 Our national rail network has
4 improved dramatically over the past 30 years.
5 We currently have a highly efficient,
6 environmentally friendly, and cost-effective
7 rail system that's primarily funded by these
8 same railroads.

9 I believe our current regulatory
10 structure is working well for shippers and the
11 public at large, and for these reasons, I ask
12 the Board to reaffirm the current regulatory
13 regime.

14 Thank you very much.

15 CHAIRMAN ELLIOTT: Thank you, Mr.
16 Yeager.

17 We'll now hear from Mr. Rubin from
18 the Intermodal Association of North America.

19 MR. RUBIN: Thank you.

20 Chairman Elliot, Vice Chairman
21 Begeman, and Commissioner Mulvey, thank you
22 for allowing the Intermodal Association of

1 North America the time to express our views on
2 the current state of rail competition.

3 My name is Steve Rubin, Chairman
4 of the association commonly known as IANA,
5 whose members handle over 90 percent of the
6 freight moved in intermodal service.

7 I spent the last 20 years in the
8 intermodal industry as a senior operations
9 executive with a major ocean carrier, and most
10 recently as the President and CEO of TRAC
11 Intermodal, the nation's largest intermodal
12 chassis leasing company.

13 Over the last two decades, I've
14 worked very closely with all the Class 1
15 railroads as both a customer and a supplier of
16 intermodal services.

17 At the Board's February 24th
18 hearing to revisit exemptions for commodity,
19 box car, and intermodal, IANA's CEO, Joanne
20 Casey, and other rail executives provided
21 compelling arguments why the exemption on
22 intermodal should be preserved.

1 My remarks today will focus on how
2 the current regulatory environment for
3 railroads has fostered an era of powerful
4 competition for containerized supply chain
5 logistics that has provided significant
6 benefits to all stakeholders, including
7 shippers, ports and terminals, ocean carriers,
8 motor carriers, and third-party logistics
9 providers.

10 My core point is that for
11 intermodal rail, competition is a way of life,
12 and in the relatively near future, it will
13 only intensify as infrastructure improvements
14 from the build-out of the Panama Canal, as
15 well as the deeper dredging of our nation's
16 major seaports to handle the world's largest
17 container ships will increase the pressure on
18 the railroads to provide superior service at
19 reasonable, competitive, and market-driven
20 prices.

21 I've been negotiating service
22 contracts with the railroads for the past 20

1 years, and I've witnessed first-hand the
2 benefits of the current regulatory
3 environment.

4 First, mergers have created better
5 end-to-end products with faster, more reliable
6 transit times for service-sensitive shippers,
7 and there's been an unprecedented capital
8 spend invested in network, terminals,
9 technology, and human resources to meet not
10 just current container volumes and trailer
11 volumes but for expected growth far, far into
12 the future.

13 As both a shipper and a supplier
14 to the rail intermodal industry, I've also
15 experienced the intense competition --
16 competitive nature of the Class 1 railroads.
17 It's my perception that in the years following
18 the highly active merger period in the mid- to
19 late-1990s, the railroads have only increased
20 their focus on serving their customers and
21 heavily investing in the business to
22 accommodate freight growth.

1 Intermodal is a complex system of
2 interrelated transportation moves, and I
3 believe the railroad investments have been
4 critical to supporting the 5.7 percent
5 compound annual growth rate for containerized
6 imports and exports over the last 20 years.

7 Now, today, the railroads not only
8 compete against their geographical
9 competition, Union Pacific versus the BN, CSX
10 versus Norfolk Southern, but because of
11 container port infrastructure development and
12 the growth in canal traffic both through
13 Panama and the Suez, the railroads are now
14 competing quote-unquote across a divide for
15 cargo-rich areas of the Midwest, Ohio, and
16 Tennessee Valleys, the Southeast, and the Gulf
17 Regions.

18 Now, I know this last point was
19 also touched upon in the February 24th
20 hearing, but I think it bears reviewing, as it
21 speaks to how the current regulatory
22 environment encourages competition and risk-

1 taking investment in the context of market
2 forces.

3 To illustrate the increasing
4 competitive forces facing railroads in the
5 intermodal segment, let's take a container
6 shipment moving from Shanghai to Cleveland,
7 Ohio.

8 Their steamship line responsible
9 for bringing the goods from overseas has
10 routing options that span two countries, both
11 North American coasts, and six of the seven
12 Class 1 railroads.

13 If you also include the option of
14 trans-loading at the port of discharge into
15 the 53 foot domestic container, you not only
16 double the potential routings, but you have
17 introduced motor carrier competition into the
18 equation.

19 The bottom line is that the
20 railroads have more competition for intermodal
21 freight than ever before, and will only become
22 more so as new infrastructure will push the

1 boundaries of the traditional intermodal
2 supply chain.

3 While I cannot speak with
4 knowledge on the sole provider rate issues
5 here, the STB has properly identified one of
6 the emerging challenges facing the evaluation
7 of intermodal rate reasonableness, the global
8 multi-modal shipment.

9 In such instances, which will
10 become truly routine and not just
11 hypothetical, IANA believes the best course of
12 action for the Board would be to stay its
13 current course with regard to rate regulation,
14 and allow the market to establish the best
15 supply-chain routing for the American
16 producers and consumers.

17 Thank you very much for the
18 opportunity to present to you today.

19 CHAIRMAN ELLIOTT: Thank you, Mr.
20 Rubin.

21 Vice Chairman?

22 VICE CHAIRMAN BEGEMAN: Mr. Marsh,

1 could you explain what type of service you're
2 provided from the two carriers? Actually, what
3 I mean is, are they providing you a joint
4 rate, or do you operate over them on separate
5 lines, or are they giving you a bottleneck
6 rate?

7 MR. MARSH: No, our situation is a
8 little unique in the sense that our reach in
9 the East -- we're the largest Eastern coal
10 company, as a producer. And I actually run
11 our Baltimore terminal, which has been
12 tripling its volumes over the last couple
13 years and serving the international
14 marketplace.

15 So we have the good fortune of
16 having some mines that are served by both
17 railroads, some mines that are single-served,
18 and facilities like our Baltimore terminal
19 that are dual-served.

20 So having that mix, we are able to
21 work with them tactically at the local level,
22 and the mid-level regionally, and with their

1 executives, where we make joint capital
2 investments.

3 We support each other in terms of
4 strategies. We work with them to create
5 metrics that allow us to generate
6 efficiencies.

7 And so what we've seen is both in
8 the rate-making process, there's been
9 competition and creativity. And then more
10 importantly, on the investment and service
11 side, we've seen significant modern business
12 applications that make it to where we can grow
13 threefold in two or three years. So that's
14 been our experience.

15 VICE CHAIRMAN BEGEMAN: And Mr.
16 Yeager, do you provide service or transport
17 cars or arrange cars for all of the railroads,
18 or just particular Class 1s, or any short
19 lines?

20 MR. YEAGER: We do actually -- we
21 are strictly on one carrier within the West,
22 and within the East, we utilize both carriers,

1 both CSX and Norfolk Southern.

2 VICE CHAIRMAN BEGEMAN: And I'll
3 ask all three of you to respond to this.

4 And Mr. Marsh, you mentioned that,
5 if you were testifying such as the first panel
6 had, you probably would be asking for changes,
7 what are your thoughts on the proposal to
8 allow those with competitive options currently
9 to have access to the Board to challenge a
10 rate?

11 MR. MARSH: Having oversight and
12 having a general threat if someone gets
13 unreasonable and totally reasonable and
14 consistently reasonable is obviously a
15 benefit. I just don't know how you would do
16 it consistently.

17 Our biggest caution is simply,
18 please don't do anything that will create
19 enough uncertainty that capital investment
20 will be hesitant, because we've seen very
21 practically and on a day-to-day basis, if you
22 don't invest the capital, the capacity

1 withers, and as the capacity withers, our
2 product doesn't move.

3 And as important as rates are,
4 which is very important, our ability to move
5 product to market is critical. So I just
6 caution just, please be careful.

7 MR. YEAGER: I would agree with
8 Mr. Marsh. I do think that we would just be
9 very concerned about the railroads' intent and
10 capabilities of reinvesting in the
11 infrastructure.

12 In the intermodal industry, we
13 have seen tremendous strides forward from a
14 service perspective. That's make it very
15 truck-competitive.

16 And for the railroads to handle
17 more business and take it off the highways is
18 critically important, I think, to the future
19 of commerce within this country, and any
20 uncertainty that's thrown in there I think is
21 certainly a hindrance.

22 MR. RUBIN: Yes, I also follow --

1 agree with the previous two comments. My
2 entire history in this business of intermodal
3 has been basically in a deregulated
4 environment.

5 So, Vice Chair, it would be a
6 little difficult to put myself in someone
7 else's position other than it seems that these
8 are complex issues that really require a real
9 deep understanding of the specific facts for
10 each of the shippers.

11 Beyond that, you know, it's hard
12 for me to comment any further.

13 CHAIRMAN ELLIOTT: Commissioner?

14 COMMISSIONER MULVEY: Thank you,
15 Dan.

16 I recall of course the exemption
17 hearings back in February, I guess it was,
18 when Joanne was here testifying on behalf of
19 IANA.

20 Of course, we pointed out at the
21 time that intermodal is probably, by
22 definition, the most competitive kind of

1 traffic, and therefore, probably the most
2 warranting of exemption, by intermodal, it can
3 go by many, many modes or by multiple modes.

4 So, but I want to ask a question
5 about the Staggers Act. I mean, the Staggers
6 Act was passed -- when we passed Staggers Act
7 in 1980, it was part of a larger group of
8 bills that deregulated transportation,
9 aviation, but also in 1980, motor carriers
10 were also deregulated.

11 And motor carriers were, before
12 1980, back in the old days of tight
13 transportation regulation, the ICC tried to
14 balance the needs of the various modes, and
15 tried to allocate traffic, depending upon what
16 it saw as the inherent advantages of each
17 mode, etcetera.

18 And it didn't do a good job of
19 that, ultimately, and the railroads were in
20 serious financial -- it's been suggested that
21 what we need to do is to create the whole
22 promise of Staggers, and that is de-regulate

1 the railroad industry entirely, and let the
2 railroads behave as a competitive industry and
3 as competitive firms, as we do in any other
4 industry, with the probable continued limited
5 anti-trust immunity that they have right now.

6 Would you think that that would be
7 a proper way to go to just, more with this --
8 ultimately, I guess it's easier for me to say,
9 I'm finishing out my second term, but the
10 Board, then, would disappear, and you would
11 have a railroad industry that would compete
12 for traffic like any others, and we would rely
13 almost completely on market forces to
14 determine rates and the allocation of traffic.

15 MR. RUBIN: I guess it could also
16 be easy for me to answer, since I only have
17 six more months in my chairmanship, and Joanne
18 will actually be returning, the next time, I'm
19 sure, that IANA is asked to testify.

20 Again, sort of to reiterate my
21 answer to Vice Chair Begeman, Chairman Mulvey,
22 I've grown up in the basically deregulated

1 industry, and I've seen all the positive
2 benefits that occur when there really is
3 optimal or multiple choices for shippers of
4 rail services.

5 So having listened to the first
6 panel, as I answered before, it seems that
7 maybe not all the circumstances, depending on
8 the situation, allow for the same sort of, you
9 know, competition that we have in the
10 intermodal industry.

11 But certainly the railroads have a
12 fierce competitive spirit, and having a
13 regulatory regime that allows the railroads to
14 maintain that fierce competitive spirit, they
15 will take advantage of it, and they will work
16 extremely hard to serve their customers and to
17 certainly serve all their stakeholders
18 including their shareholders.

19 MR. YEAGER: Well, being the
20 oldest member of this panel, and having lived
21 through regulation and deregulation, I'm very
22 much -- the Staggers Act, I do think, was a

1 tremendous stride forward.

2 I do think that having a Board
3 that attempts to allocate competition and
4 weigh if truck is better than rail is not
5 appropriate. I do think that with what we
6 have today, that it's actually very effective
7 to Steve's point.

8 We do see within the intermodal
9 segment a tremendous amount of competition.
10 The railroads are very aggressive, very
11 creative in how, in fact, they go about with
12 their proposals. And so I would suggest that
13 again, maintaining as is would be my advice to
14 the STB.

15 MR. MARSH: The concern I'd have
16 if it went to just a wide-open, totally
17 different environment, is the barriers to
18 entry in terms of just building railroads,
19 getting the ability to get the land, to build
20 it, the capital involved, that would be -- I'd
21 be concerned a little bit if it just went to
22 a total Wild West environment.

1 But again, I just think we just
2 need to be cautious to make sure that whatever
3 changes, if any, occur, just do consider the
4 capital impact.

5 COMMISSIONER MULVEY: Well, the
6 railroads do have monopoly power where they
7 have single-served shippers, but there are
8 limits to how much they can charge.

9 And the limits are based upon the
10 fact that they need to have their customers,
11 as Mr. Hamberger said yesterday, they don't
12 want to put their customers out of business.
13 Mr. Young said the same thing.

14 That's who their -- that's where
15 their money comes from is serving customers,
16 so there are limits to what railroads can
17 charge.

18 The -- in other words, what I'm
19 really asking, is there a need for this Board
20 if you really want to have total competition?
21 Because at least that might generate more
22 innovation, more creativity, more services,

1 etcetera.

2 The alternative that's been
3 suggested or was suggested many, many years
4 ago was -- maybe perhaps Mr. Yeager and hardly
5 anybody else in this room remembers, that it
6 was suggested that railroads ought to be
7 treated like highways, and that is the
8 railroad network ought to be nationalized, and
9 the railroads -- private railroad companies,
10 then, would compete for the traffic on this
11 publicly owned highway system.

12 Those are kind of extreme
13 solutions, but they have been suggested.

14 Do you have any comment on any of
15 those?

16 MR. MARSH: Fortunately, I don't
17 have sufficient understanding and perspective
18 to comment intelligently.

19 COMMISSIONER MULVEY: Mr. Yeager?

20 MR. YEAGER: I would suggest that
21 was probably in times when, as far as the
22 suggestion that we nationalize the rail system

1 itself, that was probably at a time when the
2 railroads had not invested in infrastructure.

3 And I do think really that private
4 enterprise and the innovations and giving them
5 the ability to continue to earn their cost of
6 capital is certainly the best solution.

7 MR. RUBIN: Sort of my frame of
8 reference, Commissioner, is on the ocean
9 container side, and there you have some
10 examples where regulatory bodies, given proper
11 guidance and authorization, I think can help.

12 And look at the Federal Maritime
13 Commission. Look over in Europe where the EU
14 has fully deregulated the ocean shipping liner
15 rates, but yet, they still oversee it, and
16 they still continue to investigate.

17 So again, I look at those as I
18 think effective regulatory structures that
19 also can effectively promote competition.

20 COMMISSIONER MULVEY: Of course,
21 in ocean shipping, a large part of the
22 infrastructure, the ports, for example, tend

1 to be quasi-public institutions.

2 Thank you very much.

3 CHAIRMAN ELLIOTT: I don't have
4 any further questions. I just want to thank
5 you for bringing your perspective to the
6 hearing today. It's greatly appreciated, and
7 thank you very much.

8 (Pause.)

9 Okay. Welcome, everyone. We'll
10 now begin with panel number three, and leading
11 off will be Arkema.

12 And Mr. O'Leary, you have ten
13 minutes.

14 MR. O'LEARY: Good morning, Mr.
15 Chairman, Vice Chairman Begeman, and
16 Commissioner Mulvey.

17 My name is John O'Leary. I'm
18 director of Logistics for Arkema, Inc. On
19 behalf of Arkema, I greatly appreciate this
20 opportunity to appear before the Board today
21 to offer our views on competition in the rail
22 industry.

1 Arkema is a manufacturer of
2 specialty products, and currently operates 23
3 manufacturing and research facilities in 14
4 states with over 22 employees across the
5 United States.

6 Our US headquarters is in King of
7 Prussia, Pennsylvania, and our parent company
8 is headquartered in Europe with operations
9 throughout the world.

10 Here in the United States, we
11 routinely use rail carriers to move both raw
12 materials and finished products, and as such,
13 a strong, competitive rail industry is vital
14 to the success of our overall business
15 operations.

16 We also feel rail transportation
17 is the safest and most secure method of
18 transporting our materials and products.
19 Thus, we wholeheartedly welcome this effort
20 which will hopefully strengthen the rail
21 system for both the railroads and shipping
22 community.

1 By thoroughly examining this
2 critical area and acting on items that are
3 discussed, the Board can ensure that the rail
4 transportation sector is open, fair, and
5 competitive.

6 I plan to focus my comments today
7 on Arkema's experience regarding competition
8 in the rail industry and the effects of global
9 competition as it relates to the
10 transportation costs, and also, to discuss
11 some key issues and recommendations for ways
12 to improve the competitive balance in the rail
13 transportation area.

14 First and foremost, our ability to
15 have competitive rail service at our
16 facilities significantly affects the costs of
17 our products and materials, both in terms of
18 transporting raw materials and process the
19 manufactured products.

20 Without competitive service, we
21 invariably have higher transportation costs,
22 which directly affects our bottom line, and

1 often results in higher material and product
2 costs, which in turn, affects our ability to
3 compete domestically and globally, and it also
4 affects our ability to expand and grow our
5 business and hire more employees.

6 In the end, the issues surrounding
7 rail competition and rail access are about
8 jobs and economic costs. In these uncertain
9 economic times, anything that can be done to
10 make US manufacturing more competitive is
11 critical.

12 Ensuring that companies like
13 Arkema have access to competitive rail and
14 transportation services will help to keep our
15 business and our industry healthy,
16 competitive, and growing.

17 Currently, over 50 percent of
18 Arkema's finished product volume is shipped
19 via rail. Indeed, without reliable,
20 efficient, and safe access to the rail
21 network, key operations at some of our most
22 important facilities would be seriously

1 jeopardized.

2 In many cases, the rail access at
3 these facilities is often limited to only one
4 rail carrier. And as you might imagine, with
5 limited transportation options at hand, we
6 have found that our rail transportation costs
7 have increased greatly over the last decade.

8 Unfortunately, as the rail
9 shipping costs have risen, we have had to
10 either absorb these costs internally or
11 increase our prices to pay for the increased
12 shipping cost. Neither option is good, but
13 this has become our reality in recent years.

14 With regard to railroad profits,
15 although we are certainly not opposed to
16 industry's making a profit, we are concerned
17 when certain practices have a significant and
18 negative impact on other industries or
19 markets.

20 For many of our products and
21 materials, we are often unable to pass along
22 the increased shipping cost because

1 competitive forces have driven the individual
2 product prices down.

3 Thus, we are faced with having to
4 sell our products and materials at a lower
5 price while simultaneously having to absorb
6 increasing shipping costs.

7 As we evaluate our rail
8 transportation options that are available to
9 us today, we find that we have significantly
10 fewer options than there were 25 years ago.
11 This means fewer competitive-based checks and
12 balances and therefore, higher shipping costs.

13 Fewer rail options means less
14 competition. Less competition brings higher
15 rates and fewer service options. As noted,
16 higher rail freight costs affects our ability
17 to be competitive, and it affects our ability
18 to expand and grow our businesses and add
19 jobs.

20 But perhaps most compelling in how
21 captive many of our facilities have become to
22 only one rail carrier, at present, we have

1 true competition, competitive service at both
2 ends of the rail shipment, for only one
3 percent of our shipping lanes.

4 Further, a full 71 percent of our
5 lanes are captive at both ends of the
6 shipment, and 28 percent of our lanes have
7 competition at only one end.

8 When the rates for shipments to
9 and from our captive facilities are compared
10 to the shipping rates to and from facilities
11 that have competitive shipping options, we
12 find that the rates for our captive facilities
13 are significantly higher than those at non-
14 captive facilities. In one case, we have seen
15 rates increase as much as 150 percent just in
16 the last five years.

17 These rates far outpace normal
18 inflationary costs and railroad industry
19 costs. This directly affects our operations,
20 sales, and our ability to invest in our
21 manufacturing infrastructure.

22 It is also important to consider

1 our current business situation in the context
2 of the global competitive environment. We
3 must compete not only domestically, but also
4 with companies located in Asia, Europe, and
5 elsewhere.

6 Unfortunately, we are finding that
7 in many cases, our global competitors have
8 lower transportation costs than we do, despite
9 the fact that they are shipping their
10 materials or products from thousands of miles
11 away.

12 They can do this because they can
13 ship directly to a port that may be closer to
14 the end user, or to a port that enjoys greater
15 competitive rail service than we have.

16 Additionally, many global
17 manufacturers examine a myriad of issues when
18 citing new facilities. Transportation costs
19 are a critical component of any such calculus.
20 The competitiveness of American industry is
21 predicated upon an economical transportation
22 and intermodal environment.

1 The huge advantage the US has over
2 developing nations is that its rail
3 infrastructure network is in place and
4 accessible to all, allowing certain pricing
5 practices to destroy that competitive
6 advantage has to be avoided in the global
7 environment for goods, services and capital.

8 Therefore, we believe the effects
9 of these international shipping issues, and
10 their impact on competition and shipping
11 rates, should be examined as part of the
12 process as they are increasingly key
13 components of our overall competitiveness.

14 I would now like to discuss a few
15 key issues and some recommendations regarding
16 improving the competitive balance in the rail
17 industry that we offer for your consideration.

18 First, let me note, one, our
19 general support of the joint comments that
20 have been submitted by the American Chemistry
21 Council, the Chlorine Institute, CURE, and
22 other interested organizations.

1 We believe one of the key elements
2 of these joint comments is the discussion on
3 the Board's considerable authority and
4 discretion to take action to support rail
5 competition. And we hope the Board will use
6 this proceeding as a catalyst for improving
7 the competitive balance in the rail
8 transportation agreement.

9 One issue is the area of
10 reciprocal switching agreements, where we
11 support actions that would allow for increased
12 use of such agreements. These types of
13 agreements have the potential to reduce costs
14 and increase service options for all parties.

15 One suggestion the Board might
16 consider is developing a pilot program in one
17 or more selected geographical areas that would
18 allow for increased use of reciprocal
19 switching agreements that could be negotiated
20 by all parties.

21 The lessons learned from such a
22 pilot then could be applied to other parts of

1 the system.

2 We also support strengthening the
3 ability to use so-called Rule 11 rates where
4 each carrier is given through route quotes a
5 separate rate for their segment rather than
6 one carrier quoting a through rate.

7 It has been our experience that
8 using Rule 11 procedures has benefitted from
9 this process. This is particularly the case
10 with respect to toxic by inhalation hazard
11 products.

12 However, it has also been our
13 experience that Rule 11 process has not been
14 available for our non-TIH shipments. In fact,
15 in some cases, a request for such pricing to
16 apply has been denied by some carriers.

17 Therefore, we would support a
18 review of Rule 11 procedures with the aim of
19 ensuring consistency in the application across
20 the various types of shipments.

21 Lastly -- if I can have one -- we
22 believe it is also relevant to any review of

1 competition in the rail industry to examine
2 the current process for bringing a rate case.

3 A key part of the current system
4 of checks and balances in the rail competition
5 is the ability or non-ability of the shipper
6 to bring a rate case before the Board for
7 their consideration.

8 One factor in deciding whether or
9 not to bring a case is cost. In most cases,
10 the cost remains prohibitively high because of
11 the complicated process and procedures that
12 are required.

13 Thus, we would also welcome any
14 action that might simplify and streamline the
15 current rate case process.

16 Again, Arkema greatly appreciates
17 the opportunity to provide our views on
18 competition, and appreciate the Board's
19 looking at this procedure.

20 Thank you.

21 MR. BAKER: Good morning. My name
22 is Jeff Baker, and I'm responsible for Dow's

1 rail purchases. And I've replaced Brad Gray
2 today, due to illness.

3 So, Chairman, Vice Chairman, and
4 Commissioner, thank you for the opportunity to
5 allow Dow Chemical to provide our perspective
6 on this issue.

7 Dow operates a large fleet of
8 approximately 23,000 rail cars, so we have a
9 significant investment in rail. These cars
10 carry over 110,000 rail shipments each year
11 for multiple North American production
12 facilities.

13 Our large facilities are captive
14 to a single railroad. That's over 58 percent
15 of our original rail shipments. And then 80
16 percent of all of our destination rail
17 shipments are also captive to a single
18 railroad.

19 Less than 25 percent of Dow's
20 total annual US rail shipments are served by
21 more than one railroad.

22 You've already heard about the

1 impact carrier consolidation has had on
2 competition. I'd like to focus on several
3 points made by the railroads yesterday, in
4 light of Dow's experience since 2004.

5 You heard -- you have heard it
6 said that it's not about competition, it's
7 about rates. But is competition precisely
8 about rates, safety and service?

9 Dow has experienced dramatic
10 increase in our rates for our captive
11 facilities. While the average annual distance
12 and the average tons for Dow's rail
13 transportation since 2004 has been relatively
14 constant, the increases have been greater than
15 45 percent over that six-year period.

16 Also, without effective
17 competition, Dow has been unable to negotiate
18 any service-level agreements with the
19 railroads.

20 The rail rate increases
21 experienced by Dow have been based on business
22 practices which have shown typical monopoly

1 pricing behavior. Contrary to what was said
2 yesterday, we're not claiming that increase in
3 rates is evidence of monopolistic behavior,
4 but it's the way in which the price increases
5 are imposed that make them unfair or
6 unreasonable.

7 Taking advantage of the fact that
8 a shipper is captive, railroads have used
9 numerous methods to increase rates. This
10 includes a take it or leave it attitude, a
11 refusal to enter into long-term contracts,
12 sometimes even insisting on a 30-day
13 cancellation provision in contracts, fuel
14 surcharges that are not based on any changes
15 in fuel costs, large increases in rail car
16 storage, and increases in track lease charges.

17 Also, railroads' rates continued
18 to go up even when demand went down. All
19 other modes of transportation at Dow reduced
20 their rates.

21 In response to these facts, the
22 railroads have made two arguments. First,

1 there are the forms of competition, mainly
2 truck, and the second, the current STB
3 regulatory system, provides an adequate remedy
4 to shippers in the face of unreasonable rates.

5 Taking these in order, in most
6 cases, the use of trucks is not a viable
7 alternative for Dow or many of its customers.
8 Dow and its customers have built their
9 production facilities around rail
10 transportation. Rail cars reduce the need for
11 permanent storage facilities, which are very
12 costly.

13 In addition, the volume of
14 commodities that Dow ships creates unique
15 challenges for trucks. Using trucks would
16 result in increased traffic and congestion,
17 increase handling costs, and safety concerns.

18 The efficiency and safety of rail
19 transportation, especially on the average long
20 distance that Dow ships, which is greater than
21 1,000 miles, makes trucks not competitive.

22 As to the adequacy of existing STP

1 regulatory procedures, as has been pointed
2 out, it's extremely expensive and complicated
3 to file a rate case, especially large rate
4 cases. In addition to the fees for lawyers
5 and experts, the preparation and prosecution
6 of a rate case takes an enormous amount of
7 time and company resources.

8 These resources would be spent --
9 provide -- better spent providing goods and
10 services to our customers.

11 On top of these rate case costs,
12 there's enormous penalty that a company pays
13 for simply bringing a rate case, starting with
14 contract rates that a shipper finds
15 unreasonable. The alternative, then, is to
16 pay significantly higher tariff rates during
17 the rate case.

18 The railroads know this is a big
19 disincentive to filing a rate case. The
20 recent increases in rate cases is not due to
21 the recognition that it's an effective remedy.
22 The rates imposed by the railroads have become

1 so unreasonable that the companies see no
2 choice but to incur the costs and risks of a
3 rate case.

4 So what to do? Dow believes that
5 enhancing rail competition will support the
6 growth of US manufacturing. This can be done
7 by making rail competition more available at
8 origin destinations through reciprocal
9 switching and allowing bottleneck rates.

10 The success of these measures of
11 course depends upon the reasonableness of
12 switching and bottleneck rates.

13 In conclusion, Dow has experienced
14 dramatic reduction in US rail competition.
15 This has resulted in significant rate
16 increases, cost shifting, and rail franchise
17 protectionism.

18 Dow, American companies, and
19 American workers need better access to rail
20 competition.

21 Thank you for your time.

22 CHAIRMAN ELLIOTT: Thank you, Mr.

1 Baker.

2 We'll now hear from Mr. Smith from
3 E.I. DuPont de Nemours and Company.

4 MR. SMITH: DuPont is fine.

5 (Laughter.)

6 CHAIRMAN ELLIOTT: I appreciate
7 that.

8 MR. SMITH: Chairman Elliot, Vice
9 Chairman Begeman, and Commissioner Mulvey,
10 good morning.

11 My name is Keith Smith. I'm the
12 Chief Procurement Officer and Vice President
13 of the sourcing and logistics for DuPont.
14 Thank you for your time to share DuPont's
15 experiences on the current state of rail
16 competition and also to advocate for some
17 policy changes.

18 America's freight railroads have
19 been vital to DuPont since 1858. Last year
20 alone, we shipped and received over 24,000
21 rail cars of 100 different commodities.

22 Therefore, despite the rail

1 industry's attempt to portray DuPont and other
2 interested shippers as self-interested parties
3 with short-term perspective, DuPont, in this
4 fact, has very strong interest in the long-
5 term success of the American rail industry,
6 because our success depends on a healthy and
7 vibrant rail transportation system.

8 DuPont, however, does not believe
9 that a healthy and vibrant rail system
10 continues to require regulatory protection
11 from competition, if it ever indeed did.

12 As the industry has matured and
13 overcome its former financial difficulties, it
14 no longer requires the same degree of
15 regulatory protection, had it been justified
16 based on the facts that have significantly
17 changed over the last decade.

18 The fundamental question that the
19 Board should be asking in these proceedings
20 is, why are the railroads afraid to compete
21 with one another?

22 The rail industry has presented --

1 you know, we're confused. The rail industry
2 has presented two inherently contradictory
3 messages to the Board in this proceeding. On
4 the one hand, they claim that there's no need
5 for the Board to change its competition
6 policies, and that they already are subject to
7 extensive competition from non-in-kind modes
8 of transportation such as trucking.

9 On the other hand, they claim that
10 enhancing in-kind rail-to-rail competition
11 would reverse their financial progress since
12 the Staggers Act by reducing rail rights.

13 If trucks have introduced true
14 competition, how can enhanced rail competition
15 have such a dramatic impact upon rail rates?
16 The industry cannot have it both ways.

17 Furthermore, the rail industry
18 creates a false choice between differential
19 pricing and competition. Differential pricing
20 exists in many competitive industries, such as
21 our own competitive industry with many, many
22 competitors.

1 It's ludicrous to suggest that
2 competition between just two railroads in the
3 East and two railroads in the West will render
4 both railroads unprofitable. Each railroad
5 should have sufficient knowledge and
6 discipline to know how to price their traffic
7 and remain profitable.

8 Following the major rail
9 consolidations that ended a decade ago, DuPont
10 has witnessed significant changes in the
11 competitive landscape for rail transportation.

12 A couple of these changes are,
13 one, railroad mergers have resulted in greater
14 portion of production capacity for many
15 industries that rely on point-to-point
16 shipping to become captive to just one
17 railroad. This has substantially reduced
18 geographic competition.

19 Consequently, a single railroad
20 that serves a majority of the production
21 points and delivery points for a commodity can
22 establish price and service terms without fear

1 of losing that business to another railroad.

2 Secondly, as more production
3 capacity has become concentrated in just a few
4 railroads, more traffic is subject to the
5 exercise of bottleneck pricing to ensure that
6 the bottleneck railroad's single-line movement
7 prevails over a joint line movement.

8 With these two competitive
9 changes,

10 DuPont has also witnessed railroad behavior
11 that is inconsistent with a competitive
12 marketplace. These behaviors include take it
13 or leave it contract proposals.

14 Rather than negotiating based on a
15 partnering of the railroads with DuPont to
16 grow our respective businesses, we have seen
17 rates dramatically increase with no benefits
18 or service enhancements that increase
19 downstream customer value and increase the
20 American industry's competitiveness.

21 For example, we looked at price
22 and transit times for several of our highest-

1 volume lanes. Since 2003, the average rate
2 has gone up 100 percent, and the average
3 transit time has gone up 17 percent.

4 Competition drives innovation.
5 That results in either lower costs and/or
6 higher value. We see neither one here.

7 I've run many different businesses
8 in the DuPont company over the last 31 years
9 in very competitive industries. We have to
10 innovate, and we've been successful in
11 lowering the cost for our customers and
12 improving service at the same time. We see
13 neither in these cases here.

14 Secondly, contract negotiations
15 based on revenue demands for DuPont's full
16 book of business, rather than market-based
17 determinants, in those rare occasions where a
18 railroad has to -- has competition and does
19 have to react to a competitive offer, they
20 simply take that reduction in revenue and move
21 it to a place where there's not competition.
22 So the total revenue coming from DuPont

1 remains the same.

2 Thirdly, dissociation of contract
3 terms and conditions from rates. In typical
4 negotiations in most industries, there's
5 trade-offs between price and terms. In our
6 contracts here in this industry, we see -- we
7 rarely see that.

8 Finally, we get fuel surcharges
9 that are not linked to changes in actual fuel
10 costs.

11 Reduction in rail competition has
12 been detrimental to DuPont's ability to
13 compete against foreign imports. Our foreign
14 competitors can choose strategically where
15 they enter the country and thus where their
16 imports enter the US rail system in order to
17 generate rail competition.

18 In contrast, DuPont's domestic
19 production that is accessible by rail, 40 of
20 our sites, 80 percent are captive -- or 32 --
21 to a single railroad, 80 percent of our sites.

22 As domestic facilities age or

1 reach capacity, companies like DuPont must
2 decide whether to upgrade their plants or
3 expand their capacity in this country. Just
4 as railroads must justify their infrastructure
5 investment decisions in order to attract
6 capital, so must their customers.

7 Several railroads witnessed in
8 this proceeding have questioned whether
9 transportation costs in the chemical industry
10 are truly significant enough to drive
11 investment decisions. One of our largest
12 movement of chemicals in the United States has
13 its transportation costs 25 percent of the
14 revenue, not only the cost, but 25 percent of
15 the revenue.

16 Even when the percentage is
17 smaller, the combination of the transportation
18 cost plus one other factor can significantly
19 hurt business competitiveness, both for DuPont
20 and our downstream customers, and change our
21 investment decisions.

22 The chemical industry generates

1 the type of high-skilled and high-paying jobs
2 that this country needs. This country and
3 American workers cannot afford to have
4 railroads drive off DuPont and the chemical
5 industry by stubbornly refusing to compete.
6 This lack of competition is an insidious drag
7 on the American economy.

8 Today's rail rates are less
9 competitive than they were upon the passage of
10 the Staggers Act. DuPont strongly believes
11 that the reduction in rail competition over
12 the last decade warrants changes in the
13 Board's policy toward enhanced rail
14 competition. The Board has the tools to
15 enhance rail competition, and we humbly
16 believe that now is the time to act.

17 One of these tools is reciprocal
18 switching. DuPont asks the Board to make
19 reciprocal switching more widely available at
20 reasonable rate levels in order to create
21 competition for captive shippers located in
22 terminal areas that are served by two or more

1 railroads.

2 Secondly, another tool is de-
3 bottleneck rates. DuPont asks the Board to
4 require railroads to quote de-bottleneck
5 rates.

6 De-bottleneck rates merely permit
7 shippers to tap into the rail competition that
8 already exists by preventing a bottleneck
9 carrier from using its control over a short-
10 term bottleneck segment to extend its monopoly
11 to the entire through movement.

12 If necessary to obtain reasonable
13 rates over the bottleneck segment, the shipper
14 can challenge just the bottleneck rate. That
15 would significantly reduce the complexity of
16 rate cases like the one we currently have
17 before the Board between DuPont and Norfolk
18 Southern.

19 The rail industry protests that
20 the Board should reject these two competitive
21 measures, and instead, continue to rely upon
22 regulation to address the lack of competition.

1 DuPont is well-versed in these
2 regulatory remedies and is currently pursuing
3 its fifth rate case in as many years.

4 This process, which is cumbersome,
5 expensive, time-consuming, is not how the
6 American business should have to expend its
7 resources. We'd much rather rely on true rail
8 competition and competitive negotiations with
9 rail carriers.

10 In a country where our economy is
11 based on free markets and competition, it's
12 ludicrous that we are even engaged in a debate
13 over the merits of competition in the rail
14 industry.

15 Enhancing rail competition, in
16 conclusion, will have a positive effect on the
17 competition with the industry and customer
18 benefits. As a result of the railroad market
19 power, parts of American industry are
20 disadvantaged not just today, but in the
21 future.

22 Industries such as bio-fuels will

1 depend on a competitive and efficient rail
2 system. Without competition, competitive rail
3 rates, and service, the development of such
4 industries in the United States could be
5 delayed to our long-term economic detriment.

6 Accordingly, greater competition
7 is needed in the US to ensure DuPont and other
8 US manufacturers and the American consumers
9 are not unfairly shouldering excessive rail
10 rates to the benefits of our national
11 railroads.

12 Thank you for your time.

13 CHAIRMAN ELLIOTT: Thank you, Mr.
14 Smith. We'll now hear from Ms. Burns, from
15 Occidental Chemical Corporation.

16 MS. BURNS: Okay. My name is
17 Robin Burns. I'm the Vice President of Supply
18 Chain for Occidental Chemical.

19 OxyChem is the leading North
20 American manufacturer of basic chemicals and
21 vinyl resins, including chlorine, caustic
22 soda, and polyvinyl chloride, the building

1 blocks for a range of products.

2 The chemicals we manufacture are
3 used in water purification, medical supplies,
4 pharmaceuticals, construction materials, and
5 agricultural chemicals. Our products are
6 vital to the economy of the United States.
7 They are manufactured at 21 domestic
8 locations, employing 3,000 people across the
9 central to eastern United States.

10 In 2010, we shipped 63,000 loaded
11 rail cars, and incurred more than \$220 million
12 in rail freight charges. In the five years
13 between 2005 and 2010, which included a
14 sustained period of general economic
15 recession, OxyChem rail rates increased from
16 30 percent to 160 percent on average.

17 During this same time, rail costs
18 as reflected in the fourth quarter RCAF's
19 unadjusted and adjusted increased 19 percent
20 and 11 percent respectively. However, in the
21 last two years, from 2008 to 2010, the RCAFU
22 and RCAFA decreased by eight percent and ten

1 percent respectively.

2 We believe the rail rates
3 increases imposed on OxyChem are directly
4 related to the market dominance of the
5 railroads. Over 70 percent of our origin-
6 destination pairs are served by only one
7 railroad, and many of our products can only be
8 served by rail.

9 This lack of options effectively
10 provides the railroads with monopoly pricing
11 power.

12 As a shipper of chlorine, we are
13 well aware of the concerns related to the
14 shipment of TIH materials. However, let me be
15 clear. My comments today have nothing to do
16 with TIH materials. My comments and real-life
17 examples are taken from the greater than 90
18 percent of our non-TIH moves, including
19 shipments of KOH, caustic soda, PVC plastic
20 pellets, silicates and calcium chloride.

21 Rail competition effects every
22 single shipper, regardless of commodity. I'd

1 like to take a few minutes to discuss how rail
2 industry rules, agreements, and protocols
3 limit competitive options and illustrate the
4 impact on our business.

5 Railroad restrictions take many
6 forms, including paper barriers, routing
7 protocols, bottleneck rates, and access
8 pricing. Although the Board has asked for
9 input regarding several areas, I would like to
10 focus on those areas that are particularly
11 problematic for OxyChem.

12 OxyChem is interested in pursuing
13 an opportunity in Scranton, Pennsylvania. The
14 customer has two locations in Scranton, one
15 served by the DL railroad and the other by the
16 RBMN railroad. Both short-lines interchange
17 with the NS and CP railroads, so multiple
18 routes should be possible.

19 However, a paper barrier, a true
20 paper barrier, prevents the RBMN from
21 receiving freight from the CP unless the CP
22 originates the freight. Our freight

1 originates in Texas, not served by the CP,
2 meaning the only bridge carrier allowed to
3 interchange to the RPBM is the NS.

4 This restriction is significant to
5 our business. The door-to-door rates using
6 the CP bridge route to the open DL locations
7 are nearly 19 percent less expensive than the
8 NS bridge route.

9 It's reasonable to conclude that
10 the paper barrier increases our costs by at
11 least 19 percent. This restriction on
12 competition adds more than \$1,800 to the cost
13 of each and every rail car we ship to the
14 closed destination.

15 As another example of paper
16 barriers, we wanted to consider all routes for
17 800 rail car per year move of calcium chloride
18 between Ludington, Michigan, and Opelousas,
19 Louisiana.

20 We sought rates using both the UP
21 and BNSF as a bridge carrier to the AKDN.
22 Although a BNSF route option should be

1 possible, we were told that a paper barrier
2 existed and restricted service to UP routes,
3 and we were unable to get the AKDN to provide
4 rates from their BNSF interchange.

5 With the help of the STB's Rail
6 Office of Public Assistance, we confirmed
7 that, in fact, no paper barrier exists, and we
8 compelled the AKDN to finally provide their
9 numbers for the BNSF route.

10 This example illustrates how
11 poorly paper barriers are understood and
12 applied, even by the largest US railroads, and
13 how this lack of transparency can further
14 limit competition.

15 In requesting this hearing, the
16 STB not only asks for competitive issues, but
17 also for solutions. Shippers benefit from the
18 continuation of rail service to areas that
19 Class 1 railroads might not otherwise support.
20 It's not in the public interest to eliminate
21 all paper barriers, as these can facilitate
22 the start-up of small rail companies that

1 otherwise might not be able to compete.

2 However, an outright ban on route
3 options is unnecessarily restrictive. Paper
4 barriers need to be reasonable. They should
5 not guarantee the full merge into a railroad
6 that has chosen to divest of their tracks and
7 operations in an area. They should not be
8 evergreen, as the justification for a barrier
9 is probably no longer valid 10 or 20 years
10 after a track sale.

11 Shippers and even carriers are
12 confused on whether paper barriers are in
13 place. They should be made publicly available
14 to shippers.

15 A listing of which barriers are in
16 place and for what duration of time would make
17 these arrangements more transparent and
18 prevent short lines from arbitrarily declining
19 to quote competitive business.

20 Routing protocols also limit our
21 transportation options. While we understand
22 and support the railroads' need for efficient

1 operations, protocol objectives don't always
2 promote the most efficient route.

3 For example, protocol dictates
4 that shipments between UP-served southern
5 Louisiana and New Jersey CSX and NS-served
6 destinations be interchanged in Salem,
7 Illinois.

8 Without this protocol restriction,
9 the freight could route via New Orleans,
10 eliminating 484 unnecessary miles from the
11 transit. Additional miles add cost, wear and
12 tear to our rail cars, and inflate our fuel
13 surcharges.

14 The increase in fuel alone is
15 approximately \$200 per car per trip. UP
16 claims that routing even a minor additional
17 amount of additional traffic over New Orleans
18 will cause the system to break down in a
19 matter of days. They also acknowledge that it
20 is the single worst congestion point in the UP
21 system.

22 However, by detouring traffic and

1 not dealing with underlying capacity and
2 operating issues, we are using a band-aid to
3 treat a decades old problem.

4 This is not in the best interest
5 of shippers or the economy, but there are
6 solutions. Years ago, congestion in Chicago
7 was the cause of similar delays. Since then,
8 Class 1's Belt Railroads and shippers have
9 worked to mitigate issues, and today, Chicago
10 interchanges are much more efficient for
11 shippers and carriers alike.

12 In the Chicago example, some
13 freight was diverted to other gateways, but
14 this was done in a way that didn't
15 significantly detour the freight.

16 The New Orleans situation is
17 different in that the prescribed solution
18 through Salem adds hundreds of miles to some
19 of our loads. We would like to see open
20 dialogue regarding these and similar issues.
21 Historically, we have been told there is a
22 routing protocol, and that's where the

1 dialogue ends.

2 We recognize there are challenges,
3 but without working together through open,
4 transparent dialogue, nothing will change.

5 Although more shippers have taken
6 advantage of the revised rate case guidelines,
7 railroads continue to make it difficult for
8 shippers to benefit from them.

9 For example, most railroads will
10 only offer contract rates as a bundled
11 package, eliminating the option of shipping a
12 few high-cost, high-volume lanes under tariff
13 rates to allow the option of requesting STB
14 review.

15 Effectively, the railroads use the
16 threat of much higher tariff rates on our many
17 small-volume lanes to prevent us from filing
18 a small or any rate case.

19 In 2008, OxyChem contacted the
20 Board's informal rail customer and public
21 assistance program, and were told, quote,
22 "unfortunately, the railroads can and

1 frequently do bundle rates in contract rate
2 proposals. They are required to provide a
3 tariff rate to a shipper upon request, but the
4 decision to offer contract rates is the
5 railroad's alone."

6 Quite frankly, this is the reason
7 that many shippers have not been able to seek
8 relief from the Board. Shippers cannot afford
9 to pay tariff rates on all lanes while a rate
10 case is tried.

11 In closing, I want to again
12 illustrate how our shipping costs effect our
13 business. Recently, we shut down several
14 OxyChem plants. These decisions were partly
15 due to our rapidly escalating rail freight
16 rate.

17 We made these difficult decisions
18 after much deliberation, and after weighing
19 all options. We know from personal experience
20 that the unrestrained escalation in rail rates
21 impacts our ability to compete.

22 CSX, in their comments, claimed

1 that rail rates constitute less than 3 percent
2 of the delivered price of ammonium phosphates.

3 A recent analysis of OxyChem's
4 freight rates show that rail freight accounts
5 for 10 to 15 percent of the delivered price of
6 our products, and up to 25 percent of our
7 manufacturing costs.

8 For OxyChem, rail freight rates
9 are material and directly impact our ability
10 to compete nationally and globally.

11 We are grateful for the
12 opportunity to comment on competition in the
13 rail industry. It's time for the Board to
14 revisit these items. Times have changed.
15 Today, we have an unbalanced playing field.

16 Anti-competitive behavior and
17 artificial barriers limit our choices and
18 compound the inequities. We are hopeful that
19 the specific examples cited by OxyChem will
20 help the Board understand the current state,
21 and find reason to move to a more balanced
22 future state.

1 CHAIRMAN ELLIOTT: Thank you, Ms.
2 Burns.

3 We'll now hear from Mr. McIntosh
4 from Olin Corporation.

5 MR. McINTOSH: Good morning.
6 Thank you. Mr. Chairman, Madam Vice Chairman,
7 Commissioner, we're pleased to be here today
8 on behalf of Olin to comment on the issues
9 that are in this docket relating to
10 competition.

11 I've been a corporate officer at
12 Olin for 12 years and have been in the
13 industry for many more years than that. And
14 our view of competition in the rail industry
15 is very simple. For a captive shipper, there
16 is no competition in the rail industry.

17 Because of that, for a captive
18 shipper, we are faced every day and at every
19 renewal of contract or discussion with the
20 railroads with rates that exceed what would be
21 reasonable for the railroads to earn a
22 reasonable profit.

1 In addition to the excessive
2 rates, captive shippers are subject to onerous
3 terms and conditions, and we recently have
4 experience with an indemnity obligation and a
5 tariff that we would be subject to that would
6 essentially force us to be an insurer of the
7 railroads against the negligence of potential
8 third parties.

9 We appreciate the Board's effort
10 to address these issues today and hope that as
11 a result of all the facts that you uncover
12 that there will be some changes so that
13 competition can be returned to a very
14 important part of our business.

15 Our company is headquartered in
16 Clayton, Missouri. I'm testifying today on
17 behalf of our Chlor Alkali products division,
18 which has plants stretched across the
19 continental US, including a site in Canada.
20 And as a result of that, we deal with
21 predominantly and many of the Class 1
22 railroads.

1 We've been involved in the US
2 chlor alkali industry for over 100 years, and
3 were one of the first commercial suppliers of
4 chlorine in the United States. We're a
5 publicly traded company, been listed on the
6 stock exchange since 1917, and it's our intent
7 to continue to grow and service the public for
8 another 100 years.

9 As a producer of chlorine, we
10 produce an essential chemical, and a chemical
11 essential to everyday life. And Robin
12 mentioned some of the uses.

13 I would say that in summary, for
14 the majority of the applications for chlorine
15 that we serve in our customer portfolio, there
16 are no reasonable substitutes for the product
17 that we make and produce and transport to
18 them.

19 Chlorine products and their
20 derivatives have a substantial impact on the
21 US economy. This is an industry of
22 consequence contributing more than \$46 billion

1 per year. We contribute many billions of
2 dollars directly to the US economy, directly
3 as the industry itself.

4 Chlorine is vital to our security.
5 It's been deemed an essential asset to
6 critical infrastructure. It's used in
7 materials that are significant and part of the
8 defense establishment, including such things
9 as bulletproof vests, helmets, parachutes,
10 etcetera. It is essential to our nation's
11 health, to our nation's economy, and to our
12 nation's security.

13 For Olin, the importance of rail
14 transportation can be measured by the fact
15 that we've been in the transportation of
16 chemicals for more than a hundred years. We
17 ship each year more chlorine by rail, we
18 believe, than any other producer in the world.
19 The importance of reasonable transportation
20 rates for that commodity and all of the other
21 commodities that we ship cannot be overstated.

22 Due to the nature of the chemicals

1 we ship and the volume of the chemicals that
2 are part of our portfolio, there is no
3 reasonable economic alternative to shipping by
4 rail.

5 Rail transportation is critical to
6 the safe shipment of our chemicals,
7 particularly chlorine, as it keeps large
8 volumes of these chemicals off the nation's
9 highways for what in our system are mostly
10 long-distance routes that cannot be
11 economically served by any other mode besides
12 rail.

13 Rail executives have indicated
14 that this is a TIH issue, or this is an issue
15 associated with the kinds of chemicals that
16 we're transporting. We disagree strongly.

17 And consistent with Robin's
18 comments, we find that the issues with rail
19 competitiveness, for our business, are not
20 commodity-specific, but apply to every
21 commodity that we ship, and cannot then accept
22 the railroads' position.

1 And even if we accepted it, it's
2 our belief that Class 1 railroads shouldn't
3 really be allowed to decide which industries
4 in the United States should succeed and which
5 shouldn't.

6 Because there's no reasonable
7 alternative to shipping our products by rail,
8 rail rates are a critical concern to us. An
9 increase in rail rates has a direct effect on
10 the prices that our customers pay for not only
11 our products, but for downstream goods that
12 are made with the products we produce through
13 other manufacturers.

14 In some instances, we have
15 manufacturers with supply contracts that set
16 prices, and the cost of unreasonably high rate
17 -- rail rates are directly born by the
18 manufacturer.

19 Obviously, manufacturers such as
20 Olin can take steps to protect itself from
21 risks, and we do that every day in terms of
22 buying insurance for natural disasters and

1 other events like that. But there is no means
2 to ensure ourselves from unreasonably high
3 rail rates that a captive shipper is subject
4 to today.

5 Our facilities, every one of our
6 facilities, 100 percent, are accessible only
7 by a single railroad, so we are truly the
8 poster child for the impact of a totally
9 captive company to the rail industry.

10 Because of that lack of
11 competition, we are subject to whatever rates,
12 terms, or conditions the monopoly railroad
13 chooses to impose on us at our locations.

14 In our written submission in
15 Exhibit A, we documented what we thought was
16 a series of events associated with our
17 experience in moving chlorine from our plant
18 in Alabama to a customer location in Texas.

19 The entity, Sunbelt, is the
20 producing location, and we feel it describes
21 and is a perfect example of how the lack of
22 competition has skewed the reasonableness of

1 the entire process, and penalizes a captive
2 shipper such as Sunbelt in this case.

3 The numbers are, we believe,
4 compelling, not more than -- or less than 15
5 years ago, the initial rate of movement of
6 this commodity over this route was less than
7 \$1,500 a car. Today, the tariff rate for that
8 same movement is almost \$12,000 a car, an
9 increase of over 800 percent from the original
10 rate, the greatest rate increase we have
11 really seen since 2002. And during that
12 period of time, the line haul rate for this
13 specific route has gone up 600 percent.

14 Further, as we documented, there
15 has -- we have been systematically denied,
16 when small windows of opportunity were created
17 by other actions, either as a result of STB
18 rulings, or other actions in the rail
19 industry, we've been systematically denied the
20 ability to compete by using different routing
21 protocols or a possibility of Rule 11-type
22 shipments.

1 We believe the dramatic increase
2 in rates is clearly the result of the current
3 regulatory scheme, and there is nothing that
4 is based on preventing captive shippers such
5 as Olin from being subject to this, you know,
6 rate abuse and the unrealistic burdens that we
7 face every day.

8 There are tools available to us,
9 and we understand those tools, but we consider
10 that those tools do not adequately address our
11 concerns.

12 There have been comments made
13 about the fact that some of the tools create
14 a long period of time between the filing of a
15 rate case, as an example, with the findings.
16 There are cases where the cost is estimated to
17 be very high. For our Sunbelt rate, it's
18 estimated to be more than \$12 million to
19 prosecute that.

20 We believe that our experience in
21 Sunbelt provides a pointed illustration in the
22 way that captive shippers are treated, and

1 there is really no current adequate avenue of
2 relief.

3 We're not the only shipper that's
4 captive, and others have testified as to the
5 similar situations that they find themselves
6 in.

7 We have commented in our
8 submissions that we believe a rate variable
9 cost ceiling may be the simplest solution to
10 the unreasonable rate request imposed on
11 captive shippers. We still believe that to be
12 the case, and we noticed in commentary by the
13 Department of Agriculture that they had a
14 corresponding sense of that as a potential
15 remedy for this situation.

16 We also believe that there's one
17 key message that really summarizes the
18 situation we're in. There have been comments
19 by the AAR characterizing that these hearings
20 were not necessary, that it was a whack the
21 pinata event where chemical shippers were
22 really just looking for a windfall and a

1 reduction of chemical rates.

2 I consider that to be, nothing
3 could be any further from the truth than that.
4 What we're talking about, for a captive
5 shipper, a company like mine, is survival.

6 We cannot, in the business model
7 we have, continue to survive the rate
8 increases that we have seen over recent
9 history. And for us, it is a matter of
10 survival.

11 We thank the Board for initiating
12 this proceeding and hearing the comments from
13 all the interested parties.

14 CHAIRMAN ELLIOTT: Thank you, Mr.
15 McIntosh.

16 We'll now hear from Mr. McGarry
17 from PPG industries.

18 MR. MCGARRY: Thank you, Chairman
19 Elliot, Vice Chairman Begeman, and
20 Commissioner Mulvey.

21 Michael McGarry, Senior Vice
22 President for PPG. And we appreciate the

1 opportunity to testify, as well as to
2 supplement the testimony you've already heard
3 from Senators Rockefeller and Vitter.

4 PPG was founded in 1883, so when
5 you talk long-term, we're one of six companies
6 that has been paying dividends for more than
7 100 years. We're a global manufacturer of
8 chemicals, protective coating, glass, and
9 fiberglass, with over 14,000 employees in the
10 United States and 60 countries with sales
11 exceeding \$13 billion.

12 Like John and others at this
13 table, we're also one of the largest
14 manufacturers of chlorine, a commodity
15 classified as TIH. In our facilities, we have
16 four, as well as two other facilities that
17 receive chlorine by rail.

18 And as you know, chlorine is
19 almost exclusively transported by rail. It's
20 the safest overland shipment method. We do
21 not ship chlorine by truck. Although we can
22 ship chlorine to a limited extent by barge,

1 it's less than 1 percent of all volume in the
2 US, and less than 1/10th of 100 percent of all
3 customers in the US can receive it by barge.
4 Thus, our company is highly dependent upon the
5 rail transportation system.

6 At our captive facilities, PPG has
7 experienced skyrocketing rates. The cost of
8 shipped chlorine from our Natrium, West
9 Virginia plant is 85 percent, 85 percent
10 higher, than Lake Charles, where we have three
11 railroads.

12 The railroads have openly
13 communicated their desire not to haul our
14 chlorine. Ironically, they would not be able
15 to be in business without chlorine chemistry,
16 which I continue to remind them of that. The
17 lack of desire to haul chlorine has caused the
18 railroad to price this traffic at many times
19 higher than our non-TIH traffic.

20 We've seen our overall costs to
21 ship increase by more than 100 percent in six
22 years, which I think we can all agree is

1 slightly higher than inflation. And recently,
2 PPG has had to forgo a business opportunity in
3 our Natrium plant where the cost to ship was
4 higher than the product's selling price.

5 In effect, the railroads are
6 trying to dictate to whom we can sell chlorine
7 to and which chlorine producer wins the
8 business. This is totally unacceptable.

9 Unreasonable rail rates should not
10 dictate business opportunities. The shipper
11 should be able to choose which business to
12 pursue or forgo, not the railroads.

13 Even where PPG has competition at
14 the origin, we are still forced to pay
15 inflated rail rates. For example, at La Porte
16 Texas, where we ship out of Lake Charles'
17 three railroads and Lake Charles, captive at
18 La Porte, we pay 50 percent higher costs on
19 the chlorine that goes to Houston, exact same
20 routes, exact same distances. So we're
21 definitely being hindered.

22 As a captive rail shipper, we also

1 have little chance to control or prevent the
2 cumulative effect of raising rail rates.

3 While the railroads argue that the chemical
4 companies are adequately protected by the
5 current regulatory system because they can
6 file a rate case with the STB, let me assure
7 you that we do not agree that lengthy,
8 uncertain, and expensive litigation is the
9 proper solution.

10 For a large rate case, we've
11 estimated that the litigation costs and tariff
12 premiums that we would have to pay would be
13 upwards of \$20 million, which prevents many
14 companies from filing a rate case.

15 In addition, the artificially high
16 tariff rates published by the railroads don't
17 offer a lot of benefit even for small and
18 medium rate cases, so the effect of the relief
19 would be minimal.

20 And thus, PPG supports a
21 regulatory system that would allow it access
22 competitive rail service, for our

1 transportation rates to be established by
2 working in a competitive market environment.

3 As many speakers before me have
4 said, the contract rates and terms are rarely
5 negotiated with railroads. Rather, they are
6 dictated to the customer. This is especially
7 true for TIH traffic.

8 The normal checks and balances
9 established by the laws of supply and demand
10 do not apply to the railroads. PPG believes
11 that our ability to compete effectively in the
12 chemical industry is being hamstrung by a lack
13 of competitive rail service.

14 We are currently investigating a
15 significant opportunity in our Natrium, West
16 Virginia plant, with the Marcellus Shale
17 opportunities, where there's an opportunity
18 for a billion dollar chemical plant, and it's
19 being delayed by competitive rail access.

20 We believe the Board should
21 resoundedly change its policies to facilitate
22 greater competition. We believe that increase

1 in access to more than one rail carrier at our
2 captive facilities would help address this
3 problem.

4 And our company believes the Board
5 should open one or more proceedings
6 immediately after this hearing to modify its
7 policies, specifically, one, expanding
8 reciprocal switching agreements; two, a
9 reversal of the Board's current bottleneck
10 rule; three, a mechanism to put in place to
11 cap the RVC ratio on TIH products to avoid the
12 expensive and time-consuming rate cases.

13 According to the historical AAR
14 statistics, TIH products are only .25 percent
15 of shipment, but .5 percent of revenue, so the
16 railroads would not be materially harmed by
17 this offer.

18 And fourth, although the railroads
19 are required to quote tariff rates for an OD
20 pair, the railroads' use of their market power
21 and leverage to only provide all-tariff or
22 all-contract rates do negatively affect

1 shippers' ability to file a rate case.

2 Therefore, we would offer and
3 advocate a simplification of changes to the
4 Board's large rate case procedures that would
5 reduce the timing and the complexity and cost
6 associated with that.

7 And finally, I appreciate your
8 time. And obviously, we're open for
9 questions.

10 CHAIRMAN ELLIOTT: Thank you, Mr.
11 McGarry.

12 Thank you, panel, for all your
13 comments.

14 Commissioner?

15 COMMISSIONER MULVEY: Thank you.
16 These estimates as to the cost of bringing a
17 complaint before the Board or a case before
18 the Board are very different from what we
19 usually quoted. We usually hear it costs
20 between \$3 million and \$4 million to bring a
21 case before the Board, and we estimate the
22 time it takes.

1 And we have made some efforts to
2 simplify our large rate case procedures, where
3 we have tried to lower the cost and reduce the
4 time to make our processes more available.

5 But these estimates of \$12 million
6 and \$20 million are truly alarming to me,
7 because that suggest that our processes are
8 not available. And I know we have our Office
9 of Consumer Affairs, and I'm glad to hear that
10 some of you have taken advantage of that and
11 been successful. But I was wondering if it is
12 possible for you to explain to us why you
13 think that the costs are so high. You do not
14 necessarily need to do it here, but provide
15 some documentation as to why you believe it
16 costs so much and why the estimates are so out
17 of line with what we've experienced in the
18 course of bringing the large coal rate cases
19 brought by the utilities? Could you gentlemen
20 do that, PPG and Olin?

21 MR. McINTOSH: We'd be happy to.

22 COMMISSIONER MULVEY: Thank you,

1 because that is disturbing.

2 I mean, there's a lot of pressure
3 on the Board to make its procedures, its
4 processes more open to shippers, and when we
5 hear that we're becoming -- according to you
6 and according to these numbers, less open
7 rather than more open. That is, in fact,
8 truly disturbing.

9 MR. MCGARRY: If I could tell you,
10 the biggest reason why is you have to go from
11 a contract rate to a tariff rate, so your rate
12 goes up an exponential amount. And you have
13 to pay that tariff rate until such time as the
14 Board --

15 COMMISSIONER MULVEY: But you get
16 reparations on the tariff rate, then, don't
17 you?

18 MR. MCGARRY: We have some, but
19 typically, they won't quote you just a tariff
20 rate.

21 COMMISSIONER MULVEY: Okay. Olin
22 again, too, Olin proposed in its testimony

1 that the Board revisit its merge decisions and
2 impose new conditions on the mergers.

3 And although the Board has the
4 authority to issue supplemental orders in
5 merger cases, what you suggest would actually
6 be making major changes to access and
7 piggybacking them on the mergers that were
8 approved long ago.

9 What would be the most
10 straightforward way to address competition
11 issues today? It's very, very difficult to
12 unscramble the eggs, as you might say.

13 MR. McINTOSH: It would be nice if
14 I could sit here and tell you that we believed
15 that the answer to -- for a captive shipper
16 like Olin, was just to change some of the
17 Board's policies to create competition.

18 In our industry, that works,
19 because as I sit here at the table with other
20 companies that I compete with day in and day
21 out, competition works. Competition does
22 provide better services and lower prices to

1 the customers we serve.

2 Our Amendment -- or appendix to
3 our original filing, though, talked about the
4 Sunbelt situation in a manner in which quite
5 honestly, there is the potential for
6 competition in that move now.

7 And the railroads will not step
8 forward and avail themselves of the
9 opportunity to compete for a multi-million
10 dollar lanes of potential revenue. We don't
11 understand that.

12 So the changing of policies to
13 create competition, while that may work for
14 some industries, it may not work for the rail
15 industry in this situation, because I'm facing
16 a real-life case where Class 1 railroads are
17 refusing to quote on business that they have
18 an opportunity to attempt to quote on and
19 compete with with other Class 1 railroads.

20 So, for us, I believe that in
21 order to get a remedy that works for a captive
22 rail shipper, that it's going to take not only

1 things which create competition but it's going
2 to create incentives such as the revenue cap -
3 - revenue over variable cost cap that we have
4 advocated in our testimony and that Professor
5 Pittman has advocated in some work he's done
6 for the Department of Justice in his study of
7 these issues.

8 It's going to create things like
9 that as well, and quite honestly, from our
10 perspective as a captive shipper, that may be
11 the easiest place to start.

12 COMMISSIONER MULVEY: Putting caps
13 on rates is something that would be a real
14 departure from -- I mean, 180 rail -- revenue
15 variable cost is a rate which decides whether
16 or not we should bring a case when it is not
17 really a cap.

18 And so I think there's always some
19 concern about what economists would call
20 effectively crass regulation, but at any rate,
21 it is a suggestion.

22 You also notice the size and the

1 importance of the chlorine industry. We had
2 the Chlorine Institute here yesterday, and
3 they gave a very good testimony.

4 And you point out that the
5 revenues or the economic impact, rather, of
6 chlorine on the economy is \$43 million a year.
7 I find that interesting that that's
8 approximately the revenues of all the Class 1
9 railroads together.

10 So it's an important commodity,
11 and it's an important industry, and I would
12 think it's important for the railroads to
13 continue to move it. But the railroads, as
14 you know, are concerned about the potential
15 liability, should there be a TIH spill.

16 We had a serious one, for example,
17 a while back, in Graniteville, South Carolina,
18 where several people were killed. And I --
19 while we haven't had anything that's
20 catastrophic, thank goodness, there's always
21 that concern.

22 Now, the railroads also move spent

1 nuclear materials, and those are also of
2 course potentially very, very dangerous.
3 There hasn't been an event yet, but if there
4 is an event, the liability is limited by the
5 Price-Anderson Bill, which covers -- protects
6 railroads from catastrophic liability in
7 moving spent nuclear materials.

8 Would you be supportive of a
9 Price-Anderson kind of legislation, protecting
10 the railroads and moving TIHS or PIHS?

11 Any one of you can answer that, I
12 think.

13 MR. McINTOSH: Well, you know,
14 under a separate docket, when the STB was
15 looking at this issue, I believe there were
16 several comments made that that was one option
17 that would potentially solve or potentially
18 deal with the liability issue that the
19 railroads were raising about TIH shipments.

20 But I want to emphasize again that
21 when I look at competitiveness, this is much
22 broader for our business than just TIH

1 shipments. And in all honesty, we ship more
2 volume of chemicals that are non-TIH chemicals
3 than we do TIH chemicals, in my company.

4 And when we look at rail
5 competitiveness, it is not commodity non-
6 competitiveness. It is rail as a mode non-
7 competitiveness. And it applies whether we're
8 talking about shipping chlorine or caustic or
9 KOH or bleach or any of the other chemicals
10 that we make in our basic commodity chemical
11 business.

12 So although the liability piece,
13 you know, is a part of it, and may also
14 require some solutions that don't exist in the
15 marketplace today, I would again respectfully
16 submit that this competitiveness is a broader
17 and more far-reaching issue than the issue of
18 TIH.

19 COMMISSIONER MULVEY: Anyone else
20 want to comment on that?

21 MR. MCGARRY: Commissioner Mulvey?

22 COMMISSIONER MULVEY: Yes?

1 MR. McGARRY: If I could, a couple
2 of things to comment on. First of all, if you
3 look at the two unfortunate and tragic
4 accidents, both of those were 100 percent
5 within the control of the railroads'
6 operation.

7 So in this case, everybody sitting
8 at this table has invested millions and
9 billions of dollars into process safety in our
10 own facilities, and we have pipelines that
11 extend hundreds of miles to transport our
12 product, and we take that.

13 So, there were conscious decisions
14 along the way to have, you know, dark track.
15 There were conscious decisions to have product
16 moved in such a manner that allowed these
17 accidents.

18 So you have to say, where does
19 that lie? But when the railroads come to us
20 and say, they want us to indemnify us, for
21 your actions, your gross negligence actions?
22 That doesn't make sense. Who in a normal,

1 competitive environment would ever accept a
2 statement like that?

3 COMMISSIONER MULVEY: The
4 railroads, of course, all get that but for the
5 presence of these materials, we wouldn't have
6 the liability.

7 So, simply because they're
8 carrying them or have to carry them under
9 their common carrier obligation, that
10 therefore, that's -- that that's a problem
11 they want to share with the -- they want the
12 industry to share.

13 MR. McINTOSH: I go back to actual
14 testimony I made during one of the STB dockets
15 on liability, and I would say this again. If
16 -- and I've made this offer before to the
17 railroads, and so far have had no takers.

18 If the railroads want to come to
19 me and demonstrate to me what the incremental
20 cost of liability is associated with TIH
21 shipments and allow me to make a business
22 decision comparing that with the supposed

1 incremental cost in rail freight for that
2 commodity that I have seen since the early
3 part of this decade or last decade, then I
4 would be willing to enter into a business
5 discussion about, is there an appropriate way
6 to resolve that issue? I made that offer back
7 then, had no takers. I still have had no
8 takers in dealing with that issue.

9 COMMISSIONER MULVEY: Thank you.

10 Paper barriers, although not a
11 part of this hearing, and I've been outspoken
12 on the paper barrier issue in the past, and I
13 do have some concern about paper barriers, but
14 my understanding of paper barriers from the
15 railroad industry agreement is that it relates
16 to traffic that is on the line at the time the
17 new railroad is spun off and created, and that
18 the paper barrier refers to the requirement of
19 delivering that traffic to the railroad, the
20 parent railroad, or the spinning-off railroad.

21 But I thought I heard you, Ms.
22 Burns, suggest that this was a situation where

1 this was new traffic that was going to be
2 precluded by a paper barrier, and that,
3 according to my understanding, is not -- is
4 not consistent with what I believe to be the
5 Railroad Industry Agreement.

6 MS. BURNS: That's correct. Our
7 example was new business. But I think it gets
8 to my point that there's a lot of confusion.
9 You know, we don't know if it's past business,
10 new business, future business. We don't even
11 know if they exist. You know, it's the
12 perception of one, in one case, so.

13 COMMISSIONER MULVEY: Well, we
14 didn't know they existed either. We were told
15 at a previous hearing that nobody knew how
16 many paper barriers were out there.

17 Then we discovered in testimony,
18 and we verified yesterday, that in fact, the
19 short line association had done a poll of its
20 members and determined how many paper barriers
21 were extant.

22 We do know that they do give

1 waivers to those paper barriers, they say
2 very, very frequently, so we do know that
3 happens.

4 At any rate, so, I think
5 information about these should be forthcoming.
6 They have said they're going to supply them to
7 us, so that will be, I suppose, ultimately in
8 the record.

9 But yes, if it's a new business,
10 it should not be precluded by a paper barrier.
11 At least, that's my understanding.

12 MS. BURNS: We would be very
13 interested in seeing the list, so.

14 COMMISSIONER MULVEY: So are we.

15 I think, I want to be clear that a
16 little earlier, before the last panel, I
17 didn't mean to suggest. I was being more
18 theoretical, I didn't mean to suggest that
19 shippers do not need to be protected from
20 potential monopoly abuses.

21 One of the reasons why the
22 Staggers Act did carve out and create -- one

1 of the reasons why they did create some
2 railroad regulation is that though we do
3 recognize that there is certain potential for
4 railroads to have monopoly power and be able
5 to exploit monopoly positions. It is our job
6 to balance the need for railroad revenues
7 versus the need to protect shippers from
8 abuse.

9 Let me ask the group as a -- how
10 would you create better access. I've heard
11 many proposals, including eliminating
12 bottlenecks, requiring reciprocal switching,
13 et cetera. If any of those proposals were
14 adopted by the Board, how would they change
15 your day-to-day dealings with the railroads,
16 if we adopted, say, reciprocal switching?

17 How would that -- and would we be
18 able to make sure that the railroads continue
19 to invest in their facilities, if indeed they
20 had to engage in reciprocal switching?

21 Or would there be a concern that
22 railroads might reduce the amount that they're

1 willing to invest in a facility where they had
2 to do reciprocal switching?

3 Anybody want to take that one on?

4 Mr. Smith?

5 MR. SMITH: Yeah, frankly, you
6 know, day-to-day, obviously, there'd be a lot
7 more give and take. And, you know, the cause
8 and effect, as we put it forward, is that
9 would create more interest, more detailed
10 understanding of the actual costs.

11 Competition, I truly believe in the long term,
12 causes innovation.

13 The innovation is going to make
14 improvements that will creatively bring
15 parties together to come up with solutions
16 that will reduce costs, that will reduce
17 transit times, and so, you know, exactly how,
18 on a day-to-day basis, yes, we'd be much more
19 intimate, much more open.

20 And our belief is that would
21 create more competition, that would create
22 more innovation. At the end of the day, they

1 would be more successful, and we would be more
2 successful as an American industry because of
3 those more detailed interactions.

4 Our belief as well, we talked
5 about the millions of dollars of -- you know,
6 causing, you know, these cases. We've been
7 through that. We're in one now.

8 And our belief is that it takes a
9 long time, and it's very, very complicated.
10 And one of the reasons it's so complicated is
11 because of the current policies around
12 reciprocal switching and bottleneck pricing.

13 And we believe our current case
14 and the past cases would be simplified greatly
15 if those were in, if we did have these day-to-
16 day negotiations, interactions.

17 A lot of the line -- the lanes and
18 the rate cases we're bringing together would
19 not be there, because of this competition. So
20 they would simpler, they would be quicker.

21 You know, right now, we're
22 estimating several million dollars over the

1 next period of time to, you know, prepare and
2 litigate this upcoming case. But that doesn't
3 include the increases in price and the tariffs
4 in the meantime that we may get back, but we
5 may not.

6 So, you know, it is -- these order
7 of magnitude estimates, I can believe.

8 COMMISSIONER MULVEY: We can't
9 discuss your case before us right now, but of
10 course, as you know, it is different from most
11 of the utility cases, because it represents so
12 many more lanes of traffic than we're normally
13 dealing with when we're dealing with a utility
14 case. But is before us right now, and so we
15 can't really discuss it here.

16 MR. SMITH: Yes.

17 COMMISSIONER MULVEY: I'm going to
18 have a few more questions, but I'm going to
19 pass it on to somebody else, and maybe we can
20 come back, if you want, Mr. Chairman.

21 CHAIRMAN ELLIOTT: Okay. Yes, I
22 just have one question. I do want to, you

1 know, note that I've been to many of your
2 plants across the country.

3 In fact, I've been to the Natrium
4 plant and the Lake Charles plant, so I've seen
5 especially the amount of effort you put into
6 safety. I commend you for it, and it's
7 incredible what you do.

8 I'm going to go to Arkema. As you
9 -- if you were here yesterday, I asked a
10 question to the railroad CEOs about your
11 proposed pilot program and was very, very
12 warmly received.

13 (Laughter.)

14 I'm being -- for the record --
15 being facetious. Yes, I don't want to be
16 misquoted. And, but, as you could tell, I took
17 an interest in it.

18 And you discussed it a little bit
19 in your testimony, but could you give me a
20 little bit more detail of what you had in mind
21 with respect to a pilot program, if you have
22 gone that far? I mean, I know that's --

1 MR. O'LEARY: Well, first of all,
2 one of the things that we have to remember is
3 that reciprocal switching agreements already
4 exist, you know, in a number of places.

5 CHAIRMAN ELLIOTT: That was going
6 to be my next question.

7 MR. O'LEARY: So, I can't sit here
8 and tell you which ones, or where, but -- and
9 they're successful, and they do save money.
10 And the railroads have figured out how to
11 operate in that environment.

12 When we were bouncing around the
13 ideas of, you know, well, let's pick a
14 geographical area, you know, personally,
15 Houston, or something like that, but --

16 (Laughter.)

17 -- and look at, just a pilot,
18 maybe even pick a particular product. Maybe
19 there's a limit on the volume, you know, that
20 you know, because the railroads have talked
21 about their investments and all of that, but
22 that's pretty much as far as we've gotten with

1 it.

2 But, you know, again, what has
3 made the agreements that are in place today
4 successful? I mean, you know, does the Board
5 look at that and then move forward and say,
6 we're going to try a pilot program?

7 CHAIRMAN ELLIOTT: Thank you.
8 That's very helpful.

9 Vice Chairman?

10 VICE CHAIRMAN BEGEMAN: Mr.
11 O'Leary and Mr. McIntosh, you touched just
12 very briefly on Rule 11 rates, and suggesting
13 that maybe the Board could do more to, I
14 guess, promote them, could you just comment,
15 and help educate me on what the Rule 11 rates
16 are? I'm also going to ask this of the next
17 panel.

18 I've read a little bit about them,
19 and I don't know that what I've read is giving
20 me the full picture. But if you could help
21 give me some clarity.

22 MR. O'LEARY: Well, first of all,

1 normally, you get a through rate. So the
2 origin railroad, let's say, goes to the
3 delivering railroad, and they get their
4 division, and they put together a rate, and
5 you get a rate.

6 So you don't really know the cost
7 or the rate factor associated with each
8 railroad. You have one rate.

9 What Rule 11 does is basically,
10 each rail would give you a separate rate.

11 VICE CHAIRMAN BEGEMAN: So is it
12 sort of like a bottleneck rate?

13 MR. O'LEARY: No, it's -- you
14 basically get two rates instead of one. And
15 there's issues around paying freight bills and
16 doing like, you know, things like that.

17 But if you have a route that goes
18 from Houston to Florida, you know, and you
19 have two railroads, instead of getting one
20 rate, you will get two rates. You know,
21 you'll have two separate rates.

22 VICE CHAIRMAN BEGEMAN: And you go

1 to the carriers separately --

2 MR. O'LEARY: Yes.

3 VICE CHAIRMAN BEGEMAN: -- to get
4 the rate, and you say, take me from, I don't
5 know, Florida to New Orleans?

6 MR. O'LEARY: Right. Yes. And
7 then New Orleans to Houston. So --

8 VICE CHAIRMAN BEGEMAN: And does
9 the origin carrier know you're going further?

10 MR. O'LEARY: Most of the time,
11 yes. Yes.

12 VICE CHAIRMAN BEGEMAN: Do they
13 always give you a rate?

14 MR. O'LEARY: No.

15 (Laughter.)

16 There has been a reluctance to do
17 that, on the case of some railroads. And some
18 railroads, they've very willing to do that.

19 Our experience on TIH products is
20 that they are willing to break that up.

21 VICE CHAIRMAN BEGEMAN: Yeah, I
22 guess so, but --

1 MR. McINTOSH: Madam Vice
2 Chairman, let me just comment.

3 In a lot of cases, a request for a
4 Rule 11 rate flies in the face of the railroad
5 wanting to give you a rate to a destination
6 that is not the final destination of the
7 shipment, or to a destination in which there
8 is competition and in which that competition
9 could create a situation where the originating
10 carrier could lose the rest of the route to a
11 competing carrier.

12 And so they are very reluctant to
13 give you a Rule 11 rate into a competitive
14 situation, which could potentially impact
15 their ability to move, you know, a shipment
16 through either its entire route, or through a
17 majority of the route.

18 And they would rather, in my
19 experience, chose to give you a inter-line
20 rate, in which case -- in most cases in which
21 the originating carrier maximizes the amount
22 of the route that is theirs before they hand

1 it off in an inter-line rate, you know, a
2 joint rate situation, to the delivering
3 carrier.

4 There are some cases where Rule 11
5 rates exist, but they're not very frequent.
6 And again, they're not typically -- they
7 create a situation where a railroad could, in
8 essence, walk into a competitive situation,
9 which they're very remiss to do.

10 MS. BURNS: And as a shipper, our
11 preference for Rule 11s is two-fold. One is,
12 today, we're relying on the originating
13 carrier to negotiate on our behalf. We feel
14 much more comfortable negotiating on our own
15 behalf, and feel like that's much more
16 effective.

17 The other is that when you
18 challenge that rate, there's a lot of finger-
19 pointing, and we don't have visibility to
20 figure out, is it really the first part of the
21 move, or the second part?

22 So, to us, it provides visibility,

1 and we know exactly where we need to start
2 negotiating, and where we need to go for
3 improved pricing.

4 VICE CHAIRMAN BEGEMAN: Mr. Smith,
5 as you know, I'm new to the Board, and I am
6 aware that you've had a number of -- I think
7 you said five cases in five years.

8 Could you just sort of give me a
9 recap of what that experience has been like
10 for you, what the outcome has been? I think
11 that you have been utilizing some of the
12 smaller procedures. Has it been successful?

13 MR. SMITH: I guess the --

14 VICE CHAIRMAN BEGEMAN: Not about
15 the one that's pending, but --

16 MR. SMITH: Right, we've had three
17 smaller cases and one large rate case. The
18 three smaller cases, you know, got to a
19 certain point in the process. The larger rate
20 case came in and intervened, went to
21 mediation, and then there was a settlement we
22 can't talk about.

1 So at the end of the day, getting
2 the facts on the table, having the Board look,
3 you know, using their -- the rules and the
4 boundary conditions there, did force
5 reasonableness in the process, and therefore -
6 -

7 VICE CHAIRMAN BEGEMAN: And your
8 mediation was outside of the context of the
9 Board? Is that correct?

10 MR. SMITH: Right. Right. Right.
11 And you know, so at the end of the day, we saw
12 the investment in the litigation and the
13 preparation of the case and the increased
14 tariffs in the short term outweighed or -- you
15 know, outweighed the risk, and so we went
16 ahead and moved ahead with that.

17 That's why we're doing the case
18 today, but again, repeat that if we had some
19 of these other changes in policies, that would
20 have made them all a bit simpler and a bit
21 quicker.

22 VICE CHAIRMAN BEGEMAN: Mr. Baker,

1 has Dow utilized the processes at the Board?

2 You've talked a lot about the rates, and --

3 MR. BAKER: We're watching a
4 couple of the rate cases very closely, but we
5 have not proceeded with a case at this time.

6 VICE CHAIRMAN BEGEMAN: And I
7 think I really just have one final comment or
8 question for anybody who would like to respond
9 to it.

10 On the one hand, we're hearing, we
11 need more competition. We need the Board to
12 act to inject competition.

13 Equally, we're hearing from other
14 shippers who have competition that the
15 carriers are not competing.

16 But if the carriers, if it's true,
17 aren't competing, you know, to do something on
18 reciprocal switching or bottleneck may not
19 give you the solution that you're hoping for.

20 So, I'm just -- I'm struggling
21 with what the right thing to do is. I know
22 maybe we all are, but I'd just appreciate your

1 comments. I mean after hearing from the
2 shippers that have competitive options, you're
3 still advocating for reciprocal switching and
4 bottleneck.

5 Do you have any new concerns based
6 on the testimony of what you're hearing that
7 that may not be the solution?

8 Anybody?

9 MR. SMITH: You know, again, we
10 see the reciprocal switching and the de-
11 bottleneck, not going to solve all of the
12 problems.

13 They will increase competition,
14 which is a good thing, but it's not going to
15 cover all of the issues. So there has to be
16 some means to go in and say, is this
17 reasonable competition, you know, through a
18 Board process.

19 And again, that does increase
20 competition. Every industry I've been in,
21 when competition steps up, innovation,
22 creativity comes in and forces solutions,

1 versus being able to rest on a monopolistic
2 situation that says, okay, to meet my
3 earnings, I can move prices as I see fit,
4 versus, if I don't compete here, if I don't
5 compete here, if I don't get creative and
6 improve my efficiency, my innovation, and my
7 service, I'm not going to, I'm not going to
8 survive.

9 So, you know, again, make these
10 policy changes, continue to have the
11 accessibility and maybe a more streamlined
12 process is necessary to increase the overall
13 competition. I don't have any further
14 concerns.

15 The only concern I would have
16 about a pilot and reciprocal switching is if
17 you did go for a pilot -- you know, pilots
18 work if everybody's incentive is to make it
19 work. If you've got one of the parties'
20 incentive to make it fail, you know, they can
21 make it fail. So we have to be very careful
22 the way we design any pilot.

1 MR. McGARRY: I think from PPG's
2 perspective, we'd be interested in more
3 options, because we think more options lead to
4 more competition, and I don't think it could
5 be worse than what we have now.

6 CHAIRMAN ELLIOTT: Thank you.
7 Commissioner?

8 COMMISSIONER MULVEY: Just
9 briefly, I agree with you about competition
10 spurring innovation. I mentioned yesterday the
11 experience in Japan, for example, where most
12 of the analyses done in economics looking at
13 what spurred Japanese innovation in
14 automobiles and cameras, etcetera, was, in
15 fact, the competition between all the firms.

16 But, competition -- and in your
17 industries, too, even though many of your
18 companies have been around a long time, many
19 of your products are relatively new.

20 But the railroads are a very, very
21 mature industry, and a lot of the
22 opportunities for innovation, a lot of the

1 opportunities for productivity gains, seem to
2 have been captured. The rate of growth of
3 productivity gains has very much slowed down,
4 especially in the last three or four years.

5 Do you think that the railroads
6 are still able to innovate, and to reduce
7 costs, become more efficient, etcetera, given
8 the fact that they are a mature industry?

9 Or do you think that it's going to
10 be difficult for them to become more
11 competitive and become more efficient, and
12 that any loss of any competition might simply
13 mean a loss of revenue, and therefore, make it
14 difficult to attract capital?

15 Could you --

16 MR. SMITH: I give an example.
17 You know, one of our very successful products
18 is sulfuric acid. I mean, that's as old as
19 dirt, much older than the rail system. It's
20 one of the first chemicals realized and
21 invented.

22 We've reinvented that product many

1 times. You can imagine over the course of
2 the year, DuPont does portfolio management,
3 says, you know, why are we in this true
4 commodity chemical?

5 But over the years, we've been
6 able to look at that, find ways through, you
7 know, difficult times where margins were low,
8 where competition was in there, where we
9 didn't see the way to make money, sit back,
10 you know, look at it differently.

11 We're looking at it now as more of
12 a service-type industry for the refining
13 industry. So there are ways -- I mean, you
14 have no idea, in my mind, you know, with a
15 commodity product, what its possibilities are
16 until you're forced to compete and innovate.

17 MR. McINTOSH: I would comment, I
18 can't speak for what the railroads can or
19 can't do from where they currently sit today,
20 but you can make an argument that many of us
21 at this table represent industries that are
22 just as mature and have been around just as

1 long as the railroads have been in their
2 business.

3 And what I find hard to believe is
4 that in today's world of technology and
5 information and of all of the other
6 opportunities that are out there that didn't
7 exist 15 years ago, in some cases, five years
8 ago, that there aren't opportunities for any
9 industry, regardless of how mature it is, as
10 just evidenced by the example of sulphuric
11 acid, to compete, to improve productivity.

12 And I think the constraint isn't
13 the mature industry or anything else. I think
14 the constraint is the fact that they don't
15 have to compete.

16 They don't have to compete, so
17 there's not a drive to innovate and improve.
18 And I think if they had to compete, they'd
19 figure out a way to do it, just like the rest
20 of us have to figure out how to do it.

21 COMMISSIONER MULVEY: Thank you.

22 Mr. Smith, you also mentioned

1 about fuel surcharges not being tied to cost.
2 And we had a hearing on fuel surcharges a
3 couple of years ago, and we issued a ruling
4 requiring that the railroads no longer tie
5 fuel surcharges to the rate that they charge,
6 which disproportionately fell on captive
7 shippers who paid higher rates because of
8 differential pricing.

9 But we told them that it had to be
10 tied to cost. And now we're hearing, and not
11 just from this panel today, but elsewhere,
12 that in fact, the fuel surcharges still are
13 not tied to cost.

14 Could you give an example as to
15 why they're not tied to cost, and how they're
16 being levied at DuPont?

17 MR. SMITH: Yes. My
18 understanding, and I don't have a deep,
19 detailed understanding of this, but, you know,
20 the fuel surcharges come in, and they're not
21 required to give us the logic and the
22 justification about, okay, bring it back to

1 say, okay, fuel oil moved, and therefore, how
2 does this -- does it reflect directly in the
3 rate? So it's a mystery, so to speak.

4 MR. McGARRY: I can add to that.
5 Especially where it's embedded in a contract,
6 they say they don't have to follow the FCB
7 because it's a contract.

8 COMMISSIONER MULVEY: Oh, okay.
9 Thank you. Thank you.

10 On rates, many of you cited that
11 rates have gone up substantially, much more
12 than the overall inflation rates, no matter
13 how that's measured.

14 But what I don't understand is
15 what the period has been. Very often, there
16 are these contracts that go on for 10 or 20
17 years, and then the rate goes up, but -- and
18 it's always reported, well, the rate was this
19 last year, and next year, it's that. But it
20 also often reflects the fact that the rate had
21 been fixed for a long time.

22 So on some of these cases where

1 quoted 151 percent increase in rates are such
2 as you talked about at Arkema, I don't know
3 what the time period was, what that was
4 reflecting. Was it reflecting one, two, five,
5 ten, or 15 years?

6 Obviously, over a 20 year period,
7 151 percent rate increase might not be that
8 extreme. Could you comment on that? Many of
9 you had examples.

10 MR. O'LEARY: Yes, when I
11 mentioned 150 percent, that's over a five-year
12 period. That is specific to a TIH move, so
13 I'll be honest about that.

14 COMMISSIONER MULVEY: Okay.

15 MR. O'LEARY: And it was coming
16 off a four-year contract. But it wasn't just
17 the first year. I mean, it was the second,
18 you know, and then you have one-year
19 agreements. So, it's the first year, the
20 second year, the third year, we saw
21 significant double-digit increases.

22 COMMISSIONER MULVEY: Anyone else

1 want to comment on that?

2 MS. BURNS: The time frame that we
3 quoted was also five years, 2005 to 2010. We
4 have come off some longer-term agreements.
5 However, during that time frame, the majority
6 of our contracts were shorter-term, from one
7 to two years, so these are year over year
8 increases.

9 COMMISSIONER MULVEY: And finally,
10 also, to Occidental and Ms. Burns, you
11 indicated that Occidental shut down some
12 plants because of rising rail rates.

13 We received four or five feet
14 worth of testimony on these issues. So, I
15 don't recall necessarily whether or not you
16 identified those and why, precisely why the
17 increase in rail rates was the straw that
18 broke the camel's back, so to speak, in terms
19 of having to close them down.

20 MS. BURNS: They were not in our
21 written comments.

22 COMMISSIONER MULVEY: If you could

1 provide some of those, you know, that would be
2 helpful.

3 MS. BURNS: And give you those
4 details? It was one of many factors, but I
5 can tell you that they were captive locations,
6 and we had seen significant increases, and
7 they were part of a decision of making the
8 ultimate decision.

9 COMMISSIONER MULVEY: Okay. Thank
10 you very much. That's all I have.

11 CHAIRMAN ELLIOTT: Thank you very
12 much for your comments and your responses
13 today.

14 Thank you, Arkema, for your idea.
15 And we'll bring up the next panel.

16 Okay. Now, we'll begin with panel
17 number four for the day. I think we're going
18 to start out with BNSF.

19 Mr. Lanigan, you have ten minutes.

20 MR. LANIGAN: Thank you, Chairman
21 Elliott, Vice Chairman Begeman, and
22 Commissioner Mulvey.

1 I'm John Lanigan, Executive Vice
2 President and Chief Marketing Officer of BNSF
3 railway. I'm responsible for sales,
4 marketing, customer service, economic
5 development, and additionally, I'm responsible
6 for intermodal and automotive operations and
7 the rail car management for our corporation.

8 As I move to the first slide, this
9 was a vision statement that was created
10 shortly after the merger of Burlington
11 Northern and Santa FE.

12 And I won't read it to you, but
13 what it really implies is that we want to
14 serve customers, and we want our customers to
15 grow. And that's a mantra that has been true
16 at our company for well over a hundred years,
17 but certainly since the merger of the two
18 companies.

19 You've seen different versions of
20 this slide before. This is the revenue
21 version of the transportation pie in the
22 United States. You can see, obviously, that

1 motor carriers are the dominant provider from
2 a revenue perspective, and railroads are the
3 second-largest.

4 And from a public policy
5 standpoint, and also from a standpoint of the
6 opportunity for our industry to grow, clearly,
7 moving freight from the highway to rail is a
8 critical aspect of the future of our industry.

9 When we talk about competition, we
10 talk about it many forms. Obviously, we
11 compete with other railroads. We also compete
12 vigorously with trucking and the intermodal
13 world. Also in ag, as you heard yesterday,
14 the majority of ag business moves by truck,
15 and also in many of the industrial products'
16 areas that we serve.

17 Pipelines, interestingly enough,
18 have become a bigger competitor of late with
19 the finding of the shale oil and shale gas
20 reserves in this country and the exploration
21 of those reserves.

22 For example, we're hauling full

1 unit trains of crude oil out of North Dakota
2 from the Bakken shale because there is no
3 pipeline in the Bakken shale at this point.
4 And so it's created a tremendous opportunity
5 for us, and one in which we hope to compete as
6 they consider putting pipelines in that area
7 as well.

8 And then we also compete on the
9 inland and coastal waterways with barges in
10 our ag, coal, and bulk areas.

11 There's been a lot of discussion
12 about the lack of competition since 2004.
13 This slide is from AARCS 54 data from the
14 mergers in the late '90s through the week
15 ending 5/29/2011.

16 The orange line is the market
17 share of BNSF. The grey line is the market
18 share of UP. You can see clearly that we
19 compete. You can see clearly that the market
20 share has shifted over time, and continues to
21 shift today.

22 There have been many assertions

1 made by the coal shippers at this proceeding,
2 and we wanted to address it head-on. There's
3 been many comments that there's been a lack of
4 competition in the West since 2004, and we
5 believe that's just simply not true, and these
6 statistics back that up.

7 In 2004 alone, BNSF won new
8 business to 13 plants and lost business to
9 four plants. From 2005 to 2011, we've won new
10 business or increased share to 30 plants, and
11 lost business to 21 plants.

12 And during that period of time
13 from 2004 to 2011, coal delivery to 11 plants
14 changed hands more than once. We serve about
15 75 different coal-generating plants, and if
16 you added up all those numbers, that's a
17 significant portion of the total plants that
18 we serve that we've either won or loss
19 business or the business has changed hands
20 since 2004.

21 And finally, we believe that it's
22 not true that competition does not exist where

1 a shipper awards business to the incumbent
2 railroad.

3 In fact, I was profoundly dismayed
4 this morning by the comments of one of the
5 coal shippers who has asserted that we have
6 not competed for business. And in fact, after
7 this proceeding, we'll send you a confidential
8 letter detailing an opportunity that we bid on
9 earlier this year that went multiple rounds in
10 which we lowered our price twice and still did
11 not gain the business. We will demonstrate to
12 you that competition is alive and well in the
13 coal market in the Western U.S.

14 As you look at what's happened to
15 BNSF since the merger, growth was slow in the
16 early years of the merger, and then in the
17 2003/2004 time frame, our growth really
18 accelerated at unprecedented rates.

19 Shippers enjoyed declining rates
20 from the implementation of the Staggers Act
21 into the early 2000s. Excess capacity and
22 cost reductions were absolutely critical for

1 the railroads as we attempted to heal our
2 networks, but also, dealing with the aftermath
3 of the mergers and taking out redundancies
4 caused by the mergers, back office
5 consolidation, redundant lines, the sale of
6 low-density lines to short line organizations,
7 etcetera.

8 We worked for 25 years to take
9 those costs out of the network, and the
10 shippers benefitted greatly by reduced rates
11 over that 25-year period of time.

12 As you can see, our productivity
13 was increasing still dramatically from the
14 time of the merger of BN Santa Fe all the way
15 into the 2003/2004 time frame, and then you
16 can see that it's kind of evened out. And
17 this is a productivity measure, a thousand
18 GTMs, gross ton miles per employee.

19 So, our efficiency was really
20 dramatically improving over time, but we kind
21 of ran out of the low-hanging fruit that
22 Commissioner Mulvey talked about in the fact

1 that we had taken into consideration all of
2 the merger efficiencies that we could ring out
3 of it, that the elimination of low-density
4 lines, etcetera, crew consists haven't changed
5 in quite some time, so we've had the same
6 labor situation for a long period of time.

7 So you can see from 2004 through
8 2008, although we've made incremental gains in
9 productivity, certainly nowhere nearly what we
10 had seen in the past when we really had the
11 low-hanging fruit that we could go after.

12 But as far as innovation, there
13 were some comments made by the last panel
14 about spurring innovation. At BNSF, we have
15 an innovation process.

16 In fact, every year, we create a
17 series of initiatives that are designed to try
18 to find some of the next big things that will
19 help us be more efficient and more effective.

20 This year, we have 21 separate
21 large initiatives that we're working on that
22 are the responsibility of senior leaders in

1 the organization to lead and put teams
2 together to prosecute those initiatives.

3 Some of them bear no fruit, but
4 each year, a number of them do bear fruit.
5 And our goal is to at least off-set 50 percent
6 of any inflation factors through these
7 initiatives. And we're also hoping at some
8 point to get big bangs so that we can see
9 greatly improved productivity in the future.

10 This is a picture of our
11 investment in the network. Another thing that
12 you've heard from many of the panelists over
13 the two days thus far is that our service has
14 gotten better over time, and this is why. If
15 you look at the investment in the network,
16 particularly from 2004 on, and compare it with
17 the investment in the network prior to that,
18 we have invested significantly more capital
19 over the last six or seven years than we had
20 in years preceding.

21 And that has allowed us to provide
22 better service to our customers by renewing

1 existing assets, building new assets, new
2 terminals, additional track, in some cases,
3 double, triple, and even quadruple track in
4 the Powder River Basin following the weather
5 events in 2005.

6 And we have greatly improved our
7 service because we've been able to invest in
8 the network and our owners, both when we were
9 a public company and now that we're a private
10 company have supported that, because of our
11 improving returns over time.

12 I think this slide tells a very,
13 very telling story. This is indexed to one,
14 in 2000, the relative movement of our
15 operating expense per thousand gross ton miles
16 and the growth rate of our freight revenue.
17 And as you can see, they mirror each other
18 very, very closely.

19 There's a little deviation in the
20 2009/2010 time frame, and that's easily
21 explainable. During the recession, we took
22 out assets very, very quickly, and downsized

1 our business in response to what was going on
2 in the recession and the loss of traffic
3 because of the recession.

4 And as we are building the network
5 back up, traffic has come on faster than we've
6 been rebuilding assets, but this year, you'll
7 see that cost curve go back to the historic
8 norm.

9 The other thing you should take
10 away from this is the fact that you can see
11 that our costs per GTM increased dramatically
12 starting in that 2004 time frame.

13 Finally, I won't read these slides
14 to you because many of the comments made here
15 were made by the rail panel yesterday, but I
16 think I bring a different and unique
17 perspective to this hearing.

18 I spent 16 years with Schneider
19 National, one of the largest truckload motor
20 carrier groups in the United States.
21 Arguably, the truckload motor carrier industry
22 is the most competitive industry in America

1 from a standpoint of transportation, freight
2 transportation, thousands and thousands of
3 competitors, all of whom can serve every
4 customer.

5 When I think about how we competed
6 when I was a Schneider versus how we compete
7 today at BNSF, I see no difference. We
8 compete hard for our business. We look at
9 each opportunity as an opportunity for us to
10 grow and an opportunity for us to help our
11 customers grow.

12 CHAIRMAN ELLIOTT: Thank you, Mr.
13 Lanigan.

14 We'll now hear from Norfolk
15 Southern. I believe we're starting with Mr.
16 Manion.

17 And you have ten minutes.

18 MR. MANION: Well, good morning,
19 Commissioners. On behalf of Norfolk Southern
20 Railway, I'm Mark Manion, Executive Vice
21 President and Chief Operating Officer. And
22 with me today is Jim Hixon, Executive Vice

1 President of Law and Corporate Relations.

2 Two major points Norfolk Southern
3 has made in this proceeding are that number
4 one, any policy change would undermine past
5 rail investment in infrastructure, future
6 investment in infrastructure, innovation, and
7 the economic benefits of rail throughout the
8 US. And secondly, that proposals such as
9 forced access and forced interchange would
10 adversely affect the rail network, rail
11 operations, and accordingly, the shipping
12 community generally.

13 First, the Board should take care
14 not to undermine the substantial investment
15 railroads like Norfolk Southern have made in
16 this nation's rail infrastructure and the
17 innovation that is underway.

18 It's been widely documented that
19 there's a crisis in transportation
20 infrastructure looming. Railroads, however,
21 are private companies spending their private
22 dollars to make sure that efficient and safe

1 rail transportation remains a competitive
2 advantage for the United States.

3 Now, Norfolk Southern itself has
4 invested billions of dollars over the last ten
5 years. The uncertainty in traffic flows that
6 forced access and forced interchange would
7 create would make investment more problematic
8 and harder to justify.

9 The ability for customers to shift
10 traffic would make it difficult to predict
11 whether a particular investment could be
12 justified. In addition, Norfolk Southern's
13 developing or implementing numerous
14 innovations to improve its service, so that it
15 can compete even more aggressively against
16 other railroads and other modes of
17 transportation in the surface transportation
18 marketplace.

19 An example of this is our unified
20 train control system. This is analogous to an
21 air traffic control system on steroids. Where
22 an air traffic control system allows a

1 controller to coordinate and manage plane
2 movements, UTCS safely and efficiently
3 coordinates train movements and maintenance
4 work into a dispatch system.

5 It allows dispatcher to see trains
6 well in advance of their arrival in the
7 dispatcher's territory. But UTCS does more
8 than air traffic control systems, because it
9 prioritizes trains and determines the optimal
10 place for them to meet and pass each other.

11 Norfolk Southern is the only
12 railroad in the world pursuing movement
13 planning at this level of sophistication.
14 Importantly, UTCS is only as good as the
15 information it's provided, including
16 infrastructure, resource capabilities,
17 operating objectives, and operating plan.

18 One of the critical pieces of
19 information that must be provided are train
20 flows. Because forced access or forced
21 interchange removes predictability in rail
22 movements by allowing shippers to alter

1 movements on a whim, one of the key UTCS
2 inputs, that being the operating plan, would
3 be undermined.

4 Second, forced access and forced
5 interchange would generate serious adverse
6 network effects. Running a massive network is
7 incredibly complex, with multiple types of
8 traffic, such as intermodal, coal trains,
9 grain, and others, all using the same set of
10 limited resources.

11 Norfolk Southern's rail operations
12 are designed to both meet customer needs and
13 to function effectively, efficiently. We
14 should meet the different needs, we must meet
15 the different needs of different customers.

16 To be able to hone operations to
17 get the most out of our resources, Norfolk
18 Southern must be able to make reliable
19 predictions about its future operating
20 patterns. We go to great effort to go into
21 the future and predict traffic flows to plan
22 our resources. Forced access and forced

1 interchange would undermine our ability to
2 plan ahead and adequately place resources
3 where they'll be needed.

4 Now OPD, or our operating plan
5 developer, is a technological tool that allows
6 us to plan the movement of each of more than
7 170,000 rail cars currently on the NS system.
8 It uses algorithms to evaluate a host of
9 variables, such as the least handlings for
10 cars, the fewest crew districts to operate,
11 the shortest distance, in order to determine
12 the most efficient and safest route for each
13 of the cars or blocks of same destination cars
14 and trains.

15 If the shortest route has curves
16 or speed restrictions, it takes that into
17 account and finds the most efficient route,
18 even if it's a longer distance. Forced access
19 and forced interchange proposals would nullify
20 the decades of effort Norfolk Southern has put
21 into streamlining its network.

22 Forced access would create

1 operation problems. With two railroads
2 operating on the same infrastructure, it would
3 increase the number of locomotives and cars
4 needed. It would create new crew
5 qualification issues.

6 Now similarly, forced interchange
7 would create operational problems by altering
8 traffic flows inefficiently. I'd like to
9 compare two interchanges. One, my example I'm
10 using, is one in Cleveland, Ohio, and the
11 other in Marion, Ohio.

12 And here on the map, you're
13 looking at an efficient interchange at
14 Cleveland and an example of an inefficient
15 interchange at Marion.

16 Rockport Yard, which is the yard
17 in Cleveland, is on the lower left of the
18 slide, and it is an interchange point between
19 Norfolk Southern and CSX. That yard has ample
20 capacity to interchange hundreds of cars. It
21 is secure. It's very efficient.

22 Importantly, cars received are

1 immediately classified in the yard and
2 forwarded on outbound trains. As you can see,
3 there's been substantial investment in
4 infrastructure at this facility.

5 All right. Now, turn to Marion,
6 Ohio. The interchange at Marion is a single
7 track. There is little infrastructure in
8 place. Only about 35 cars can be interchanged
9 here, and even then, they must be forwarded to
10 Columbus to be classified.

11 Furthermore, any trains working
12 this interchange block the main line.

13 In this comparison between a
14 Cleveland interchange and a Marion
15 interchange, under forced interchange,
16 customers could opt for Marion. You clearly
17 see Marion's less efficient interchange point,
18 and in fact, it would result in congestion and
19 delay.

20 While a modest amount of
21 interchange is currently handled by local
22 trains today at Marion, you can see that

1 increased interchange would be very
2 inefficient, stopping through trains, blocking
3 the main line, adding work events, and in the
4 end, delaying all our customers' freight.

5 Finally, as the safest Class 1
6 railroad for the 22nd year, a benefit of
7 reduced handlings and work events is the
8 reduction of injuries and accidents. Adding
9 more work events increases the risk of
10 injuries and accidents, and that is something
11 that we and the government should strive to
12 avoid.

13 MR. HIXON: Good morning. Norfolk
14 Southern has submitted to the Board
15 substantial comments on opening and reply, and
16 we'll not repeat all those points that we've
17 made.

18 Now, unsupported allegations have
19 been made in the papers that do not withstand
20 scrutiny.

21 Some say that railroads harm
22 export. The actual facts tell a very

1 different story. There we go.

2 As you can see, exports have grown
3 steadily since 1992, except during times of
4 recession. In fact, US exports in March 2011
5 were the most reported in history.

6 For Norfolk Southern, export
7 traffic excluding import traffic, even when
8 you exclude the -- even excluding truck work
9 traffic -- even exceed import track even when
10 you remove the export coal -- I'm sorry, if
11 you get to that slide -- shows that even our,
12 if you take out the export coal, our exports
13 are growing faster than our imports.

14 Now, in conclusion, Norfolk
15 Southern urges the Board to recognize a lack
16 of justification for proposing changes to
17 existing regulations dealing with access to
18 the rail network, and we ask that you
19 terminate this proceeding.

20 Thank you.

21 CHAIRMAN ELLIOTT: Thank you, Mr.
22 Hixon, Mr. Manion.

1 Thank you, panel, for your help
2 today, especially with the operational
3 matters. I know that matters that it came up
4 quite often yesterday, so it's nice to hear
5 those thoughts.

6 Mr. Manion, just with respect to
7 the charts that you had, you pointed to the
8 Cleveland interchange facility and the Marion.
9 And I think I've seen both of them, just
10 because I used to live near there.

11 Now I could see where there would
12 be a dilemma having some form of forced access
13 at the Marion facility. Obviously, it's not
14 fit for any additional traffic.

15 But what if, instead, that we had
16 a forced access only in facilities where there
17 are proper facilities, like the Cleveland
18 yard? Would that pose a problem
19 operationally?

20 MR. MANION: We don't want to stop
21 a shipment to switch it, to handle it to
22 another train, unless it's absolutely

1 necessary to do so, and that's why we've spent
2 so much time and so much investment on our
3 computerized planning capability.

4 When -- and I referred to our
5 operating plan developer before, and that has
6 allowed us to get to a point where, when we
7 route a shipment from origin to destination,
8 this planner takes into its calculation all
9 the different efficiencies and inefficiencies
10 that are out there and it's going to route it
11 in the most effective way to get the shipment
12 to the customer.

13 Now, if part of that has to do
14 with changing from one train to another,
15 keeping in mind that for most of general
16 merchandise traffic, to get from origin to
17 destination, you know, going across country in
18 many cases, most cars don't ride on one train
19 the whole way.

20 And so it's necessary to, in a lot
21 of cases, as many as three different times
22 during the course of a car's trip, they will

1 change from train to train, and we have the
2 cars do that at the most efficient points.

3 But we don't do it with any more
4 frequency than we have to, because these
5 terminals, like the one that we're talking
6 about at Cleveland, these are absolute cost.
7 They cost us money.

8 There's no revenue that comes out
9 of stopping and handling a car at these
10 locations, so we certainly don't do it any
11 more often than we have to.

12 So, to your question, if we have
13 to stop a place like Cleveland is where we
14 will do it, but we're certainly not going to
15 do it anymore than we have to.

16 CHAIRMAN ELLIOTT: What about the
17 counterpoint that I think one of the shipper
18 groups made with respect to reciprocal
19 switching; that, because they're not going to
20 be taking the train, they're just going to get
21 off, their crew's going to get off and your
22 crew's going to get on, would that alleviate

1 some of your concerns?

2 I have to say, I'm not an
3 operations expert here, although I worked with
4 guys that did it for 16 years. One of the
5 shippers' arguments, that says that it's not
6 less efficient in reciprocal switching, said
7 that if they pull their train in, and then
8 you're taking a train from there because it's
9 reciprocal switching, that it would just be a
10 matter of switching crews.

11 So, if a CSX train pulled in, the
12 NS train -- NS crew would get on.

13 MR. MANION: I think there -- I
14 have heard some of the dialogue surrounding
15 reciprocal switching, and honestly a lot of
16 what is being discussed is really foggy to me.
17 I think there's -- I don't know how a good an
18 understanding there is as to what reciprocal
19 switching is, frankly.

20 I think people are talking outside
21 of what current-day reciprocal switching is.
22 And, you know, just briefly, to help clarify,

1 when reciprocal switching is in place, that is
2 taking -- the traffic is being conveyed from
3 one railroad to the other, either at the
4 origin point or the destination point.

5 And in most cases, that is taking
6 place because one or the other railroad
7 doesn't have a route, or doesn't have a good
8 route to wherever the shipment is going.

9 So, that's reciprocal switching.
10 Now, this business about -- I think some of
11 these other things that are being discussed
12 really are more what we would call forced
13 interchange, where there is some kind of an
14 interchange of traffic mid-route. And any
15 time you change horses mid-route, you have got
16 inefficiencies.

17 Something that is center to
18 operations on a railroad is velocity. It is
19 all about velocity. And we spend a tremendous
20 amount of money on systems and on
21 infrastructure to be as seamless as we can to
22 continually increase our velocity. Because

1 when we increase velocity, when we do the type
2 of things that keep shipments from having to
3 stop, whether it's at the origin or the
4 destination or the mid-way point, when we do
5 that, everybody wins.

6 The customer wins, because they
7 get their shipment more promptly. It's a
8 faster through-route. And, it's more
9 predictable, because we are better able to
10 stay on the schedule that we have promised our
11 customer, and we do that.

12 I mean, we tell our customers,
13 when we sign up for the business, we say, you
14 will get your -- you'll get your shipment in
15 x number of days, and increased velocity very
16 much allows us to meet those targets.

17 So the customer wins when we
18 increase velocity. But the other great thing
19 about it is is that the costs drop out when we
20 increase velocity, because our assets turn
21 more quickly. We get more turns out of
22 equipment, and we get more turns out of our

1 locomotives and our cars.

2 And when you get more turns out of
3 your assets, you either, a, don't have to buy
4 as many of them in the first place, or b,
5 you've got more assets for increased business
6 down the road.

7 So it's all about velocity when it
8 comes to operating a railroad. And these
9 things we're talking about, whether it's the
10 forced interchange, or the forced access, or
11 stopping at Cleveland and finding another
12 crew, another railroad to take it over, which
13 is not something we want to happen, because it
14 flies right in the face of increased velocity.
15 All these things that are being discussed
16 about stopping traffic slows velocity.

17 CHAIRMAN ELLIOTT: Thank you.

18 Actually, I think at some point in there, I
19 think I got the answer I was looking for, so
20 I do appreciate that.

21 MR. LANIGAN: Mr. Chairman, could
22 I add something to that?

1 CHAIRMAN ELLIOTT: Sure.

2 MR. LANIGAN: I think most of the
3 customers have talked about reciprocal
4 switching were single-car type customers, not
5 unit train customers like the example that you
6 gave.

7 Each and every day, we take unit
8 trains of coal, of ag, etcetera, through
9 gateways. Our crew gets off and the Norfolk
10 Southern crew or a CSX crew jumps on and
11 continues on to destination. That's a normal
12 part of our operation every day.

13 CHAIRMAN ELLIOTT: Let me follow
14 up on that with respect to your operations.
15 Are there voluntary reciprocal switching
16 agreements in place now that you believe are
17 working effectively, operationally speaking?

18 MR. MANION: There are about 13
19 percent of our traffic is open to switching,
20 and it's open to switching. It doesn't
21 necessarily mean that it's taking place, but
22 it's open to switching.

1 And as I said, those are cases in
2 most instances -- those are cases where one or
3 the other railroad doesn't have a good route
4 to get to destination.

5 So, current-day reciprocal
6 switching arrangements are what I would call
7 more a matter of necessity, just from a
8 practical standpoint, because one railroad
9 can't get all the way where the car needs to
10 go.

11 So, do they work? Yes. We make
12 them work. Do they work as well as if you
13 didn't have to have those additional handlings
14 at the origin or destination? You're darn
15 right.

16 It doesn't work nearly as well,
17 because you've got to take -- you've got more
18 crews involved, you've got more infrastructure
19 involved, you've got one crew that has to
20 deliver to a siding or a spur track or
21 whatever the arrangement is.

22 Those cars are going to sit there

1 for some period of time, and it's not as slick
2 as one might think. Maybe they're going to
3 sit there for 12 hours. Maybe they're going
4 to sit there for more than two days.

5 And then they get picked up by
6 another crew, and they get re-handled. So
7 it's not -- it's something we try to avoid,
8 but it can't be avoided in all cases.

9 CHAIRMAN ELLIOTT: Okay, I think
10 that probably answers my follow-up question,
11 which was, why wouldn't it also work in a
12 forced access situation? But you explained
13 that it's not as practical to have the extra
14 switch or whatever is involved in a
15 connection.

16 MR. MANION: Well, and the
17 reciprocal arrangement, while it is
18 inefficient, it is not as onerous as the
19 forced access concept, because under forced
20 access, you not only have this same
21 arrangement with inefficiencies, with the
22 extra infrastructure you have to have, with

1 the coordination of crews, but now you are
2 into a situation where you've got two
3 different parties, two different railroads,
4 both working their operation over the same set
5 of railroad tracks, having to coordinate, and
6 that sets up a whole new layer of
7 inefficiencies.

8 CHAIRMAN ELLIOTT: Thank you.
9 That's very helpful.

10 I'll give one softball to Mr.
11 Lanigan, since he's a Cleveland Indian fan.

12 On one of your charts, with
13 respect to efficiencies, I noticed in 2010,
14 you had a significant increase, I thought
15 almost even more than -- and I wasn't even
16 comparing it to 2009, but overall. And I was
17 just wondering, it seemed quite significant,
18 and if you could explain how that happened.

19 MR. LANIGAN: Well, as you know,
20 Mr. Chairman, during the recession, we stored
21 a lot of cars, we furloughed people, we took
22 a lot of cost out of the business very, very

1 quickly. And in 2010, we were slow to bring
2 a lot of the assets back on because we
3 couldn't predict the recovery. We couldn't --
4 customers were reluctant to give us forecasts,
5 because they couldn't forecast their markets.

6 So we spent the entire year -- I
7 would call chasing the demand and coming up
8 short from a standpoint of having the
9 appropriate assets.

10 This year, you're going to see
11 that reversed because one, we're hiring 5,000
12 people this year. We're adding rail cars,
13 we're adding locomotives, our record capital
14 expenditures this year, etcetera. That
15 curve's going to bend again.

16 It was really just a function of
17 the timing of the recession and coming out of
18 the recession.

19 CHAIRMAN ELLIOTT: Thank you.

20 Vice Chairman?

21 VICE CHAIRMAN BEGEMAN: Thank you.

22 Mr. Manion, Chairman Elliot asked

1 a number of the questions that I wanted to
2 ask, and probably everyone in the room except
3 me understood something that you said, so just
4 bear with me, if you don't mind.

5 I thought what you said was that
6 typically, there can be maybe three switches
7 from your origin to destination. But then I
8 thought you also said when you were describing
9 to us what reciprocal switching really is,
10 versus an interchange, that it only happens at
11 an origin or a destination.

12 So, I guess I'm -- how can it
13 happen three times if it's only in two places?

14 MR. MANION: Right. Let me try to
15 do a better job of explaining that.

16 During the course of business for
17 traffic that we'll say is just totally within
18 Norfolk Southern's control, in most cases, for
19 general merchandise traffic, our shipments
20 aren't able to ride one train all the way from
21 the origin to the destination point. And, you
22 know, it's -- we're kind of a big spiderweb in

1 the East, if you will.

2 And to get a shipment cross-
3 country to its destination, on the average, it
4 will ride on three different trains. Does
5 that make any sense so far?

6 VICE CHAIRMAN BEGEMAN: Yes.

7 MR. MANION: Okay.

8 VICE CHAIRMAN BEGEMAN: So they're
9 interchanging?

10 MR. MANION: And that is not
11 referred to as -- interchange is between two
12 different railroads. When we stop at -- we
13 have major terminals, major what we call hump
14 yard terminals throughout our system, and
15 they're designed to reclassify or to classify
16 cars to put same-destination cars all together
17 in blocks and ultimately in a train where they
18 all want to go to the same location.

19 So, as we move those cars and
20 trains through our system, we're simply what
21 we call making connections, and that's
22 something we put a lot of emphasis on.

1 Within our own railroad, we are
2 operating trains on time, on schedule, so they
3 get -- and every single car has a -- every
4 shipment has a schedule. Not to get too deep
5 detailed about it, but it is, it's a detailed,
6 complex business.

7 Every car has a schedule, and
8 across the railroad, it has a schedule of how
9 it is going to route, what blocks it's going
10 to be on, what trains it's going to ride.

11 And so it's necessary that we keep
12 trains on time so that they will get to the
13 next yard or terminal point and connect -- I
14 said connections -- connect to the right
15 train, right car on the right train, in order
16 to, again, get to the next terminal, if that's
17 where it's going, and go through this process
18 again.

19 Now, all of that is separate and
20 distinct from reciprocal switching and
21 interchanges that go on between two different
22 railroads, and they are two distinctly

1 different things.

2 And with your reciprocal
3 switching, that's just a case where one
4 railroad is not able to handle it the whole
5 way, and they either -- maybe they have a
6 reciprocal switching arrangement at one end of
7 the railroad or the other, and, we -- and in
8 other cases, we will interchange a car from
9 one railroad to the next because we may not be
10 going where that car needs to go.

11 Does that help?

12 VICE CHAIRMAN BEGEMAN: Yes.

13 Thank you.

14 And you also mentioned 13 percent
15 of your traffic is open to reciprocal
16 switching.

17 MR. MANION: Right.

18 VICE CHAIRMAN BEGEMAN: I think
19 that's what you said. Do you happen to know
20 what the general percentages would be for the
21 other carriers, how much it is system-wide?

22 MR. MANION: I really don't. I'm

1 not inclined to think it would be radically
2 different, but I don't know the answer to
3 that.

4 MR. LANIGAN: Ours is a little bit
5 higher than that. It approaches 20 percent.

6 VICE CHAIRMAN BEGEMAN: Would both
7 of you respond regarding the testimony from
8 the intermodal representative, why is it that
9 the carriers seem to compete so heavily for
10 the intermodal traffic?

11 Is it because that's where the
12 money is versus what we're hearing about the
13 coal traffic?

14 MR. LANIGAN: Well, for openers, I
15 think we compete for all traffic, so I want to
16 make sure that that's clear.

17 VICE CHAIRMAN BEGEMAN: And your
18 testimony did make that clear.

19 MR. LANIGAN: I think the
20 difference with intermodal is that a truck can
21 go anywhere. And I spent 16 years in the
22 trucking industry, and a truck can go

1 anywhere.

2 But a single truck, single driver,
3 is more expensive than a train, economics, to
4 haul containers or trailers.

5 We have two individuals on the
6 train hauling up to 300 or so containers, 150
7 trailers, depending on the configuration of
8 the train, which would take 300 or 150 truck
9 drivers to do the same work.

10 So we have a distinct cost
11 advantage against truck, but we're not as
12 flexible. We can't go door-to-door like a
13 truck can, and I think what's happened over
14 time is that we've developed the density of
15 the networks, both in the West and in the
16 East, to provide frequent enough service that
17 we can work with our trucking partners to
18 develop a service that is very close to truck-
19 like from an overall timing standpoint, but
20 yet has the economics of rail embedded in
21 them, and that's what's created that
22 competitive environment in intermodal.

1 VICE CHAIRMAN BEGEMAN: I sort of
2 gave you a heads up that I was going to ask
3 about Rule 11 rates. Could I get your
4 perspective as far as how it works with your
5 system, and when you offer them, and when you
6 don't?

7 MR. LANIGAN: We do Rule 11 rates
8 all the time. In some cases, we offer them to
9 customers, and some customers prefer them, and
10 some don't. In other cases, customers will
11 ask us to quote a Rule 11, and we'll do it
12 anytime a customer asks us to do it.

13 VICE CHAIRMAN BEGEMAN: And are
14 they utilized more frequently now, or are they
15 less so?

16 MR. LANIGAN: Much more frequently
17 than, say, five years ago. I don't know what
18 the percentage is, but it's a significant
19 increase in Rule 11 rates over the last five
20 years.

21 VICE CHAIRMAN BEGEMAN: And do you
22 have a sense of why that might be? I know

1 that the chemical shipper mentioned that
2 they'd like to have control over -- and like
3 to know what they're paying for from each
4 carrier, but --

5 MR. LANIGAN: I think that nails
6 it on the head. The customer wants more
7 transparent information on how their shipment
8 is moving.

9 VICE CHAIRMAN BEGEMAN: And are
10 there times when you won't provide one?

11 MR. LANIGAN: I'm not aware of
12 any, when we've been asked to provide one.

13 VICE CHAIRMAN BEGEMAN: Did you
14 want to comment on, from your perspective?

15 MR. MANION: Well, I would comment
16 on the fact that we compete so heavily in all
17 the different modes of business, and just like
18 John said, I don't care if it's your general
19 merchandise, your ag, your automobile
20 business, coal business, intermodal business,
21 and we're living proof of it, because we lose
22 business.

1 Fortunately, we gain business,
2 too, but it is fiercely competitive out there.
3 And, you know, it goes back to the point I was
4 trying to make about how we try to maintain a
5 scheduled operation and increase our velocity
6 so that we can provide the kind of service
7 that a customer needs, because if we can't
8 provide the service, we lose it.

9 And even our -- I mean, even our
10 employees are involved in this, as strongly
11 involved as they are in our safety process,
12 which we take a lot of pride in, they are well
13 aware that their paycheck comes from the
14 customer, and if we don't provide service like
15 we promise, we'll lose it.

16 VICE CHAIRMAN BEGEMAN: That's all
17 I have for now.

18 CHAIRMAN ELLIOTT: Thank you.

19 Commissioner?

20 COMMISSIONER MULVEY: Thank you.

21 Adjectives mean a lot. I know that we hear
22 about captive shippers from one side, and we

1 hear about singly-served shippers from the
2 other side.

3 So -- the word forced access is
4 interesting. Basically, we're talking about
5 open access. That's the term that's usually
6 used. No one is forcing a railroad to
7 interchange. You may be forcing the owning
8 railroad to accept interchange, but you're not
9 forcing the other carrier to enter into the
10 agreement.

11 A question for Norfolk Southern.
12 You said that forced access or open access
13 would be harmful because it would make traffic
14 flows unpredictable. But the railroads
15 already have had reciprocal agreements for
16 years and years and years, albeit, they have
17 been going down in recent years on most lines.
18 And that presumably also would alter traffic
19 flows.

20 So what would make a Board-
21 regulated rule on reciprocal switching
22 requiring more open access so much more worse

1 than what you have today?

2 MR. MANION: Well, Commissioner,
3 the reciprocal arrangements we have today are
4 ones that we have agreed to. They're ones
5 where we have -- we have ourselves said
6 customer x is open to switching. So under
7 that arrangement, we plan around that. It's
8 less efficient, but we plan around that.

9 And with an open access
10 arrangement, traffic would be routing through
11 another carrier, through this open access
12 arrangement, I presume, in one instance, and
13 in another instance, the customer may find it
14 more desirable not to route through that
15 interchange point, and we'd be handling it.

16 And the uncertainly leaves us at -
17 - or would leave us at a point where we never
18 know where to invest our money in
19 infrastructure. Are we going to be handling
20 that business and consequently be able to get
21 a viable return on our investment in
22 infrastructure? Or not? And so it would make

1 the whole thing very unpredictable.

2 COMMISSIONER MULVEY: But
3 investments in infrastructure are always
4 unpredictable. You invest because you believe
5 the business is going to be there.

6 Hopefully, you get lucky, as in
7 the case of one person at that one railroad on
8 that panel. You make an investment, and
9 eventually, they come, and you have the
10 advantage of having made it.

11 And sometimes, the investments are
12 made a little earlier, and they don't come
13 when expected, and so you lose. So there's
14 always that risk when you invest in
15 infrastructure, that you're going to get the
16 business or be able to accommodate the
17 business.

18 You mentioned also --

19 MR. LANIGAN: Commissioner, if I
20 might add --

21 COMMISSIONER MULVEY: Yes.

22 MR. LANIGAN: -- but you're making

1 that investment based on your best projections
2 about the business that you have and the way
3 that business is going to grow, and if that
4 becomes completely unpredictable, you won't
5 make the investment.

6 COMMISSIONER MULVEY: But shippers
7 or consumers, however you want to label them,
8 they always have a choice of who they're going
9 to go to, not always, obviously, but often
10 have a choice of where they're going to go,
11 and that's one of the things that makes our
12 capitalist market society work, that there are
13 effective suppliers and effective demanders
14 who have some choice.

15 So as we said before that for
16 example, reciprocal switching or open access
17 can lead to inefficiencies and take longer to
18 shift a car to another railroad, et cetera,
19 but those all increase transport cost, and
20 increase the time for transport.

21 And those would be decision points
22 that a shipper would look into and say, well,

1 I can maybe have an interchange, or I can have
2 open access, but it's going to take me a day
3 or two longer, and I don't want that, so, I'm
4 going to stay with my existing railroad --
5 continuing to have, say, have Norfolk Southern
6 do it, rather than take advantage of the open
7 access, because it would take longer, and it
8 would increase the cost.

9 Wouldn't that be true? Wouldn't
10 some of those things be caught up in the rate
11 structure?

12 MR. MANION: Commissioner Mulvey,
13 what I come back to is this open access
14 arrangement in any situation builds in
15 additional costs, and it flies right in the
16 face of what we're trying to accomplish.

17 Excuse me for the somewhat
18 pedestrian analogy, but if I want to use UPS
19 to ship a package from my home in Virginia
20 Beach up to my mother in Boston, and I go to
21 the UPS counter and say, well, I'd like to
22 ship this to Boston, but when that package

1 gets to Boston, I'd like you to transfer it to
2 the United Postal Service and have them
3 deliver it to her, that doesn't make any sense
4 whatsoever, because we all know how disruptive
5 and costly that is. But that is not far away
6 from what we're talking about here.

7 COMMISSIONER MULVEY: Right. But
8 if you wanted to pay, and if UPS said, well,
9 we can do that, we'd have to call the postal
10 service, they would have to send a truck over,
11 pick it up, and move it out and that's going
12 to cost an extra \$20, and you said, fine, I'll
13 pay the extra \$20, because that's how I want
14 it to go, wouldn't that be your right? Why
15 should you be denied that right, then?

16 MR. MANION: I don't think there's
17 a lot of -- could that be done? Yes, it
18 could. Is that logical? I don't think it's
19 logical at all.

20 COMMISSIONER MULVEY: And then you
21 wouldn't do it, because it's not logical, nor
22 would a shipper do it, if indeed, it didn't

1 make some sense.

2 We're presuming here, I think,
3 that with open access, that the shipper would
4 see a benefit and do it, not that the shipper
5 would just ignore the fact that it was going
6 to take longer, or ignore the fact that there
7 are additional inefficiencies and additional
8 costs, no?

9 MR. MANION: Commissioner, I
10 really don't think that's the case. I'm
11 getting the sense that -- you know, with all
12 good intentions, I think this is a case of
13 individual customers who see a one-off
14 possibility to get a lower rate in their
15 instance, but the reality is is that the
16 overall costs in terms of our infrastructure
17 costs, in terms of our not being able to
18 provide good service anymore, in terms of a
19 downward spiral of overall service, all that
20 would deteriorate, while this individual
21 customer is saying, hm, I think I can create
22 a situation here where I can lower my rate by

1 a little bit.

2 COMMISSIONER MULVEY: So you're
3 suggesting the road to Hades is paved with
4 these good intentions.

5 MR. MANION: I couldn't have said
6 it better, actually.

7 COMMISSIONER MULVEY: Well, I
8 couldn't have said it differently, because
9 there's a mixed group here.

10 A couple of the charts I had some
11 questions about. All the charts were in
12 nominal terms, in terms of the capital
13 expenditures, rather than in real terms? In
14 other words, they're in current dollars rather
15 than constant dollars?

16 MR. LANIGAN: They were the
17 dollars in the year that they were --

18 COMMISSIONER MULVEY: That's
19 current dollars.

20 MR. LANIGAN: Current dollars.

21 COMMISSIONER MULVEY: If it would
22 have been constant dollars, there might have

1 been a little less draconian changes from year
2 to year, or --

3 MR. LANIGAN: A little bit, sure.

4 COMMISSIONER MULVEY: With regard
5 to one of the Norfolk Southern capital, the
6 last one was 2011, which was B, and what does
7 the B stand for? Was that a projection, or
8 was that a year-to-date, or what? I didn't
9 see -- I didn't quite catch it on that, the
10 capital expenditures for 2011 for Norfolk
11 Southern?

12 MR. MANION: Budget.

13 COMMISSIONER MULVEY: Oh, budget.
14 Oh, okay. Thank you. So we don't know what
15 the actual expenditures were, or would be for
16 that year?

17 MR. MANION: No, I mean --

18 COMMISSIONER MULVEY: Are you on
19 budget on that?

20 MR. MANION: -- historically, I
21 mean, historically, that will be about where
22 it comes in, and frankly, in a good year, it

1 might bump up a little from the --

2 COMMISSIONER MULVEY: Well, that's
3 quite a bit higher than in 2010. That's quite
4 good.

5 One last question and that was in
6 regard to the UCTS program that you have,
7 would that be able to be what the PTC -- a
8 full PTC system would do. Would that be a kind
9 of a prelude? Or, if you have to adopt to
10 adopt PTC, would that replace UTCS, or would
11 UTCS complement PTC?

12 MR. MANION: No, they are two
13 different things, and what UTCS does not do is
14 take over control of the movement and have the
15 ability to stop it if the engineer isn't doing
16 -- isn't handling their train the way they
17 should.

18 COMMISSIONER MULVEY: But PTC does
19 that. My question, I guess, is, does PTC --
20 especially if it's a full system of PTC, would
21 that give you some of the same things you're
22 getting now with UTCS?

1 MR. MANION: No, it doesn't. In
2 fact, it doesn't give you any of those same
3 things.

4 COMMISSIONER MULVEY: Okay. So
5 they are two separate, hopefully
6 complementary, but not competing, but
7 certainly they're systems that accomplish --

8 MR. MANION: They're two separate
9 things. The big difference is that with UTCS,
10 there is a lot of efficiency built in.
11 Efficiencies allow us to do a better job with
12 a scheduled railroad, efficiencies for fuel
13 saving and handling environmental concerns,
14 and so when we spend money on UTCS, we are
15 getting a big return on our investment. When
16 we spend money on PTC, we're not getting a
17 return on investment. And you're familiar
18 with the stats.

19 COMMISSIONER MULVEY: We all know
20 the numbers. Would UTCS improve your ability
21 to handle open access if that came down the
22 road? Would UTCS be something that would

1 enable -- facilitate your ability to handle an
2 open access requirement?

3 MR. MANION: No, actually, UTCS
4 would be quite disrupted by any kind of an
5 open access or open interchange type scenario,
6 and I'll tell you the reason for that.

7 UTCS is only as good as --- like
8 any computer system, it's only as good as the
9 information that you give it.

10 And with open access or open
11 interchange, all of a sudden, you are throwing
12 in a wide variety of permutations as far as
13 different flows for traffic, and when you
14 throw all that in the mix, UTCS is going to
15 have a much harder time being efficient.

16 And you know, simply put, what
17 UTCS and the movement planner portion of UTCS
18 does, what it does is it looks at all the
19 different variables going on around it,
20 whether it's other trains that are hours away,
21 as much as eight hours out.

22 It looks at what the topography of

1 the railroad is. It looks at what trains are
2 entering the system, and if there suddenly
3 are, I'll just say, unplanned or unknown
4 movements that are showing up through open
5 access points or open interchange points, it
6 is disrupting to the planning function of
7 UTCS.

8 COMMISSIONER MULVEY: So it
9 wouldn't allow UTCS to optimize the efficiency
10 of the yard?

11 MR. MANION: You said it better.

12 COMMISSIONER MULVEY: It would be
13 sub-optimal.

14 John, one last thing for you, and
15 that is you were talking about the evidence of
16 competitiveness in the coal fields, changing
17 of service to plants between the major
18 railroads.

19 Hasn't there also been some of
20 that too on the intermodal side in the West
21 Coast, that haven't there been changes from
22 one railroad to another for large amounts of

1 intermodal movements at the same time, over
2 the last few years?

3 MR. LANIGAN: Yes, there has been
4 some shifting of business between us and UP on
5 the West for intermodal as well.

6 COMMISSIONER MULVEY: So that also
7 suggests that there's also some
8 competitiveness out there.

9 MR. LANIGAN: We've shifted
10 businesses, Commissioner, in every one of our
11 lines of business, coal, ag, industrial, and
12 intermodal on a year-to-year basis.

13 We have to replace ten to fifteen
14 percent of our business through losses,
15 etcetera, on an annual basis. So, yes,
16 there's competition all the time across all of
17 our businesses.

18 COMMISSIONER MULVEY: Okay. Well,
19 thank you very much. Thank you very much.

20 VICE CHAIRMAN BEGEMAN: I have one
21 last question for you, Mr. Lanigan. I know
22 you were here yesterday, certainly during the

1 afternoon when Western Coal testified, and I
2 asked them about the chart that indicated that
3 the competitive traffic was actually at a
4 higher rate than the captive traffic. And I'm
5 wondering if you care to comment on that
6 chart.

7 MR. LANIGAN: For our total book
8 of business, captive traffic remains higher
9 than competitive traffic overall on an average
10 basis.

11 VICE CHAIRMAN BEGEMAN: But not on
12 Powder River Basin coal?

13 MR. LANIGAN: I can't specifically
14 answer that, Vice chairman. I don't have that
15 information at my fingertips.

16 VICE CHAIRMAN BEGEMAN: All right.
17 Thank you.

18 CHAIRMAN ELLIOTT: Thank you very
19 much. We appreciate you coming today.

20 We'll bring forward panel number
21 five. Just for everyone's information, I
22 think we're just going to plow ahead and not

1 have lunch today, because we're making pretty
2 good progress here, and I think that will just
3 prolong things, especially for people who have
4 flights to catch or maybe want to catch an
5 earlier flight to get home.

6 Also, for this panel, we may have
7 another speaker come in where you'll have to
8 get up again. So I just wanted you to be
9 aware of that. But you will have your full
10 speaking time.

11 Okay. Why don't we get going with
12 panel number five? We'll start out with
13 Diversified CPC International.

14 Mr. Frauenheim, you have ten
15 minutes.

16 MR. FRAUENHEIM: Thank you, Mr.
17 Chairman.

18 CHAIRMAN ELLIOTT: We need you to
19 get that mike, speak into the mike, otherwise,
20 the court reporter can't --

21 MR. FRAUENHEIM: Thank you, Mr.
22 Chairman.

1 CHAIRMAN ELLIOTT: Great.

2 MR. FRAUENHEIM: My name is Bill
3 Frauenheim. I am Vice President of Operations
4 at Diversified CPC International --

5 CHAIRMAN ELLIOTT: I see I've been
6 abandoned by my fellow board members here, so
7 --

8 MR. FRAUENHEIM: -- a leading
9 manufacturer and distributor of liquified gas,
10 aerosol propellants, and specialty gas liquids
11 in North America.

12 I'm responsible for the operations
13 of Diversified CPC's liquified gas processing
14 facilities in the US.

15 My role as Vice President of
16 Operations includes the Diversified CPC's
17 transportation function that reports to me.
18 For the past 13 years, Hydro Consulting
19 Limited has helped us manage our rail
20 transportation. They keep me informed on
21 transportation issues, and I frequently
22 participate in meetings with carriers.

1 Diversified CPC has filed initial
2 comments and reply comments in this
3 proceeding, and we endorse initial comments
4 and reply comments submitted by interested
5 parties and by West Lake Chemical Corporation.

6 Diversified CPC is headquartered
7 in Channahon, Illinois, and has six
8 manufacturing and distributing facilities in
9 North America, with 48 employees. Even though
10 Diversified CPC is considered a leader in the
11 aerosol propellant industry, Diversified is
12 considered a small shipper.

13 We have 37 rail lanes. Volumes in
14 those lanes range from 1 to 181 tank cars
15 annually. Between inbound tank cars and
16 outbound product tank cars, we ship about
17 1,000 tank cars per year.

18 Diversified CPC relies on Class 1
19 railroads for inbound shipments and raw
20 materials to deliver products to customers.
21 While we also ship by truck for shorter
22 distances, some customers request rail

1 deliveries, and truck transportation is not
2 always a practical alternative for long-haul
3 moves.

4 Therefore, rail is a critical part
5 of our operation and the ability for
6 competition to be competitive.

7 The railroads have adopted a
8 position that rail rates declined in real
9 terms during a 30-year period following
10 enactment of the Staggers Act, and that
11 shippers have benefitted from the cost
12 savings. Further, they try to justify
13 aggressive pricing practices based on the need
14 to build and maintain their infrastructure.

15 I cannot comment on the general
16 statement by railroads that rail rates have
17 declined since enactment of the Staggers Act.
18 What I do know is our cost of doing business
19 with the railroads have increased, and we
20 frequently need to remind the railroads that
21 Diversified CPC has also invested capital for
22 infrastructure improvements so that we can

1 increase freight volumes with the railroads.

2 For example, Diversified CPC has
3 invested more than \$2.2 million at its rail-
4 served plants for infrastructure improvements
5 required to maintain and increase rail
6 shipments.

7 We cannot always pass those costs
8 through to our customers. These projects
9 included rail infrastructure improvements and
10 storage at our Petal, Mississippi facility;
11 installation of additional rail car unloading
12 stations, rail car risers, and bulk storage
13 tanks at our Anaheim, California, Petal
14 Mississippi, and Miami, Florida and Sparta,
15 New Jersey plants.

16 The Channahon, Illinois plant was
17 originally constructed with three sidings and
18 eight tank car loading and unloading stations.
19 Prior to the latest expansion to add a fourth
20 siding, we added four additional tank car
21 loading and unloading stations, and bulk
22 storage for a new product blend shipped

1 exclusively by rail.

2 The plant now has 16 tank car
3 loading and unloading stations, effectively
4 doubling the loading and unloading facilities
5 of the regional plant design. The plant can
6 now handle up to 24 tank cars on its four
7 sidings.

8 While Diversified CPC has invested
9 capital in infrastructure to increase rail
10 shipments, the railroads seem to have a one-
11 sided view of the need to earn adequate return
12 on investments.

13 In 2004, one of our customers
14 asked our company to develop a new product for
15 our customer's foam packaging operations. We
16 developed the new product, which was accepted
17 by our customer. Diversified CPC acquired
18 additional tank cars, and we invested more
19 than \$500,000 in construction of a storage
20 tank farm, blending system, and associated
21 pumps and piping for the new commodity.

22 During the three years that we had

1 the business, rail costs for this move
2 increased more than 41 percent. We're in a
3 very competitive business in the aerosol
4 propellant industry, and in our other business
5 units as well.

6 The railroads disregarded our
7 warnings, and ultimately priced Diversified
8 CPC and the railroads out of the business.
9 After we lost the business, the carriers asked
10 what they could do to help in the recovery of
11 the business.

12 They re-established the rate that
13 applied prior to the last increase, but
14 unfortunately, it was too late.

15 While we understand the need for
16 the railroads to earn an adequate return, it
17 was extremely unfair for the railroads to
18 encourage us to develop business that required
19 capital investment and then subsequently chase
20 the business away with irresponsible pricing
21 practices.

22 We believe that this example

1 demonstrates that the competition in the
2 railroad industry may be inadequate. For this
3 particular lane, both origin and destination
4 are classic bottlenecks. 100 percent of
5 Diversified CPC's rail lanes have bottlenecks
6 at origin and/or destination.

7 While we do not have an agenda to
8 request competitive access at all locations,
9 I believe it possible that simply having an
10 option to open industries to reciprocal
11 switching would create a competitive
12 environment that will serve the public
13 interest.

14 We have one plant that is not
15 operating according to plan that could benefit
16 if served by a second carrier. Our plan when
17 locating that plant was to serve customers by
18 rail and truck. However, outbound rail rates
19 proposed from that plant have not been
20 competitive, so we've been forced to serve
21 those customers from other origins.

22 We believe it likely that rail

1 volumes and production at that plant would
2 increase if served by another carrier.

3 Diversified CPC does not have an
4 agenda to file complaints with the STB to seek
5 relief from unreasonable rates. First of all,
6 we prefer to resolve issues directly with the
7 railroads, where possible. Second, current
8 procedures are not practical alternatives for
9 small shippers like Diversified CPC.

10 The railroads contend shippers do
11 not need competition, so long as we have
12 regulations. In other words, if we do not
13 like rates, we can file a rate case with the
14 STB.

15 This clearly indicates that the
16 railroads are out of touch with customers, or
17 maybe they simply don't care about our
18 business.

19 When the Board developed new
20 proceedings and standards for small rate
21 cases, it was a step in the right direction.
22 However, they offer no practical recourse for

1 small shippers like Diversified CPC as the
2 litigation costs would outweigh the potential
3 gain.

4 This is evident by the fact that
5 recent rate cases have been filed by very
6 large companies, including DuPont, Total
7 Petrochemicals, and M&G Polymers.

8 The cost of litigating a rate case
9 under current procedures, including the small
10 rate case and simplified SAC procedures,
11 prohibits most shippers, and especially small
12 shippers like Diversified CPC, from seeking
13 relief at the STB, leaving us little or no
14 recourse.

15 Small shippers like Diversified
16 CPC should have access to seek Board
17 protection from unreasonable rates and unfair
18 practices.

19 Mr. Chairman, in conclusion,
20 competition in the railroad industry, in our
21 view, is inadequate. We commend the Board for
22 initiating this proceeding.

1 We encourage the Board to create
2 some additional competitive marketing
3 alternatives to shippers, including practical
4 solutions for small shippers.

5 Potential alternatives include
6 simple access to reciprocal switching and
7 variable cost thresholds for switching costs.
8 Finally, the Board should review current rate
9 reasonableness standards and rate case
10 procedures and consider changes that may be
11 necessary to establish a simple procedure that
12 would give small shippers like Diversified CPC
13 the ability to seek Board relief from
14 unreasonable rates and unfair practices.

15 I appreciate the opportunity to
16 comment on the competition in the railroad
17 industry, and we're hopeful that this
18 information that we have submitted will
19 contribute to the process that will lead to a
20 comprehensive decision that will address these
21 difficult and challenging issues.

22 Thank you.

1 CHAIRMAN ELLIOTT: Thank you very
2 much. We'll next hear from M&G Polymers.

3 You have ten minutes.

4 MR. FOURNIER: Thank you.
5 Chairman Elliot, Vice Chairman Begeman, and
6 Commissioner Mulvey, good afternoon.

7 My name is Fred Fournier, and I'm
8 the Global Marketing and Sales Director for
9 M&G Polymers USA. I'm here to testify on the
10 current state of rail competition as
11 experienced by M&G, and to support changes in
12 the Board's policies that would enhance rail-
13 to-rail competition.

14 M&G Polymers is the North American
15 operation of M&G Group, which is a global
16 producer of polyethylene terephthalate, or
17 PET. PET is a plastic that's used in
18 packaging applications. It's used in making
19 plastic bottles, food packaging, carpet
20 fibers, among many others.

21 Despite our global presence, M&G
22 is a family-run business that manages to

1 compete on the highly competitive world stage
2 through technological innovation and lean
3 operations.

4 We produce PET at two plants in
5 North America. One is located in Altamira,
6 Mexico, and the second in Apple Grove, West
7 Virginia.

8 We also recently have just
9 announced plans to construct a new facility at
10 a location in the Gulf Coast that is yet to be
11 determined.

12 M&G has a strong commitment to
13 investing in the United States, but that
14 commitment has been sorely tested by our
15 experience as a rail captive shipper in our
16 West Virginia facility.

17 As I'm sure you're well aware, M&G
18 is in the midst of a rate case against CSX,
19 which is the sole rail carrier at our West
20 Virginia plant.

21 Our decision to pursue that case
22 was not made lightly or without lengthy

1 discussions with CSX, and this is because of
2 the significant cost and time associated with
3 rate cases.

4 Before we decided to construct a
5 new plant on the Gulf Coast, we had focused
6 our attention on expanding the West Virginia
7 facility, which also would have significantly
8 increased the number of rail shipments from
9 that plant.

10 However, we could not justify that
11 expansion based on our rail costs. Despite
12 sharing that fact with CSX, we still cannot
13 obtain rates for a contract for a term that
14 made sense to us.

15 Although we are challenging our
16 existing rail rates at the Board, we cannot
17 defer our investment, that decision, for two
18 to three years while waiting for an uncertain
19 outcome, nor could we have challenged CSX
20 rates on movements several years into the
21 future to locations to be yet determined.

22 Therefore, we were forced to

1 search for other sites for this project.

2 In M&G's experience, railroads
3 routinely inhibit or restrict competition even
4 where such competition may appear to exist, at
5 least on paper.

6 For example, when M&G has
7 attempted to use rail to truck trans load to
8 get around a bottleneck destination carrier,
9 the railroad serving the bulk terminal
10 frequently asks us, wanting to know, what is
11 the ultimate destination of the subsequent
12 truck shipments before they quote a price.

13 The railroad has no need for that
14 information except to determine whether the
15 trans load is being used to bypass another
16 railroad.

17 Railroad marketing personnel have
18 told us on more than one occasion that they
19 have no interest in trans load traffic when we
20 have the option to ship by rail directly on a
21 competitor.

22 When railroads lose competitive

1 business, they make up for the lost revenue
2 through the remaining captive traffic.
3 Despite railroad arguments that shippers can
4 leverage their competitive traffic to get rate
5 concessions on their captive traffic, the
6 reality is that the railroad really enters
7 into negotiations with a revenue target that
8 it's going to hit, whatever combination of
9 captive or competitive rates will get it
10 there.

11 At competitive destinations,
12 another example, railroads will use the needs
13 of M&G's customers for storage tracks to
14 foreclose competition. The customer, our
15 customer, will direct M&G to ship to its lease
16 track on railroad A, which precludes M&G from
17 using railroad B.

18 Because M&G, not its customer,
19 pays the freight, M&G is left holding the bag
20 for the higher line haul freight bill.

21 Some other evidence that
22 competition is lacking includes the following:

1 rail rates have steadily and significantly
2 increased, even through the recent severe
3 recession, while other supposedly competition
4 modes decreased rates.

5 The second one is, despite the
6 potential for significant additional traffic
7 from Apple Grove expansion, CSX was unwilling
8 to offer rates and a contract term that would
9 provide reasonable rates for a sufficient
10 length of time to justify the expansion at
11 West Virginia.

12 Because CSX serves a majority of
13 the PET production in the United States, there
14 also is very little geographic competition.
15 Moreover, where geographic competition still
16 exists from foreign production, CSX has been
17 non-responsive.

18 For example, PET shipments to the
19 Pacific Northwest are equidistant from M&G's
20 Mexico plant and from our West Virginia plant.
21 We source those customers from our Mexico
22 plant, and this is because the rates are much

1 lower getting it from Mexico to the Northwest.

2 Moreover, M&G has lost business to
3 foreign imports at destinations that were as
4 far as 400 miles from the nearest port because
5 our transportation costs were not competitive.

6 The rail industry contends that
7 trucks provide adequate competition, even when
8 rail may not. This simply is not true for the
9 plastics industry. Over 85 percent of M&G's
10 North America production is delivered to our
11 customers in rail cars.

12 Most of the remaining 15 percent
13 is delivered by truck, goes to customers that
14 don't have rail access, customers that
15 purchase less than rail car quantities, or
16 they're rail-served customers where they
17 require expedited shipments.

18 This is because our customers have
19 a choice between rail and truck. They almost
20 uniformly require rail.

21 Rail cars are not just
22 transportation vessels. They are storage

1 vessels as well. Like most PET producers, M&G
2 does not have an extensive storage silos field
3 at our production plants. Since most of our
4 customers receive rail deliveries, we use the
5 rail cars for storage.

6 Even when we ship by truck, the
7 truck is trans-loaded from a rail car into the
8 truck. Even when we ship -- excuse me.
9 Likewise, our customers, they also rely on
10 rail cars for storage because they also do not
11 have extensive storage silos.

12 This is the predominant industry
13 practice. Consequently, trucks are rarely
14 competitive alternatives to rail for M&G.

15 When it comes to the changes to
16 enhance rail competition, although we are
17 availing ourselves of the regulatory remedies
18 for unreasonable rates, even as we speak, its
19 costs are enormous. You've heard that before.

20 Our case right now just came to
21 the one-year anniversary, and we're looking at
22 another one or two years before it will be

1 settled.

2 Right now, we've spent \$7.3
3 million in the first year, or through May of
4 this year. Over 60 percent of that is in the
5 tariff rates. So as Commissioner Mulvey had
6 said, it is quite an expensive process, and I
7 think it far exceeds what you originally
8 thought might be the cost of doing it. To be
9 honest, it exceeded what I thought it would
10 cost.

11 We were prepped and told that it
12 could cost \$10 or \$11 million. I think you'll
13 see that we're looking that it may cost us
14 between \$15 and \$20 million before we're done.
15 And this is -- and this again is responsible
16 for consultants, attorneys, but overwhelming,
17 this tariff rate that we have to pay during
18 the meantime.

19 So, the opportunity cost to go
20 through your process is going to cost me \$15
21 million, and I think that's too much.

22 So if the Board cannot streamline

1 its rate case process, it needs to find ways
2 to enhance competition where it does not
3 exist, and to allow competition to work more
4 effectively where it does exist.

5 M&G would much prefer to allow a
6 competitive market for rail service to
7 determine reasonableness of its rail rates.
8 The Board can and should modify its existing
9 policies to facilitate such competition
10 through the requested reciprocal switching and
11 bottleneck rates that you've been hearing
12 about for the last two days.

13 Reciprocal switching enhances
14 competition by eliminating very short
15 bottleneck segments that are the only barrier
16 to competition rail service.

17 Bottleneck rates simply unlock
18 competition that already exists over non-
19 bottleneck segments. It also has the
20 potential to greatly simplify the
21 determination of reasonable bottleneck rates.

22 In closing, I thank the Board for

1 the opportunity to share M&G's perspective on
2 rail competition and the policy changes that
3 could foster greater competition in the rail
4 industry.

5 M&G stands prepared to work with
6 the Board, with the railroads, and others in
7 the industry to enhance rail competition,
8 improve its efficiency of the rail
9 transportation system wherever possible, on
10 which our nation's economic well being, we
11 understand, so much depends. Thank you.

12 CHAIRMAN ELLIOTT: Thank you very
13 much for your comments.

14 We'll next hear from United States
15 Gypsum. You have ten minutes.

16 MR. MACKO: Thank you.

17 Chairman Elliott, Vice Chairman
18 Begeman, and Commissioner Mulvey, thank you
19 for the opportunity to offer comments to you
20 today on ex parte 705 covering competition in
21 the railroad industry.

22 My name is George Macko, and I'm

1 manger of transportation for the United States
2 Gypsum company, a subsidiary of USG
3 Corporation, headquartered in Chicago.

4 For brevity, we'll refer to
5 ourselves as USG in our comments.

6 I'd first like to provide a few
7 qualifying statements on who we are, what we
8 ship, and the scope of our rail operations in
9 North America, and then offer comments
10 specific to the subject of this meeting.

11 USG is North America's leading
12 producer of gypsum wallboard, joint compound,
13 and a vast array of related products for the
14 construction and remodeling industries. We
15 are also the global leader in the manufacture
16 of ceiling suspension systems and are
17 recognized as the premier manufacturer of
18 acoustical panels and specialty ceiling
19 systems.

20 Through our subsidiary L&W supply,
21 we are also the nation's largest distributor
22 of drywall and related building products,

1 serving the trade via a network of more than
2 160 distribution centers throughout the US.

3 USG ships an array of raw
4 materials and finished products throughout the
5 US, Canada, and Mexico via the North American
6 rail and intermodal networks. We are a
7 manifest, unit-trained, intermodal and export
8 shipper with total rail network activity
9 exceeding 25,000 shipments per year.

10 33 of our 36 manufacturing
11 facilities are rail-served by a combination of
12 five Class 1 railroads and 11 short lines, and
13 we lease approximately 400 rail cars to
14 support inbound raw materials and unit train
15 operations.

16 The subject of this hearing is
17 strategic in nature, and very important not
18 only to USG but to our country as a whole.
19 When distilled down, it's really about two key
20 issues: one, managing the country's
21 transportation infrastructure into the future,
22 and rail's critical role in that process, and

1 two, reaffirming the fundamental value of
2 America's free market economy and
3 understanding the dynamics of supply and
4 demand.

5 Over the last five to seven years,
6 the railroad industry has clearly turned the
7 corner on profitability. Much to our
8 satisfaction, they've been very diligent and
9 have prioritized investing those profits back
10 into the railroad resulting in higher
11 productivity and expansion of operations.

12 Some observers have referred to
13 these profits and operating improvements as a
14 rail renaissance, and we couldn't agree more.
15 This increased profitability has been the
16 focus of intense debate, and has resulted in
17 a call for change by a number of shippers.
18 The calling of this hearing is but one
19 example.

20 It's USG's position that this
21 renaissance was the intended objective of the
22 Staggers Act. One only need look at the

1 before and after picture. Prior to Staggers,
2 the railroad industry was dying and
3 systematically broken, with no means for
4 reinvesting.

5 Although it's been a long journey
6 since Staggers, we've seen Class 1 mergers,
7 consolidation in the short line industry, work
8 rule changes, falling and rising rail rates,
9 innovation in technology all culminating in
10 the momentum of the last five to seven years.

11 Unmatched by any industry in the
12 country if not the world, the railroad
13 industry is now voluntarily investing almost
14 20 percent of sales back into the business to
15 make itself more reliable, more competitive,
16 and to answer the growing transportation needs
17 of the country.

18 As a shipper, we cannot afford to
19 see this progress stopped or throttled. The
20 US economy and our transportation network
21 needs the railroads profitable, growing,
22 investing, and hauling more freight for our

1 country.

2 In our opinion, the issue here is
3 not about the level of railroad profits, are
4 they fair, but rather, are the railroads
5 responsibly reinvesting those profits for the
6 benefit of the shipper community and the
7 country.

8 Our answer to that is
9 emphatically, yes, and they should continue.

10 We're going to combine our
11 comments on a number of related issues
12 identified by the Board, including alternate
13 through-routes, terminal facility access --

14 CHAIRMAN ELLIOTT: Mr. Macko? We
15 have Senator Franken here, so if you could
16 just hold that thought, and we'll have you up
17 here shortly. I appreciate your
18 understanding.

19 SENATOR FRANKEN: Where would you
20 like me?

21 CHAIRMAN ELLIOTT: Right here up
22 front, right where you are, that would be

1 great.

2 SENATOR FRANKEN: Thank you, Mr.
3 Chairman, for accommodating me.

4 Chairman Elliott, members of the
5 Board, thank you for holding this hearing on
6 competition in the rail industry, and for
7 giving me the opportunity to testify today.

8 I want to thank the gentleman who just
9 interrupted their own testimony.

10 I can't tell you how important
11 railroad -- rail-to-rail competition is for
12 shippers in Minnesota. Whether you're talking
13 about agricultural products or electric
14 utilities or manufacturers, they all depend on
15 rail for shipping.

16 It's critical that we have a
17 competitive rail industry that provides
18 affordable rates and reliable service for
19 American shippers, both to keep jobs here in
20 America and to keep American industries
21 competitive in the global marketplace.

22 This issue is deeply personal to

1 me. I moved to Minnesota when I was four
2 years old. My dad didn't graduate from high
3 school, and he didn't have a career as such,
4 but my grandfather, my mom's dad, owned a
5 quilting factory out East, and he gave my dad
6 a chance to start up a new factory in the
7 Midwest.

8 So he moved to Albert Lea,
9 Minnesota, a small town in southern Minnesota,
10 to start a quilting factory.

11 My Dad was a great dad, but he
12 wasn't a great businessman, and the factory
13 failed after only two years, and then my Dad
14 decided to move us all up to the Twin Cities
15 where, essentially, I grew up.

16 Years later, I asked my Dad, why
17 Albert Lea? And he said, well, your
18 grandfather -- and that's how he talked, he
19 was from New York -- your grandfather wanted
20 to open a factory in the Midwest, and the
21 railroad went through Albert Lea.

22 So, I said, well, why did the

1 factory fail?

2 He said, well, it went through
3 Albert Lea, but it wouldn't stop.

4 (Laughter.)

5 Basically, the railroad shook him
6 down to ship his goods, and it was so
7 expensive that the factory failed.

8 Now, I'm going to date myself
9 here. That story is 50 years old, and sadly,
10 I don't think things have changed all that
11 much for shippers in Minnesota over those 15
12 years.

13 The railroads may be doing a heck
14 of a lot better, but in my two years in
15 office, as I've traveled around Minnesota,
16 I've heard nothing but terrible stories from
17 shippers, companies in a variety of different
18 industries in Minnesota who all are struggling
19 to get big Class 1 railroads to play fair and
20 quote them equitable and reasonable rates.

21 These businesses have come into my
22 office in DC and told me stories of rate hikes

1 and unreliable service and of unexpected
2 tariffs being tacked on to their normal bills.

3 I've also heard from some
4 companies who have decided that it's cheaper
5 to import products from overseas into the US
6 rather than producing them and shipping them
7 out of a plant in Minnesota where they are
8 captive to a single railroad that's charging
9 them an arm and a leg for transportation.

10 That's just not right, and you
11 don't need to be an economist to see that. It
12 isn't just bad for small business and for
13 farmers in this country. It's absolutely
14 terrible for our nation's economy.

15 Most of these shippers don't want
16 to say anything publicly, because they realize
17 it would be a fight between David and Goliath,
18 and that they fear retaliation. And that
19 alone should tell you that there is something
20 unfair going on here if a shipper can't come
21 in and publicly say something for fear of
22 retaliation.

1 These businesses need to maintain
2 their relationship with the one railroad that
3 serves them, and they've got no other way to
4 ship their goods.

5 In my view, that's one of the most
6 telling signs that we don't have a competition
7 rail industry in America today, this fear that
8 these shippers have, that they are too scared,
9 as I said, to speak for fear of retaliation.
10 We've got a major problem, and if we don't fix
11 it, we're being complicit in handicapping US
12 industries in the global economy.

13 That's the point I want to really
14 drive home today. And I realize I am not
15 alone on this point. The President's Export
16 Council, chaired by the CEO of Boeing, agrees
17 with me on this.

18 In a letter to the President back
19 in March, the Council identified Surface
20 Transportation Board reform as part of a
21 national strategy to make American industries
22 more competitive in the global marketplace.

1 And I know the Department of Justice and
2 Department of Transportation and USDA and GAO
3 are all saying exactly the same thing.

4 It's the responsibility of this
5 Board to protect shippers from anti-
6 competitive practices in the rail industry.
7 Congress has given you broad authority and the
8 flexibility to take action. It's time to
9 examine the STB's policies and make necessary
10 changes to protect shippers from unreasonable
11 rates.

12 Now, there is no question that we
13 need a financially healthy rail industry to
14 have a strong economy, and thanks to STB
15 policies over the last three decades, we've
16 got a profitable rail industry today. Class
17 1 railroads are some of the most profitable
18 businesses in our country today.

19 Despite a sluggish economy, over
20 the last several years, railroads are
21 announcing record earnings that have allowed
22 them to more than double their dividend

1 payments to stockholders and spend billions
2 more repurchasing stock.

3 We have a very healthy rail
4 industry, and that is a good thing. But it's
5 only one side of the coin. We can't have a
6 healthy rail industry at the expense of
7 shippers, and there are things that the STB
8 can do now to make sure shippers remain
9 competitive.

10 The GAO has laid out several
11 possible open-access policies that the STB
12 should strongly consider to increase
13 competition in the rail industry. I know that
14 USDA and others have laid these out in detail
15 in their filings, so I won't spend a lot of
16 time or any time delving into these right now.

17 But I hope the STD -- sorry, STB -
18 -

19 (Laughter.)

20 -- Surface Transportation Board,
21 absolutely a clean, healthy group --

22 (Laughter.)

1 -- so far as I know --

2 (Laughter.)

3 -- will take a serious look at
4 these overdue proposals.

5 I'd also like to encourage the STB
6 to reconsider its current accounting polices
7 that allow the inclusion of acquisition
8 premiums in a railroad's asset base.

9 I led a bipartisan group of
10 senators in a letter to the Board in March on
11 this topic, and I appreciated your reply
12 indicating that you would consider a shift in
13 this policy.

14 The Board's treatment of
15 acquisition premiums put captive shippers at
16 risk because they have no choice but to pay
17 higher rates passed on to them by the
18 railroad. And ultimately, it means that a
19 smaller number of shippers will meet the 180
20 percent threshold that's required to challenge
21 rates before the STB.

22 I strongly urge you to address

1 this issue when you're considering ways to
2 improve competition in rail markets.

3 In closing, I'll just say that
4 contrary to how this issue is often portrayed,
5 rail competition isn't about shippers versus
6 the rail industry. It's about the health of
7 the American economy and keeping America
8 competitive in the global economy.

9 That's in everyone's interest,
10 shippers, railroads, and the millions of
11 people that work in these industries.

12 I hope the Board will act soon to
13 make sure that American industries can stay
14 competitive in our increasingly global
15 marketplace.

16 Thank you once again for the
17 opportunity to testify, and for taking --
18 accommodating my schedule, and I appreciate
19 your careful consideration on these issues.

20 Thank you.

21 CHAIRMAN ELLIOTT: Thank you,
22 Senator Franken. We appreciate you taking the

1 time and sharing your views with us.

2 SENATOR FRANKEN: Appreciate it.

3 Thank you.

4 CHAIRMAN ELLIOTT: We've been

5 called much worse, so.

6 (Laughter.)

7 SENATOR FRANKEN: Sorry. I'm

8 sorry about that slip.

9 CHAIRMAN ELLIOTT: That's okay.

10 (Laughter.)

11 SENATOR FRANKEN: It will never

12 happen again.

13 (Laughter.)

14 CHAIRMAN ELLIOTT: Okay. We can

15 bring up the prior panel.

16 Mr. Macko, I believe we were in

17 the midst of your testimony.

18 MR. MACKO: I'll pick up wherever

19 I left off.

20 CHAIRMAN ELLIOTT: I'm sure you

21 can't match the prior testimony, but give it

22 your best shot.

1 MR. MACKO: I'll do my best.

2 The subject of this hearing is
3 strategic in nature, and very important not
4 only to USG but to our country as a whole.

5 When distilled down, it's really
6 about two key issues -- managing the country's
7 transportation infrastructure into the future
8 and rail's critical role in that process, and
9 reaffirming the fundamental value of America's
10 free market economy in understanding the
11 dynamics of supply and demand.

12 We're going to combine our
13 comments on a number of related issues
14 identified by the Board including alternate
15 through routes, terminal facility access,
16 reciprocal switching agreements, bottleneck
17 rates, and access pricing.

18 When we look at this combination
19 of subjects, it would be humanly impossible
20 for a shipper not to get excited about the
21 prospects of totally opening up the existing
22 rail network.

1 Shipping from an origin with
2 access to multiple carriers to destinations
3 served by multiple carriers could be viewed in
4 some circles as nirvana. While it's easy to
5 get swept up into the thrill of the thought,
6 we have to pause and remember, these are
7 private rail networks owned and built by the
8 railroads.

9 Investments to grow and expand
10 were made on the basis of what these
11 investments would return to the railroad in
12 terms of productivity, profits, or new
13 business. They were not made on the basis of
14 investing for the entire railroad industry and
15 competitors.

16 As a free market driven company,
17 we at USG would struggle with the notion of
18 investing not only for ourselves and our
19 customers but also for the benefit of our
20 competitors.

21 The railroad industry should not
22 be viewed any differently. Efforts to open

1 the system will directly impact the railroad
2 investment decisions of the future by adding
3 a very awkward decision element of how would
4 our competitors expect to benefit from our
5 investment.

6 In our opinion, in a free market
7 economy, that concept defies any level of
8 logic. There have been many published studies
9 that project the condition of the nation's
10 transportation network over the next 20 to 30
11 years, and a few were referenced in
12 yesterday's testimonies.

13 These subjects all have a common
14 thing. Without significant investment, the US
15 transportation network's productivity and
16 capacity relative to demand will decline,
17 particularly in our metropolitan centers.

18 The challenges are distributed
19 amongst all modes of transportation. The
20 highway issues are extremely complex, and
21 indicate the need for staggering amounts of
22 money and coordination at the federal, state,

1 and local levels.

2 In our opinion, our highway system
3 has no clear direction or solution in sight,
4 and the future is not bright.

5 While rail has a similar large
6 investment need, the actions necessary to move
7 forward are significantly different. As a
8 private network, the railroad industry funds
9 its own maintenance of business and capacity
10 growth.

11 Over the last few years, they've
12 also created a number of unique private/public
13 partnerships to enhance and accelerate this
14 investment process.

15 The bottom line is that the
16 railroad industry is poised to address the
17 growing needs of the country's transportation
18 network, and do it primarily by itself, and
19 most importantly, without a burden to the US
20 taxpayer.

21 It is USG's fundamental belief
22 that a dollar invested in rail for the future

1 will move more freight, move it safer, and
2 move it more environmentally friendly than
3 that same dollar invested in any other
4 competing mode.

5 We cannot afford to do anything
6 that will stymie this process. We could
7 surely go into significant detail on each of
8 the operational issues identified by the
9 Board. It's USG's view that as attractive as
10 some of these ideas may sound on the surface,
11 they cannot be pursued and implemented at the
12 potential expense of the railroads investing
13 for the shipping community and the nation's
14 future.

15 Our future ability to efficiently
16 and cost-effectively move our goods to market
17 is far too important and critical to the long-
18 term success of our business than the short-
19 term revenue shift that these changes may
20 bring.

21 Railroad profits should not be
22 shifted to other parts of the supply chain,

1 but rather retained and invested in the growth
2 of the existing rail network.

3 We use a variety of transportation
4 modes to serve our business. With the total
5 transportation spent of approximately \$400
6 million annual, rail represents about 15
7 percent of our total spend.

8 While predominantly a truckload
9 shipper, we use rail and lanes where it offers
10 us the best value. Rail is the most efficient
11 and safest mode for moving our products in
12 those lanes.

13 Let me emphasize this point. We
14 utilize rail in select lanes because it's the
15 most competitive mode when compared against
16 alternatives. The process has served us well
17 since Staggers, and we see no basis for
18 changing these market-based rail solutions
19 into the future.

20 In summary, America's free market
21 system is unmatched anywhere in the world.
22 The fundamental objective of companies

1 operating in a free market is to be
2 profitable, so one can invest in one's
3 business's future and the future of one's
4 customers.

5 Since returning to profitability,
6 that's exactly what the railroads have done
7 and continue to do. As stated earlier, the
8 shipping community and our transportation
9 needs the railroads profitable, growing,
10 investing, and hauling more freight for our
11 country.

12 The railroad system is not broken.
13 It's not in need of a tweaking, and it does
14 not need a shift towards regulation. The
15 objectives of the Staggers Act are being met
16 and fulfilled every day.

17 The industry has adapted. It's
18 healthy. It's reinvesting in itself and is
19 growing to meet the future needs of the
20 nation.

21 True to the act's original intent,
22 the objective now is to let the progress

1 continue, and to let our valued business
2 partners continue to grow the best railroad
3 network in the world.

4 Thank you.

5 CHAIRMAN ELLIOTT: Thank you,
6 panel.

7 Vice Chairman?

8 VICE CHAIRMAN BEGEMAN: Sir, I
9 think you just mentioned that 15 percent of
10 your transportation is via rail. Is that what
11 you said?

12 MR. MACKO: Yes.

13 VICE CHAIRMAN BEGEMAN: And I know
14 you also mentioned that you're from Chicago.
15 When you choose to utilize rail, do you have
16 competitive options, or are you -- I mean,
17 Chicago certainly is a big gateway.

18 MR. MACKO: We review all modes.
19 We review modes between rail carriers --

20 VICE CHAIRMAN BEGEMAN: But I mean
21 as far as rail-specific, do you have multiple
22 carriers that you utilize?

1 MR. MACKO: We do have facilities
2 that are multi-served, shipping to facilities
3 in some cases that are multi-served.

4 And I think the important thing to
5 notice or to reference is to be careful that
6 we don't misinterpret open access. I can cite
7 several examples where we have an open access,
8 multi-carrier solution. But you know what, no
9 two railroads are built alike.

10 I can cite an example of our
11 facility in West Texas that routinely ships
12 rail to the Denver market, on both railroads.

13 One railroad's route is 800 plus
14 miles. The other railroad's route is 1400
15 miles. The rates are not the same, nor should
16 they be. Open access does not guarantee the
17 same route to destination.

18 And so when we look at -- when we
19 look at routes, we look at, what are our
20 available rail alternatives, available truck
21 alternatives, and available intermodal
22 alternatives, and we work with all three

1 modes.

2 VICE CHAIRMAN BEGEMAN: Well, I
3 think you're in a lucky position compared to
4 a lot of the shippers that have testified,
5 because they truly are captive, particularly
6 the chemical guys in one of the previous
7 panels, who was strictly had no option other
8 than rail.

9 Sir, you indicated that the
10 processes that the Board for bringing rate
11 complaints just still are sort of out of reach
12 for you. Do you have any specific
13 recommendations of what the Board could do,
14 should do, to address you concerns?

15 MR. FRAUENHEIM: Our outbound rail
16 shipments, rail spend, annually is about \$2.6
17 million, so trying to litigate a rate case for
18 a company of my size, as Fred said, it costs
19 a lot of money. It's just not open for us.

20 Our revenue to variable cost
21 ratios for our average shipment is about 400
22 percent, which is more than twice what the 180

1 percent that would allow us to potentially put
2 through a rate case.

3 I really don't have an answer for
4 you of what you can do. I did pick up this
5 handy little brochure coming in this morning--

6 VICE CHAIRMAN BEGEMAN: Good.

7 MR. FRAUENHEIM: -- the Rail
8 Customer and Public Assistance Program. I
9 wasn't aware of this program.

10 It sounds like it may be a very
11 good alternative for small shippers like
12 myself, so, I'll look into that further. So
13 it might be that my coming here, that this was
14 very beneficial, so, we'll see.

15 COMMISSIONER MULVEY: Yes, I'm
16 glad that might be helpful to you, because our
17 group has been successful on numerous
18 occasions, and hopefully, that will be helpful
19 for you.

20 You made the point for M&G that
21 the tariff rate is one of the real problems,
22 having to pay the tariff rate while the case

1 is being pursued.

2 Unfortunately, one of the problems
3 historically was that that was not always the
4 case. What the ICC used to do was, it would
5 suspend a rate. And so the railroad could not
6 charge the rate that it was proposing until
7 the ICC decided.

8 Well, then, and unfortunately I
9 would say perhaps as now -- some of these
10 cases did drag on longer than you would like.
11 And meanwhile, the railroad had to forgo all
12 the revenues. And so even if the railroad won
13 the case and was eventually able to raise the
14 revenues, it was not able to raise them
15 retroactively, and so that was lost revenue
16 for the railroad.

17 It was one of the things that
18 contributed to the railroad's financial
19 debilitation over the years. And I think
20 that's one of the reasons why we allow the
21 railroads to put the tariff into effect, and
22 then we will give reparations if indeed the

1 shipper ultimately wins.

2 So I think that shippers need to
3 understand, there's a reason -- there's sort
4 of a method to the madness, if you like, while
5 you --

6 MR. FOURNIER: It's totally unfair
7 today, though.

8 COMMISSIONER MULVEY: But
9 Unfortunately, that's the approach. Perhaps
10 there's a way of splitting the baby. I don't
11 know, to put half the tariff in, or part of
12 the increase in, or -- I just don't know how
13 you would deal with that.

14 Obviously, if we could processes
15 the cases more quickly, that would certainly
16 mitigate against the shipper paying the rate
17 for an abnormally long period of time.

18 You mentioned that the cost of
19 litigation was \$15 million to \$20 million you
20 were looking at, I thought you were saying,
21 someone said that, \$11 million?

22 You said that, yes. And I was

1 wondering again if indeed that was -- if you
2 had any documentation for that, and again,
3 what part of that was paying the tariff, and
4 what part of that was the litigation cost.

5 MR. FOURNIER: We ran out -- we
6 ran out of here when you raised that question
7 with one of the other panels to find out what
8 we had spent, because I remembered yesterday
9 with our attorney, he said that basically,
10 we're right on the anniversary of one year
11 since we filed.

12 So, I said, okay, let's see how
13 much we've spent so far. So we went out
14 there, and we got it, and now this
15 documentation, I'll sign.

16 (Laughter.)

17 But it's small. I'm just going --
18 legal and consulting, \$2.6 million.

19 Pretty heavy, right? But that's
20 what it costs these days.

21 Tariff, \$4.7 million.

22 And it isn't one lawyer or one

1 consultant. I mean, you know, to do one of
2 these things is rather involved, as you know
3 better than I --

4 COMMISSIONER MULVEY: Right.

5 MR. FOURNIER: -- whereas I'm
6 finding out. But really, so it's \$2.6 and
7 \$4.7, that's through May. So, that's
8 considerable.

9 In fact, I came in here thinking
10 that, okay, we'd do this reciprocal switching,
11 we'd do this open lane, wonderful.

12 Then I'm hearing, my God, that
13 doesn't guarantee you anything, right? It may
14 be an avenue that someone said yesterday
15 could, over a period of time, maybe a couple,
16 three years, people will start to compete.

17 But these railroads are great.
18 They can just sit back and just not take it --
19 you know, take advantage of the opportunity,
20 you know, and we're dead.

21 But I think the speed of getting
22 this thing done, I mean, right now, we're very

1 confident of our case. It's one that is
2 before you. Speed is the big thing.

3 I don't know if this could go down
4 to a six month process, but then your staff
5 would probably want to throw stuff at you,
6 because you'd have 1,000 cases, you know?

7 So I don't know the answer, but I
8 do know one thing. The speed needs to be
9 there, and the expense, it is prohibitive for
10 a lot of companies.

11 And ours, we finally -- I mean,
12 and we discussed this a long time, and it was
13 a very tough decision, but I think it had to
14 be the right one, based on the options.

15 COMMISSIONER MULVEY: We will
16 admit that it's a complex process, but we'll
17 also point out that it is one that has been
18 approved by the courts. I think the ICC in
19 the past, did have approaches that were
20 simpler, quicker, but did just not pass
21 muster.

22 And this SAC process that we use,

1 the stand-alone cost process, is one which
2 makes use of accepted economic theory and
3 analysis, and has been blessed by the courts.

4 Just one more question I have.
5 You talked about this new plant you're
6 building on the Gulf Coast?

7 MR. FOURNIER: Yes.

8 COMMISSIONER MULVEY: Now, is that
9 being built in America, or is that being built
10 -- the Gulf Coast is a big place, so is it
11 being built in Mexico/Central America, or is
12 it being built in the Gulf Coast of the United
13 States?

14 MR. FOURNIER: Gulf Coast of the
15 United States.

16 COMMISSIONER MULVEY: Okay. Well,
17 thank you very much.

18 CHAIRMAN ELLIOTT: I just have one
19 question. It's a question I've asked pretty
20 much all the shipper panels, and just, we've
21 heard a lot of testimony that the railroads
22 really aren't competing, even where there's

1 competition available, and the conclusion
2 that's been drawn by various groups is if
3 they're not competing, access isn't going to
4 help.

5 So my question has been, if you
6 had your preference, if this is applicable to
7 you, would you rather the Board pursue open
8 access, or look towards improving the rate
9 process? Like you said, Mr. Fournier, you
10 know, speeding up the process, something like
11 that, that might make it a little more useful
12 to you?

13 MR. FOURNIER: Speeding it up
14 would definitely be the big key. But when
15 you're paying, you know, 300, 400 percent of
16 variable cost, it's -- it's not hard to figure
17 out that these guys don't want to negotiate
18 very much.

19 And they like your process, as you
20 heard, because it is so lengthy, because they
21 can do a rope-a-dope with us. I mean, they
22 can just sit back and let is flail away and

1 spend like crazy. And it just goes on and on.

2 So I think anything to expedite it
3 in a proper fashion, as you say, one that's
4 careful, and it's correct, so it's got to be
5 the right decision type of process. But I
6 think that definitely is needed.

7 CHAIRMAN ELLIOTT: And I might not
8 have -- the question might kind of lost a
9 little bit, but would you prefer us to improve
10 that process as opposed to -- if we went one
11 way or another, would you rather us work on
12 improving the regulatory process through rate
13 cases, or would you rather us look more
14 towards open access?

15 MR. FOURNIER: If we could do open
16 access and it resulted in competition, or if
17 you did the other and it resulted in
18 competition, I'd be happy with either.

19 Right now, I'm getting very
20 concerned. Two days ago, before I walked in
21 here, I think it was an easy answer for me.
22 I'd have said the open access.

1 After listening today and
2 understanding that some people that are dual-
3 served, they're in worse shape than I am,
4 because they can't even come to you, whereas,
5 as captive shipper, at least I can come to
6 you.

7 So, you know, it's a tough
8 question. I don't have a right answer, but
9 whichever one can get me to competition faster
10 would be the one I would chose, and
11 unfortunately, I'm not the judge of that. I
12 don't know.

13 CHAIRMAN ELLIOTT: Thank you.

14 Anybody else care to take a crack?

15 MR. FRAUENHEIM: Mr. Chairman, I
16 had mentioned that one of our plants is
17 underperforming versus our plan for that
18 facility, and that facility has -- there's
19 another railroad that's only about six miles
20 away from that facility.

21 If that facility was served by two
22 different railroads, it's our estimation we

1 could increase our volumes from that plant.
2 We've had rate offers at that facility as high
3 as 1076 percent RVC, and obviously, we're not
4 shipping on that lane, because frankly, we
5 couldn't afford it.

6 CHAIRMAN ELLIOTT: Thank you.

7 MR. MACKO: One quick comment.
8 You know, as I listened to comments over the
9 last day and a half, it's clear there are a
10 number of shippers who have rate concerns.
11 Obviously, a rate process in front of the STB
12 I think would be well served.

13 As a shipper and other shippers in
14 the marketplace who are thriving under the
15 existing network setup, we are concerned about
16 across the board changes that have the
17 potential impact on capacity and the ability
18 of the railroads to operate for our benefit.

19 And so we would be very, very
20 concerned about broad-based operational
21 solutions that could negatively impact
22 concerns like USG has relative to the railroad

1 networks' capabilities and future needs.

2 This issue of transportation
3 network for the country, to us, is extremely
4 big, extremely significant.

5 CHAIRMAN ELLIOTT: Thank you.
6 Those were actually very helpful answers. And
7 thank you very much for your comments. And I
8 think we're going to head on to the last
9 panel.

10 COMMISSIONER MULVEY: Thank you.
11 We can begin. Let me see. Are all of the
12 panelists here? I see Mr. Strohmeier, Mr.
13 Varda here.

14 Is Mr. Dickman here, and Mr. Kemp?

15 Okay. Well, Mr. Varda, do you
16 want to begin? Jim will be back in a few
17 minutes.

18 MR. VARDA: Vice Chairman Begeman
19 and Commissioner Mulvey, thank you for
20 undertaking this proceeding and for the
21 opportunity to speak today.

22 I am setting aside our previously

1 submitted written testimony to simply
2 summarize the main points and to provide a
3 couple of observations prompted by testimony
4 given by others over these two days.

5 As background, the associations
6 and shippers in our group were present in the
7 1980s for the collapse of the Class 1s serving
8 what became the Wisconsin Central Lines,
9 principally in Wisconsin and upper Michigan.

10 We were present for the formation
11 of the Wisconsin Central and its competitive
12 successes through the 1990s, and we have been
13 present for the failure of the competitiveness
14 under the control of Wisconsin Central by
15 Canadian National over the last decade.

16 We've participated in all of the
17 related ICC and STB proceedings.

18 Our initial comments and written
19 testimony describe this experience, including
20 specific examples that demonstrate that the
21 independent WC, to have been a competitive
22 model for non-captive freight, and since

1 controlled by the CN, an ongoing example of
2 the failure to compete for non-captive
3 freight.

4 Our principal point is this: the
5 Board cannot effectively review the state of
6 competition in the railroad industry without
7 addressing more broadly the current state and
8 future prospects of the railroad industry's
9 competitiveness for non-captive freight.

10 The burden carried by those
11 subject to differential pricing is, after all,
12 and perhaps, in large part, a function of the
13 effectiveness of the industry's competition
14 for non-captive freight. And by that, we mean
15 freight which contributes to going concern
16 value with revenue-variable cost ratios
17 between 100 and 180.

18 The few allusions to non-captive
19 freight in the record thus far are simply
20 insufficient. Mr. Hamberger's last comment
21 yesterday, leaving on a high note, as it were,
22 suggested railroads work with their shippers

1 to move the available freight. His testimony,
2 his comment was echoed by Mr. Lanigan today.

3 Mr. Burkhardt said, and I'm
4 paraphrasing, an intelligent railroad will not
5 let truck-competitive freight get away if the
6 railroad feels able to quote a rate that will
7 move the freight.

8 Indeed, Mr. Burkhardt's statement
9 was absolutely and positively true of the
10 Wisconsin Central on his watch and until
11 Wisconsin Central came under the control of
12 Canadian National.

13 Speaking to the Wisconsin
14 Department of Transportation annual freight
15 rail conference, November 19, 2008, Mr.
16 Burkhardt described a skew in the North
17 American railroad industry between Class 1s on
18 the one hand and regional railways and short
19 lines on the other.

20 He characterized the Class 1s as
21 having quote, "restructured into plain
22 vanilla, high-volume trunk operations with

1 scant interest in running distribution
2 networks and light-density lines."

3 You might juxtapose Mr.
4 Burkhardt's statement to the passionate
5 description by Mr. Manion today of the
6 importance of velocity, the importance of the
7 efficiency of the operation, and maybe
8 consider, would Mr. Manion's train stop in
9 Albert Lea for the quilts, or deliver supplies
10 to Albert Lea merchandise freight? There is a
11 tension between the trunk line operations and
12 merchandise.

13 In contrast, much like the
14 testimony of General Timmons and Mr. Ogborn
15 yesterday, Mr. Burkhardt characterized
16 successful regional and short lines as
17 concentrating management efforts on rebuilding
18 single-car networks and containerization,
19 focused on customer's requirements, service,
20 and price, and keeping unremitting pressure on
21 cost.

22 This latter description is how the

1 independent Wisconsin Central successfully
2 took lots of trucks off the highways.
3 Examples are provided in our initial comments.

4 It has not been that way for most
5 of the last ten years under CN control, though
6 we are, since our previous testimony in
7 February, cautiously optimistic that the CN is
8 now or may now be ready to address some of
9 those problems we described to you.

10 The Midtec mill that gave its name
11 to the precedent and the standard for
12 competitive access discussed in testimony
13 yesterday is located at Kimberly, Wisconsin,
14 on the Wisconsin Central lines.

15 It has been closed due to the
16 recession. Before closing, among other
17 railroad service problems, the mill was
18 receiving only approximately 60 percent to 80
19 percent of the boxcars it ordered, despite the
20 fact that the railroad had similar cars in
21 storage.

22 The 60 to 80 percent means that

1 the railroad's rates for the mill's non-
2 competitive -- non-captive, highway-
3 competitive freight would have moved at least
4 20 percent to 40 percent more carloads.

5 The railroad had already sold the
6 freight. The freight was not taken away by
7 vigorous truck competition. Trucking the
8 freight was the default when the railroad
9 failed to serve.

10 What does not to compete or
11 failure to compete mean? From our
12 perspective, one way to answer the Chairman's
13 question is, not to compete means that the
14 railroad has set a rate or negotiated a rate,
15 but fails to provide the equipment and the
16 service.

17 Could we make a case of failing to
18 deal or foreclosure under the Midtec
19 competitive use standards? Maybe, but of
20 course, only after a successful petition to
21 revoke the boxcar and commodity exemptions.

22 That's not going to happen. The

1 Board is not going to hear about this type of
2 railroad competitiveness problem, at least not
3 until fuel prices or other factors make
4 trucking prohibitive.

5 Again, from our -- the perspective
6 of our experience, a better standard or an
7 element of the standard for granting
8 competitive access for non-captive freight
9 might be if the incumbent railroad is not
10 moving the freight, let the other guy have a
11 chance to compete the freight off the highway.

12 That's why we said in our initial
13 comments and testimony that the
14 competitiveness problem, from our perspective,
15 has more to do with the service than rates.
16 We provide a number of other examples in our
17 written testimony.

18 Rail carloads, for example, from
19 Packaging Corporation of America's Tomahawk
20 Mill, as well as three others around the
21 country, down from 70 percent to 50 percent
22 since 2005. 2,400 carloads per year from

1 another mill, which WC's competitiveness had
2 increased from 1,000 a year, now down to as
3 few as 20 per year, since about 2003, with the
4 difference having been returned to truck.
5 There are many other examples in the written
6 testimony.

7 Talk about rising rates yesterday,
8 rising rail rates yesterday. The question we
9 think that you should address is, are Class 1
10 rates rising because as a result of the
11 consolidations, the railroads' differential
12 pricing of relatively captive freight has
13 become more effective, allowing them to pick
14 and choose when to accept or to simply forgo
15 the challenges and risks of capturing
16 contribution to going concern value from non-
17 captive freight?

18 Or, in Mr. Burkhardt's words,
19 allowing the Class 1s to focus their attention
20 on plain vanilla, high-volume, trunk line
21 operations with scant interest in running
22 distribution networks and light-density lines,

1 retail railroading that competes with trucks?

2 This is why we are skeptical about
3 the Board's changing its access rules or its
4 policies until it has fully investigated and
5 understands the state of competitiveness in
6 the railroad industry for non-captive freight.

7 Thank you.

8 CHAIRMAN ELLIOTT: Thank you.

9 We'll now hear from Mr. Dickman
10 from the Mercury Group.

11 I believe you have ten minutes.

12 MR. DICKMAN: Chairman Elliot,
13 Vice Chairman Begeman, Commissioner Mulvey,
14 staff and interested parties, my name is Craig
15 Dickman. I would like to thank you for the
16 opportunity to appear before you today.

17 The Board has asked for ideas to
18 improve the competitive marketplace, and at
19 the same time, have a minimum negative impact
20 on the financial health of the industry.

21 With that charge in mind, I would
22 like to discuss an option, bringing

1 transparency of fuel and energy cost to the
2 rail industry that we believe will improve the
3 competitive marketplace for both rail shippers
4 and the rail industry alike, provide for the
5 financial health of the industry and do so in
6 a sustainable way, allow some of the inherent
7 benefits of rail transportation, improved fuel
8 economy, lower emissions, to move from being
9 an interesting concept to actually creating a
10 competitive advantage for the rail and for US
11 shippers.

12 And I believe that this can be
13 advanced through a spirit of collaboration and
14 cooperation, and doesn't require intervention
15 or regulation.

16 With that in mind, I wanted to
17 share some information with you today, and
18 I've got some slides, if I can touch on them
19 for a moment.

20 As part of the Mercury Group, and
21 for background, we're a shipper group focused
22 on managing energy costs across the supply

1 chain. So we work not only with rail and
2 intermodal, but work with truck and work with
3 marine and energy costs in total.

4 And we were asked by a group of
5 our clients to provide insight on the energy
6 costs of some intermodal movements. This
7 specific study we completed focused on 184,674
8 unique freight movements, and included
9 movements between 1,000 and 2,000 miles, and
10 used dry freight containers, just to narrow
11 the study.

12 I'd like to share some of that
13 data. The first chart in what we have
14 indicates really why this is an important and
15 timely issue. Intermodal fuel costs have
16 grown, and the chart highlights the time
17 period from January of 2010 through yesterday,
18 actually. And you can see that it's grown to
19 be a quarter of the total cost, actually more
20 than a quarter of the total cost of moving
21 goods is now the fuel surcharge component of
22 intermodal.

1 For shippers, they need to be able
2 to understand these costs to make effective
3 decisions on how to move their products. For
4 railroads, this is a significant cost, most
5 likely, their most volatile cost, and they
6 must capture and recover it in order to
7 maintain their financial well-being.

8 The challenge, however, is that
9 today's marketplace makes it virtually
10 impossible for a shipper to understand the
11 fuel consumption, the fuel costs, or the
12 energy-related emissions associated with
13 moving their goods, and which are so critical
14 to their decision-making process.

15 It's also a challenge for the rail
16 providers and the intermediaries involved in
17 intermodal transactions. Inherent economic
18 distortion is embedded in today's practices,
19 and requires transportation providers to know
20 that virtually every movement has the
21 incorrect fuel cost, and then folks hope by
22 magic that at the end, it all works out

1 relatively close.

2 That's why we always see
3 transportation providers qualify their earning
4 statements by saying that fuel costs and
5 misalignment of fuel surcharges distort
6 earnings, and that's why we heard at your
7 February 24th hearing, one of the economists
8 mentioned that some of the data that's looked
9 at is difficult to digest because some of the
10 timing issues associated with fuel cost.

11 Now, as we explore the data
12 further and look at the next chart, what I'd
13 like to highlight here is the real fuel market
14 behavior that's taking place.

15 There's three aspects to this
16 chart. The green line is the daily pricing
17 for crude, which some folks use to manage
18 their fuel economy. The blue line is the
19 Department of Energy that is used by many
20 folks to capture fuel surcharge costs. And
21 then the real diesel market price, updated
22 daily, is highlighted in the red, and that

1 gives you an idea of the behavior as it exists
2 for compared to those other indexes.

3 A couple of things we see as we
4 look at this. You know, first you see the DOE
5 index both mutes the daily price changes and
6 frankly misses some of it, and the crude
7 behavior, while an interesting underlying
8 indicator of the raw material of diesel, has
9 a different supply/demand characteristic, and
10 doesn't really represent the costs as they
11 occur.

12 So, if we shift for a moment and
13 take a look at these in change terms, going
14 back to that January 2010 time frame, what we
15 see is that a surcharge that's based on the
16 DOE index, such as if we look particularly --
17 it's a little hard to see, but around the June
18 10th time frame, you can see a separation of
19 the real fuel market behavior from the DOE
20 index, and that creates a distortion in the
21 underlying cost.

22 Conversely, if you look at crude

1 and look at market cost and move out to
2 September, you can see a real separation of
3 those costs, and that change would not allow
4 for reasonable or fair reimbursement. And
5 that's just one of the examples of the
6 economic distortions that underlie fuel
7 surcharges and creates problems for the
8 shipper and rail community alike.

9 When you look at individual
10 movements, those problems become even more
11 exacerbated.

12 And now as we move to the fuel
13 charges associated with those movements, this
14 next chart, I pull forward the two lines that
15 cover the Department of Energy index as well
16 as the real fuel market behavior, and then we
17 add to it the 184,000 movements that we had
18 and what the rail fuel surcharges that
19 accompany those movements were, based on the
20 price mechanisms.

21 What you can see when we look at
22 that is that the relationship between real

1 fuel costs and what the rail fuel surcharges
2 were become exaggerated and distorted when
3 there's movements.

4 This happens to be in about an 18-
5 month period, whereby fuel costs were largely
6 rising. And so what happened is you see that
7 separation of real fuel cost from fuel
8 surcharges, and how it grew during this period
9 of time.

10 If we would look at a time when
11 fuel prices dropped dramatically, and it's a
12 little hard to see, but if you look around
13 that March 2010 time frame, you can see one of
14 the few times that fuel dropped during this
15 period.

16 The surcharge numbers actually
17 fell below real market costs, and would have
18 resulted in under-recovery.

19 So it really highlights some of
20 the challenges that exist with the current
21 methodology and with the behavior that takes
22 place, and it's really artificial behavior

1 that challenges both the shipper and the
2 carrier.

3 So I wanted to highlight today
4 just a couple of the challenges that we see
5 with the current methods. Because of this
6 exaggerated behavior, when compared to the
7 actual fuel marketplace, it ends up being a
8 winner and loser in virtually every movement
9 and every fuel transaction.

10 That does not set up for a healthy
11 relationship between the shipper and carrier
12 when it comes to fuel programs.

13 The fact that fuel surcharges are
14 detached from the underlying markets also
15 creates significant challenges for the
16 shipper. It's difficult for them to budget,
17 because even if they are able to guess what
18 fuel prices will be, they can't necessarily
19 understand the impact of fuel surcharge on how
20 that relationship is.

21 It makes mode decisions difficult.
22 Ironically, shippers make decisions every day

1 between truck and rail, and in this period,
2 you can have times when the fuel prices are
3 going down, fuel surcharges are going up, and
4 the mode that should be the most fuel-
5 efficient, rail or rail intermodal, actually
6 is at a disadvantage.

7 And we've seen folks shift freight
8 to truck, not because of the real behavior
9 that's taking place, but because the truck
10 market adjusts fuel costs differently than the
11 rail industry does.

12 And we also see problems that
13 shippers have had with hedging and managing
14 their risk cost. This price distortion, the
15 fact that there's a disconnection between the
16 real fuel market costs and the fuel
17 surcharges, creates a situation where it
18 doesn't qualify for hedge accounting, and many
19 companies are either not able to hedge in a
20 way they would because of this separation, or
21 have found in the past that they thought they
22 were hedged, but the underlying market's

1 behavior didn't mirror what their charges
2 were, and they ended up paying increased costs
3 and losing the benefits of a hedge.

4 It's our belief that this analysis
5 indicates that the current marketplace
6 methodology is inefficient and does not
7 support an open and competitive marketplace.

8 At the same time, we believe the
9 opportunity to do so exists today. We believe
10 that, you know, bringing energy life cycle
11 transparency and a common view of fuel costs,
12 both pricing and consumption related to fuel
13 movements, will enable better decision-making.

14 It's possible to have an accurate
15 reflection of fuel cost and price movements
16 that will ultimately build trust between the
17 shipper and the carrier, and alignment of the
18 fuel market with the reimbursement provided to
19 transportation providers will also ensure that
20 their earnings aren't distorted, that they're
21 recovering this most volatile cost, and that
22 the shippers are able to make adequate

1 decisions.

2 Further, we believe the result
3 will be that rail and rail intermodal
4 movements will become more competitive, and
5 when we have these principles applied, lead to
6 more conversion of freight to rail.

7 We also don't believe that these
8 movements will take place organically. We
9 believe it will take a clear and decisive
10 public policy to move the industry toward a
11 more open and transparent --

12 (Coughing.)

13 Sorry.

14 (Pause.)

15 Oh well. I think I'm okay.

16 CHAIRMAN ELLIOTT: You're back.

17 MR. DICKMAN: Yep. So we think
18 there's a real opportunity here, and believe
19 that an operation of -- excuse me. Thanks,
20 John.

21 Again, we believe there's an
22 opportunity for public policy to create this

1 change. And what we'd like to see is not
2 necessarily a quest for regulation, but a
3 movement to create a dialogue, and would like
4 to participate -- that members of our
5 organization and our shipper community would
6 like to participate in that, and believe that
7 we can really bring an open and transparency
8 of fuel, one of the most difficult costs to
9 manage, and one of the areas that brings some
10 real consternation between the two parties
11 into one where real collaboration can be
12 fostered.

13 Thank you.

14 CHAIRMAN ELLIOTT: Thank you, Mr.
15 Dickman.

16 Mr. Strohmeier, I believe you have
17 two minutes.

18 MR. STROHMEYER: Thank you, Mr.
19 Chairman, and thank you for giving me the
20 opportunity to speak today.

21 I had not originally intended to
22 participate in this proceeding, but I'm

1 grateful to the Board for the opportunity.

2 I've provided the Board with some
3 written comments. Unlike some people, I
4 actually enjoy going last, because it allows
5 me to depart from some of my written testimony
6 and talk about a little bit about what I
7 heard.

8 And there were two points that I
9 felt more than what I wrote in my written
10 testimony that may need -- I wanted to
11 address. One was the Chairman's idea of a
12 pilot project. A couple of ideas that had been
13 circulated, and one point for the new Vice
14 Chairman on some of the representations that
15 had been made with regards to reciprocal
16 switching and open access.

17 So the first point I'd like to
18 briefly make, aside from the fact that I don't
19 think regulation or looking at stuff at this
20 point in time with regards to open access or
21 reciprocal switching necessary, a pilot
22 project, I think, would suffer from some

1 severe legal challenges, one of which I think
2 is fatal.

3 But I do believe that a partial
4 project is somewhat possible without creating
5 a legal headache. And one of the issues that
6 had been raised previously, and for some
7 reason, nobody talked about it, was, as a
8 result of the Conrail merger, we had the
9 creation of two of the largest open access
10 areas as part of the process, along with all
11 the associated operational headaches. The
12 Board had direct monitoring of that for almost
13 ten years, in fact, just recently gave that up
14 in 2008.

15 So, for some reason, the Class 1s
16 completely decided to ignore discussing
17 anything about the trials and tribulations of
18 the competitive access issue that occurs
19 within over 400 miles of track in some of the
20 most important markets in the United States
21 with regards to competitive rail access. And
22 that issue had not been addressed prior to

1 that.

2 So subsequently, I felt that it
3 was something that the Board may want to
4 consider. And I know my time is up here. But
5 I did have some ideas on what you might be
6 able to do for a potential pilot project, if
7 the Board is interested in hearing about them.

8 CHAIRMAN ELLIOTT: Thank you very
9 much.

10 Commissioner?

11 COMMISSIONER MULVEY: Nothing too
12 much. In terms of the Wisconsin Central, I
13 was privileged to work for the state Wisconsin
14 on the first state Wisconsin rail plan, and
15 Wisconsin has always been very much involved
16 in rail. And in fact, back in those days, the
17 WC was pretty much one of the best Class 2
18 railroads in the country, and it gave very,
19 very good service. So I do follow what's
20 happening with Wisconsin and Wisconsin Central
21 and the CN with particular interest. So
22 that's pretty much all I wanted to say on

1 that.

2 With regard to the fuel
3 surcharges, do you feel that what the Board
4 tried to accomplish, back when it had its
5 hearing and its rules, that that we had -- we
6 were going in the right direction? We're
7 trying to tie the fuel surcharges to fuel
8 consumption.

9 Do you have any way that you think
10 that we can actually do a better job of that?
11 There seems to be a lot of shippers saying
12 that the fuel surcharges still aren't
13 reflecting consumption of fuel, and it's still
14 unclear what -- because we have these indices.

15 You had the West Texas crude
16 measure as well as the DOEs. Would it be
17 better to just tie it to that, as opposed to
18 a case-by-case analysis?

19 MR. DICKMAN: Well, a couple of
20 thoughts. You know, first off, I think the
21 Board definitely moved in the right direction
22 with the move away from percentage-based fuel

1 surcharges. You know, when you look at
2 percentage-based surcharges, they really do
3 blow out, and so I think the fact that you
4 made that change is very positive.

5 I think the fact that the industry
6 as a whole didn't move to it across all
7 commodities and for intermodal as an example,
8 continue to use percentage-based programs, is
9 a sign really that the industry doesn't move
10 easily, and I think it would be helpful if the
11 industry frankly moved on intermodal and
12 others to -- away from the percentage-based
13 movements first. So I think it is moving in
14 the right direction.

15 I do think that it used to be very
16 difficult from a technology standpoint to
17 capture fuel costs, capture fuel consumption,
18 but in this day and age, with information
19 availability, with real-time access to data,
20 we find the ability to capture fuel costs and
21 consumption in real-time as something that's
22 very possible.

1 The organization that we're part
2 of actually has processed so far over 14
3 million movements on the day of the shipment
4 to identify the rail costs and the rail
5 consumption in order to get down to a very
6 specific movement level of what the behavior
7 is of fuel costs.

8 And so we think there's a number
9 of things that can be done to start moving
10 toward a more accurate measure, start
11 eliminating the economic distortion, whether
12 it's the timing, the geography, the fuel tax,
13 the different impacts of the market, there's
14 some real opportunities to move toward a very
15 transparent marketplace.

16 And it's amazing when you think
17 of, you know, really the underlying mechanisms
18 haven't changed from the times back in the
19 '70s when the first fuel programs started in
20 with the fuel crisis, and all the advances of
21 technology haven't really been applied to
22 something that's now 25 percent of the cost of

1 moving these goods.

2 COMMISSIONER MULVEY: Thank you.

3 One point on the revocation of exemptions.

4 When you mentioned that, you sounded as though
5 you said it's not going to happen, that the
6 Board wouldn't entertain that.

7 The problem was, we really don't
8 get many requests for revocation of exemptions
9 unless they're specific revocations in order
10 to deal with a specific problem. In my time
11 here at the Board, I can recall one
12 revocation, and that was to deal with a
13 problem in Texas with cottonseed oil.

14 But I think the Board would
15 entertain a revocation of exemption if it was
16 put forward. But it's not as though the Board
17 would dismiss those out of hand. And I'm not
18 sure if you're indicating that in your
19 statement.

20 Mr. Varda?

21 MR. VARDA: I was referring to
22 revocation relative to a competitive access

1 problem, not the fuel --

2 COMMISSIONER MULVEY: No, and
3 that's what I meant. I didn't mean with the
4 fuel. I meant revocation of exemption with
5 regard to a class exemption or a commodity
6 exemption, or a --

7 MR. VARDA: I think when you look
8 at a shipper like Midtec Mill, and you look
9 around, similar facilities, similar problems,
10 in our experience.

11 The shipper's not going to
12 petition and come here. They're going to put
13 it on truck, you know, until trucking is so
14 prohibitively expensive -- in other words,
15 until the non-captive person move towards
16 being more captive, you're not going to hear
17 about it. And there's a lot of opportunity
18 cost and waste in between this time and that
19 time, and that's what we're concerned about.

20 COMMISSIONER MULVEY: Okay.
21 That's all I have. Thank you very much.

22 VICE CHAIRMAN BEGEMAN: Just a

1 question, Mr. Dickman. As far as the
2 collaboration and what the data points are
3 that you ultimately conclude, where does that
4 information go?

5 How is that information then made
6 public or transparent to the shipper, or to
7 the carrier, to whoever needs to know what the
8 rate impact is?

9 MR. DICKMAN: That's a great
10 question. We started working with shippers in
11 2005. And what we do is calculate the price
12 on every given day for every given movement,
13 and then provide it to the shipper and to the
14 rail provider, so it's part of an agreement
15 between the two.

16 So what's happened is we've got
17 shippers who have decided to move toward this
18 more market-based fuel program. We've had
19 meetings with all their providers.

20 So, as an example, we may have one
21 shipper whose connected with 250 different
22 transportation providers. We're connected

1 electronically with all of them. Everybody
2 agrees on the rules in advance.

3 And then every time a freight
4 movement is moved, we're calculating,
5 auditing, and providing that data to the
6 people who are involved in the transaction.

7 So there's absolute transparency.
8 So now the shipper has an understanding of
9 what's the fuel cost, what's the consumption,
10 what are the emissions. It's the same
11 information the transportation provider has,
12 frankly, in many occasions, the same
13 information that the fuel provider has,
14 because they're part of this transaction as
15 well. And it really has changed decision-
16 making a great deal.

17 If I can share one example, we
18 have a shipper who was making a decision
19 between trucking movements and intermodal
20 movements, and their customer was concerned
21 about intermodal because of the additional
22 transit time and the fact that it would take

1 some additional inventory.

2 But by providing this
3 transparency, they were able to go to their
4 end customer and say, we've got a real
5 opportunity here. If you're able -- if you
6 allow us to move this on intermodal, we can
7 take out this much fuel. It will remove this
8 many emissions, and that is a tradeoff that
9 we'd like to discuss around whether it's worth
10 a little bit more inventory or not.

11 So it changes the whole discussion
12 and the dialogue when everyone has that
13 transparent information, and we've seen some
14 really interesting innovative decisions made
15 from having it, where now, those get hidden.

16 You know, the rail industry talks
17 about improved fuel economy and emissions.
18 It's absolutely correct. But if the shipper
19 can't see the benefit and move it out to their
20 marketplace, behavioral change doesn't take
21 place.

22 And what we want to do is connect

1 that -- the facts with that behavioral change.
2 And then again, I think we find that rail is
3 more competitive, and it enhances the
4 competitive position of those individual
5 shippers as well.

6 VICE CHAIRMAN BEGEMAN: One final
7 thing. I know that you wanted to mention
8 something to me, and your time ran out. If
9 you could briefly just touch on that.

10 MR. STROHMEYER: Oh. You've heard
11 a couple of discussions today about three
12 terms, reciprocal switching, open stations for
13 switching, and open access.

14 And in listening to your questions
15 over the time and many of the answers that you
16 have been previously given, you sort of got
17 the -- I was given the impression that you
18 sort of were lumping this all into one
19 category.

20 And I didn't know if you were
21 aware, they are three very distinctively
22 different types of access, each with their own

1 little nuance, and I was kind of surprised
2 that the Class 1s couldn't better articulate
3 what the various versions were between the
4 two.

5 Reciprocal switching has always
6 been, if you're interested in knowing, the --
7 reciprocal means to reciprocate. You give me
8 something, I give you something.

9 It was voluntary agreements within
10 -- where two railroads would cross, let's say,
11 if Senator Franken's plant was a mile up the
12 road or two miles up the road from where these
13 two rail lines would intersect, and he was on
14 carrier A, and a grain mill would open up on
15 carrier B two miles from the junction and
16 where it was mutually beneficial, instead of
17 building independent branch lines to go serve
18 each of those respective customers, the
19 railroads would open, through reciprocating,
20 I will switch the facility on your behalf, and
21 you can switch this facility on my behalf, and
22 the customers would have access at both those

1 points.

2 And they were done basically
3 through mutual reciprocation, and that was a
4 voluntary agreement amongst the railroad as
5 opposed to a forced access.

6 The next portion that you hear
7 would sometimes, you know, it's the give and
8 take that was given for various uses of their
9 system, and they would prescribe that in their
10 rates and how it was structured.

11 The other one was where they would
12 open a station for switching, which is usually
13 at the request of a specific customer, a
14 particular customer would -- the railroad
15 would say, you know, customer A, in order to
16 locate the plant on my facility, he had
17 certain moves that, let's say, went -- tended
18 to lead to going to a natural carrier.

19 So what would happen is, as an
20 inducement to locating the plant, the railroad
21 would open a station to competitive access
22 through that.

1 And then of course, the third
2 process, which is one that every railroad will
3 have a cringe over, which is true open access,
4 which means any carrier can come in and
5 actually service a facility, and that sends
6 chills down every railroad's spine, including
7 my own.

8 And I didn't know if anybody had
9 adequately explained that to you, and what the
10 various components were.

11 VICE CHAIRMAN BEGEMAN: I think I
12 got it after I asked the question; I was a bit
13 confused the first time.

14 MR. STROHMEYER: Yes. There were
15 three distinctive types of services and how
16 they got into the marketplace, and I was
17 hearing people talk about one size fits all.
18 They were usually negotiated amongst the
19 railroads themselves, and that was simply to
20 avoid buildouts primarily through mutual
21 agreement. It was a much more efficient way
22 of doing it.

1 But I just thought I would bring
2 that to your attention in case you weren't
3 clear -- nobody had given a clear explanation
4 as to what it was.

5 CHAIRMAN ELLIOTT: Thank you very
6 much. I don't have any questions.

7 I just wanted to note,
8 coincidentally, I will be in Tomahawk,
9 Wisconsin in August, so I look forward to --
10 actually, I went to camp in Rhinelander, so,
11 it will bring back bad memories.

12 Anyhow, I am very thankful for
13 your participation and for everyone's
14 participation. I think it's been a successful
15 hearing.

16 Two procedural notes before we
17 adjourn and take all the comments under
18 advisement. First of all, for those of you
19 who haven't heard, if you have presented any
20 type of PowerPoint, we ask you to provide two
21 copies of that to the Office of Proceedings in
22 the appropriate manner for filing.

1 Also, final procedural comment, we
2 will keep the record open for 30 days.

3 There's been a lot of questions and answers,
4 and sometimes people weren't able to answer
5 questions or maybe want to clarify some of the
6 questions -- I mean answers that they gave.

7 So we will keep the record open
8 for 30 days to give people the opportunity to
9 supplement with respect to those matters. I
10 think that will be helpful to the Board and
11 probably helpful to yourself.

12 So, with nothing further, thank
13 you very much, and the hearing is now
14 adjourned.

15 (Whereupon, the above-entitled
16 matter was concluded at 1:58 p.m.)

A				
AAR 17:22 148:19 155:13	103:5 abuse 147:6 170:8	106:4 122:19 145:6	actively 51:15 activity 274:8	adequate 39:14 113:3 148:1
AARCS 197:13	abuses 169:20	accidents 165:4,17 213:8,10	actual 52:3 122:9 166:13 171:10	256:11 257:16 268:7 328:22
abandoned 252:6	Acadiana 25:15	accommodate 64:1 82:22 238:16	213:22 244:15 326:7	adequately 147:10 153:4 210:2 345:9
ability 28:6 39:7 42:7 51:9 58:1,7 58:10 73:21 77:8 78:17 89:4 94:19 97:5 100:14 101:2 101:4 103:16,17 104:20 108:3 109:5 122:12 137:21 138:9 146:20 154:11 156:1 179:15 207:9 210:1 245:15 246:20 247:1 254:5 261:13 292:15 308:17 335:20	accelerate 291:13 accelerated 199:18 accept 31:8 143:21 166:1 236:8 317:14 accepted 144:1 256:16 304:2 access 16:15 17:2,5 24:14 25:1 26:6 27:14,19,21 28:7 28:13 29:22 30:13 31:18 43:15,20 44:6,9,21 49:2 52:9 88:9 101:7 101:13,20 102:2 115:19 130:7 153:21 154:19 155:1 159:6 170:10 206:9 207:6 208:20 209:4,22 210:18 210:22 214:17 215:12,16 221:10 224:12,19,20 236:3,5,12,12,22 237:9,11 239:16 240:2,7,13 242:3 246:21 247:2,5,10 248:5 258:8 260:16 261:6 268:14 277:13 288:15,17 289:2 296:6,7,16 305:3 305:8 306:14,16 306:22 314:12 316:8 318:3 331:16,20 332:9 332:18,21 335:19 337:22 342:13,22 343:22 344:5,21 345:3	accommodating 278:3 286:18 accompanied 8:12 accompany 324:19 accomplish 240:16 246:7 334:4 account 210:17 accounting 285:6 327:18 accounts 138:4 accurate 23:2 43:10 328:14 336:10 acid 187:18 189:11 acknowledge 134:19 acoustical 273:18 acquired 256:17 acquiring 14:17 16:14 acquisition 285:7 285:15 acquisitions 63:22 act 13:4 30:15,22 40:11,13,20 47:14 48:19 49:10 76:8 76:10 91:5,6,6 93:22 118:12 124:10,16 169:22 183:12 199:20 254:10,17 275:22 286:12 294:15 acting 100:2 action 85:12 107:4 109:14 283:8 actions 32:4 44:20 56:18 78:8 107:11 146:17,18 165:21 165:21 291:6 active 16:13,20 18:4 82:18	act's 294:21 Adams 6:3 adapted 294:17 add 47:3 103:18 134:11 191:4 221:22 238:20 255:19 324:17 added 13:11 198:16 255:20 adding 213:3,8 226:12,13 290:2 addition 20:8 36:15 113:13 114:4 140:1 153:15 207:12 additional 14:1 17:5 134:11,16,17 203:2 215:14 223:13 240:15 242:7,7 255:11,20 256:18 261:2 267:6 340:21 341:1 additionally 105:16 195:5 address 17:22 18:18 20:19 39:7 125:22 140:10 147:10 155:2 159:10 198:2 261:20 285:22 291:16 297:14 314:8 317:9 331:11 addressed 332:22 addresses 56:1 addressing 39:3,5 311:7 adds 131:12 135:18 adequacy 22:9 113:22	adjoin 9:22 346:17 adjourned 347:14 adjusted 76:20 128:19 adjusts 327:10 admit 303:16 adopt 32:8 245:9 245:10 adopted 17:12 170:14,16 254:7 adopting 33:4 advance 208:6 340:2 advanced 319:13 advances 336:20 advantage 48:2 93:15 106:1,6 112:7 136:6 157:10 207:2 232:11 238:10 240:6 302:19 319:10 advantages 91:16 adverse 29:7 41:4 44:2,3 209:5 adversely 78:17 206:10 advice 94:13 advisement 346:18 advocate 116:16 156:3 advocated 161:4,5 advocating 57:14 184:3 AECC 35:12 38:17 AECC's 34:20 aerosol 252:10 253:11 257:3 Affairs 157:9
able 15:14,17 28:16 40:14,15,17 49:21 61:8,15 78:13 86:20 133:1 137:7 151:14 152:11 170:4,18 185:1 187:6 188:6 203:7 209:16,18 220:9 227:20 230:4 237:20 238:16 242:17 245:7 299:13,14 312:6 321:1 326:17 327:19 328:22 333:6 341:3,5 347:4	accessibility 185:11 accessible 28:12			
abnormally 300:17 above-entitled 1:16 347:15 absolute 217:6 340:7 absolutely 58:14 199:22 215:22 281:13 284:21 312:9 341:18 absorb 102:10				

affect 78:17,21 155:22 206:10	148:13	331:4	127:8,20 172:2 262:14 274:5	315:12 347:4
afford 124:3 137:8 276:18 292:5 308:5	ahead 182:16,16 210:2 250:22	allusions 311:18	278:19,20 282:21 286:7,13 312:17	answered 56:20 93:6
affordable 278:18	aim 108:18	all-contract 155:22	America's 116:18	answers 10:9 224:10 309:6 342:15 347:3,6
afraid 117:20	air 13:3 207:21,22 208:8	Altamira 263:5	273:11 275:2 288:9 293:20 316:19	anti 283:5
aftermath 200:2	AKDN 131:21 132:3,8	alter 208:22 236:18	ammonium 138:2	Anti-competitive 138:16
afternoon 250:1 262:6	Al 2:6 8:24	altering 211:7	amount 20:14 45:8 94:9 114:6 134:17 158:12 170:22 174:5 179:21 212:20 219:20	anti-trust 92:5
ag 196:13,14 197:10 222:8 234:19 249:11	Alabama 145:18	alternate 277:12 288:14	amounts 248:22 290:21	anxious 65:1
age 122:22 335:18	alarming 57:8 73:9 157:6	alternative 96:2 113:7 114:15 143:3 144:7 254:2 298:11	ample 211:19	anybody 71:11 96:5 171:3 183:8 184:8 307:14 345:8
agencies 33:1	Albert 279:8,17,21 280:3 313:9,10	alternatives 17:17 259:8 261:3,5 269:14 293:16 296:20,21,22	Anaheim 255:13	anymore 217:15 242:18
agenda 258:7 259:4	algorithms 210:8	amazing 336:16	analogous 207:20	anytime 233:12
aggressive 94:10 254:13	alignment 328:17	Amendment 160:2	analogy 240:18	anyway 69:13
aggressively 207:15	alike 135:11 296:9 319:4 324:8	Ameren 2:9,11 7:5 11:22 12:6,7,15 12:22 13:6,13,21 14:5,14,20 15:18 15:22 16:9,13,19 16:22 17:3,11 18:5,15,20 19:3 19:10,12 20:10,12 20:18 21:2,3,13 23:5 35:19 47:5 48:13 52:4 53:12 55:6 58:17 65:16	analysis 186:12 analysis 38:9 138:3 304:3 328:4 334:18	apparent 50:17 51:7
ago 63:14 67:8 73:9 96:4 103:10 119:9 135:6 146:5 159:8 189:7,8 190:3 233:17 306:20	alive 199:12	Ameren's 12:11,21 14:12 16:8,16 19:22 64:20	and/or 58:2 121:5 258:6	apparently 54:7
agree 59:12 71:20 89:7 90:1 151:22 153:7 186:9 275:14	alkali 140:17 141:2	America 1:1 3:10 7:18 79:18 80:1 204:22 252:11 253:9 263:5 268:10 273:9 278:20 282:7 286:7 304:9,11	anecdotal 51:22 53:10	appear 33:8 98:20 265:4 318:16
agreed 19:10 237:4	allegations 213:18	American 29:10,11 76:19 84:11 85:15 105:20 106:20 110:11 115:18,19 117:5 120:20 124:3,7 126:6,19	ANN 1:21	APPEARANCES 2:1
agreement 60:6 107:8 167:15 168:5 236:10 339:14 344:4 345:21	alleging 57:18		anniversary 269:21 301:10	appeared 14:16
agreements 107:10 107:12,13,19 111:18 130:2 155:8 175:3 176:3 192:19 193:4 222:16 236:15 288:16 343:9	alleviate 217:22		announced 263:9	appendix 160:2
agrees 282:16 340:2	allocate 91:15 94:3		announcing 283:21	applaud 45:6
agricultural 128:5 278:13	allocation 92:14		annual 83:5 110:20 111:11 249:15 293:6 312:14	Apple 263:6 267:7
agriculture 24:19	allow 17:1,5 27:19 27:21 32:1 48:19 85:14 87:5 88:8 93:8 107:11,18 110:5 136:13 153:21 166:21 246:11 248:9 271:3,5 285:7 298:1 299:20 319:6 324:3 341:6		annually 12:14,17 35:15 253:15 297:16	applicable 305:6

250:19 261:15 277:17 286:18,22 287:2 appreciated 98:6 285:11 appreciates 47:3 109:16 approach 300:9 approached 21:21 approaches 231:5 303:19 approaching 23:10 appropriate 52:12 71:4 94:5 167:5 226:9 346:22 approval 32:3 approved 159:8 303:18 approximately 12:13,16,17,20 110:8 134:15 162:8 274:13 293:5 314:18 AR 2:18 arbitrarily 133:18 area 25:14 100:2 100:13 107:9 133:7 175:14 197:6 areas 83:15 107:17 124:22 130:9,10 132:18 196:16 197:10 330:9 332:10 Arguably 204:21 argue 43:7 153:3 arguing 31:16 argument 31:3 188:20 arguments 80:21 112:22 218:5 266:3 Arkansas 2:14 7:8 34:17,19 35:11,13 35:17 Arkema 3:14 7:22 98:11,18,19 99:1	101:13 109:16 174:8 192:2 194:14 Arkema's 100:7 101:18 arm 281:9 arrange 74:19 87:17 arrangement 223:21 224:17,21 230:6 237:7,10,12 240:14 arrangements 133:17 223:6 237:3 array 273:13 274:3 arrival 208:6 articles 47:16 49:13 articulate 343:2 artificial 138:17 325:22 artificially 153:15 Asia 105:4 aside 309:22 331:18 asked 31:22 32:6 42:20 53:7 61:7 92:19 130:8 174:9 226:22 234:12 250:2 256:14 257:9 279:16 304:19 318:17 320:4 345:12 asking 39:16 40:4,5 44:19 52:5 88:6 95:19 117:19 asks 28:19 124:18 125:3 132:16 233:12 265:10 aspect 196:8 aspects 322:15 asserted 199:5 assertions 19:14 197:22 assessment 38:13 asset 78:22 142:5	285:8 assets 203:1,1,22 204:6 220:20 221:3,5 226:2,9 assist 23:7 assistance 54:21 132:6 136:21 298:8 associated 143:15 145:16 156:6 166:20 177:7 256:20 264:2 321:12 322:10 324:13 332:11 association 3:9 7:18 76:18 79:18 79:22 80:4 168:19 associations 310:5 assumption 21:16 assure 18:5 153:6 atmosphere 75:8 attached 47:16 attempt 117:1 160:18 attempted 200:1 265:7 attempts 21:8 94:3 attention 264:6 317:19 346:2 attitude 112:10 attorney 301:9 attorneys 270:16 attract 40:17 42:8 123:5 187:14 attractive 292:9 attributing 68:7 auditing 340:5 August 346:9 authority 32:21 39:10 48:4,8 107:3 159:4 283:7 authorization 97:11 authorized 44:12 automobile 234:19 automobiles 186:14	automotive 195:6 avail 160:8 availability 335:19 available 24:10,12 26:9 38:21 47:13 103:8 108:14 115:7 124:19 133:13 147:8 157:4,8 296:20,20 296:21 305:1 312:1 availing 269:17 avenue 2:12 3:2,16 20:22 59:1 148:1 302:14 average 15:9,12 62:20 68:15 76:19 111:11,12 113:19 121:1,2 128:16 228:3 250:9 297:21 aviation 91:9 avoid 155:11 213:12 224:7 345:20 avoided 27:10 106:6 224:8 awarded 49:16 awards 199:1 aware 18:20 31:2 129:13 181:6 234:11 235:13 251:9 263:17 298:9 342:21 awkward 290:3 a.m 1:17 10:2 <hr/> B <hr/> b 221:4 244:6,7 266:17 343:15 baby 300:10 back 10:5,16,19 34:3 40:9,12,15 49:16 54:16 55:3 62:13,17 65:7 67:21 70:1 90:17 91:12 162:17	166:13 167:6 173:4,20 188:9 190:22 193:18 198:6 200:4 204:5 204:7 226:2 235:3 240:13 275:9 276:14 282:18 302:18 305:22 309:16 323:14 329:16 333:16 334:4 336:18 346:11 background 310:5 319:21 backstop 21:7 48:21 58:10 59:16 bad 69:10,13 281:12 346:11 bag 266:19 Baker 3:19 7:24 109:21,22 116:1 182:22 183:3 Bakken 197:2,3 balance 30:20 66:21 91:14 100:12 106:16 107:7 170:6 balanced 138:21 balances 103:12 109:4 154:8 Baltimore 3:3 86:11,18 ban 133:2 band-aid 135:2 bangs 202:8 bankrupt 76:3 bar 22:8,8 barge 17:4 150:22 151:3 barges 197:9 barging 21:6 Barley 4:4 barrier 130:19,20 131:10 132:1,7 133:8 167:12,18 168:2 169:10 271:15
--	---	--	--	---

barriers 31:12,17 42:13 94:17 130:6 131:16 132:11,21 133:4,12,15 138:17 167:10,13 167:14 168:16,20 169:1	181:4,14 182:7,22 183:6 194:21 226:21 228:6,8 230:12,18 231:6 231:17 233:1,13 233:21 234:9,13 235:16 249:20 250:11,16 262:5 272:18 295:8,13 295:20 297:2 298:6 309:18 318:13 338:22 342:6 345:11	154:20,22 157:15 160:20 163:15 168:4 171:11 172:13 173:7 189:3 198:5,21 205:15 222:16 238:4 257:22 258:9,22 287:16 318:11 319:2,12 328:8,9 329:2,7,9 329:18,21 330:6 330:16 332:3	159:22 170:10 202:14,22 220:9 227:15 243:6 246:11 248:11 280:14 302:3 316:6 328:13 334:10,17 343:2	blocking 213:2 blocks 128:1 210:13 228:17 229:9 blow 335:3 blue 322:18 bluff 65:15 bluffing 64:13 BN 47:21,22 48:18 48:22 49:1 62:4 83:9 200:14 BNSF 5:1 8:11 14:21 19:5,7,16 20:19 22:17 47:15 49:16,18 70:1 131:21,22 132:4,9 194:18 195:2 197:17 198:7 199:15 201:14 205:7 BNSF's 19:13 BN's 48:9 board 1:3,13 12:8 18:12,19 19:5,9 21:1,7 28:19 29:12 35:1 39:2 42:20,22 43:5 44:5,19 47:1 48:3 51:13 52:5,20 56:13 58:1 59:4 60:6,10 70:2 78:16 79:12 85:12 88:9 92:10 94:2 95:19 98:20 100:3 107:5,15 109:6 117:19 118:3,5 124:14,18 125:3 125:17,20 130:8 137:8 138:13,20 149:11 154:20 155:4 156:17,18 156:21 158:3,14 159:1,3 170:14 176:4,13 181:5 182:2,9 183:1,11 184:18 206:13 213:14 214:15
base 285:8 based 36:8 53:19 55:6 95:9 111:21 112:14 117:16 120:14 121:15 126:11 147:4 184:5 239:1 254:13 264:11 303:14 323:15 324:19	250:11,16 262:5 272:18 295:8,13 295:20 297:2 298:6 309:18 318:13 338:22 342:6 345:11	258:9,22 287:16 318:11 319:2,12 328:8,9 329:2,7,9 329:18,21 330:6 330:16 332:3	beyond 67:7 90:11 bid 16:8,11 199:8 bidding 16:1 47:18 50:15 62:12 bids 14:20 16:5,10 20:2 53:20 54:3 big 114:18 201:18 202:8 227:22 246:9,15 280:19 295:17 303:2 304:10 305:14 309:4	blow 335:3 blue 322:18 bluff 65:15 bluffing 64:13 BN 47:21,22 48:18 48:22 49:1 62:4 83:9 200:14 BNSF 5:1 8:11 14:21 19:5,7,16 20:19 22:17 47:15 49:16,18 70:1 131:21,22 132:4,9 194:18 195:2 197:17 198:7 199:15 201:14 205:7 BNSF's 19:13 BN's 48:9 board 1:3,13 12:8 18:12,19 19:5,9 21:1,7 28:19 29:12 35:1 39:2 42:20,22 43:5 44:5,19 47:1 48:3 51:13 52:5,20 56:13 58:1 59:4 60:6,10 70:2 78:16 79:12 85:12 88:9 92:10 94:2 95:19 98:20 100:3 107:5,15 109:6 117:19 118:3,5 124:14,18 125:3 125:17,20 130:8 137:8 138:13,20 149:11 154:20 155:4 156:17,18 156:21 158:3,14 159:1,3 170:14 176:4,13 181:5 182:2,9 183:1,11 184:18 206:13 213:14 214:15
basic 127:20 164:10 basically 55:4 64:22 71:2 90:3 92:22 177:9,14 236:4 280:5 301:9 344:2	5:20 6:1,5,10,16 12:7 46:3,16 90:18 98:19 139:8 140:17 180:13,15 205:19 343:20,21	believed 159:14 believes 16:19 20:12 38:17 49:9 85:11 115:4 124:10 154:10 155:4 Belt 135:8 Beltville 3:12 bend 226:15 beneficial 71:15 298:14 343:16 benefit 19:6 35:2 78:4,11 88:15 132:17 136:8 153:17 213:6 242:4 258:15 277:6 289:19 290:4 308:18 341:19	bigger 52:2 196:18 biggest 88:17 158:10 bill 163:5 252:2 266:20 billion 74:16 75:7 77:1 141:22 150:11 154:18 billions 77:14 142:1 165:9 207:4 284:1 bills 91:8 177:15 281:2 bio-fuels 126:22 bipartisan 285:9 bit 34:10 43:13 47:6 49:15 58:17 62:16 65:14 67:15 94:21 174:18,20 176:18 182:20,20 231:4 243:1 244:3 245:3 306:9 331:6 341:10 345:12	blow 335:3 blue 322:18 bluff 65:15 bluffing 64:13 BN 47:21,22 48:18 48:22 49:1 62:4 83:9 200:14 BNSF 5:1 8:11 14:21 19:5,7,16 20:19 22:17 47:15 49:16,18 70:1 131:21,22 132:4,9 194:18 195:2 197:17 198:7 199:15 201:14 205:7 BNSF's 19:13 BN's 48:9 board 1:3,13 12:8 18:12,19 19:5,9 21:1,7 28:19 29:12 35:1 39:2 42:20,22 43:5 44:5,19 47:1 48:3 51:13 52:5,20 56:13 58:1 59:4 60:6,10 70:2 78:16 79:12 85:12 88:9 92:10 94:2 95:19 98:20 100:3 107:5,15 109:6 117:19 118:3,5 124:14,18 125:3 125:17,20 130:8 137:8 138:13,20 149:11 154:20 155:4 156:17,18 156:21 158:3,14 159:1,3 170:14 176:4,13 181:5 182:2,9 183:1,11 184:18 206:13 213:14 214:15
Basin 12:15 13:2,7 13:11 25:20 203:4 250:12 basis 52:16 88:21 171:18 249:12,15 250:10 289:10,13 293:17 Bay 6:13 Beach 240:20 bear 202:3,4 227:4 bears 83:20 becoming 48:11 158:5 began 12:22 15:21 20:9 Begeman 1:21 12:4 34:6 57:6 59:20 60:15,22 61:19 79:21 85:22 87:15 88:2 92:21 98:15 116:9 149:19 176:10 177:11,22 178:3,8,12,21	behave 92:2 behaved 54:16 behavior 112:1,3 120:10 138:16 322:14 323:1,7,19 324:16 325:21,22 326:6 327:8 328:1 336:6 behavioral 341:20 342:1 behaviors 120:12 beleaguered 76:9 belief 144:2 171:20 172:4,8 291:21 328:4 believe 10:14 18:11 20:21 34:3 38:1 50:2 52:20 53:19 59:2 72:13 78:3 79:9 83:3 106:8 107:1 108:22 117:8 124:16 129:2 142:18 146:3 147:1,20 148:8,11,16	benefits 18:12 81:6 82:2 93:2 120:17 126:18 127:10 206:7 319:7 328:3 benefitted 73:15 77:12 108:8 200:10 254:11 best 38:17 39:14 75:11 85:11,14 97:6 135:4 239:1 287:22 288:1 293:10 295:2 333:17 better 37:16 46:9 63:10 77:20 82:4 94:4 114:9 115:19	309:4 bigger 52:2 196:18 biggest 88:17 158:10 bill 163:5 252:2 266:20 billion 74:16 75:7 77:1 141:22 150:11 154:18 billions 77:14 142:1 165:9 207:4 284:1 bills 91:8 177:15 281:2 bio-fuels 126:22 bipartisan 285:9 bit 34:10 43:13 47:6 49:15 58:17 62:16 65:14 67:15 94:21 174:18,20 176:18 182:20,20 231:4 243:1 244:3 245:3 306:9 331:6 341:10 345:12 bleach 164:9 blend 255:22 blending 256:20 blessed 304:3 block 28:7 212:12	blow 335:3 blue 322:18 bluff 65:15 bluffing 64:13 BN 47:21,22 48:18 48:22 49:1 62:4 83:9 200:14 BNSF 5:1 8:11 14:21 19:5,7,16 20:19 22:17 47:15 49:16,18 70:1 131:21,22 132:4,9 194:18 195:2 197:17 198:7 199:15 201:14 205:7 BNSF's 19:13 BN's 48:9 board 1:3,13 12:8 18:12,19 19:5,9 21:1,7 28:19 29:12 35:1 39:2 42:20,22 43:5 44:5,19 47:1 48:3 51:13 52:5,20 56:13 58:1 59:4 60:6,10 70:2 78:16 79:12 85:12 88:9 92:10 94:2 95:19 98:20 100:3 107:5,15 109:6 117:19 118:3,5 124:14,18 125:3 125:17,20 130:8 137:8 138:13,20 149:11 154:20 155:4 156:17,18 156:21 158:3,14 159:1,3 170:14 176:4,13 181:5 182:2,9 183:1,11 184:18 206:13 213:14 214:15

236:20 252:6	bouncing 175:12	244:19 326:16	139:2 167:22	businessman
259:19 260:16,21	boundaries 85:1	build 19:6 54:12	168:6 169:12	279:12
261:1,8,13 264:16	boundary 182:4	94:19 254:14	180:10 193:2,10	business's 294:3
270:22 271:8,22	box 2:12,17 4:10	328:16	193:20 194:3	busy 23:13,19
272:6 277:12	5:2 80:19	building 2:4,7	business 14:1 15:6	buy 37:8 221:3
278:5 282:20	boxcar 315:21	14:10 16:14 94:18	16:4 19:15 44:8	buying 144:22
283:5 284:20	boxcars 314:19	127:22 203:1	44:13 49:15,18	bypass 265:15
285:10 286:12	Brad 110:1	204:4 273:22	50:2 70:1 75:20	
288:14 292:9	branch 343:17	304:6 343:17	77:17 82:21 87:11	C
297:10,13 305:7	break 134:18	buildouts 54:7	89:17 90:2 95:12	calcium 129:20
308:16 311:5	178:20	345:20	99:14 101:5,15	131:17
316:1 318:17	Breakthrough 6:12	builds 240:14	105:1 111:21	calculate 59:7
331:1,2 332:12	brevity 273:4	build-out 18:13,19	120:1 121:16	339:11
333:3,7 334:3,21	bridge 131:2,6,8,21	18:21 19:4,8 48:5	123:19 126:6	calculating 340:4
337:6,11,14,16	brief 30:2 72:16	48:15 54:20 63:15	130:4 131:5	calculation 216:8
347:10	74:5,6	63:17,20 64:1,4	133:19 137:13	calculus 105:19
boardroom 10:20	briefly 24:5 176:12	64:19,21 65:6,8	140:14 143:19	California 255:13
Board's 38:5 39:7	186:9 218:22	65:16 69:15 81:14	149:6 151:15	call 72:9 161:19
60:17 71:16 80:17	331:18 342:9	build-outs 17:1	152:2,8,10,11	219:12 223:6
107:3 109:18	bright 291:4	18:11,16 21:5	160:17 163:22	226:7 228:13,21
124:13 136:20	bring 64:2 109:6,9	53:13,14,22 54:17	164:11 166:21	241:9 275:17
140:9 155:9 156:4	156:20 161:16	55:5,9 63:13	167:4 168:7,9,10	called 287:5
159:17 262:12	171:14 190:22	built 17:4,7,15	168:10 169:9	calling 65:15
285:14 318:3	194:15 204:16	18:20 53:14,17,21	189:2 196:14	275:18
bodies 97:10	226:1 250:20	54:9,12 113:8	198:8,8,10,11,19	Calverton 3:13
body 32:5	287:15 292:20	246:10 289:7	198:19 199:1,6,11	camel's 193:18
Boeing 282:16	330:7 346:1,11	296:9 304:9,9,11	204:1 205:8	cameras 186:14
book 121:16 250:7	bringing 56:6 84:9	304:12	219:10 220:13	camp 346:10
booming 67:17	98:5 109:2 114:13	bulk 197:10 255:12	221:5 225:22	Canada 140:19
born 144:17	156:16 157:18	255:21 265:9	227:16 229:6	274:5
Boston 240:20,22	172:18 297:10	bullet 57:13,17	234:17,20,20,20	Canadian 310:15
241:1	318:22 328:10	bulletproof 142:9	234:22 235:1	312:12
bottleneck 27:11	brings 103:14	bump 245:1	237:20 238:5,16	canal 81:14 83:12
41:6 57:20 86:5	330:9	bundle 137:1	238:17 239:2,3	cancellation 112:13
115:9,12 120:5,6	broad 283:7	bundled 136:10	249:4,11,14 250:8	cap 56:9 155:11
125:3,8,10,13,14	broader 53:8	burden 291:19	254:18 257:1,3,4	161:2,3,17
130:7 155:9	163:22 164:16	311:10	257:8,9,11,18,20	capabilities 89:10
172:12 177:12	broadly 311:7	burdens 147:6	259:18 262:22	208:16 309:1
183:18 184:4,11	broad-based	Burkhardt 312:3	266:1 268:2	capability 216:3
265:8 271:11,15	308:20	312:16 313:15	276:14 281:12	capacity 88:22 89:1
271:17,19,21	brochure 298:5	Burkhardt's 312:8	289:13 291:9	119:14 120:3
288:16	broke 193:18	313:4 317:18	292:18 293:4	123:1,3 135:1
bottlenecks 170:12	broken 276:3	Burlington 48:8	295:1	199:21 211:20
258:4,5	294:12	195:10	businesses 103:18	290:16 291:9
bottles 262:19	brought 157:19	burn 47:9	120:16 121:7	308:17
bottom 44:15 84:19	brownouts 66:12	Burns 4:8 8:4	249:10,17 280:21	capital 40:17 42:8
100:22 291:15	budget 244:12,13	127:14,16,17	282:1 283:18	54:20 64:18,21

73:20 77:1 82:7 87:1 88:19,22 94:20 95:4 97:6 106:7 123:6 187:14 202:18 226:13 243:12 244:5,10 254:21 256:9 257:19 capitalist 239:12 caps 56:15,17 161:12 captivate 22:1 26:21 27:3 28:8 38:21 47:21 71:5 103:21 104:5,9,12,14 110:13,17 111:10 112:8 119:16 122:20 124:21 139:15,17 140:2 145:3,9 146:1 147:4,22 148:4,11 149:4 151:6 152:17,22 155:2 159:15 160:21 161:10 190:6 194:5 235:22 250:4,8 263:15 266:2,5,9 281:8 285:15 297:5 307:5 317:12,17 338:16 capture 321:6 322:20 335:17,17 335:20 captured 187:2 capturing 317:15 car 80:19 112:15 131:13,17 134:15 146:7,8 195:7 217:9 223:9 229:3 229:7,15 230:8,10 239:18 255:11,12 255:18,20 256:2 268:15 269:7 carbon 75:7 care 206:13 234:18 250:5 259:17	307:14 career 279:3 careful 89:6 185:21 286:19 296:5 306:4 carefully 51:14 cargo-rich 83:15 carloads 315:4 316:18,22 Carolina 162:17 Carondelet 4:14 carpet 262:19 carried 311:10 carrier 14:9,18 15:17 16:1,3 17:2 17:9 19:8 26:8,11 26:13,17 28:14 39:1,9 43:1,14 48:12 49:4 62:19 65:18 80:9 84:17 87:21 102:4 103:22 108:4,6 111:1 125:9 131:2 131:21 155:1 166:9 178:9 179:10,11,21 180:3,13 204:20 204:21 234:4 236:9 237:11 258:16 259:2 263:19 265:8 326:2,11 328:17 339:7 343:14,15 344:18 345:4 carriers 13:16,18 13:22 15:2 17:12 20:5 21:16 73:5 81:7,8 86:2 87:22 91:9,11 99:11 108:16 126:9 133:11 135:11 178:1 183:15,16 196:1 230:21 231:9 252:22 257:9 289:2,3 295:19,22 carry 110:10 166:8	carrying 166:8 cars 12:16 26:1 36:5,6,13 69:10 69:11,12 77:7 87:17,17 110:8,9 113:10 116:21 128:11 134:12 210:7,10,13,13 211:3,20,22 212:8 216:18 217:2 221:1 223:22 225:21 226:12 228:16,16,19 253:14,15,16,17 256:6,18 268:11 268:21 269:5,10 274:13 314:20 carve 169:22 car's 216:22 case 21:20 30:8 31:21 42:13,17 43:16 56:1,6 58:9 59:18 64:20 104:14 108:9 109:2,6,9,15 114:3,6,11,13,17 114:19 115:3 126:3 136:6,18 137:10 146:2 147:15 148:12 153:6,10,14 156:1 156:4,17,21 157:2 160:16 161:16 165:7 168:12 172:13 173:2,9,14 178:17 179:20 181:17,20 182:13 182:17 183:5 230:3 238:7 242:10,12 259:13 260:8,10 261:9 263:18,21 269:20 271:1 297:17 298:2,22 299:4,13 303:1 315:17 346:2 cases 37:13 52:9	102:2 105:7 108:15 109:9 113:6 114:4,20 121:13 125:16 147:16 153:18 155:12 157:18 159:5 172:6,14,18 173:11 179:3,20 180:4 181:7,17,18 183:4 189:7 191:22 203:2 216:18,21 219:5 223:1,2 224:8 227:18 230:8 233:8,10 259:21 260:5 264:3 296:3 299:10 300:15 303:6 306:13 Casey 80:20 case-by-case 52:16 334:18 catalyst 107:6 catastrophic 162:20 163:6 catch 244:9 251:4,4 categorically 19:17 category 342:19 caught 240:10 cause 134:18 135:7 171:7 caused 51:3 151:17 200:4 causes 171:12 causing 172:6 caustic 127:21 129:19 164:8 caution 88:17 89:6 cautious 73:18 95:2 cautiously 314:7 ceiling 148:9 273:16,18 center 3:20 4:18 219:17 centers 274:2 290:17 central 6:5 9:9 25:18 128:9 310:8	310:11,14 312:10 312:11 314:1,14 333:12,20 Century 6:20 CEO 74:15 80:10 80:19 282:16 CEOs 174:10 certain 102:17 106:4 170:3 181:19 344:17 certainly 57:13 89:21 93:11,17 97:6 102:15 195:17 201:9 217:10,14 246:7 249:22 295:17 300:15 cetera 170:13 239:18 chain 81:4 85:2 127:18 292:22 320:1 Chair 90:5 92:21 chaired 282:16 chairman 1:19,21 7:2 10:3 12:3,4 23:9,18,21 28:19 30:1 31:7 33:2,9 33:10 34:1,6,6,12 45:19,22 46:1,7 46:11 53:3 54:1,5 55:10,17 56:19 57:1,4,6 58:4 59:20 60:15,22 61:2,19,20 72:5,9 74:2,8,9,15 79:15 79:20,20 80:3 85:19,21,22 87:15 88:2 90:13 92:21 98:3,15,15 110:3 110:3 115:22 116:6,8,9 127:13 139:1,6,6 149:14 149:18,19 156:10 173:20,21 175:5 176:7,9,10 177:11 177:22 178:3,8,12
--	--	---	--	--

178:21 179:2	264:15	charge 21:8 45:12	chills 345:6	claims 77:6 134:16
181:4,14 182:7,22	chance 26:14 60:16	49:22 51:10 95:8	China's 61:22	clarified 63:10
183:6 186:6	153:1 279:6	95:17 190:5 299:6	chlor 140:17 141:2	clarify 52:5 218:22
194:11,20,21	316:11	318:21	chloride 127:22	347:5
205:12 214:21	change 13:17 42:15	charged 20:21	129:20 131:17	clarity 176:21
217:16 221:17,21	43:13 51:7,8	charges 21:8	chlorine 106:21	class 74:20 80:14
222:1,13 224:9	65:12,17 118:5	112:16 128:12	127:21 129:12	82:16 84:12 87:18
225:8,20 226:19	123:20 136:4	324:13 328:1	141:4,9,14,19	132:19 135:8
226:20,21,22	154:21 159:16	charging 281:8	142:4,17 143:7	140:21 144:2
228:6,8 230:12,18	170:14 206:4	Charles 28:5 33:13	145:17 150:14,17	160:16,19 162:8
231:6,17 233:1,13	217:1 219:15	151:10 152:16,17	150:18,21,22	213:5 253:18
233:21 234:9,13	275:17 323:13	174:4	151:8,14,15,17	274:12 276:6
235:16,18 249:20	324:3 330:1 335:4	chart 250:2,6	152:6,7,19 162:1	280:19 283:16
250:11,14,16,18	341:20 342:1	322:16 324:14	162:2,6 164:8	310:7 312:17,20
251:17,18,22	changed 15:1 20:5	charts 215:7	choice 115:2	317:9,19 332:15
252:1,5 260:19	29:16 117:17	225:12 243:10,11	118:18 239:8,10	333:17 338:5
262:1,5,5 272:12	138:14 198:14,19	chase 257:19	239:14 268:19	343:2
272:17,17 277:14	201:4 280:10	chasing 226:7	285:16	classic 30:8 258:4
277:21 278:3,4	336:18 340:15	chassis 80:12	choices 93:3 138:17	classified 150:15
286:21 287:4,9,14	changes 20:20 31:4	cheaper 281:4	choose 122:14	212:1,10
287:20 295:5,7,8	32:22 38:7,8	checks 103:11	152:11 295:15	classify 228:15
295:13,20 297:2	73:18 78:16 88:6	109:4 154:8	317:14	Clayton 4:15
298:6 304:18	95:3 112:14	chemical 3:18 4:6	chooses 36:11	140:16
306:7 307:13,15	116:17 119:10,12	7:24 8:4 24:17	145:13	clean 13:3 284:21
308:6 309:5,18	120:9 122:9	28:2 110:5 123:9	chose 179:19	clear 22:5 44:20
318:8,12,13	124:12 140:12	123:22 124:4	307:10	53:13,15 59:14
329:16 330:14,19	156:3 159:6	127:15,18 141:10	chosen 133:6	63:8 129:15
331:14 333:8	182:19 185:10	141:10 148:21	Chouteau 2:12	169:15 231:16,18
338:22 342:6	214:16 244:1	149:1 153:3	Christopher 3:2	291:3 308:9 329:9
345:11 346:5	248:21 261:10	154:12,18 164:10	7:15	346:3,3
chairmanship	262:11 269:15	188:4 234:1 253:5	circles 289:4	clearly 147:2 196:6
92:17	272:2 276:8	297:6	circuitous 36:12	197:18,19 212:16
Chairman's 315:12	283:10 292:19	chemicals 4:18	circulated 331:13	259:15 275:6
331:11	308:16 323:5	123:12 127:20	circumstance 73:4	Cleveland 84:6
chairs 10:12	341:11	128:2,5 142:16,22	circumstances 45:1	211:10,14,17
challenge 56:4 58:1	changing 160:12	143:1,6,8,15	45:3 93:7	212:14 215:8,17
59:1 88:9 125:14	216:14 248:16	150:8 164:2,2,3,9	cite 296:6,10	217:6,13 221:11
180:18 285:20	293:18 318:3	187:20	cited 138:19 191:10	225:11
321:8,15	Channahon 5:18	chemistry 106:20	Cities 279:14	clients 320:5
challenged 22:7	253:7 255:16	151:15	citing 105:18	close 31:19 193:19
264:19	characteristic	Chicago 5:6 6:4	city 25:12 26:2,10	232:18 322:1
challenges 85:6	323:9	135:6,9,12 273:3	26:13 27:2 47:8	closed 131:14
113:15 136:2	characterize 64:13	295:14,17	47:21 48:6,9,17	314:15
290:18 317:15	characterized	Chief 116:12 195:2	69:20	closely 80:14 183:4
325:20 326:1,4,15	312:20 313:15	205:21	claim 118:4,9	203:18
332:1	characterizing	child 145:8	claimed 137:22	closer 105:13
challenging 261:21	148:19		claiming 112:2	closing 137:11

271:22 286:3 314:16 cloud 68:12 CNJ 311:1 314:5,7 333:21 CNJ 6:16 9:16 coal 12:12,15,21 13:2,3,7,10,11,14 14:6,17 15:1,5 19:14,15 25:17,21 25:22 26:15,21 27:3 35:10,13,15 35:20 36:18 37:5 37:11 47:10 50:22 51:7 53:9 57:10 59:4 60:19 61:7 61:15 62:1 66:6 66:14,17 67:22 72:19 86:9 157:18 197:10 198:1,13 199:5,13 209:8 214:10,12 222:8 231:13 234:20 248:16 249:11 250:1,12 coal-fired 24:18 47:7 coal-generating 198:15 coast 13:12 248:21 263:10 264:5 304:6,10,12,14 coastal 197:9 coasts 84:11 coating 150:8 coin 284:5 coincidentally 346:8 collaboration 319:13 330:11 339:2 collapse 310:7 collar 74:18 collected 22:22 College 4:19 Columbus 212:10 combination 20:14	123:17 266:8 274:11 288:18 combine 277:10 288:12 combined 50:21 come 11:10,13 58:1 59:17 60:5 62:13 69:22 165:19 166:18 171:15 173:20 190:20 193:4 204:5 238:9 238:12 240:13 251:7 280:21 281:20 307:4,5 338:12 345:4 comes 11:12 95:15 184:22 217:8 221:8 235:13 244:22 269:15 326:12 comfortable 180:14 coming 10:5 33:18 48:9 121:22 192:15 226:7,17 250:19 298:5,13 commenced 14:5 commend 174:6 260:21 commends 47:1 comment 56:1 71:12 90:12 96:14 96:18 138:12 139:8 164:20 165:2 176:14 179:2 183:7 188:17 192:8 193:1 234:14,15 250:5 254:15 261:16 308:7 311:20 312:2 347:1 commentary 148:12 commented 148:7 comments 12:8 18:9,9,18 20:11	35:6 45:9 46:14 47:12,17 50:13 51:19 55:13 72:6 90:1 100:6 106:19 107:2 129:15,16 137:22 143:18 147:12 148:18 149:12 156:13 163:16 184:1 193:21 194:12 198:3 199:4 201:13 204:14 213:15 253:2,2,3 253:4 272:13,19 273:5,9 277:11 288:13 308:8 309:7 310:18 314:3 316:13 331:3 346:17 commerce 89:19 commercial 5:10 5:13 48:22 50:6 141:3 Commission 97:13 Commissioner 1:22 12:4 34:7 41:9 46:1 61:20 61:21 63:5,7,12 65:19 66:11,18 67:5 68:12 69:9 70:2 71:11 72:3 74:9 79:21 90:13 90:14 95:5 96:19 97:8,20 98:16 110:4 116:9 139:7 149:20 156:14,15 157:22 158:15,21 161:12 164:19,21 164:22 166:3 167:9 168:13 169:14 173:8,17 186:7,8 189:21 191:8 192:14,22 193:9,22 194:9,22 200:22 235:19,20 237:2 238:2,19,21 239:6 240:12	241:7,20 242:9 243:2,7,18,21 244:4,13,18 245:2 245:18 246:4,19 248:8,12 249:6,10 249:18 262:6 270:5 272:18 298:15 300:8 302:4 303:15 304:8,16 309:10 309:19 318:13 333:10,11 337:2 338:2,20 Commissioners 23:4 205:19 commitment 263:12,14 commodities 113:14 116:21 142:21 335:7 commodity 62:2 80:18 119:21 129:22 142:20 143:21 146:6 150:14 162:10 164:5,10 167:2 188:4,15 256:21 315:21 338:5 commodity-speci... 143:20 common 48:12 49:4 166:9 290:13 328:11 commonly 80:4 communicated 151:13 community 99:22 206:12 277:6 292:13 294:8 324:8 330:5 companies 29:9 78:7 96:9 101:12 105:4 115:1,18 123:1 132:22 150:5 153:4,14 159:20 186:18 195:18 206:21	260:6 280:17 281:4 293:22 303:10 327:19 company 3:18 4:1 5:1,9 6:1 7:24 8:2 8:11,13,22 9:2 72:19 73:7 74:17 80:12 86:10 99:7 114:7,12 116:3 121:8 140:15 141:5 145:9 149:5 151:4 155:4 164:3 195:16 203:9,10 256:14 273:2 289:16 297:18 company's 73:13 compare 202:16 211:9 compared 28:9 37:11 104:9 293:15 297:3 323:2 326:6 comparing 166:22 225:16 comparison 36:21 212:13 compelled 132:8 compelling 80:21 103:20 146:4 compensate 37:19 compete 14:1 32:1 32:12 44:12 62:5 83:8 92:11 96:10 101:3 105:3 117:20 122:13 124:5 133:1 137:21 138:10 146:20 154:11 159:20 160:9,19 185:4,5 188:16 189:11,15,16,18 196:11,11 197:5,8 197:19 205:6,8 207:15 231:9,15 234:16 263:1 302:16 311:2 315:10,11,13
---	--	---	---	---

316:11	127:2,6 129:21	101:10,13,16	122:14 205:3	94:21 102:16
competed 49:14,17	131:12 132:14	103:1,17 104:1,11	289:15,20 290:4	162:14 306:20
199:6 205:5	138:12 139:10,14	105:2,15 106:5,16	complaint 156:17	308:15,20 338:19
competes 318:1	139:16 140:13	107:7 113:21	complaints 56:17	340:20
competing 14:7,18	145:11,22 152:13	118:20,21 119:11	259:4 297:11	concerning 52:6
17:9 24:14 25:1	154:22 159:10,17	120:8,11 121:9,19	complement	73:22
27:14,21 53:16	159:21,21 160:6	124:9 125:20	245:11	concerns 113:17
65:11 83:14	160:13 161:1	126:8 127:1,2	complementary	129:13 147:11
179:11 183:15,17	171:11,21 172:19	130:3 132:16	246:6	184:5 185:14
246:6 292:4	179:8,8 183:11,12	133:19 153:22	completed 18:22	218:1 246:13
304:22 305:3	183:14 184:13,17	154:2,13,19 166:1	320:7	297:14 308:10,22
competition 1:8	184:20,21 185:13	179:13 180:8	completely 67:2	concessions 266:5
12:10 13:7,15	186:4,9,15,16	184:2 187:11	92:13 239:4	conclude 45:5
21:16 22:6 23:6	187:12 188:8	204:22 207:1	332:16	131:9 339:3
24:3,13 26:19	196:9 197:12	232:22 235:2	complex 83:1 90:8	concluded 43:5
28:20 29:4,8,14	198:4,22 199:12	250:3,9 254:6	209:7 229:6	347:16
30:3,5,13 31:12	249:16 254:6	257:3 258:8,11,20	290:20 303:16	conclusion 115:13
32:10 33:4 34:21	258:1 259:11	261:2 263:1	complexity 125:15	126:16 214:14
35:1 38:2,20	260:20 261:16	265:22 266:4,9,11	156:5	260:19 305:1
39:11 40:1,5,7	262:10,13 265:3,4	268:5 269:14	complicated	condition 290:9
41:1,11,12 42:5	266:14,22 267:3	271:6 276:15	109:11 114:2	conditions 16:7
44:16 45:15 47:15	267:14,15 268:7	278:17,21 282:22	172:9,10	122:3 140:3
47:19 48:3 49:8,9	269:16 271:2,3,9	283:6 284:9 286:8	complicit 282:11	145:12 159:2
50:18 51:17 52:11	271:14,16,18	286:14 293:15	component 105:19	182:4
53:21 54:4 57:16	272:2,3,7,20	295:16 310:11,21	320:21	conference 312:15
57:17 58:7,12,13	278:6,11 282:6	314:12 315:2,3,19	components 106:13	confidence 45:16
58:19,19 59:3,11	284:13 286:2,5	316:8 318:18	345:10	confident 32:15
65:9 69:3 71:10	305:1 306:16,18	319:3,10 328:7	compound 83:5	303:1
80:2 81:4,11	307:9 311:6,13	329:4 332:18,21	138:18 273:12	confidential 19:20
82:15 83:9,22	315:7	337:22 342:3,4	comprehensive	199:7
84:17,20 87:9	competitive 13:9	344:21	261:20	configuration
93:9 94:3,9 95:20	14:15,21 16:14	competitiveness	computer 247:8	232:7
97:19 98:21 100:7	17:5,16 20:3	13:18 55:4 73:14	computerized	confirmation 52:14
100:9 101:7	21:14,17,21 26:14	105:20 106:13	216:3	confirmed 132:6
103:14,14 104:1,7	27:17 28:13,17	120:20 123:19	concentrated 120:3	confused 118:1
106:10 107:5	29:19 30:16 31:10	143:19 163:21	concentrating	133:12 345:13
109:1,4,18 111:2	31:13 32:18 33:5	164:5,6,7,16	313:17	confusion 168:8
111:6,7,17 113:1	39:13,20 41:14,15	248:16 249:8	concept 224:19	congestion 113:16
115:5,7,14,20	43:15,20 44:6,9	310:13 311:9	290:7 319:9	134:20 135:6
116:16 117:11	44:21 49:2 50:15	316:2,14 317:1	concern 24:6 54:6	212:18
118:5,7,10,14,14	59:10,15 60:12	318:5	94:15 144:8	Congress 30:17,17
118:19 119:2,18	71:1,8 73:12	competitive-based	161:19 162:21	30:22 31:22 49:10
121:4,18,21	74:12 76:5 81:19	103:11	167:13 170:21	50:8 63:15 77:21
122:11,17 124:6	82:16 84:4 88:8	competitor 76:17	185:15 311:15	283:7
124:11,14,15,21	90:22 92:2,3	196:18 265:21	317:16	Congressional 27:1
125:7,22 126:8,11	93:12,14 99:13	competitors 70:8	concerned 51:6	connect 229:13,14
126:13,15,17	100:5,12,15,20	105:7 118:22	78:15,20 89:9	341:22

connected 339:21 339:22	constitute 138:1	78:18 97:5,16	310:14 312:11	121:11 123:14,18
connection 224:15	constraint 189:12	125:21 136:7	314:5	131:12 134:11
connections 228:21	189:14	141:7 149:7	controlled 311:1	144:16 147:16
229:14	construct 48:5	151:16 162:13	controller 208:1	148:9 151:7 152:3
Conrail 332:8	263:9 264:4	170:18 185:10	controls 13:12 44:3	156:5,16 157:3
conscious 165:13	constructed 16:22	277:9 294:7 295:1	conventional 75:5	161:3,15 166:20
165:15	255:17	295:2 335:8	Conversely 323:22	167:1 177:6 190:1
consequence 44:10	constructing 48:15	continued 9:2	conversion 329:6	190:10,13,15
141:22	construction 17:9	13:14 74:14 92:4	converting 13:1	199:22 204:7
consequences 44:3	34:16 48:4 128:4	112:17	conveyed 219:2	217:6,7 225:22
consequently	256:19 273:14	continues 117:10	cookbook 59:6	232:10 239:19
119:19 237:20	consultant 302:1	197:20 222:11	cooperation 319:14	240:8 241:12
269:13	consultants 270:16	continuing 240:5	cooperative 2:14	254:11,18 260:8
consider 36:14	consulting 252:18	contract 15:6,20	2:17 7:8 34:17,19	261:7 264:2 270:8
95:3 104:22	301:18	16:7 65:6 68:1	73:12	270:10,12,13,19
107:16 131:16	consumer 12:12	114:14 120:13	coordinate 208:1	270:20 297:20
147:9 149:2 197:6	157:9	121:14 122:2	225:5	300:18 301:4
261:10 284:12	consumers 35:17	136:10 137:1,4	coordinates 208:3	304:1 305:16
285:12 313:8	77:19 85:16 127:8	139:19 154:4	coordination 225:1	311:16 313:21
333:4	239:7	158:11 191:5,7	290:22	319:1 320:19,20
considerable 107:3	consuming 12:13	192:16 264:13	copies 11:4 346:21	321:4,5,21 322:10
302:8	consumption	267:8	core 81:10	323:21 324:1
consideration	321:11 328:12	contracting 74:18	corner 275:7	325:7 327:14
106:17 109:7	334:8,13 335:17	contracts 14:7 50:4	Corp 6:16 9:16	328:15,21 336:22
201:1 286:19	335:21 336:5	81:22 112:11,13	corporate 139:11	338:18 340:9
considered 38:8	340:9	122:6 144:15	206:1	costing 71:16
253:10,12	contacted 136:19	191:16 193:6	corporation 2:9,15	costly 113:12 241:5
considering 56:8	container 81:17	contractual 59:8	4:7,12 7:5,8 8:4,5	costs 12:19 20:16
286:1	82:10 83:11 84:5	contradictory	11:22 34:17 46:19	23:3 36:13,17,18
consistency 108:19	84:15 97:9	118:2	127:15 139:4	36:20 37:11 38:15
consistent 77:5	containerization	contrary 112:1	195:7 253:5 273:3	41:5 49:20 51:1
143:17 168:4	313:18	286:4	316:19	66:1 77:14 100:10
consistently 15:14	containerized 81:4	contrast 122:18	correct 58:14 64:16	100:16,21 101:2,8
88:14,16	83:5	313:13	68:21 70:15 168:6	102:6,9,10 103:6
consists 201:4	containers 74:20	contribute 142:1	182:9 306:4	103:12,16 104:18
CONSOL 3:1 7:14	232:4,6 320:10	261:19	341:18	104:19 105:8,18
72:13,18	contains 25:8	contributed 299:18	correctly 38:6	107:13 112:15
consolidation	contend 259:10	contributes 311:15	55:15	113:17 114:11
111:1 200:5 276:7	contends 268:6	contributing 77:15	corresponding	115:2 121:5
consolidations	context 84:1 105:1	141:22	148:14	122:10 123:9,13
119:9 317:11	182:8	contribution	cost 12:21 18:13	128:17 131:10
constant 111:14	continental 140:19	317:16	21:22 22:22 37:10	137:12 138:7
243:15,22	continually 219:22	control 67:7 125:9	37:13,21,22 38:6	151:20 152:18
consternation	continuation	153:1 165:5	38:8 56:1 66:3	153:11 156:19
330:10	132:18	207:20,21,22	70:10 71:21 97:5	157:13,16 171:10
constituents 29:1	continue 32:16,20	208:8 227:18	102:12,22 109:9	171:16 187:7
	51:9 75:11 77:9	234:2 245:14	109:10 115:16	200:9 204:11

220:19 240:15	342:11	created 49:12 65:8	211:19 218:11	298:8 340:20
242:8,16,17 255:7	course 31:15 61:22	82:4 146:16	222:10 263:18	341:4 344:13,14
257:1 260:2 261:7	70:9 85:11,13	167:17 195:9	264:1,12,19 267:7	344:15
264:11 268:5	90:16,20 97:20	197:4 232:21	267:12,16	customers 24:7,8
269:19 297:18	115:11 157:18	291:12	culminating 276:9	24:12 25:2 27:12
301:20 319:22	163:2 166:4	creates 113:14	cumbersome 126:4	27:19 29:21 30:6
320:3,6,15 321:2	173:10 188:1	118:18 323:20	cumulative 153:2	30:10 31:17 35:2
321:11 322:4,20	216:22 227:16	324:7 326:15	CURE 106:21	36:4 38:4 46:21
323:10 324:3	315:20 345:1	327:17	curing 36:17	49:22 51:4,10
325:1,5,17 327:10	court 251:20	creating 319:9	current 27:17,20	78:2,10,22 82:20
327:16 328:2,11	courtesies 33:9	332:4	28:17 29:14 31:4	93:16 95:10,12,15
330:8 335:17,20	courts 303:18	creation 332:9	32:22 34:21 69:19	113:7,8 114:10
336:4,7	304:3	creative 73:11	79:9,12 80:2 81:2	121:11 123:6,20
cost-effective 79:6	cousin 33:14	94:11 185:5	82:2,10 83:21	144:10 151:3
cost-effectively	cover 184:15	creatively 171:14	85:13 105:1 109:2	160:1 195:14,14
292:16	324:15	creativity 87:9	109:3,15 113:2	202:22 205:11
cottonseed 337:13	covering 272:20	95:22 184:22	116:15 138:20	207:9 209:15
Coughing 329:12	covers 163:5	credible 44:20	147:2 148:1 153:5	212:16 213:4
Council 106:21	co-owner 42:18	Creek 18:19	155:9 172:11,13	220:12 222:3,4,5
282:16,19	CP 130:17,21,21	crew 201:4 210:10	243:14,19,20	226:4 233:9,9,10
counsel 8:12 12:6	131:1,6	211:4 218:12	259:7 260:9 261:8	242:13 253:20,22
counter 240:21	CPC 5:15 8:18	221:12 222:9,10	262:10 285:6	255:8 256:13
counterpoint	251:13 252:4	222:10 223:19	311:7 325:20	258:17,21 259:16
217:17	253:1,6,10,18	224:6	326:5 328:5	266:13 267:21
countries 84:10	254:21 255:2	crews 218:10	currently 21:15	268:11,13,14,16
150:10	256:8,17 257:8	223:18 225:1	22:9 29:3 79:5	268:18 269:4,9
country 74:14	259:3,9 260:1,12	crew's 217:21,22	88:8 99:2 101:17	289:19 294:4
89:19 122:15	260:16 261:12	cringe 345:3	125:16 126:2	343:18,22
123:3 124:2,2	CPC's 252:13,16	crisis 206:19	154:14 188:19	customer's 256:15
126:10 174:2	258:5	336:20	210:7 212:21	313:19
196:20 216:17	crack 307:14	critical 74:13 77:10	current-day 218:21	cycle 36:8 67:19,21
228:3 274:18	Craig 6:12 9:14	83:4 89:5 100:2	223:5	68:6,15 328:10
276:12,17 277:1,7	318:14	101:11 105:19	curve 204:7	C-O-N-T-E-N-T-S
281:13 283:18	crass 161:20	142:6 143:5 144:8	curves 210:15	7:1 8:1 9:1
288:4 294:11	crazy 306:1	196:8 199:22	curve's 226:15	
309:3 316:21	create 48:3 49:7	208:18 254:4	customer 27:13	D
333:18	59:14 87:4 88:18	274:22 278:16	80:15 120:19	D 1:21
country's 75:11	91:21 124:20	288:8 292:17	126:17 130:14	dad 279:2,4,5,11,11
77:15 274:20	147:13 159:17	321:13	136:20 141:15	279:13,16
288:6 291:17	160:13 161:1,2,8	critically 89:18	145:18 154:6	daily 322:16,22
couple 45:10 53:6	169:22 170:1,10	cross 48:8 228:2	195:4 205:4	323:5
65:7 66:9 86:12	171:9,21,21 179:9	343:10	209:12 216:12	Dakota 197:1
119:12 165:1	180:7 201:16	crowd 10:5	220:6,11,17	Dallas 4:10
183:4 190:3	207:7 210:22	crude 197:1 322:17	233:12 234:6	damage 77:5
243:10 302:15	211:4,7 242:21	323:6,22 334:15	235:7,14 237:6,13	damages 56:7
310:3 323:3 326:4	258:11 261:1	CSX 73:1 83:9 88:1	242:21 256:17	Dan 90:15
331:12 334:19	329:22 330:3	134:5 137:22	266:14,15,18	dangerous 163:2

Daniel 1:19 7:2	124:12 167:3,3 310:15	defer 264:17	148:13 161:6	destinations 115:8 134:6 266:11 268:3 289:2
dark 165:14	decades 80:13 135:3 210:20 283:15	defies 290:7	283:1,2 312:14 322:19 324:15	destroy 106:5
darn 223:14	decease 66:17	definite 69:5	departure 161:14	detached 326:14
data 22:22 197:13 320:13 322:8,11 335:19 339:2 340:5	decide 70:11 123:2 144:3	definitely 152:21 305:14 306:6 334:21	depend 127:1 278:14	detail 41:22 174:20 284:14 292:7
date 280:8	decided 264:4 279:14 281:4 299:7 332:16 339:17	definition 90:22	dependent 29:2 151:4	detailed 50:4 171:9 172:3 190:19 229:5,5
David 2:3 3:6 7:7 7:17 23:22 281:17	decides 161:15	degree 117:14	depending 91:15 93:7 232:7	detailing 199:8
day 10:4,7 11:21 139:18 144:21 147:7 159:20,20 171:22 172:16 182:1,11 194:17 222:7,12 240:2 294:16 308:9 326:22 335:18 336:3 339:12	deciding 109:8	delay 212:19	depends 115:11 117:6 272:11	details 194:4
days 45:10 76:6 91:12 134:19 202:13 220:15 224:4 271:12 301:20 306:20 310:4 333:16 347:2,8	decision 43:8,10 61:7 137:4 166:22 194:7,8 239:21 261:20 263:21 264:17 290:3 303:13 306:5 340:15,18	delaying 213:4	Deputy 12:6	deteriorate 242:20
day-to 172:15	decisions 123:5,11 123:21 137:14,17 159:1 165:13,15 290:2 321:3 326:21,22 329:1 341:14	delays 135:7	deregulated 90:3 91:8,10 92:22 97:14	determinants 121:17
day-to-day 88:21 170:15 171:6,18	decision-making 321:14 328:13	deliberation 137:18	deregulation 27:15 76:10,13 93:21	determination 271:21
DC 46:3 280:22	decisive 329:9	delivered 12:21 51:1 138:2,5 268:10,13	derivatives 141:20	determinations 52:15
de 4:1,5 8:2 116:3 125:2 184:10	decline 290:16	deliveries 35:20 254:1 269:4	describe 310:19	determine 23:1 36:8 92:14 210:11 265:14 271:7
dead 302:20	declined 254:8,17	delivering 167:19 177:3 180:2	described 29:3 312:16 314:9	determined 168:20 263:11 264:21
deal 140:20 163:18 300:13 315:18 337:10,12 340:16	declining 133:18 199:19	delivery 49:20 66:17 67:22 119:21 198:13	describes 145:20	determines 208:9
dealing 65:22 66:1 135:1 167:8 173:13,13 200:2 214:17	decrease 40:22 41:2 67:3 68:11 69:4	demand 112:18 154:9 226:7 275:4 288:11 290:16	description 313:5 313:22	detour 135:15
dealings 170:15	decreased 14:4 128:22 267:4	demanders 239:13	design 185:22 256:5	detouring 134:22
dealt 73:7	decreasing 68:8	demands 121:15	designed 59:5 201:17 209:12 228:15	detriment 25:4 127:5
debate 126:12 275:16	deemed 142:5	demonstrate 71:9 166:19 199:11 310:20	desire 151:13,17	detrimental 122:12
debilitation 299:19	deep 90:9 190:18 229:4	demonstrated 22:11	despite 22:15 105:8 116:22 262:21 264:11 266:3 267:5 283:19 314:19	develop 232:18 256:14 257:18
decade 102:7 117:17 119:9	deeper 81:15	demonstrates 22:5 258:1	destination 110:16 129:6 131:14 179:5,6,7 210:13 216:7,17 219:4 220:4 222:11 223:4,14 227:7,11 227:21 228:3 258:3,6 265:8,11 296:17	developed 41:7 77:11 232:14 256:16 259:19
	deeply 278:22	denied 108:16 146:15,19 241:15		developer 210:5 216:5
	default 315:8	density 232:14		developing 106:2 107:16 207:13
	defense 142:8	Denver 296:12		development 83:11 127:3 195:5
		depart 331:5		deviation 203:19
		Department		DeWitt 6:7
				de-bottleneck 125:4,6
				de-regulate 91:22
				dialogue 135:20

136:1,4 218:14 330:3 341:12 Dickman 6:12 9:14 309:14 318:9,12 318:15 329:17 330:15 334:19 339:1,9 dictate 152:6,10 dictated 154:6 dictates 134:3 diesel 20:13 322:21 323:8 difference 62:11 70:22 205:7 231:20 246:9 317:4 different 14:14 20:6 24:22 28:14 73:2 94:17 116:21 121:7 135:17 146:20 156:18 173:10 195:19 198:15 204:16 209:14,15,15 214:1 216:9,21 225:3,3 228:4,12 229:21 230:1 231:2 234:17 245:13 247:13,19 280:17 291:7 307:22 323:9 336:13 339:21 342:22 differential 62:6 118:18,19 190:8 311:11 317:11 differently 188:10 243:8 289:22 327:10 difficult 76:6 90:6 136:7 137:17 159:11 187:10,14 188:7 207:10 261:21 322:9 326:16,21 330:8 335:16 difficulties 117:13	digest 322:9 dilemma 215:12 diligent 275:8 direct 144:9 266:15 332:12 direction 259:21 291:3 334:6,21 335:14 directions 36:1 directly 100:22 104:19 105:13 129:3 138:9 142:2 142:2 144:17 191:2 259:6 265:20 290:1 director 98:18 262:8 dirt 187:19 disadvantage 327:6 disadvantaged 126:20 disagree 143:16 disappear 92:10 disasters 144:22 discharge 84:14 discipline 119:6 disconnection 327:15 discouraging 56:18 discovered 168:17 discretion 107:4 discuss 100:10 106:14 130:1 173:9,15 318:22 341:9 discussed 41:22 52:18 63:13 100:3 174:18 218:16 219:11 221:15 303:12 314:12 discussing 332:16 discussion 107:2 139:19 167:5 197:11 341:11 discussions 264:1 342:11 disincentive 114:19	dismayed 199:3 dismiss 337:17 dispatch 208:4 dispatcher 208:5 dispatcher's 208:7 disproportionately 190:6 disregarded 257:6 disregarding 38:11 disrupted 247:4 disrupting 248:6 disruption 37:7 disruptions 36:22 37:3 disruptive 241:4 dissociation 122:2 distance 111:11 113:20 210:11,18 distances 152:20 253:22 distilled 274:19 288:5 distinct 229:20 232:10 distinctive 345:15 distinctively 342:21 distinctly 229:22 distinguish 41:16 41:17 distort 322:5 distorted 325:2 328:20 distortion 321:18 323:20 327:14 336:11 distortions 324:6 distributed 290:18 distributor 252:9 distributing 253:8 distribution 274:2 313:1 317:22 distributor 273:21 District 2:20 7:10 45:21 46:4 69:14 districts 210:10 disturbing 158:1,8	Diversified 5:15 8:18 251:13 252:4 252:13,16 253:1,6 253:10,11,18 254:21 255:2 256:8,17 257:7 258:5 259:3,9 260:1,12,15 261:12 diverted 135:13 divest 133:6 divide 83:14 dividend 283:22 dividends 150:6 division 140:17 177:4 DL 130:15 131:6 docket 1:8 18:4 139:9 163:14 dockets 18:6 166:14 documentation 157:15 301:2,15 documented 145:15 146:14 206:18 DOE 323:4,16,19 doing 17:19 177:16 182:17 245:15 254:18 270:8 280:13 345:22 dollar 154:18 160:10 291:22 292:3 dollars 13:1 77:14 142:2 165:9 172:5 172:22 206:22 207:4 243:14,15 243:17,19,20,22 domestic 77:18 84:15 122:18,22 128:7 domestically 101:3 105:3 dominance 52:7,8 52:15 58:11 70:3 70:5,11 129:4	dominant 196:1 door-to-door 131:5 232:12 double 84:16 203:3 283:22 doubled 76:22 double-digit 192:21 doubling 256:4 Dow 3:18,20 7:24 110:5,7 111:9,17 111:21 112:19 113:7,8,14,20 115:4,13,18 183:1 Downers 3:8 downsized 203:22 downstream 120:19 123:20 144:11 downward 242:19 Dow's 109:22 110:19 111:4,12 draconian 244:1 drag 124:6 299:10 dramatic 111:9 115:14 118:15 147:1 dramatically 13:19 14:13 79:4 120:17 200:13,20 204:11 325:11 drawn 305:2 dredging 81:15 drive 3:12 4:19 123:10 124:4 189:17 282:14 driven 103:1 289:16 driver 232:2 drivers 74:19 232:9 drives 121:4 drop 13:14 70:12 220:19 dropped 325:11,14 dry 320:10 drywall 273:22 du 4:1 8:2
--	---	--	---	--

dual 307:2	easily 23:20 203:20 335:10	49:8 51:17 52:10 58:12,14 70:8 71:10 94:6 97:18 111:16 114:21 180:16 201:19 216:11 239:13,13 317:13 321:2	102:10 121:5 146:17 168:14 179:16 198:18 219:3 221:3 230:5 306:18 327:19	277:21 278:4 286:21 287:4,9,14 287:20 295:5 304:18 306:7 307:13 308:6 309:5 318:8 329:16 330:14 333:8 346:5
dual-serve 71:19	East 6:8 86:9 87:22 119:3 228:1 232:16 279:5	effectively 40:8 97:19 129:9 136:15 154:11 161:20 209:13 222:17 256:3 271:4 311:5	electric 2:14 7:8 24:18 25:16,18 34:17 35:16 46:18 278:13	else's 90:7
dual-served 52:18 86:19	eastern 46:22 73:4 86:9 128:9	effectiveness 311:13	electricity 25:21 38:1 50:1 51:11	embarrassing 10:21
Duck 18:19	easy 10:16 92:16 289:4 306:21	effects 29:7 100:8 106:8 129:21 209:6	electrics 42:20	embedded 20:15 191:5 232:20 321:18
due 14:6,8 23:13 66:14 67:4,6 68:3 77:6,20 110:2 114:20 137:15 142:22 314:15	echoed 312:2	efficiencies 87:6 201:2 216:9 225:13 246:11,12	electronically 11:6 340:1	emerging 85:6
Duncan 6:6 9:10	economic 25:4 38:15 77:15 101:8 101:9 127:5 128:14 143:3 162:5 195:4 206:7 272:10 304:2 321:17 324:6 336:11	efficiency 38:19 78:9 113:18 185:6 200:19 246:10 248:9 272:8 313:7	element 67:15 290:3 316:7	emission 13:12
DuPont 4:3 116:3,4 116:13,19 117:1,3 117:8 119:9 120:10,15 121:8 121:22 123:1,19 124:4,10,18 125:3 125:17 126:1 127:7 188:2 190:16 260:6	economical 13:10 105:21	efficient 42:11 43:4 76:17 79:5 101:20 127:1 133:22 134:2 135:10 187:7,11 201:19 206:22 210:12,17 211:13,21 212:17 217:2 218:6 237:8 247:15 293:10 327:5 345:21	elements 107:1	emissions 319:8 321:12 340:10 341:8,17
DuPont's 116:14 121:15 122:12,18	economically 24:9 143:11	efficiency 38:19 78:9 113:18 185:6 200:19 246:10 248:9 272:8 313:7	eliminate 132:20	emitted 75:7
duration 133:16	economics 186:12 232:3,20	efficiency 38:19 78:9 113:18 185:6 200:19 246:10 248:9 272:8 313:7	eliminating 134:10 136:11 170:11 271:14 336:11	emphasis 228:22
Durkee 5:18	economies 29:9	efficient 42:11 43:4 76:17 79:5 101:20 127:1 133:22 134:2 135:10 187:7,11 201:19 206:22 210:12,17 211:13,21 212:17 217:2 218:6 237:8 247:15 293:10 327:5 345:21	elimination 201:3	emphasize 20:2 163:20 293:13
dust 61:7	economist 281:11	efficiently 208:2 209:13 292:15	Elliot 12:3 34:6 54:1,5 55:10,17 56:19 57:4 61:20 79:20 116:8 149:19 226:22 262:5 318:12	emphatically 18:14 277:9
dying 276:2	economists 161:19 322:7	effort 99:19 140:9 174:5 209:20 210:20	eliminate 132:20	employee 200:18
dynamics 275:3 288:11	economy 24:22 29:10 38:16 67:17 68:17 69:6 74:13 124:7 126:10 128:6 135:5 141:21 142:2,11 162:6 275:2 276:20 281:14 282:12 283:14,19 286:7,8 288:10 290:7 319:8 322:18 341:17	efforts 49:7 157:1 289:22 313:17	eliminating 134:10 136:11 170:11 271:14 336:11	employees 99:4 101:5 150:9 235:10 253:9
D.C 1:14 2:4,8	economy's 68:22	eggs 159:12	Elliot 1:19 7:2 10:3 23:9 33:10 34:1,12 45:19 46:7,11 53:3 72:5 72:9 74:2 79:15 85:19 90:13 98:3 115:22 116:6 127:13 139:1 149:14 156:10 173:21 175:5 176:7 186:6 194:11,21 205:12 214:21 217:16 221:17 222:1,13 224:9 225:8 226:19 235:18 250:18 251:18 252:1,5 262:1 272:12,17 277:14	employ 200:18
<hr/> E <hr/>	educate 176:15	eight 128:22 247:21 255:18	Elliot 1:19 7:2 10:3 23:9 33:10 34:1,12 45:19 46:7,11 53:3 72:5 72:9 74:2 79:15 85:19 90:13 98:3 115:22 116:6 127:13 139:1 149:14 156:10 173:21 175:5 176:7 186:6 194:11,21 205:12 214:21 217:16 221:17 222:1,13 224:9 225:8 226:19 235:18 250:18 251:18 252:1,5 262:1 272:12,17 277:14	employing 74:17 128:8
E 1:14 5:5 8:12	effect 51:9 126:16 137:12 144:9 152:5 153:2,18 171:8 299:21	either 18:5 40:12 54:11 57:17	Elliot 1:19 7:2 10:3 23:9 33:10 34:1,12 45:19 46:7,11 53:3 72:5 72:9 74:2 79:15 85:19 90:13 98:3 115:22 116:6 127:13 139:1 149:14 156:10 173:21 175:5 176:7 186:6 194:11,21 205:12 214:21 217:16 221:17 222:1,13 224:9 225:8 226:19 235:18 250:18 251:18 252:1,5 262:1 272:12,17 277:14	enable 247:1 328:13
earlier 18:17 169:16 199:9 238:12 251:5 294:7	effective 22:6 38:12			enacted 30:18
early 48:1 167:2 199:16,21				enactment 254:10 254:17
earn 42:7 97:5 139:21 256:11 257:16				encourage 42:10 55:5 59:8 61:1,2 257:18 261:1 285:5
earning 322:3				encourages 83:22
earnings 185:3 283:21 322:6 328:20				ended 76:7 119:9 328:2
easier 92:8				endorse 253:3
easiest 161:11				ends 104:2,5 136:1 326:7
				end-to-end 82:5

energy 3:1 7:14 69:6 72:13,19 319:1,22 320:3,5 322:19 324:15 328:10	125:11 146:1 179:16 226:6 289:14	established 49:2 154:1,9	evident 260:4 ex 31:11 272:20	270:7
energy-related 321:12	entirely 92:1	establishing 58:19	exacerbated 324:11	excellent 73:4
enforcing 39:19	entity 145:19	establishment 142:8	exact 50:15 152:19 152:20	Excess 199:21
engage 170:20	entry 94:18	estimate 156:21	exactly 21:2 38:14 58:5 171:17 181:1 283:3 294:6	excessive 127:9 140:1
engaged 126:12	environment 14:15 30:16 31:14 77:12 77:19 81:2 82:3 83:22 90:4 94:17 94:22 105:2,22 106:7 154:2 166:1 175:11 232:22 258:12	estimated 147:16 147:18 153:11	exaggerated 325:2 326:6	exchange 48:14 141:6
engineer 34:11 245:15	environmental 246:13	estimates 156:16 157:5,16 173:7	examine 24:2 105:17 109:1 283:9	excited 288:20
Engineering 34:16	environmentally 79:6 292:2	estimating 172:22	examined 106:11	exclude 214:8
enhance 35:1 124:15 262:12 269:16 271:2 272:7 291:13	envisioned 49:9 50:8	estimation 307:22	examining 100:1	excluding 214:7,8
enhanced 118:14 124:13	EP 1:9	et 170:13 239:18	example 28:1,11,15 48:18 65:4 97:22 120:21 131:15 132:10 134:3 135:12 136:9 145:21 147:15 152:15 162:16 168:7 186:11 187:16 189:10 190:14 196:22 207:19 211:9,14 222:5 239:16 255:2 257:22 265:6 266:12 267:18 275:19 296:10 311:1 316:18 335:7 339:20 340:17	exclusively 39:10 150:19 256:1
enhancements 120:18	equally 38:8 183:13	etcetera 91:17 96:1 142:10 186:14 187:7 200:7 201:4 222:8 226:14 249:15	examined 106:11	excuse 34:14 49:1 240:17 269:8 329:19
enhances 271:13 342:3	equation 84:18	EU 97:13	examining 100:1	executive 35:9 80:9 195:1 205:20,22
enhancing 115:5 118:10 126:15	equidistant 267:19	Europe 97:13 99:8 105:4	example 28:1,11,15 48:18 65:4 97:22 120:21 131:15 132:10 134:3 135:12 136:9 145:21 147:15 152:15 162:16 168:7 186:11 187:16 189:10 190:14 196:22 207:19 211:9,14 222:5 239:16 255:2 257:22 265:6 266:12 267:18 275:19 296:10 311:1 316:18 335:7 339:20 340:17	executives 80:20 87:1 143:13
enjoy 76:12 331:4	equipment 220:22 315:15	evaluate 103:7 210:8	examined 106:11	exemption 80:21 90:16 91:2 337:15 338:4,5,6
enjoyed 50:19 52:10 199:19	equitable 280:20	evaluation 85:6	examined 106:11	exemptions 80:18 315:21 337:3,8
enjoys 105:14	equivalent 39:4	evened 200:16	examined 106:11	exercise 120:5
enlightening 57:7	era 81:3	event 148:21 163:3 163:4	examined 106:11	exhaust 61:16
enormous 114:6,12 269:19	Eric 6:19 9:17	events 37:21 145:1 145:16 203:5 213:3,7,9	examined 106:11	Exhibit 145:15
ensure 38:20 39:14 45:3 100:3 120:5 127:7 145:2 328:19	escalating 137:15	eventually 48:11 50:22 238:9 299:13	examined 106:11	exist 29:20 164:14 168:11 175:4 180:5 189:7 198:22 265:4 271:3,4 325:20
ensuring 42:2 101:12 108:19	escalation 137:20	evergreen 133:8	examined 106:11	existed 132:2 168:14
enter 112:11 122:15,16 167:4 236:9	especially 113:19 114:3 154:6 174:5 187:4 191:5 215:2 245:20 251:3 260:11	everybody 41:17 60:4 68:21 165:7 220:5 340:1	examined 106:11	existence 53:15
Entergy 42:18	Esq 2:10 5:13	everybody's 23:19 185:18	examined 106:11	existing 43:5,11 63:2 113:22 203:1 214:17 240:4 264:16 271:8 288:21 293:2 308:15
entering 248:2	essence 180:8	everyday 141:11	examined 106:11	exists 118:20 125:8 132:7 267:16 271:18 323:1 328:9
enterprise 97:4	essential 141:10,11 142:5,10	everyone's 250:21 286:9 346:13	examined 106:11	expand 101:4 103:18 123:3
enters 266:6	essentially 30:4 140:6 279:15	evidence 41:19 42:14 43:12 51:22 112:3 248:15 266:21	examined 106:11	
entertain 337:6,15	establish 47:14 58:20 60:2 85:14 119:22 261:11	evidenced 189:10	examined 106:11	
entire 26:20 90:2			examined 106:11	

289:9	49:13 86:1 157:12	facilities 17:4,7,18	factors 194:4 202:6	faster 77:4 82:5
expanded 13:13	225:18	21:6 28:3 38:21	316:3	204:5 214:13
expanding 78:4	explainable 203:21	39:15 86:18 99:3	factory 279:5,6,10	220:8 307:9
155:7 264:6	explained 224:12	100:16 101:22	279:12,20 280:1,7	fatal 332:2
expansion 78:14	345:9	102:3 103:21	facts 47:5 90:9	father 75:15
255:19 264:11	explaining 227:15	104:9,10,12,14	112:21 117:16	favorable 17:8
267:7,10 275:11	explanation 346:3	105:18 110:12,13	140:11 182:2	FCB 191:6
expect 290:4	exploit 170:5	111:11 113:9,11	213:22 342:1	Fe 195:11 200:14
expected 82:11	exploration 196:20	122:22 145:5,6	fail 185:20,21	fear 44:1 119:22
238:13	explore 322:11	150:15,16 151:6	280:1	281:18,21 282:7,9
expecting 63:16	exponential 158:12	155:2 165:10	failed 279:13 280:7	February 80:17
expedite 306:2	export 77:17	170:19 215:16,17	315:9	83:19 90:17 314:7
expedited 268:17	213:22 214:6,10	252:14 253:8	failing 315:17	322:7
expend 126:6	214:12 274:7	256:4 274:11	fails 315:15	federal 32:4 97:12
expenditures	282:15	296:1,2 338:9	failure 31:5 62:5	290:22
226:14 243:13	exports 29:10 83:6	facility 33:13 171:1	310:13 311:2	feel 99:16 145:20
244:10,15	214:2,4,12	212:4 215:8,13	315:11	180:13,15 334:3
expense 203:15	express 80:1	255:10 263:9,16	fair 49:22 51:10	feels 312:6
284:6 292:12	expressing 33:19	264:7 277:13	64:5 100:4 277:4	fees 114:4
303:9	extant 168:21	288:15 296:11	280:19 324:4	feet 40:16 193:13
expensive 36:19	extend 125:10	307:18,18,20,21	fairly 68:5	fell 190:6 325:17
77:4 114:2 126:5	165:11	308:2 343:20,21	fallen 76:20	fellow 49:12 252:6
131:7 153:8	extended 43:2	344:16 345:5	falling 276:8	felt 331:9 333:2
155:12 232:3	extensive 118:7	facing 84:4 85:6	false 19:17 118:18	fewer 68:18 103:10
270:6 280:7	269:2,11	160:15	familiar 33:14	103:11,13,15
338:14	extent 51:14 66:10	fact 16:18 22:11	53:12 61:4 246:17	fewest 210:10
experience 19:13	67:12 68:2 150:22	32:19 58:11 65:1	family 75:19	fiberglass 150:9
20:1,7 42:14 45:2	extra 224:13,22	68:7 94:11 95:10	family-run 262:22	fibers 262:20
55:7,7 87:14	241:12,13	105:9 108:14	fan 225:11	field 138:15 269:2
100:7 108:7,13	extreme 16:6 96:12	112:7 117:4 132:7	far 36:2 37:4 54:10	fields 13:7 248:16
111:4 137:19	192:8	142:14 147:13	61:13,22,22 77:20	fierce 93:12,14
140:4 145:17	extremely 93:16	158:7 168:18	82:11,11 96:21	fiercely 235:2
147:20 178:19	114:2 257:17	174:3 186:15	104:17 166:17	fifteen 249:13
179:19 181:9	290:20 309:3,4	187:8 189:14	174:22 175:22	fifth 12:11 126:3
186:11 263:15	E.I 4:1 8:2 116:3	190:12 191:20	201:12 202:13	fight 19:3 281:17
265:2 310:19		199:3,6 200:22	228:5 233:4 241:5	figure 180:20
316:6 338:10	F	201:16 204:10	247:12 268:4	189:19,20 305:16
experienced 38:7,9	face 65:22 113:4	212:18 214:4	270:7 285:1	figured 64:10
50:19 68:11 73:9	147:7 179:4	234:16 242:5,6	292:17 295:21	175:10
73:10 82:15 111:9	221:14 240:16	246:2 260:4	301:13 311:19	file 59:18 114:3
111:21 115:13	faced 103:3 139:18	264:12 302:9	336:2 339:1	153:6 156:1 259:4
151:7 157:17	facetious 174:15	314:20 326:13	farm 256:20	259:13
262:11	facie 22:5 58:9 71:9	327:15 331:18	farmers 281:13	filed 20:11 28:21
experiences 116:15	facilitate 51:17	332:13 333:16	far-reaching	42:18 253:1 260:5
expert 41:21 218:3	132:21 154:21	335:3,5 340:22	164:17	301:11
experts 114:5	247:1 271:9	factor 109:8 123:18	fashion 306:3	filing 114:19
explain 47:18	facilitated 49:8	177:7	fast 34:15	136:17 147:14

153:14 160:3 346:22 filings 284:15 final 46:15 179:6 183:7 342:6 347:1 finally 30:1 122:8 132:8 156:7 193:9 198:21 204:13 213:5 261:8 303:11 financial 22:13,18 91:20 117:13 118:11 299:18 318:20 319:5 321:7 financially 30:20 283:13 find 29:13 37:4 73:19 103:9 104:12 138:21 143:18 148:5 162:7 188:6 189:3 201:18 237:13 271:1 301:7 335:20 342:2 finding 52:7 105:6 196:19 221:11 302:6 findings 147:15 finds 114:14 210:17 fine 116:4 241:12 finger 180:18 fingertips 250:15 finished 99:12 101:18 274:4 finishing 92:9 fired 25:18 firm 46:2 firms 92:3 186:15 first 3:16 10:11 11:21 25:12 30:3 47:13 63:10 75:16 82:4 88:5 93:5 100:14 106:18 112:22 141:3 165:2 175:1	176:22 180:20 187:20 192:17,19 195:8 206:13 221:4 259:5 270:3 273:6 320:13 323:4 331:17 333:14 334:20 335:13 336:19 345:13 346:18 first-hand 82:1 fit 23:19 185:3 215:14 fits 345:17 five 16:9 35:13 72:14 104:16 128:12 181:7,7 189:7 192:4 193:3 193:13 233:17,19 250:21 251:12 274:12 275:5 276:10 five-year 192:11 fix 282:10 fixed 191:21 flail 305:22 fleet 110:7 flexibility 283:8 flexible 232:12 flies 179:4 221:14 240:15 flight 251:5 flights 251:4 floor 23:15 75:17 Florida 177:18 178:5 255:14 flower 75:17 flows 207:5 208:20 209:21 211:8 236:14,19 247:13 foam 256:15 focus 70:13 81:1 82:20 100:6 111:2 130:10 275:16 317:19 focused 51:22 264:5 313:19 319:21 320:7	foggy 218:16 folks 65:15 321:21 322:17,20 327:7 follow 89:22 191:6 222:13 333:19 followed 76:10 following 34:9 82:17 119:8 203:4 254:9 266:22 follow-up 224:10 food 262:19 foot 84:15 force 140:6 182:4 forced 152:14 188:16 206:9,9 207:6,6 208:20,20 209:4,4,22,22 210:18,19,22 211:6 212:15 215:12,16 219:12 221:10,10 224:12 224:19,19 236:3 236:12 258:20 264:22 344:5 forceful 76:16 forces 39:11 84:2,4 92:13 103:1 184:22 forcing 236:6,7,9 forecast 226:5 forecasts 226:4 foreclose 266:14 foreclosure 315:18 foreign 122:13,13 267:16 268:3 foremost 100:14 forest 24:19 forgo 152:2,12 299:11 317:14 form 215:12 formation 310:10 former 11:16 117:13 formerly 48:17 forms 113:1 130:6 196:10 Fort 5:3	forth 65:7 forthcoming 169:5 Fortunately 19:9 96:16 235:1 fortune 86:15 forum 61:10 forward 33:17,19 45:17 72:10 89:13 94:1 160:8 171:8 176:5 250:20 291:7 324:14 337:16 346:9 forwarded 212:2,9 foster 272:3 fostered 81:3 330:12 found 13:21 14:14 17:11 39:9 42:22 43:3 73:11 102:6 327:21 founded 75:15 150:4 four 17:1 27:5 46:13 150:16 187:4 193:13 194:17 198:9 255:20 256:6 279:1 Fournier 5:21 8:21 262:4,7 300:6 301:5 302:5 304:7 304:14 305:9,13 306:15 fourth 128:18 155:18 255:19 four-year 192:16 frame 15:17 16:9 47:17 97:7 193:2 193:5 199:17 200:15 203:20 204:12 323:14,18 325:13 franchise 115:16 FRANCIS 1:22 Franken 2:6 8:24 277:15,19 278:2 286:22 287:2,7,11	Franken's 343:11 frankly 25:5 55:6 137:6 171:5 218:19 244:22 308:4 323:6 335:11 340:12 Frauenheim 5:17 8:19 251:14,16,21 252:2,3,8 297:15 298:7 307:15 Fred 5:21 8:21 262:7 297:18 free 126:11 275:2 288:10 289:16 290:6 293:20 294:1 Freeway 4:9 freight 24:3 26:3,7 28:4 29:5,18 78:3 80:6 82:22 84:21 103:16 116:18 128:12 130:21,22 130:22 134:9 135:13,15 137:15 138:4,4,8 167:1 177:15 196:7 203:16 205:1 213:4 255:1 266:19,20 276:22 292:1 294:10 310:22 311:3,9,14 311:15,19 312:1,5 312:7,14 313:10 315:3,6,6,8 316:8 316:10,11 317:12 317:17 318:6 320:8,10 327:7 329:6 340:3 frequency 217:4 frequent 180:5 232:16 frequently 137:1 169:2 233:14,16 252:21 254:20 265:10 friendly 79:6 292:2 front 277:22
--	---	--	--	---

308:11	41:22 43:3 56:21	47:7	278:21 282:12,22	226:10,15 229:9,9
fruit 200:21 201:11	90:12 98:4 104:4	generation 34:18	286:8,14	229:10,17 230:10
202:3,4	132:13 146:14	gentleman 278:8	globally 101:3	233:2 236:17
fuel 6:12 20:10,12	149:3 178:9	gentlemen 157:19	138:10	237:19 238:5,15
20:13,14,16 22:20	185:13 254:12	geographic 119:18	go 10:15,19 11:10	239:3,8,10 240:2
23:1,3 35:9 49:20	298:12 322:12	267:14,15	11:17 37:4,15	240:4 241:11
51:1 75:9 112:13	329:2 347:12	geographical 83:8	40:12 54:16,19	242:5 247:14,19
112:15 122:8,9	Furthermore	107:17 175:14	60:10,18 62:17	250:22 251:11
134:12,14 190:1,2	118:17 212:11	geography 336:12	68:15 91:3 92:7	266:8 270:20
190:5,12,20 191:1	future 44:21 54:7	George 6:2 8:22	94:11 112:18	277:10 280:8
246:12 316:3	81:12 82:12 89:18	9:2 272:22	158:10 166:13	281:20 288:12
319:1,7 320:15,21	126:21 138:22	getting 54:8 59:3	174:8 177:22	301:17 305:3
321:11,11,21	168:10 196:8	94:19 177:19	181:2 184:16	309:8 311:15
322:4,5,10,13,18	202:9 206:5	182:1 242:11	185:17 191:16	315:22 316:1
322:20 323:19	209:19,21 264:21	245:22 246:15,16	201:11 204:7	317:16 323:13
324:6,12,16,18	274:21 288:7	268:1 302:21	209:20,20 214:1	327:3,3 331:4
325:1,1,5,7,7,11	290:2 291:4,22	306:19	223:10 228:18	334:6 337:5
325:14 326:7,9,12	292:14,15 293:19	give 21:11 34:20	229:17,21 230:10	338:11,12,16
326:13,18,19	294:3,3,19 309:1	35:8 38:12 42:14	231:21,22 232:12	344:18
327:2,3,4,10,16	311:8	168:22 171:7	239:9,10 240:20	Goliath 281:17
327:16 328:11,12		174:19 176:21	241:14 270:19	good 10:3,5,7,8
328:15,18 330:8	G	177:10 178:13	292:7 303:3 339:4	12:3 23:14,17
334:2,7,7,12,13	gain 73:20 199:11	179:5,13,19 181:8	341:3 343:17	34:5 42:11 44:14
334:22 335:17,17	235:1 260:3	183:19 187:16	goal 202:5	44:17 57:2 61:10
335:20 336:7,12	gains 187:1,3 201:8	190:14,21 194:3	God 302:12	68:5,16,17 69:8
336:19,20 338:1,4	gallons 75:8	225:10 226:4	goes 152:19 158:12	69:11 71:22 74:4
339:18 340:9,13	GAO 283:2 284:10	245:21 246:2	177:2,17 191:17	86:15 91:18 98:14
341:7,17	gas 72:19 196:19	247:9 261:12	235:3 268:13	102:12 109:21
fulfilled 294:16	252:9,10,13	287:21 299:22	306:1	116:10 139:5
full 104:4 121:15	gateway 295:17	343:7,8 344:7	going 10:15 17:19	162:3 184:14
133:5 176:20	gateways 135:13	347:8	22:14 23:16 33:15	205:18 208:14
196:22 245:8,20	222:9	given 57:18 97:10	34:3 40:9 43:7	213:13 218:17
251:9	Gears 5:22	108:4 187:7 283:7	45:7 55:8 56:21	219:7 223:3
fully 97:14 318:4	general 12:6 51:20	310:4 339:12,12	59:13 61:12 63:19	242:12,18 243:4
full-blown 56:6	88:12 106:19	342:16,17 344:8	63:20 64:18 65:20	244:22 245:4
function 209:13	128:14 216:15	346:3	66:19 67:14 68:22	247:7,8 251:2
226:16 248:6	227:19 230:20	gives 41:19 323:1	160:22 161:1,8	262:6 284:4 298:6
252:17 311:12	234:18 254:15	giving 28:13 86:5	168:1 169:6	298:11 333:19
functionality 73:13	313:14	97:4 176:19 278:7	171:13 173:17,18	goodness 162:20
fundamental	generally 64:1	330:19	174:8 175:5 176:6	goods 27:12 84:9
117:18 275:1	206:12	GKG 2:22 46:2	176:16 178:9	106:7 114:9
288:9 291:21	generate 25:21	glad 157:9 298:16	184:11,14 185:7,7	144:11 280:6
293:22	40:18 87:5 95:21	glass 150:8	187:9 194:17	282:4 292:16
funded 79:7	122:17 209:5	global 62:2 85:7	204:1 216:10,17	320:21 321:13
funds 27:10 291:8	generated 37:12	100:8 105:2,7,16	217:14,19,20,21	337:1
furloughed 225:21	generates 123:22	106:6 150:7 262:8	217:22 219:8	gotten 175:22
further 13:6 17:16	generating 24:18	262:15,21 273:15	223:22 224:2,3	202:14

government 213:11	267:7	311:20	haul 146:12 151:13	hearing 1:5,17 10:4
gradually 14:4	grow 87:12 101:4	hamstrung 154:12	151:17 232:4	12:9 47:2,2 51:13
graduate 279:2	103:18 120:16	hand 102:5 118:4,9	266:20	53:2 80:18 83:20
grain 209:9 343:14	141:7 195:15	179:22 183:10	hailed 14:18	98:6 132:15
grandfather 279:4	196:6 205:10,11	312:18 337:17	hauling 196:22	149:12 155:6
279:18,19	239:3 289:9 295:2	handicapping	232:6 276:22	167:11 168:15
Graniteville 162:17	growing 101:16	282:11	294:10	183:10,13 184:1,6
granting 316:7	214:13 276:16,21	handle 80:5 81:16	hazard 108:10	190:2,10 204:17
graph 14:11	291:17 294:9,19	89:16 215:21	head 234:6 309:8	231:12 271:11
grateful 138:11	grown 92:22 214:2	230:4 246:21	headache 332:5	274:16 275:18
331:1	320:16,18	247:1 256:6	headaches 332:11	278:5 288:2
Gray 110:1	growth 77:15 82:11	handled 212:21	headquartered	302:12 322:7
great 33:16 209:20	82:22 83:5,12	handling 113:17	46:20 99:8 140:15	333:7 334:5
220:18 252:1	115:6 187:2	217:9 237:15,19	253:6 273:3	345:17 346:15
278:1 279:11,12	199:15,17 203:16	245:16 246:13	headquarters 99:6	347:13
302:17 339:9	291:10 293:1	handlings 210:9	heads 233:2	hearings 90:17
340:16	GTM 204:11	213:7 223:13	head-on 198:2	148:19
greater 105:14	GTM s 200:18	hands 198:14,19	heal 76:9 200:1	heart 25:14
111:14 113:20	guarantee 133:5	handy 298:5	health 42:2 142:11	heavily 82:21 231:9
119:13 127:6	296:16 302:13	happen 10:21	286:6 318:20	234:16
129:17 154:22	guess 34:9 90:17	33:13 37:6 221:13	319:5	heavy 301:19
272:3	92:8,15 176:14	227:13 230:19	healthy 30:20	heck 280:13
greatest 146:10	178:22 181:13	287:12 315:22	74:12 76:11	hedge 327:18,19
greatly 33:20 45:2	227:12 245:19	337:5 344:19	101:15 117:6,9	328:3
72:6 98:6,19	326:17	happened 199:14	283:13 284:3,6,21	hedged 327:22
102:7 109:16	guidance 22:10	225:18 232:13	294:18 326:10	hedging 327:13
172:14 200:10	97:11	325:6 339:16	hear 28:1 45:20	helmets 142:9
202:9 203:6	guideline 59:16	happening 57:19	79:17 116:2	help 59:10 97:11
271:20	guidelines 22:7	333:20	127:14 139:3	101:14 132:5
green 6:13 11:11	59:5 60:9 136:6	happens 38:14	149:16 156:19	138:20 155:2
322:16	Gulf 83:16 263:10	169:3 227:10	157:9 158:5	176:15,20 201:19
grew 279:15 325:8	264:5 304:6,10,12	325:4	205:14 215:4	205:10 215:1
grey 197:17	304:14	happy 157:21	235:21 236:1	218:22 230:11
gross 165:21	guy 316:10	306:18	262:2 272:14	257:10 305:4
200:18 203:15	guys 218:4 297:6	hard 29:19 38:15	316:1 318:9	helped 76:10
group 3:5 6:5,10	305:17	49:14,17 90:11	338:16 344:6	252:19
7:16 9:9,13 46:13	gypsum 6:1 8:22	93:16 189:3 205:8	heard 18:3 22:12	helpful 176:8 194:2
51:21 74:15,16,22	9:2 272:15 273:2	305:16 323:17	56:14 57:9 73:3,8	225:9 298:16,18
75:13 91:7 170:9	273:12	325:12	110:22 111:5,5	309:6 335:10
243:9 262:15		harder 207:8	150:2 167:21	347:10,11
284:21 285:9	H	247:15	170:10 196:13	hesitant 88:20
298:17 310:6	H 4:18 8:8	harm 39:1 78:6,9	202:12 218:14	hidden 341:15
318:10 319:20,21	Hades 243:3	213:21	269:19 280:16	high 13:1 22:9,14
320:4	half 35:16 300:11	harmed 155:16	281:3 304:21	76:4 109:10
groups 52:2 204:20	308:9	harmful 40:22	305:20 322:6	144:16 145:2
217:18 305:2	Hamberger 95:11	236:13	331:7 342:10	147:17 153:15
Grove 3:8 263:6	Hamberger's	Hart 2:4,7	346:19	157:13 279:2

308:2 311:21	214:5	195:16	141:20 145:8	improve 38:2,3,18
higher 15:9,12 25:3	hit 10:15,18 266:8	hundreds 135:18	162:5 179:14	41:12 43:21 77:1
28:8 50:22 62:21	Hixon 5:13 8:14	165:11 211:20	290:1 308:17,21	100:12 185:6
63:1,3 65:22 66:1	205:22 213:13	hurt 123:19	318:19 326:19	189:11,17 207:14
70:17 100:21	214:22	Hydro 252:18	339:8	246:20 272:8
101:1 103:12,14	hm 242:21	hypothetical 85:11	impacts 38:11 41:4	286:2 306:9
103:16 104:13	hold 277:16		68:3 137:21	318:18 319:2
114:16 121:6	holding 12:9 47:2	I	336:13	improved 77:9
136:16 151:10,19	53:1 266:19 278:5	IANA 80:4 85:11	impairing 79:1	79:4 181:3 202:9
152:1,4,18 190:7	home 240:19 251:5	90:19 92:19	implementation	203:6 319:7
231:5 245:3 250:4	282:14	IANA's 80:19	199:20	341:17
250:8 266:20	hone 209:16	ICC 91:13 299:4,7	implemented 77:21	improvement 41:3
275:10 285:17	honest 192:13	303:18 310:17	292:11	42:2
highest 120:22	270:9	idea 188:14 194:14	implementing	improvements
Highland 3:6	honestly 160:5	323:1 331:11	207:13	40:19 81:13
highlight 322:13	161:9 218:15	ideas 51:20 55:2	implies 195:13	171:14 254:22
326:3	honesty 164:1	175:13 292:10	import 77:17 214:7	255:4,9 275:13
highlighted 322:22	hope 69:7 107:5	318:17 331:12	214:9 281:5	improving 106:16
highlights 320:16	140:10 197:5	333:5	importance 42:1	107:6 121:12
325:19	284:17 286:12	identified 33:5 85:5	142:13,19 162:1	200:20 203:11
highly 19:19 76:17	321:21	193:16 277:12	313:6,6	305:8 306:12
79:5 82:18 151:4	hopeful 138:18	282:19 288:14	important 12:9	inability 25:1
263:1	261:17	292:8	29:12 35:22 36:3	inadequate 38:22
highway 96:11	hopefully 10:9	identify 336:4	45:11 61:14,16	39:6 43:1 44:22
196:7 290:20	99:20 238:6 246:5	ignore 242:5,6	74:11 89:3,4,18	258:2 260:21
291:2 315:2	298:18	332:16	101:22 104:22	inbound 253:15,19
316:11	hopes 68:21	II 7:13	140:14 162:10,11	274:14
highways 89:17	hoping 69:6 183:19	III 1:19 5:17 7:21	162:12 274:17	incentive 42:10
96:7 143:9 314:2	202:7	8:19	278:10 288:3	43:21 44:14,17
high-cost 136:12	horses 219:15	IL 3:8 5:6,18 6:4	292:17 296:4	45:3 185:18,20
high-paying 124:1	host 210:8	Illinois 13:2,7,11	320:14 332:20	incentives 161:2
high-skilled 124:1	hours 224:3 247:20	75:18 134:7 253:7	importantly 10:11	inclined 231:1
high-volume	247:21	255:16	87:10 208:14	include 16:5 24:17
136:12 312:22	household 27:4	illness 110:2	211:22 291:19	84:13 120:12
317:20	Houston 5:23	illustrate 84:3	imports 83:6	173:3 261:5
hikes 280:22	152:19 175:15	130:3 137:12	122:13,16 214:13	included 48:3
hindered 152:21	177:18 178:7	illustrates 132:10	268:3	128:13 255:9
hindrance 89:21	Hub 3:5 7:16 74:15	illustration 147:21	impose 15:14 51:3	320:8
Hinsdale 75:17	74:16,22 75:13,16	imagine 29:19	145:13 159:2	includes 112:10
hire 101:5	75:20	102:4 188:1	imposed 16:6 38:15	252:16 266:22
hiring 63:20	huge 35:18 106:1	immediately 155:6	112:5 114:22	including 21:3 71:7
226:11	human 82:9	212:1	129:3 148:10	81:6 93:18 127:21
historic 204:7	humanly 288:19	immunity 92:5	imposing 20:9	129:18 130:6
historical 155:13	humbly 33:2	impact 44:2 95:4	impossible 288:19	140:19 142:8
historically 135:21	124:15	102:18 106:10	321:10	170:11 208:15
244:20,21 299:3	hump 228:13	111:1 118:15	impression 342:17	260:6,9 261:3
history 90:2 149:9	hundred 142:16	130:4 138:9	improperly 38:11	277:12 288:14

310:19 345:6	increasingly	industries 4:17 8:7	282:7 283:6,13,16	206:6,16,20
inclusion 285:7	106:12 286:14	28:2 39:21 41:13	284:4,6,13 286:6	208:16 211:2
inconsistent 120:11	incredible 174:7	102:18 118:20	289:14,21 291:8	212:4,7 219:21
incorrect 321:21	incredibly 209:7	119:15 121:9	291:16 294:17	223:18 224:22
increase 15:15,19	incremental 166:19	122:4 126:22	311:6 312:17	237:19,22 238:3
37:22 42:4,6	167:1 201:8	127:4 144:3	318:6,20 319:2,4	238:15 242:16
67:21 81:17	incumbent 14:7,9	149:17 160:14	319:5 327:11	254:14,22 255:4,9
102:11 104:15	15:10,13,13,17	186:17 188:21	329:10 335:5,9,11	256:9 274:21
107:14 111:10	43:1 44:13 62:19	258:10 273:14	341:16	288:7
112:2,9 113:17	62:21 63:1,2,4	278:20 280:18	industry's 33:3	inhalation 108:10
120:17,18,19	64:2 65:3 199:1	282:12,21 286:11	36:6 102:16 117:1	inherent 91:16
134:14 144:9	316:9	286:13	120:20 311:8,13	319:6 321:17
146:9,10 147:1	incur 115:2	industry 1:9 12:10	inefficiencies 216:9	inherently 118:2
151:21 154:22	incurred 128:11	23:7 28:21 29:17	219:16 224:21	inhibit 73:18 265:3
184:13,19 185:12	indemnify 165:20	30:9,10,15,19	225:7 239:17	initial 46:14 47:12
192:1,7 193:17	indemnity 140:4	31:9 34:22 39:22	242:7	146:5 253:1,3
211:3 219:22	independent 42:19	40:8,16 42:3	inefficiency 39:5	310:18 314:3
220:1,18,20	310:21 314:1	57:19 74:13 75:21	inefficient 37:18	316:12
225:14 233:19	343:17	75:22 76:7,9 80:8	44:22 211:14	initially 59:5
235:5 239:19,20	index 323:5,16,20	82:14 89:12 92:1	213:2 224:18	initiating 24:2
240:8 255:1,5	324:15	92:2,4,11 93:1,10	328:6	149:11 260:22
256:9 257:13	indexed 203:13	98:22 99:13 100:8	inefficiently 211:8	initiatives 201:17
259:2 284:12	indexes 323:2	101:15 104:18	inequities 138:18	201:21 202:2,7
300:12 308:1	Indian 225:11	105:20 106:17	inflate 134:12	inject 183:12
increased 14:13	indicate 290:21	109:1 117:5,12,22	inflated 28:4	injuries 213:8,10
38:2 39:16 40:4	indicated 16:2	118:1,16,17,21	152:15	inland 197:9
45:2 56:16 82:19	143:13 193:11	122:6 123:9,22	inflation 76:20	innovate 121:10
102:7,11,22	250:2 297:9	124:5 125:19	152:1 191:12	187:6 188:16
107:11,18 113:16	indicates 259:15	126:14,17,19	202:6	189:17
128:15,19 182:13	320:14 328:5	130:2 138:13	inflationary 104:18	innovation 41:8,12
198:10 204:11	indicating 29:7	139:13,14,16	informal 136:20	41:18 42:1 95:22
213:1 220:15	285:12 337:18	141:2,21 142:3	information 169:5	121:4 171:12,13
221:5,14 254:19	indicator 22:18	145:9 146:19	189:5 208:15,19	171:22 184:21
257:2 264:8 267:2	71:22 323:8	154:12 159:18	234:7 247:9	185:6 186:10,13
275:15 317:2	indices 334:14	160:15 162:1,11	250:15,21 261:18	186:22 201:12,14
328:2	indifferent 25:6	166:12 167:15	265:14 319:17	201:15 206:6,17
increases 15:18	individual 29:8	168:5 172:2	335:18 339:4,5	263:2 276:9
20:8 36:12 51:4	103:1 242:13,20	184:20 186:21	340:11,13 341:13	innovations 97:4
111:14,20 112:4	324:9 342:4	187:8 188:12,13	informative 57:8	207:14
112:15,16 114:20	individuals 78:7	189:9,13 196:6,8	informed 252:20	innovative 341:14
115:16 129:3	232:5	204:21,22 231:22	infrastructure	input 130:9
131:10 149:8	Indonesia 37:4	253:11 257:4	16:18 21:5 31:6	inputs 209:2
173:3 192:21	60:19 61:12,22	258:2 260:20	73:20 76:15 78:14	inquiries 63:21
193:8 194:6 213:9	65:20	261:17 268:6,9	81:13 83:11 84:22	insidious 124:6
increasing 13:20	inducement 344:20	269:12 272:4,7,21	89:11 97:2,22	insight 68:9 320:5
51:1 84:3 103:6	industrial 51:4	275:6 276:2,7,11	104:21 106:3	insisting 112:12
200:13	196:15 249:11	276:13 278:6,17	123:4 142:6 206:5	installation 255:11

installed 19:2	38:10,13 117:4	interpretation	84:1 87:10 88:19	161:7 177:15
instance 14:19	132:20 135:4	29:15 43:11	110:9 123:5,11,21	184:15 193:14
237:12,13 242:15	171:9 174:17	interpretations	182:12 202:11,15	211:5 252:21
instances 64:15,17	258:13 265:19	32:9	202:17 206:5,6,14	259:6 261:21
85:9 144:14 223:2	286:9 313:1	interpreted 71:6	207:7,11 212:3	274:20 277:11
Institute 106:21	317:21 333:21	interrelated 83:2	216:2 237:21	286:19 288:6,13
162:2	interested 13:22	interrupted 278:9	238:8 239:1,5	290:20 292:8
institutions 98:1	14:17 16:3 65:11	intersect 343:13	246:15,17 257:19	322:10 332:5
instructions 35:6	106:22 117:2	intervened 181:20	264:17 290:2,5,14	items 100:2 138:14
insufficient 311:20	130:12 149:13	intervention 50:10	291:6,14	IV 8:10
insurance 144:22	169:13 186:2	319:14	investments 21:5	ix 127:7
insurer 140:6	253:4 318:14	inter-line 179:19	76:14 83:3 87:2	
intelligent 312:4	333:7 343:6	180:1	175:21 238:3,11	J
intelligently 96:18	interesting 61:6	intimate 171:19	256:12 289:9,11	J 3:19 5:21 8:21
intended 30:22	162:7 236:4 319:9	introduced 84:17	invitation 33:8	Jackson 5:5
275:21 330:21	323:7 341:14	118:13	involve 53:9	James 2:10 5:13
intense 82:15	interestingly	invariably 100:21	involved 41:13	7:5 8:14 12:5
275:16	196:17	invented 187:21	73:6 94:20 141:1	January 320:17
intensify 81:13	interests 57:10,11	inventory 66:1,22	223:18,19 224:14	323:14
intent 30:11 89:9	75:11 78:9	341:1,10	235:10,11 302:2	Japan 186:11
141:6 294:21	intermediaries	invest 17:18 31:5	321:16 333:15	Japanese 186:13
intentions 242:12	321:16	32:16,20 77:9	340:6	Jeff 3:19 7:24
243:4	intermodal 3:9	78:13 88:22	involving 42:13	109:22
interactions 172:3	7:18 67:18 68:8	104:20 170:19	in-kind 118:10	jeopardized 102:1
172:16	68:19 75:3,5,21	171:1 203:7	IRCs 71:16	Jersey 134:5
interchange 130:16	76:16 78:10 79:18	237:18 238:4,14	Ironically 151:14	255:15
131:3 132:4 206:9	79:22 80:6,8,11	294:2	326:22	Jim 205:22 309:16
207:6 208:21	80:11,16,19,22	invested 21:4 58:18	irresponsible	Joanne 80:19 90:18
209:5 210:1,19	81:11 82:14 83:1	76:22 82:8 97:2	257:20	92:17
211:6,13,15,18,20	84:5,20 85:1,7	165:8 202:18	issue 45:7 62:4	job 91:18 170:5
212:6,12,14,15,15	89:12 90:2,21	207:4 254:21	67:13 107:9 110:6	227:15 246:11
212:17,21 213:1	91:2 93:10 94:8	255:3 256:8,18	143:14,14 159:4	334:10
215:8 219:13,14	105:22 195:6	291:22 292:3	163:15,18 164:17	jobs 29:11 101:8
221:10 227:10	196:12 209:8	293:1	164:17 167:6,8,12	103:19 124:1
228:11 230:8	231:8,10,20	investigate 97:16	277:2 278:22	278:19
236:7,8 237:15	232:22 234:20	investigated 318:4	286:1,4 309:2	John 3:15 4:13 5:2
240:1 247:5,11	248:20 249:1,5,12	investigating	320:15 332:18,22	6:6 7:22 8:6,12
248:5	274:6,7 296:21	154:14	issued 14:20 20:2	9:10 98:17 150:12
interchanged 134:6	320:2,6,15,22	investing 36:5 77:7	190:3	195:1 234:18
212:8	321:17 327:5	78:18 82:21	issues 22:11 30:3	248:14 329:20
interchanges	329:3 335:7,11	263:13 275:9	33:5 58:3 60:14	join 52:4
135:10 211:9	340:19,21 341:6	276:13,22 289:14	60:18 85:4 90:8	joined 75:19
229:21	internally 102:10	289:18 292:12	100:11 101:6	joint 46:14 47:17
interchanging	international 5:16	294:10	105:17 106:9,15	50:13 51:19 66:16
228:9	8:18 86:13 106:9	investment 16:17	132:16 135:2,9,20	86:3 87:1 106:19
interest 30:21	251:13 252:4	17:10 19:4 40:18	139:8 140:10	107:2 120:7 180:2
32:11 35:3,12,20	interpret 22:2	41:7 49:11 73:19	143:18 159:11	273:12

Jonathan 2:16 7:9	343:1	303:3,6,7,8	253:13,14 258:5	layer 225:6
Joppa 65:5	kinds 78:3 143:15	305:10,15 307:7	293:9,12,14	LBJ 4:9
journey 276:5	King 3:17 99:6	307:12 308:8	Lanigan 5:2 8:12	Lea 279:8,17,21
judge 307:11	knew 168:15	321:19 323:4	194:19,20 195:1	280:3 313:9,10
jumps 222:10	know 10:20 11:16	328:10 333:4	205:13 221:21	lead 186:3 202:1
junction 343:15	20:11 28:22 40:2	334:20 335:1	222:2 225:11,19	239:17 261:19
June 1:11 46:15	40:10 45:7 49:13	336:17 338:13	231:4,14,19 233:7	329:5 344:18
323:17	54:21 55:1 56:10	339:7 341:16	233:16 234:5,11	leader 253:10
jurisdiction 52:19	57:9 59:4,8 60:9	342:7,20 344:7,15	238:19,22 243:16	273:15
60:14	60:10 61:1,7,13	345:8	243:20 244:3	leaders 201:22
jurisdictional 22:1	64:11 78:1 83:18	knowing 343:6	249:3,9,21 250:7	leading 98:10
58:9 71:4,14	88:15 90:11 93:9	knowledge 85:4	250:13 312:2	127:19 252:8
Justice 161:6 283:1	114:18 118:1	119:5	large 26:8,12 36:17	273:11
justification 133:8	119:6 137:19	known 25:15 80:4	78:11,12 79:11	lean 263:2
190:22 214:16	147:5 150:18	knows 44:10	97:21 110:7,13	learned 107:21
justified 17:10	157:8 162:14	KOH 129:19 164:9	112:15 114:3	Leary 7:22
117:15 207:12	163:13 164:13		143:7 153:10	lease 112:16 266:15
justify 43:6 55:22	165:14 168:9,9,11	L	156:4 157:2,18	274:13
56:7 123:4 207:8	168:11,14,22	L 4:13 8:6	181:17 201:21	leases 12:16
254:12 264:10	169:2 171:6,7,17	La 28:5 152:15,18	248:22 260:6	leasing 19:7 80:12
267:10	172:5,6,21 173:1	label 239:7	291:5 311:12	leave 30:2 112:10
juxtapose 313:3	173:6,10 174:1,22	labor 201:6	largely 14:6 325:5	120:13 237:17
	175:4,13,14,19,20	lack 22:5 28:20	larger 91:7 181:19	leaves 237:16
K	176:2,4,19 177:6	29:8,13 41:7,8	largest 12:11,14	leaving 260:13
keep 14:10 72:15	177:16,18,20	58:12 66:6 71:10	51:3 72:22 80:11	311:21
101:14 220:2	178:5,9 179:15	124:6 125:22	81:16 86:9 123:11	led 285:9
229:11 252:20	180:1 181:1,5,18	129:9 132:13	132:12 150:13	left 52:1 211:17
278:19,20 347:2,7	182:3,11,15	145:10,21 151:17	204:19 273:21	266:19 287:19
keeping 216:15	183:17,21 184:9	154:12 197:12	332:9	leg 281:9
286:7 313:20	184:17 185:9,17	198:3 214:15	Lastly 108:21	legal 301:18 332:1
keeps 143:7	185:20 187:17	lacking 266:22	late 196:18 197:14	332:5
Keith 4:2 8:2	188:3,7,10,14	Lafayette 25:12	257:14	legislation 163:9
116:11	190:19 192:2,18	27:5,6,9	latest 255:19	legitimate 37:9
Kemp 309:14	194:1 215:3	laid 45:12 60:17	late-1990s 82:19	length 267:10
key 100:11 101:21	216:17 218:17,22	284:10,14	Laughter 74:7	lengthy 153:7
106:12,15 107:1	225:19 227:22	Lake 28:5 33:13	116:5 174:13	263:22 305:20
109:3 148:17	230:19 231:2	151:10 152:16,17	175:16 178:15	lessons 107:21
209:1 274:19	233:17,22 234:3	174:4 253:5	280:4 284:19,22	letter 199:8 282:18
288:6 305:14	235:3,21 237:18	Lancaster 4:4	285:2 287:6,10,13	285:10
killed 162:18	241:4 242:11	land 94:19	301:16	let's 60:11 64:4
Kimberly 314:13	244:14 246:19	landscape 119:11	law 2:22 29:15	84:5 175:13 177:2
kind 23:18,19 36:1	247:16 249:21	lane 6:20 258:3	32:22 46:2,2	301:12 343:10
59:6 63:19 90:22	254:18 265:10	302:11 308:4	206:1	344:17
96:12 163:9	283:1 284:13	lanes 104:3,5,6	laws 154:9	level 24:3 38:3
200:16,20 219:13	285:1 295:13	121:1 136:12,17	lawyer 301:22	50:18 54:4 55:4
227:22 235:6	296:8 300:11,12	137:9 160:10	lawyers 114:4	59:3 69:7 71:4
245:8 247:4 306:8	302:1,2,19,20	172:17 173:12	lay 50:13	86:21 208:13

277:3 290:7 336:6	201:4 236:17	256:3,4	66:15,16 97:12,13	225:21,22 226:2
levels 50:3 124:20	249:11 274:12	loads 135:19	97:17 163:21	228:22 235:12,21
291:1	310:8 312:19	local 29:9 86:21	164:4 165:3	241:17 246:10
lever 10:14,15,19	313:2,16 314:14	212:21 291:1	175:17 176:5	280:14 284:15
leverage 155:21	317:22 324:14	locate 344:16	182:2 188:6,10	297:4,19 303:10
266:4	343:13,17	located 25:18 34:19	199:14 202:15	304:21 334:11
levied 190:16	lining 68:13	105:4 124:21	205:8 239:22	338:17 347:3
liability 162:15	linked 122:9	263:5 314:13	275:22 285:3	lots 314:2
163:4,6,18 164:12	liquids 252:10	locating 258:17	288:18 296:18,19	Louis 2:13
166:6,15,20	liquified 252:9,13	344:20	296:19 298:12	Louisiana 2:2 7:6
lie 165:19	list 169:13	location 145:18,20	305:8 306:13	24:1,16 25:11,13
lieu 48:14	listed 141:5	228:18 263:10	322:12 323:4,13	25:19 26:1 28:3,5
life 81:11 141:11	listened 93:5 308:8	locations 128:8	323:16,22 324:1,9	131:19 134:5
328:10	listening 307:1	130:14 131:6	324:21 325:10,12	Louisianan 28:9
light 11:9,11,12,13	342:14	145:13 194:5	335:1 338:7,8	low 13:2 56:8 68:6
45:6 111:4	listing 133:15	217:10 258:8	346:9	188:7
lightly 263:22	litigate 173:2	264:21	looked 120:21	lower 14:8 18:13
lights 11:8	297:17	locomotives 211:3	322:8	56:3 66:13 70:15
light-density 313:2	litigating 260:8	221:1 226:13	looking 33:17	70:16 71:14 103:4
317:22	litigation 153:8,11	logic 190:21 290:8	41:15 69:1 109:19	105:8 121:5 157:3
Likewise 269:9	182:12 260:2	logical 241:18,19	148:22 163:15	159:22 211:17
limit 130:3 132:14	300:19 301:4	241:21	186:12 188:11	242:14,22 268:1
133:20 138:17	little 2:18 10:18	logistics 4:3 81:5,8	211:13 221:19	319:8
175:19	23:12 29:3 34:10	98:18 116:13	269:21 270:13	lowered 199:10
limited 92:4 102:3	34:15,19 35:14	long 48:16 78:8	300:20 331:19	lowering 121:11
102:5 150:22	43:13 46:8 47:6	113:19 117:4	looks 70:3,6 247:18	low-density 200:6
163:4 209:10	49:15 50:9 58:17	147:14 159:8	247:22 248:1	201:3
252:19	62:16 63:10 65:14	171:11 172:9	looming 206:20	low-hanging
limits 55:14 95:8,9	67:14 86:8 90:6	186:18 189:1	lose 179:10 234:21	200:21 201:11
95:16	94:21 153:1	191:21 201:6	235:8,15 238:13	lucky 238:6 297:3
line 17:3,4 44:15	169:16 174:18,20	259:11 276:5	265:22	ludicrous 119:1
48:4,12,16,16	176:18 203:19	292:17 300:17	loser 326:8	126:12
49:4 66:16 69:10	212:7 231:4	303:12	losing 120:1 328:3	Ludington 131:18
69:11,12,16,17,21	238:12 243:1	longer 14:16 50:20	loss 77:5 187:12,13	lumping 342:18
69:22 84:8,19	244:1,3 245:1	117:14 133:9	198:18 204:2	lunch 251:1
100:22 120:7	260:13 267:14	190:4 210:18	losses 249:14	L&W 273:20
146:12 157:17	298:5 305:11	239:17 240:3,7	lost 198:8,11 257:9	
167:16 168:19	306:9 323:17	242:6 299:10	266:1 268:2	M
172:17 197:16,17	325:12 331:6	longer-term 193:4	299:15 306:8	Macko 6:2 8:22 9:2
200:6 212:12	341:10 343:1	long-distance	lot 32:10 36:4 52:2	272:16,22 277:14
213:3 266:20	live 215:10	143:10	57:9 58:18 60:13	287:16,18 288:1
276:7 291:15	lived 93:20	long-haul 254:2	60:17 153:17	295:12,18 296:1
313:11 317:20	living 234:21	long-run 42:2	158:2 168:8 171:6	308:7
322:16,18	LLC 5:20 8:20	long-term 112:11	172:17 179:3	Madam 74:8 139:6
liner 97:14	load 265:7,15,19	127:5 150:5	180:18 183:2	179:1
lines 86:5 87:19	loaded 128:10	look 36:14 40:13	186:21,22 197:11	Madison 6:9
133:18 200:5,6	loading 255:18,21	45:16 51:15 55:1	216:20 218:15	madness 300:4

magic 321:22	227:14 228:7,10	52:15 58:11 65:2	materially 16:8	347:6
magnitude 173:7	230:17,22 234:15	70:3,5,11 73:22	155:16	meaning 131:2
mail 11:7	237:2 240:12	84:1 85:14 89:5	materials 99:12,18	meaningful 22:10
main 60:14 212:12	241:16 242:9	92:13 126:18	100:17,18 102:21	means 11:14 25:2
213:3 310:2	243:5 244:12,17	129:4 154:2	103:4 105:10	61:16,17 69:12
maintain 14:2	244:20 245:12	155:20 197:16,17	128:4 129:14,16	103:11,13 145:1
93:14 235:4	246:1,8 247:3	197:19 199:13	142:7 163:1,7	184:16 276:3
254:14 255:5	248:11 313:5	239:12 271:6	166:5 253:20	285:18 314:22
282:1 321:7	Manion's 313:8	275:2 288:10	274:4,14	315:13 343:7
maintained 26:2	manner 160:4	289:16 290:6	matter 1:7,16	345:4
maintaining 94:13	165:16 346:22	292:16 293:20	62:18 64:9 134:19	meant 338:3,4
maintenance 36:12	mantra 195:15	294:1 296:12	149:9 191:12	measure 70:4,14,15
208:3 291:9	manufacture 128:2	322:13,21 323:19	218:10 223:7	70:21 200:17
major 24:14 26:3,7	273:15	324:1,16 325:17	347:16	334:16 336:10
35:12 66:3,4	manufactured	327:10,16 328:18	matters 10:6 215:3	measured 41:4
67:13 73:20 80:9	100:19 128:7	336:13	215:3 347:9	142:14 191:13
81:16 119:8 159:6	manufacturer 99:1	marketing 195:2,4	mature 186:21	measures 16:17,21
206:2 228:13,13	127:20 144:18	261:2 262:8	187:8 188:22	39:3 115:10
248:17 282:10	150:7 252:9	265:17	189:9,13	125:21
majority 119:20	273:17	marketplace 32:2	matured 117:12	mechanism 155:10
141:14 179:17	manufacturers	32:18 73:14 86:14	maximizes 179:21	mechanisms
193:5 196:14	105:17 127:8	120:12 164:15	maximum 59:7	324:20 336:17
267:12	144:13,15,19	207:18 278:21	MC 2:12	mediation 60:17
making 26:20 31:3	150:14 278:14	282:22 286:15	McGarry 4:18 8:8	61:6 181:21 182:8
34:2 102:16 115:7	manufacturing	308:14 318:18	149:16,18,21	medical 128:3
159:6 194:7	24:19 99:3 101:10	319:3 321:9 326:7	156:11 158:9,18	medium 153:18
228:21 238:22	104:21 115:6	328:5,7 336:15	164:21 165:1	meet 82:9 185:2
251:1 262:18	138:7 253:8	341:20 345:16	186:1 191:4	208:10 209:12,14
340:16,18	274:10	markets 28:17 78:2	McIntosh 4:13 8:6	209:14 220:16
manage 208:1	map 211:12	102:19 126:11	139:3,5 149:15	285:19 294:19
252:19 322:17	Marcellus 154:16	226:5 286:2	157:21 159:13	meeting 273:10
330:9	March 214:4	326:14 332:20	163:13 166:13	meetings 252:22
management 188:2	282:19 285:10	market's 327:22	176:11 179:1	339:19
195:7 313:17	325:13	market-based	188:17	mega-mergers
manager 27:2	margins 188:7	121:16 293:18	MD 3:3,13	40:21 41:5
manages 262:22	marine 320:3	339:18	mean 58:13 68:21	member 93:20
managing 274:20	Marion 211:11,15	market-driven	86:3 91:5 158:2	members 23:21
288:6 319:22	212:5,6,14,16,22	81:19	161:14 169:17,18	30:1 33:2,9 38:1
327:13	215:8,13	Marsh 3:2 7:15	174:22 176:4	80:5 168:20 252:6
mandatory 20:10	Marion's 212:17	72:13,15 85:22	184:1 187:13,18	278:4 330:4
manger 273:1	Maritime 97:12	86:7 88:4,11 89:8	188:13 192:17	memories 346:11
manifest 274:7	Mark 5:10 8:14	94:15 96:16	220:12 222:21	mention 25:10
Manion 5:10 8:14	205:20	massive 209:6	235:9,21 244:17	342:7
205:16,18,20	marked 13:17	match 287:21	244:21 295:16,20	mentioned 21:20
214:22 215:6,20	market 37:8,10	material 19:20	302:1,22 303:11	39:18 65:20 88:4
218:13 222:18	39:9,13,20 41:14	51:14 101:1 138:9	305:21 311:14	141:12 186:10
224:16 226:22	41:16 51:8 52:6,8	323:8	315:11 338:3	189:22 192:11

230:14 234:1	287:17	Minnesota 2:6 8:23	modify 51:16 58:16	291:6 292:1,1,2
238:18 295:9,14	Midtec 314:10	278:12 279:1,9,9	155:6 271:8	292:16 312:1,7
300:18 307:16	315:18 338:8	280:11,15,18	moment 73:8	319:8 321:3 324:1
322:8 337:4	Midwest 83:15	281:7	319:19 323:12	324:12 329:10
merchandise	279:7,20	minor 134:16	momentum 276:10	334:22 335:6,9
216:16 227:19	mid-level 86:22	minute 11:10 17:21	mom's 279:4	336:14 338:15
234:19 313:10,12	mid-route 219:14	22:15	money 36:4 37:19	339:17 341:6,19
Mercury 6:10 9:13	219:15	minutes 11:18 12:1	58:18 95:15 175:9	moved 80:6 165:16
318:10 319:20	mid-way 220:4	72:14 98:13 130:1	188:9 217:7	182:16 191:1
merely 125:6	Mifflin 6:8	194:19 205:17	219:20 231:12	279:1,8 315:3
merge 133:5 159:1	mike 251:19,19	251:15 262:3	237:18 246:14,16	334:21 335:11
merger 38:6 82:18	mile 48:16 343:11	272:15 309:17	290:22 297:19	340:4
159:5 195:10,17	miles 26:9 27:3	318:11 330:17	monitoring 332:12	movement 26:11
199:15,16 200:14	105:10 113:21	mirror 203:17	monopolistic 112:3	26:16,20 27:4
201:2 332:8	134:10,11 135:18	328:1	185:1	120:6,7 123:12
mergers 82:4	165:11 200:18	misalignment	monopoly 30:6	125:11 146:5,8
119:13 159:2,7	203:15 268:4	322:5	95:6 111:22	203:14 208:12
197:14 200:3,4	296:14,15 307:19	misallocation 27:9	125:10 129:10	210:6 245:14
276:6	320:9 332:19	misinterpret 296:6	145:12 169:20	247:17 321:20
merits 126:13	343:12,15	misquoted 174:16	170:4,5	326:8 330:3 336:6
message 148:17	mill 4:4 314:10,17	missed 43:19	Monroeville 4:18	339:12 340:4
messages 118:3	316:20 317:1	misses 323:6	4:19	movements 28:9,10
met 294:15	338:8 343:14	missing 31:1	month 303:4 325:5	50:5 208:2,3,22
method 99:17	million 12:13,17	Mississippi 255:10	months 92:17	209:1 248:4 249:1
150:20 300:4	27:7 35:14,16	255:14	morning 10:3 12:3	264:20 320:6,8,9
methodology	47:10 51:2 56:9	Missouri 140:16	23:14,18 34:5,9	324:10,13,17,19
325:21 328:6	72:20 75:1,8	mitigate 135:9	35:8 98:14 109:21	325:3 328:13,15
methods 112:9	128:11 147:18	300:16	116:10 139:5	329:4,8 335:13
326:5	153:13 156:20,20	mix 86:20 247:14	199:4 205:18	336:3 340:19,20
metric 69:10,11	157:5,6 162:6	mixed 243:9	213:13 298:5	moves 83:2 129:18
metrics 87:5	172:22 255:3	MO 2:13 4:15	mother 75:15	196:14 254:3
metropolitan	270:3,12,14,21	mode 91:17 143:11	240:20	344:17
290:17	293:6 297:17	164:6 292:4	motor 81:8 84:17	moving 31:8 84:6
Mexico 263:6	300:19,19,21	293:11,15 326:21	91:9,11 196:1	145:17 163:7,10
267:20,21 268:1	301:18,21 336:3	327:4	204:19,21	196:7 234:8
274:5	millions 12:22	model 76:1 149:6	motorists 77:19	293:11 316:10
Mexico/Central	36:18 165:8 172:5	310:22	move 22:2 23:11	320:20 321:13
304:11	286:10	modern 87:11	27:12 31:12 72:20	335:13 336:9
MI 3:21	mill's 315:1	modes 32:14 70:7	73:22 89:2,4	337:1
Miami 255:14	mind 174:20	91:3,3,14 112:19	99:11 121:20	multiple 91:3 93:3
Michael 4:18 8:8	188:14 216:15	118:7 207:16	131:17 138:21	110:11 130:17
41:21 149:21	227:4 318:21	234:17 267:4	160:6 162:13,22	199:9 209:7 289:2
Michigan 131:18	319:16	290:19 293:4	176:5 179:15	289:3 295:21
310:9	mine 67:20 149:5	295:18,19 297:1	180:21 185:3	multi-carrier 296:8
mid 82:18	mines 86:16,17	modest 42:4,6	192:12 195:8	multi-million 160:9
Midland 3:21	minimal 153:19	212:20	228:19 241:11	multi-modal 85:8
midst 263:18	minimum 318:19	modified 44:9	257:1 279:14	multi-served 296:2

296:3	271:5 272:5	necessarily 68:17	negotiated 48:22	225:6 255:15,22
Mulvey 1:22 12:5	298:20	157:14 193:15	107:19 154:5	256:14,16,21
34:7 41:9 46:1	M&G's 265:2	222:21 326:18	315:14 345:18	259:19 263:9
61:21 63:5,7,12	266:13 267:19	330:2	negotiating 81:21	264:5 279:6,19
65:19 66:11,18	268:9 272:1	necessary 125:12	120:14 180:14	289:12 304:5
67:5 68:12 69:9	N	148:20 185:12	181:2	331:13
70:2 71:11 72:3	nails 234:5	216:1,20 229:11	negotiations	Newgate 3:2
79:21 90:14 92:21	name 12:5 80:3	261:11 283:9	121:14 122:4	nice 159:13 215:4
95:5 96:19 97:20	98:17 109:21	291:6 331:21	126:8 172:16	nirvana 289:4
98:16 116:9	116:11 127:16	necessity 223:7	266:7	NJ 6:21
149:20 156:15	252:2 262:7	need 36:9 42:9,15	neither 102:12	nominal 243:12
157:22 158:15,21	272:22 314:10	43:12 50:9 58:22	121:6,13	non 14:6 104:13
161:12 164:19,21	318:14	59:3 69:5 78:13	Nelson 41:22	164:5,6 271:18
164:22 166:3	narrow 320:10	91:21 95:2,10,19	Nemours 4:1 8:2	315:1 317:16
167:9 168:13	nation 294:20	113:10 115:19	116:3	non-ability 109:5
169:14 173:8,17	national 24:3 29:4	118:4 133:4,22	nerve-wracking	non-captive 310:22
186:8 189:21	29:10,18 32:11	157:14 169:19	34:10	311:2,9,14,18
191:8 192:14,22	79:3 127:10	170:6,7 181:1,2	network 29:17,22	315:2 316:8 318:6
193:9,22 194:9,22	204:19 282:21	183:11,11 251:18	76:11 79:2,3 82:8	338:15
200:22 235:20	310:15 312:12	254:13,20 256:11	96:8 101:21 106:3	non-incumbent
238:2,21 239:6	nationalize 96:22	257:15 259:11	200:9 202:11,15	15:7,11 62:19
240:12 241:7,20	nationalized 96:8	265:13 275:22	202:17 203:8	non-in-kind 118:7
243:2,7,18,21	nationally 138:10	281:11 282:1	204:4 206:10	non-physical 16:12
244:4,13,18 245:2	nations 106:2	283:13 290:21	209:6,6 210:21	17:13 54:18
245:18 246:4,19	nation's 75:12	291:6 294:13,14	214:18 274:1,8	non-responsive
248:8,12 249:6,18	77:13 80:11 81:15	300:2 321:1	276:20 288:22	16:1,10,11 267:17
262:6 270:5	142:10,11,12	331:10	290:10 291:8,18	non-TIH 108:14
272:18 298:15	143:8 206:16	needed 20:20 40:18	293:2 295:3	129:18 151:19
300:8 302:4	272:10 273:21	42:9 127:7 210:3	308:15 309:3	164:2
303:15 304:8,16	281:14 290:9	211:4 306:6	networks 77:2	Norfolk 5:8,11,14
309:10,19 318:13	292:13	needs 50:6 91:14	78:19 200:2	8:13 72:22 83:10
333:11 337:2	Natrium 151:8	124:2 209:12,14	232:15 274:6	88:1 125:17
338:2,20	152:3 154:15	209:15 223:9	289:7 309:1 313:2	205:14,19 206:2
municipal 25:16	174:3	230:10 235:7	313:18 317:22	206:15 207:3,12
muster 303:21	natural 72:19	266:12 271:1	network's 290:15	208:11 209:11,17
mutes 323:5	144:22 344:18	276:16,21 291:17	never 237:17	210:20 211:19
mutual 344:3	nature 82:16	294:9,19 303:8	287:11	213:13 214:6,14
345:20	142:22 274:17	309:1 339:7	new 14:2 17:18	222:9 227:18
mutually 343:16	288:3	negative 102:18	33:16 49:12 52:13	236:11 240:5
myriad 105:17	near 81:12 215:10	318:19	63:3 76:15 84:22	244:5,10
mystery 191:3	nearest 268:4	negatively 78:21	105:18 134:5,9,17	norm 204:8
M&G 5:20 8:20	nearly 76:21 131:7	155:22 308:21	135:16 159:2	normal 104:17
260:7 262:2,9,11	201:9 223:16	negligence 140:7	167:17 168:1,7,10	154:8 165:22
262:14,15,21	Nebraska 46:19,22	165:21	169:9 178:5,7	222:11 281:2
263:12,17 265:6	47:8,21 48:6,9,17	negotiate 61:11	181:5 184:5	normally 173:12
266:15,16,18,19	69:20	111:17 180:13	186:19 198:7,9	177:1
268:2 269:1,14		305:17	203:1,1 211:4	North 3:10 7:18

47:9,22 79:18 80:1 84:11 110:11 127:19 197:1 252:11 253:9 262:14 263:5 268:10 273:9,11 274:5 312:16 northeast 76:3 Northern 48:8 195:11 Northwest 267:19 268:1 note 33:12 106:18 174:1 311:21 346:7 noted 68:13 103:15 notes 20:18 346:16 notice 1:17 161:22 296:5 noticed 55:12 148:12 225:13 notion 289:17 novel 31:20 November 312:15 NS 130:17 131:3,8 210:7 218:12,12 NS-served 134:5 nuance 343:1 nuclear 163:1,7 nullify 210:19 number 22:8 25:8 31:11 71:17 72:10 98:10 175:4 181:6 194:17 202:4 206:3 211:3 220:15 227:1 250:20 251:12 264:8 275:17 277:11 285:19 288:13 291:12 308:10 316:16 336:8 numbers 132:9 146:3 158:6 198:16 246:20 325:16 numerous 17:4	112:9 207:13 298:17 N.W 2:22 <hr/> O <hr/> O 7:22 objection 48:10 objective 275:21 293:22 294:22 objectives 134:1 208:17 294:15 obligation 43:14 140:4 166:9 observations 310:3 observers 275:12 obtain 26:10 32:3 125:12 264:13 obtained 48:7 obtaining 17:8 obtains 25:17 obvious 75:10 obviously 19:18 54:15 62:20 67:12 71:13 88:14 144:19 156:8 171:6 192:6 195:22 196:10 215:13 239:9 300:14 308:3,11 occasion 265:18 occasions 121:17 298:18 340:12 Occidental 4:6 8:4 127:15,18 193:10 193:11 occur 45:4 93:2 95:3 323:11 occurred 65:13 occurring 15:22 occurs 332:18 ocean 80:9 81:7 97:8,14,21 OD 155:19 offer 98:21 106:17 121:19 136:10 137:4 153:17 155:17 156:2	166:16 167:6 233:5,8 259:22 267:8 272:19 273:9 offered 76:2 offering 14:8 offers 21:13 293:9 308:2 office 2:4,7 11:2 75:16 132:6 157:8 200:4 280:15,22 346:21 officer 116:12 139:11 195:2 205:21 off-set 202:5 Ogborn 313:14 Oh 191:8 244:13,14 329:15 342:10 Ohio 83:15 84:7 211:10,11 212:6 oil 191:1 196:19 197:1 337:13 okay 34:1 46:12 55:17 63:5 64:3,3 98:9 127:16 158:21 173:21 185:2 190:22 191:1,8 192:14 194:9,16 224:9 228:7 244:14 246:4 249:18 251:11 287:9,14 301:12 302:10 304:16 309:15 329:15 338:20 old 91:12 135:3 187:18 279:2 280:9 older 187:19 oldest 93:20 Olin 4:12 8:5 139:4 139:8,12 142:13 144:20 147:5 157:20 158:21,22 159:16 Oliver 2:16 7:9	34:4,5,14 60:16 60:20 61:4 65:19 66:8,13,19 Omaha 2:19 7:10 45:20 46:4,21 47:9,20,22 69:14 Omahan 49:12 once 20:1 54:14 57:3 58:8 198:14 286:16 onerous 140:2 224:18 ones 25:10 55:8 65:5 175:8 237:4 237:4 one's 294:2,3 one-off 242:13 one-sided 16:7 one-year 192:18 269:21 ongoing 40:19 311:1 OPD 210:4 Opelousas 131:18 open 100:4 131:6 135:19 136:3 155:5 156:8 158:4 158:6,7 171:19 222:19,20,22 230:15 236:5,12 236:22 237:6,9,11 239:16 240:2,6,13 242:3 246:21 247:2,5,5,10,10 248:4,5 258:10 279:20 289:22 296:6,7,16 297:19 302:11 305:7 306:14,15,22 328:7 329:11 330:7 331:16,20 332:9 342:12,13 343:14,19 344:12 344:21 345:3 347:2,7 openers 231:14 opening 7:2 213:15	288:21 openly 151:12 open-access 284:11 operate 86:4 175:11 210:10 308:18 operated 50:2,4 operates 47:7 99:2 110:7 operating 30:16 49:6 69:16,17 135:2 203:15 205:21 208:17,17 209:2,19 210:4 211:2 216:5 221:8 229:2 258:15 275:13 294:1 operation 165:6 211:1 222:12 225:4 235:5 254:5 262:15 313:7 329:19 operational 50:6 211:7 215:2 292:8 308:20 332:11 operationally 215:19 222:17 operations 34:16 37:1,3,7 80:8 99:8 99:15 101:21 104:19 133:7 134:1 195:6 206:11 209:11,16 218:3 219:18 222:14 252:3,12 252:16 256:15 263:3 273:8 274:15 275:11 312:22 313:11 317:21 opinion 30:7 277:2 290:6 291:2 OPPD 46:12,17,18 47:1,3,5,6,13 48:2 48:7,11,14 49:1,3 49:9,21 50:3,7,12 50:17 51:3,6,12
--	---	--	---	---

55:7,21 69:17	184:2 186:3,3	218:20	240:19,22	97:21 106:11
OPPD's 49:7,11,14	295:16 303:14	outspoken 167:11	packaging 256:15	109:3 140:14
50:5,13 51:1,9	orange 197:16	outweigh 260:2	262:18,19 316:19	142:7 143:2
opportunities	order 37:19 61:17	outweighed 182:14	Page 7:1 8:1 9:1	164:13 167:3,11
51:16 152:10	64:1 113:5 122:16	182:15	paid 28:4 35:21	180:20,21 194:7
154:17 186:22	123:5 124:20	overall 38:13 99:14	190:7	216:13 222:12
187:1 189:6,8	160:21 173:6	106:13 151:20	pair 155:20	254:4 282:20
336:14	210:11 229:15	185:12 191:12	pairs 129:6	300:11 301:3,4
opportunity 23:5	321:6 336:5 337:9	225:16 232:19	Panama 81:14	311:12 319:20
24:5 47:3 49:12	344:15	242:16,19 250:9	83:13	332:10 336:1
53:1 72:17 74:10	ordered 314:19	overcome 117:13	panel 7:4,13,21	339:14 340:14
85:18 98:20	orders 159:4	overdue 285:4	8:10,17 9:7 11:21	parte 31:11 272:20
109:17 110:4	organically 329:8	overland 150:20	23:11 53:5,8	partial 332:3
130:13 138:12	organization 202:1	overseas 84:9	72:10 88:5 93:6	participate 32:17
146:16 150:1	330:5 336:1	281:5	93:20 98:10	252:22 330:4,6,22
152:2 154:15,17	organizations	oversee 97:15	156:12 169:16	participated
160:9,18 196:6	106:22 200:6	oversight 88:11	176:17 190:11	310:16
197:4 199:8 205:9	origin 115:8 129:5	overstated 142:21	194:15,16 201:13	participating 50:14
205:9,10 261:15	152:14 177:2	overwhelming	204:15 215:1	participation
270:19 272:1,19	178:9 216:7,16	270:16	238:8 250:20	346:13,14
278:7 286:17	219:4 220:3	over-recovery	251:6,12 287:15	particular 42:17
302:19 309:21	223:14 227:7,11	20:16	295:6 309:9	87:18 175:18
318:16 328:9	227:21 258:3,6	over-the-road 75:5	panelists 202:12	207:11 258:3
329:18,22 330:20	289:1	owned 26:1 48:18	309:12	333:21 344:14
331:1 338:17	original 30:11	96:11 279:4 289:7	panels 273:18	particularly 60:18
341:5 347:8	110:15 146:9	owner 48:11	297:7 301:7	108:9 130:10
opposed 65:11	160:3 294:21	owners 203:8	304:20	143:7 202:16
102:15 306:10	originally 255:17	owning 236:7	panic 10:17	290:17 297:5
334:17 344:5	270:7 330:21	owns 12:15 35:12	paper 24:20 42:13	323:16
opposites 40:2	originates 130:22	47:7 49:4	130:6,19,20	parties 38:12 59:17
opt 212:16	131:1	OxyChem 127:19	131:10,15 132:1,7	60:5,8 107:14,20
optimal 93:3 208:9	originating 179:9	128:15 129:3	132:11,21 133:3	117:2 140:8
optimistic 314:7	179:21 180:12	130:11,12 136:19	133:12 167:10,12	149:13 171:15
optimize 248:9	origins 258:21	137:14 138:8,19	167:13,14,18	185:19 225:3
option 28:14 63:15	Orleans 33:16	OxyChem's 138:3	168:2,16,20 169:1	253:5 318:14
84:13 102:12	134:9,17 135:16	O'Leary 3:15	169:10 265:5	330:10
131:22 136:11,13	178:5,7	98:12,14,17 175:1	papers 213:19	partly 137:14
163:16 258:10	ought 96:6,8	175:7 176:11,22	parachutes 142:9	partnering 120:15
265:20 297:7	outbound 212:2	177:13 178:2,6,10	parameters 16:8	partners 232:17
318:22	253:16 258:18	178:14 192:10,15	paraphrasing	295:2
options 21:18	297:15		312:4	partnership 77:10
27:17 29:19 84:10	outcome 181:10	P	parent 99:7 167:20	77:11
88:8 102:5 103:8	264:19	P 1:22 3:6 5:2 7:17	Park 4:19	partnerships 73:16
103:10,13,15	outpace 104:17	8:12	Parkway 3:6	291:13
104:11 107:14	output 66:14 67:4	PA 3:17 4:19	part 11:3 20:19	parts 107:22
129:9 130:3 133:3	outright 133:2	Pacific 83:9 267:19	24:15,21 29:15	126:19 292:22
133:21 137:19	outside 60:6 182:8	package 136:11	46:12 49:3 91:7	party's 50:5

pass 102:21 173:19 208:10 255:7 303:20	104:15 110:14,16 110:19 111:15 121:2,3 122:20,21	247:12 person 238:7 338:15	174:11,21 175:17 176:6 185:16,17 185:22 331:12,21 333:6	258:17,19 259:1 263:20 264:5,9 267:20,20,22 281:7 304:5 308:1 343:11 344:16,20
passage 76:7 124:9	123:13,14 128:16	personal 137:19 278:22	pilots 185:17	plants 12:21 13:1,6 14:22,22 17:1,6 20:4,4 21:4 24:17 24:19 35:10,13,15 36:10 37:5,12 38:19,20 47:9,16 50:19 66:6,14 67:4 123:2 137:14 140:18 174:2 193:12 198:8,9,10 198:11,13,15,17 248:17 255:4,15 263:4 269:3 307:16
passed 49:10 91:6,6 285:17	128:16,19,20,22 129:1,5,18 131:7 131:11 138:1,5,6 145:6 146:9,13 151:1,2,9,9,21 152:18 155:14,15 165:4 192:1,7,11 202:5 222:19 230:14 231:5 249:14 257:2 258:4 268:9,12 270:4 276:14 285:20 293:7 295:9 297:22 298:1 305:15 308:3 314:18,19 314:22 315:4,4 316:21,21 336:22	personally 175:14 personnel 265:17 persons 29:9 perspective 57:22 89:14 96:17 98:5 110:5 117:3 161:10 186:2 196:2 204:17 233:4 234:14 272:1 315:12 316:5,14 persuaded 32:8 PET 262:17,17 263:4 267:13,18 269:1 Petal 255:10,13 petition 42:19 315:20 338:12 Petrochemicals 260:7 pharmaceuticals 128:4 phenomenon 15:21 phosphates 138:2 physical 17:15 19:1 physically 26:8 pick 175:13,18 241:11 287:18 298:4 317:13 picked 224:5 picture 176:20 202:10 276:1 pie 195:21 piece 69:21 164:12 pieces 208:18 piggybacking 159:7 PIHs 163:10 Pike 4:4 pile 61:15 piles 66:21 pilot 107:16,22	pipeline 197:3 pipelines 165:10 196:17 197:6 piping 256:21 Pittman 161:5 Pittsburgh 72:20 place 5:10,13 44:4 106:3 121:21 133:13,16 155:10 161:11 176:3 208:10 210:2 212:8 217:13 219:1,6 221:4 222:16,21 304:10 322:14 325:22 327:9 329:8 341:21 places 175:4 227:13 plain 312:21 317:20 plan 100:6 208:17 209:2,21 210:2,4 210:6 216:5 237:7 237:8 258:15,16 307:17 333:14 plane 208:1 planner 216:8 247:17 planning 208:13 216:3 248:6 plans 263:9 plant 16:15 25:18 25:20,22 26:5,13 26:18,19,21 37:1 37:3 48:17 65:5 67:2,21 69:22 145:17 151:9 152:3 154:16,18 174:4,4 255:16 256:2,5,5 258:14	281:7 304:5 308:1 343:11 344:16,20 plants 12:21 13:1,6 14:22,22 17:1,6 20:4,4 21:4 24:17 24:19 35:10,13,15 36:10 37:5,12 38:19,20 47:9,16 50:19 66:6,14 67:4 123:2 137:14 140:18 174:2 193:12 198:8,9,10 198:11,13,15,17 248:17 255:4,15 263:4 269:3 307:16 plastic 129:19 262:17,19 plastics 268:9 play 69:22 73:20 280:19 playing 138:15 Plaza 2:11 4:4,14 please 73:17 88:18 89:6 pleased 139:7 plenty 28:3 plow 250:22 plus 123:18 296:13 point 16:13 26:12 26:19 27:13 36:1 43:17 54:19 62:13 65:10 68:16 70:19 81:10 83:18 94:7 134:20 162:4 168:8 181:19 197:3 202:8 211:18 212:17 216:6 219:4,4 220:4 221:18 227:21 229:13 235:3 237:15,17 282:13,15 293:13 298:20 303:17
payments 284:1 pays 114:12 266:19 PC 46:2 peak 66:20 pedestrian 240:18 pellets 129:20 penalizes 146:1 penalty 114:12 pending 181:15 Pennsylvania 99:7 130:13 people 25:13 27:8 55:5 59:19 60:2 128:8 162:18 218:20 225:21 226:12 251:3 286:11 302:16 307:2 331:3 340:6 345:17 347:4,8 percent 12:20 15:9 15:12,19 21:22 28:8 62:6,8,10,20 63:1,3 70:10 71:2 76:21 80:5 83:4 101:17 104:3,4,6	percentage 123:16 233:18 percentages 230:20 percentage-based 334:22 335:2,8,12 perception 82:17 168:12 perfect 145:21 perfectly 56:20 performance 22:13 38:22 39:8 period 49:20 66:20 82:18 111:15 128:14 146:12 147:14 173:1 191:15 192:3,6,12 198:12 200:11 201:6 224:1 254:9 300:17 302:15 320:17 325:5,8,15 327:1 periods 43:2 permanent 113:11 permit 52:7 125:6 permutations			

311:4 331:13,17 331:20 337:3 pointed 90:20 114:1 147:21 215:7 pointing 180:19 points 17:13 111:3 119:21,21 206:2 213:16 217:2 239:21 248:5,5 310:2 331:8 339:2 344:1 point-to-point 119:15 poised 291:16 poker 64:11 polices 285:6 policies 32:22 78:16 118:6 154:21 155:7 159:17 160:12 172:11 182:19 262:12 271:9 283:9,15 284:11 318:4 policy 17:13 28:18 51:20 77:21 116:17 124:13 185:10 196:4 206:4 272:2 285:13 329:10,22 political 46:20 poll 168:19 polyethylene 262:16 Polymers 5:20 8:20 260:7 262:2,9,14 polyvinyl 127:22 Pont 4:1 8:2 poor 25:5 36:15 44:1,6,11 67:4 68:4 76:2 poorly 132:11 port 83:11 84:14 105:13,14 268:4 Porte 28:5 152:15 152:18	portfolio 141:15 143:2 188:2 portion 26:4 119:14 198:17 247:17 344:6 portray 117:1 portrayed 286:4 ports 81:7 97:22 pose 215:18 poses 11:6 position 35:9 66:9 73:2,17 90:7 143:22 254:8 275:20 297:3 342:4 positions 170:5 positive 93:1 126:16 335:4 positively 312:9 possibilities 188:15 possibility 63:18 146:21 242:14 possible 51:17 56:4 56:4 130:18 132:1 157:12 258:9 259:7 272:9 284:11 328:14 332:4 335:22 postal 241:2,9 poster 145:8 Post-2004 54:3 potential 56:7,17 84:16 107:13 140:7 148:14 160:5,10 162:14 169:20 170:3 260:2 261:5 267:6 271:20 292:12 308:17 333:6 potentially 65:2 163:2,17,17 179:14 298:1 pounds 75:7 Powder 12:15 25:20 203:4 250:12 power 2:19 7:10	13:1 16:15 25:17 25:22 26:5,21 30:6 37:8,10,14 39:9 45:20 46:4 69:14 95:6 126:19 129:11 155:20 170:4 powerful 25:9 26:6 81:3 PowerPoint 10:22 346:20 PPG 4:17 8:7 28:2 28:13 33:12 149:17,22 150:4 151:6 152:2,13 153:20 154:10 157:20 PPG's 186:1 practical 223:8 224:13 254:2 259:8,22 261:3 practically 88:21 practice 269:13 practices 102:17 106:5 111:22 254:13 257:21 260:18 261:14 283:6 321:18 practitioner 11:16 PRB 13:2,5,10,13 14:5 15:1,5 35:20 47:10 67:20 pre 54:2 precedent 314:11 preceding 202:20 precisely 111:7 193:16 precluded 168:2 169:10 precludes 266:16 predecessors 32:8 predicated 105:21 predict 207:10 209:21 226:3 predictability 208:21 predictable 220:9	predictions 209:19 predominant 269:12 predominantly 140:21 293:8 prefer 233:9 259:6 271:5 306:9 preference 180:11 305:6 preferred 58:20 59:18 prelude 245:9 premier 273:17 premiums 153:12 285:8,15 preparation 114:5 182:13 prepare 173:1 prepared 272:5 prepped 270:11 prescribe 344:9 prescribed 43:16 135:17 prescribing 43:6 presence 166:5 262:21 present 10:13 50:20 85:18 103:22 310:6,10 310:13 presented 117:22 118:2 346:19 preserved 80:22 President 12:6 34:15 72:18 80:10 116:12 127:17 149:22 195:2 205:21 206:1 252:3,15 282:18 President's 282:15 pressure 10:18 81:17 158:2 313:20 presumably 236:18 presume 43:9 237:12 presuming 242:2	presumption 72:1 presumptively 72:1 pretty 40:22 175:22 251:1 301:19 304:19 333:17,22 prevails 120:7 prevent 31:17 133:18 136:17 153:1 preventing 125:8 147:4 prevents 130:20 153:13 previous 90:1 168:15 297:6 314:6 previously 309:22 332:6 342:16 pre-2004 20:6 price 22:14 103:5 112:4 119:6,22 120:21 122:5 138:2,5 151:18 152:4 173:3 199:10 265:12 313:20 322:21 323:5 324:20 327:14 328:15 339:11 priced 257:7 prices 49:22 50:22 51:10 81:20 102:11 103:2 144:10,16 159:22 185:3 316:3 325:11 326:18 327:2 Price-Anderson 163:5,9 pricing 15:8,11 106:4 108:15 112:1 118:19,19 120:5 129:10 130:8 172:12 181:3 190:8 254:13 257:20
--	--	--	--	--

288:17 311:11 317:12 322:16 328:12 pride 235:12 prima 22:4 58:9 71:9 primarily 15:1 39:10 66:15 68:7 79:7 291:18 345:20 primary 43:18 principal 311:4 principally 310:9 principles 329:5 prior 13:21 15:15 16:13 17:8 32:3 40:10 50:18 54:17 202:17 255:19 257:13 276:1 287:15,21 332:22 prioritized 275:9 prioritizes 208:9 private 96:9 97:3 203:9 206:21,21 289:7 291:8 private/public 291:12 Privatization 22:17 privileged 333:13 pro 33:4 probable 92:4 probably 55:22 59:14 68:8 74:5 88:6 90:21 91:1 96:21 97:1 133:9 224:10 227:2 303:5 347:11 problem 11:6 29:16 36:22 66:4 67:6 135:3 155:3 166:10 215:18 282:10 316:2,14 337:7,10,13 338:1 problematic 130:11 207:7 problems 39:8 41:6 65:21 66:16 67:8	67:9 184:12 211:1 211:7 298:21 299:2 314:9,17 324:7,10 327:12 338:9 procedural 10:6 346:16 347:1 procedure 109:19 261:11 procedures 39:5 108:8,18 109:11 114:1 156:4 157:2 158:3 181:12 259:8 260:9,10 261:10 proceeded 183:5 proceeding 18:2 20:11 24:2 25:8 28:22 33:6 40:3 46:14 47:4 52:6 107:6 118:3 123:8 149:12 198:1 199:7 206:3 214:19 253:3 260:22 309:20 330:22 proceedings 11:3 19:5 48:10 117:19 155:5 259:20 310:17 346:21 process 47:18 49:3 50:15,17,21 60:17 61:6 87:8 100:18 106:12 108:9,13 109:2,11,15 126:4 146:1 165:9 181:19 182:5 184:18 185:12 201:15 229:17 235:11 261:19 270:6,20 271:1 274:22 288:8 291:14 292:6 293:16 303:4,16 303:22 304:1 305:9,10,19 306:5 306:10,12 308:11	321:14 332:10 345:2 processed 336:2 processes 157:4,7 158:4 183:1 297:10 300:14 processing 252:13 procurement 35:10 116:12 produce 40:16 141:10,17 144:12 263:4 producer 28:2 86:10 141:9 142:18 152:7 262:16 273:12 producers 85:16 269:1 produces 39:1 producing 145:20 281:6 product 41:17 73:22 89:2,5 101:1,18 103:2 141:16 165:12,15 175:18 187:22 188:15 253:16 255:22 256:14,16 production 110:11 113:9 119:14,20 120:2 122:19 259:1 267:13,16 268:10 269:3 productivity 40:19 41:3 42:1 187:1,3 189:11 200:12,17 201:9 202:9 275:11 289:12 290:15 products 24:20 82:5 99:2,12,18 100:17,19 102:20 103:4 105:10 108:11 128:1,5 129:7 138:6 140:17 141:19 144:7,11,12	155:11,14 178:19 186:19 187:17 196:15 253:20 273:13,22 274:4 278:13 281:5 293:11 321:3 product's 152:4 Professor 161:4 profit 102:16 139:22 profitability 275:7 275:15 294:5 profitable 50:3 119:7 276:21 283:16,17 294:2,9 profits 102:14 275:9,13 277:3,5 289:12 292:21 profoundly 199:3 program 29:21 30:4,7 107:16 136:21 174:11,21 176:6 245:6 298:8 298:9 339:18 programs 326:12 335:8 336:19 progress 118:11 251:2 276:19 294:22 prohibited 19:10 prohibitive 303:9 316:4 prohibitively 109:10 338:14 prohibits 260:11 project 265:1 290:9 331:12,22 332:4 333:6 projection 244:7 projections 239:1 projects 255:8 prolong 251:3 promise 91:22 235:15 promised 30:14 220:10 promote 75:12	76:11,15 97:19 134:2 176:14 prompted 310:3 promptly 220:7 proof 234:21 propellant 253:11 257:4 propellants 252:10 proper 92:7 97:10 153:9 215:17 306:3 properly 85:5 proposal 52:13 56:12 88:7 proposals 31:11 52:3 78:21 94:12 120:13 137:2 170:11,13 206:8 210:19 285:4 propose 15:18 31:11 proposed 19:11 63:3 158:22 174:11 258:19 proposing 214:16 299:6 proposition 31:8 prosecute 147:19 202:2 prosecution 114:5 prospect 56:5 prospects 288:21 311:8 prosperous 75:14 protect 19:4 21:17 28:16 144:20 170:7 283:5,10 protected 21:15 30:15 31:9 153:4 169:19 protecting 30:9 163:9 protection 30:11 117:10,15 260:17 protectionism 115:17 protections 33:4
---	---	---	--	--

177:10 187:19	28:7 30:6 31:18	railroading 318:1	165:19 166:4,17	29:4,13 30:5,13
193:12,17 195:7	33:3 34:21 36:6	railroads 13:8	166:18 170:4,15	118:10 278:11
196:7 204:15	36:11 39:6,13,22	14:16,16 15:7	170:18,22 175:10	raise 299:13,14
206:5,7,10,10,16	41:5 42:3 44:10	17:3,14 20:9,17	175:20 177:19	raised 17:22 62:7
207:1 208:21	44:12,13 48:16	23:1 25:1 26:4	178:17,18 186:20	301:6 332:6
209:11 210:7	50:1 64:2,4,10	27:10,18,20 28:16	187:5 188:18	raising 55:13 153:2
214:18 226:12	65:3 69:16 78:1,9	29:22 30:5,21	189:1 190:4 196:2	163:19
232:20 252:19	83:3 92:1,11 96:8	31:3,13,15,22	196:11 200:1	ran 200:21 301:5,6
253:13,22 254:4,8	96:9 102:14	32:6,12,16 35:3	206:15,20 207:16	342:8
254:16 255:3,5,9	104:18 110:14,18	36:16 37:17,20	211:1 213:21	range 128:1 253:14
255:11,12 256:1,9	110:21 119:4,13	38:9 40:2,14 42:7	225:3 228:12	rapidly 137:15
257:1 258:5,18,18	119:17,19 120:1	42:10 43:19,21,22	229:22 236:14	rare 121:17
258:22 262:10,12	120:10 121:18	44:7,17 45:2 50:3	248:18 253:19	rarely 122:7 154:4
263:15,19 264:8	122:21 126:18	51:18 52:10 53:16	254:7,16,19,20	269:13
264:11,16 265:7	129:7 130:5,15,16	54:16 61:8 64:16	255:1 256:10	rate 15:9,10,11,13
265:20 267:1	133:5 145:7,12	65:1,10 68:14	257:6,8,16,17	15:15,18 16:2
268:6,8,11,14,15	151:18 167:15,17	72:21 74:21 75:13	259:7,10,16 265:2	17:8,18 19:1 20:8
268:19,20,21	167:19,20,20	76:2,3,14,19,22	265:22 266:12	22:3,4,7,10 26:10
269:4,5,7,10,14	168:5 170:2,6	77:6,8,16,18	272:6 274:12	26:18 27:12 35:21
269:16 271:6,7,16	174:10 177:2,3,8	78:11,13,18 79:8	276:21 277:4	41:3 51:4 54:8,18
272:2,3,7,8 273:8	179:4 180:7 199:2	80:15 81:3,18,22	280:13,19 283:17	56:5 59:1,4,7,18
274:6,8,13 275:14	208:12 213:6	82:16,19 83:7,13	283:20 286:10	60:8 62:14,20,21
276:8 278:6,15,17	219:3,6,18 221:8	84:4,12,20 86:17	289:8 292:12	62:22 63:1,2,3
282:7 283:6,13,16	221:12 223:3,8	87:17 89:9,16	294:6,9 296:9,12	64:5,22 71:7,22
284:3,6,13 286:2	225:5 229:1,8	91:19 92:2 93:11	299:21 302:17	83:5 85:4,7,13
286:5,6 288:22	230:4,7,9 236:6,8	93:13 94:10,18	304:21 307:22	86:4,6 88:10
289:7 291:5,22	238:7 239:18	95:6,16 96:6,9	308:18 311:22	108:5,6 109:2,6
293:2,6,9,10,14	240:4 246:12	97:2 99:21 111:3	317:11 321:4	109:15 111:20
293:18 295:10,15	248:1,22 258:2	111:19 112:8,17	333:18 343:10,19	114:3,3,6,11,13
295:19 296:12,20	260:20 261:16	112:22 114:18,22	345:19	114:17,19,20
297:8,15,16 298:7	265:9,13,16,17	116:18 117:20	railroad's 23:3	115:3,15 121:1
312:15 316:18	266:3,6,16,17	119:2,3,4 120:4	67:7 120:6 137:5	124:20 125:14,16
317:8 319:2,3,4,7	272:21 275:6,10	120:15 123:4,7	285:8 296:13,14	126:3 136:6,18
319:10 320:1	276:2,12 277:3	124:4 125:1,4	299:18 315:1	137:1,3,9,16
321:15 324:8,18	278:11 279:21	127:11 129:5,10	345:6	144:16 146:5,7,10
325:1 327:1,5,5	280:5 281:8 282:2	130:17 132:12,19	rails 77:11	146:10,12 147:6
327:11 329:3,3,6	285:18 289:11,14	133:22 135:8	railway 5:1,8 8:11	147:15,17 148:8
332:21 333:14,16	289:21 290:1	136:7,9,15,22	8:13 195:3 205:20	148:10 149:7
336:4,4 339:14	291:8,16 292:21	139:20,21 140:7	railways 312:18	153:6,10,14,18
341:16 342:2	294:12 295:2	140:22 143:22	rail's 274:22 288:8	155:12 156:1,4
343:13	299:5,11,12,16	144:2 151:11,12	rail-dependent	157:2,18 158:11
railroad 1:9 12:10	307:19 308:22	152:5,12,17 153:3	24:7,11,16 29:20	158:11,11,13,16
14:7 15:4,10,13	311:6,8 312:4,6	153:16 154:5,10	30:12	158:20 161:15,20
18:4 19:11 21:8	312:17 314:17,20	155:16,18,20	rail-served 268:16	169:4 172:18
22:13,18,20 23:6	315:5,8,14 316:2	160:7,16,19 162:9	274:11	177:1,4,5,7,8,10
24:14 25:3 26:7	316:9 318:6 344:4	162:12,13,22	rail-specific 295:21	177:12,20 178:4
26:22 27:14 28:6	344:14,20 345:2	163:6,10,19 165:5	rail-to-rail 28:20	178:13 179:4,5,13

179:20 180:1,2,18 181:17,19 183:4 187:2 190:5 191:3 191:17,18,20 192:7 203:16 240:10 242:14,22 250:4 257:12 259:13,20 260:5,8 260:10 261:8,9 263:18 264:3 266:4 270:17 271:1 280:22 297:10,17 298:2 298:21,22 299:5,6 300:16 305:8 306:12 308:2,10 308:11 312:6 315:14,14 339:8 rates 13:9,14,19 14:4,8,9,12 15:3 20:15,22 21:9,21 25:3 28:4,8 39:4 52:20 58:2,21 62:7 65:22 69:2 76:4,20 89:3 92:14 97:15 103:15 104:8,10 104:12,15,17 106:11 108:3 111:7,8,10 112:3 112:9,17,20 113:4 114:14,16,22 115:9,12 118:15 120:17 122:3 124:8 125:3,5,6 125:13 127:3,10 128:15 129:2 130:7 131:5,20 132:4 136:10,13 136:16 137:1,4,9 137:20 138:1,4,8 139:20 140:2 142:20 144:8,9,17 145:3,11 147:2 149:1 151:7 152:9 152:15 153:2,16 154:1,4 155:19,22	161:13 176:12,15 177:14,20,21 180:5 183:2 190:7 191:10,11,12 192:1 193:12,17 199:18,19 200:10 233:3,7,19 254:8 254:16 258:18 259:5,13 260:17 261:14 264:13,16 264:20 266:9 267:1,4,8,9,22 269:18 270:5 271:7,11,17,21 276:8 278:18 280:20 283:11 285:17,21 288:17 296:15 315:1 316:15 317:7,8,10 344:10 rate-making 87:8 ratio 70:10 71:21 71:21 155:11 ratios 297:21 311:16 raw 99:11 100:18 253:19 274:3,14 323:8 RBMN 130:16,20 RCAFA 128:22 RCAFU 128:21 RCAF's 128:18 reach 61:2 86:8 123:1 297:11 react 121:19 read 176:18,19 195:12 204:13 readily 38:21 ready 23:7 314:8 reaffirm 79:12 reaffirming 275:1 288:9 real 28:11 36:20 37:17 90:8 161:13 243:13 254:8 298:21 322:13,21 323:19 324:2,16	324:22 325:7,17 327:8,16 329:18 330:10,11 336:14 341:4 reality 102:13 242:15 266:6 realize 281:16 282:14 realized 64:17 187:20 really 10:7 16:3 24:12 57:4 64:18 65:16 67:17 90:8 93:2 95:19,20 97:3 144:3 146:11 148:1,17,22 161:17 173:15 177:6 180:20 183:7 195:13 199:17 200:19 201:10 218:16 219:12 226:16 227:9 230:22 242:10 266:6 274:19 282:13 288:5 298:3 302:6 304:22 320:14 323:10 325:19,22 330:7 335:2,9 336:17,21 337:7 340:15 341:14 real-life 129:16 160:16 real-time 335:19 335:21 reason 18:15,16 32:19 43:14 44:1 65:12 137:6 138:21 158:10 247:6 300:3 332:7 332:15 reasonable 81:19 88:13,14 124:20 125:12 131:9 133:4 139:21,22 141:16 142:19 143:3 144:6	184:17 267:9 271:21 280:20 324:4 reasonableness 85:7 115:11 145:22 182:5 261:9 271:7 reasons 24:8 42:15 79:11 169:21 170:1 172:10 299:20 rebound 68:22 rebounds 69:7 rebuilding 204:6 313:17 rebuttable 72:1 recall 63:14 90:16 193:15 337:11 recap 181:9 receive 18:21 25:5 150:17 151:3 269:4 received 16:9 45:9 116:20 174:12 193:13 211:22 receiving 130:21 314:18 recession 22:16 128:15 203:21 204:2,3 214:4 225:20 226:17,18 267:3 314:16 reciprocal 28:12 57:11,21 60:3 107:10,18 115:8 124:17,19 155:8 170:12,16,20 171:2 172:12 175:3 183:18 184:3,10 185:16 217:18 218:6,9,15 218:18,21 219:1,9 222:3,15 223:5 224:17 227:9 229:20 230:2,6,15 236:15,21 237:3 239:16 258:10	261:6 271:10,13 288:16 302:10 331:15,21 342:12 343:5,7 reciprocate 343:7 reciprocating 343:19 reciprocation 344:3 reclassify 228:15 recognition 114:21 recognize 136:2 170:3 214:15 recognized 273:17 recommendations 34:22 58:5 100:11 106:15 297:13 reconsider 285:6 record 11:4 25:7 29:6 47:4 169:8 174:14 226:13 283:21 311:19 347:2,7 recourse 259:22 260:14 recover 321:6 recovering 328:21 recovery 22:21 23:2 226:3 257:10 red 11:13 322:22 reduce 73:21 78:8 107:13 113:10 125:15 156:5 157:3 170:22 171:16,16 187:6 reduced 49:21 77:12 112:19 119:17 200:10 213:7 reducing 14:9 78:22 118:12 reduction 115:14 121:20 122:11 124:11 149:1 213:8 reductions 64:22 199:22
--	--	--	---	--

redundancies 200:3	40:1 78:4 85:13 91:13 93:21	111:13 186:19 317:12 322:1	removes 208:21	319:14
redundant 200:5	125:22 161:20	relevant 108:22	removing 31:16	required 27:11,18
refer 273:4	170:2 294:14	reliability 38:18	renaissance 275:14	27:21 32:3 109:12
reference 97:8	319:15 330:2	61:14 69:5	275:21	137:2 155:19
296:5	331:19	reliable 36:10	render 119:3	190:21 255:5
referenced 53:11	regulations 27:18	42:11 82:5 101:19	renewal 15:6,20	257:18 285:20
290:11	27:20 29:15 30:8	209:18 276:15	139:19	requirement
referred 216:4	214:17 259:12	278:18	renewing 202:22	167:18 247:2
228:11 275:12	regulation-based	relief 20:22 21:7	reparations 158:16	requirements
referring 337:21	31:9	48:20 57:20 69:3	299:22	313:19
refers 15:22 167:18	regulatory 18:12	137:8 148:2	repeat 182:18	requires 117:14
refining 188:12	20:20 28:18 29:21	153:18 259:5	213:16	321:19
reflect 191:2	30:4 31:4,16 32:4	260:13 261:13	replace 245:10	requiring 170:12
reflected 128:18	32:9 33:1 39:3	relies 70:9 253:18	249:13	190:4 236:22
reflecting 192:4,4	48:20,21 78:16	reluctance 178:16	replaced 110:1	research 99:3
334:13	79:9,12 81:2 82:2	reluctant 179:12	replacement 37:5	reserves 196:20,21
reflection 328:15	83:21 93:13 97:10	226:4	replete 29:6	residential 51:3
reflects 191:20	97:18 113:3 114:1	rely 92:12 119:15	reply 18:9,18 20:19	resins 127:21
reform 282:20	117:10,15 126:2	125:21 126:7	213:15 253:2,4	resolve 167:6 259:6
refusal 16:12	147:3 153:5,21	269:9	285:11	resoundedly
112:11	269:17 306:12	relying 180:12	reported 47:19	154:21
refused 18:22	reimbursement	remain 119:7 284:8	191:18 214:5	resource 208:16
refuses 26:18	324:4 328:18	remained 22:14	reporter 251:20	resources 18:6 82:9
refusing 124:5	reinvented 187:22	remaining 266:2	reports 252:17	114:7,8 126:7
160:17	reinvesting 89:10	268:12	represent 23:22	209:10,17,22
regard 62:3 85:13	276:4 277:5	remains 109:10	188:21 323:10	210:2
102:14 244:4	294:18	122:1 207:1 250:8	representations	respect 53:14 54:6
245:6 334:2 338:5	reiterate 92:20	remarks 7:2 81:1	331:14	108:10 174:21
regarding 18:1	reiterates 51:12	remedies 44:6,22	representative	215:6 217:18
100:7 106:15	reject 125:20	48:2 126:2 269:17	231:8	222:14 225:13
130:9 135:20	related 129:4,13	remedy 38:14	represents 173:11	347:9
231:7	273:13,22 277:11	113:3 114:21	293:6	respectfully 164:15
regardless 129:22	288:13 310:17	148:15 160:21	repurchasing	respective 50:6
189:9	328:12	remember 76:1	284:2	120:16 343:18
regards 331:15,20	relates 71:15 100:9	175:2 289:6	request 51:21	respectively 128:20
332:21	167:15	remembered 301:8	52:14 108:15	129:1
regime 79:13 93:13	relating 139:9	remembering	137:3 148:10	respond 18:8 88:3
regional 26:8,12	relation 19:13	55:15	179:3 253:22	183:8 231:7
256:5 312:18	62:15	remembers 96:5	258:8 344:13	response 13:3
313:16	Relations 206:1	remind 151:16	requested 271:10	51:21 112:21
regionally 86:22	relationship 282:2	254:20	requesting 132:15	204:1
Regions 83:17	324:22 326:11,20	reminder 11:1	136:13	responses 16:2,6,6
regulated 30:9	relative 203:14	remiss 180:9	requests 15:2 16:2	53:20 194:12
236:21	290:16 308:22	remodeling 273:14	20:6 337:8	responsibility
regulating 39:19	337:22	remove 31:12 33:3	require 90:8	201:22 283:4
regulation 39:17	relatively 81:12	214:10 341:7	117:10 125:4	responsible 35:9
			164:14 268:17,20	84:8 109:22 195:3

195:5 252:12 270:15 responsibly 277:5 rest 179:10 185:1 189:19 restore 28:13 restrict 265:3 restricted 132:2 restriction 131:4 131:11 134:8 restrictions 130:5 210:16 restrictive 133:3 restructured 312:21 result 13:15 15:2 20:5 27:16 30:19 31:5 48:21 49:19 65:17 75:4 113:16 126:18 140:11,20 146:17 147:2 212:18 317:10 329:2 332:8 resulted 13:9,19 28:7 48:11 50:22 115:15 119:13 275:16 306:16,17 325:18 resulting 275:10 results 45:17 101:1 121:5 resumes 59:11 retail 318:1 retained 15:6 293:1 retaliation 281:18 281:22 282:9 retroactively 299:15 return 237:21 246:15,17 256:11 257:16 289:11 returned 140:13 317:4 returning 92:18 294:5 returns 203:11 revenue 22:9 40:14	70:10 71:21 121:15,20,22 123:14,15 155:15 160:10 161:2,3,14 187:13 195:20 196:2 203:16 217:8 266:1,7 292:19 297:20 299:15 revenues 42:8 162:5,8 170:6 299:12,14 revenue-variable 311:16 reversal 155:9 reverse 118:11 reversed 226:11 review 45:15 71:16 108:18,22 136:14 261:8 295:18,19 311:5 reviewing 83:20 revised 43:19 136:6 revisit 80:18 138:14 159:1 revocation 337:3,8 337:12,15,22 338:4 revocations 337:9 revoke 315:21 rewarded 14:2 re-established 257:12 re-handled 224:6 re-regulation 31:19 40:5 60:1 Rhineland 346:10 Richard 5:5 8:12 ride 216:18 227:20 228:4 229:10 right 10:15 21:6 43:22 53:16 54:1 55:16 92:5 172:21 173:9,14 178:6 181:16 182:10,10 182:10 183:21	212:5 221:14 223:15 227:14 229:14,15,15 230:17 240:15 241:7,14,15 250:16 259:21 269:20 270:2 277:21,22 281:10 284:16 301:10,19 302:4,13,22 303:14 306:5,19 307:8 334:6,21 335:14 rights 49:5,6 118:12 rights-of-way 63:22 ring 201:2 risen 102:9 risers 255:12 rising 193:12 276:8 317:7,8,10 325:6 risk 83:22 182:15 213:9 238:14 285:16 327:14 risks 115:2 144:21 317:15 River 12:15 25:20 203:4 250:12 road 5:18,22 221:6 243:3 246:22 343:12,12 roads 77:13 Robin 4:8 8:4 127:17 141:11 Robin's 143:17 Rock 2:18 34:19 Rockefeller 45:13 150:3 Rockport 211:16 role 252:15 274:22 288:8 rolling 78:15 room 96:5 227:2 rope-a-dope 305:21 Ross 6:7	roughly 13:5 rounds 199:9 route 24:15 36:12 42:21 43:3,5,7 108:4 131:6,8,22 132:9 133:2 134:2 134:9 146:6,13 177:17 179:10,16 179:17,22 210:12 210:15,17 216:7 216:10 219:7,8 223:3 229:9 237:14 296:13,14 296:17 routes 130:18 131:16 132:2 143:10 152:20 288:15 296:19 routine 85:10 routinely 99:11 265:3 296:11 routing 84:10 85:15 130:6 133:20 134:16 135:22 146:20 237:10 routings 84:16 RPBM 131:3 RTC 71:21 Rubin 3:11 7:18 79:17,19 80:3 85:20 89:22 92:15 97:7 rule 41:6 60:4 108:3,8,13,18 146:21 155:10 176:12,15 177:9 179:4,13 180:4,11 233:3,7,11,19 236:21 276:8 rules 33:5 38:6 42:16 43:11,12,20 44:9 51:16 52:6 59:15 60:2,5,8 130:2 182:3 318:3 334:5 340:2 ruling 190:3	rulings 146:18 run 23:15 78:8 86:10 121:7 running 209:6 313:1 317:21 RVC 155:11 308:3 <hr/> S S 6:13 9:14 SAC 55:14,19 56:2 56:6,10,15 260:10 303:22 sadly 280:9 safe 101:20 143:6 206:22 safely 208:2 safer 292:1 safest 99:17 150:20 210:12 213:5 293:11 safety 111:8 113:17 113:18 165:9 174:6 235:11 sale 133:10 200:5 Salem 134:6 135:18 sales 104:20 150:10 195:3 262:8 276:14 same-destination 228:16 Santa 195:11 200:14 satisfaction 275:8 save 175:9 saved 75:9 77:13 saving 246:13 savings 254:12 saw 19:9 91:16 182:11 192:20 saying 40:4 57:12 64:15 70:22 242:21 283:3 300:20 322:4 334:11 says 185:2 188:3 218:5
--	---	--	---	--

scant 313:1 317:21	195:22 197:18,19	sell 103:4 152:6	143:11 255:4	service-type 188:12
scared 282:8	200:12,16 201:7	selling 152:4	258:16 259:2	servicing 26:4,17
scenario 247:5	202:8 203:17	Senate 2:4,7 24:1	289:3 293:16	39:1,6 82:20
schedule 23:13,20	204:7,10 205:7	senator 2:3,6 7:7	307:3,21 308:12	86:13 95:15 265:9
220:10 229:2,4,7	208:5 212:2,17,22	8:24 23:10,11,14	serves 26:5 28:15	274:1 310:7
229:8 286:18	214:2 215:11	23:17 33:11,21	46:21 48:17	set 22:1,9 59:14
scheduled 235:5	226:10 242:4,13	34:2,10 39:17	119:20 267:12	67:20 144:15
246:12	244:9 252:5	45:13 277:15,19	282:3	209:9 225:4
scheme 147:3	270:13 276:19	278:2 286:22	service 25:6 35:16	315:14 326:10
Schneider 204:18	281:11 293:17	287:2,7,11 343:11	36:2,2,10,16	sets 36:7,9 225:6
205:6	298:14 301:12	senators 150:3	37:16,20 38:3,19	setting 309:22
school 27:6,9 279:3	309:11,12 320:18	285:10	39:6,8,14 41:16	settled 270:1
scope 273:8	322:2 323:3,4,15	send 199:7 241:10	42:11,19 43:2,22	settlement 181:21
Scranton 130:13	323:17,18 324:2	sends 345:5	44:2,6,11,15,18	setup 308:15
130:14	324:21 325:6,12	senior 80:8 149:21	44:22 58:2,21	seven 76:2 84:11
scream 11:17	325:13 326:4	201:22	61:14,18 65:17	202:19 275:5
scrupulous 45:14	327:12 330:1	sense 86:8 148:14	67:4 68:3,4 69:4,7	276:10
scrutiny 213:20	341:19	165:22 228:5	76:2 77:4,9 78:21	severe 267:2 332:1
seamless 219:21	seeing 169:13	233:22 241:3	80:6 81:18,21	shale 154:16
seaports 81:16	seek 50:10 137:7	242:1,11 264:14	86:1 87:10,16	196:19,19 197:2,3
search 265:1	259:4 260:16	separate 86:4	89:14 100:15,20	Shanghai 84:6
second 10:4,22	261:13	108:5 163:14	103:15 104:1	shape 307:3
17:1 26:7 27:14	seeking 48:4	177:10,21 201:20	105:15 107:14	share 116:14
31:2 75:17 92:9	260:12	229:19 246:5,8	111:8 119:22	166:11,12 197:17
113:2 180:21	seen 37:2 40:21	separately 178:1	120:18 121:12	197:18,20 198:10
192:17,20 209:4	41:2 45:8 68:3,4	separation 323:18	127:3 132:2,18	272:1 319:17
258:16 259:7	76:13 87:7,11	324:2 325:7	141:7 153:22	320:12 340:17
263:6 267:5	88:20 89:13 93:1	327:20	154:13 185:7	shareholders 93:18
secondly 120:2	104:14 120:16	September 324:2	195:4 202:13,22	sharing 264:12
121:14 125:2	146:11 149:8	series 145:16	203:7 207:14	287:1
206:8	151:20 167:2	201:17	232:16,18 235:6,8	shield 32:9
seconds 11:18	174:4 194:6	serious 91:20	235:14 241:2,10	shift 62:12 78:6
second-largest	195:19 201:10	162:16 209:5	242:18,19 248:17	197:21 207:9
196:3	215:9 276:6 327:7	285:3	271:6,16 278:18	239:18 285:12
Section 52:8	341:13	seriously 101:22	281:1 313:19	292:19 294:14
sector 100:4	sees 70:7	seriousness 40:3	314:17 315:16	323:12 327:7
sectors 24:22	segment 84:5 94:9	serve 93:16,17	316:15 333:19	shifted 19:16
secure 99:17	108:5 125:10,13	141:15 160:1	345:5	197:20 249:9
211:21	segments 271:15	195:14 196:16	services 49:5 58:2	292:22
securing 14:1	271:19	198:14,18 205:3	75:6 76:15 80:16	shifting 115:16
security 142:4,12	select 293:14	258:12,17,20	93:4 95:22 101:14	249:4
see 10:5 40:7,7,11	selected 107:17	293:4 315:9	106:7 114:10	ship 35:14 78:2
45:5 54:4 55:8	self-help 16:17,20	343:17	159:22 345:15	105:13 131:13
69:3 94:8 115:1	21:4	served 32:12 47:22	service-level	142:17,21 143:1
121:6,12 122:6,7	self-interested	86:16 110:20	111:18	143:21 150:21,22
135:19 184:10	117:2	124:22 129:6,8	service-sensitive	151:21 152:3,16
185:3 188:9	self-interests 78:5	130:15 131:1	82:6	164:1 240:19,22

253:16,21 265:20 266:15 269:6,8 273:8 280:6 282:4 shipment 84:6 85:8 104:2,6 129:14 143:6 150:20 155:15 179:7,15 215:21 216:7,11 219:8 220:7,14 228:2 229:4 234:7 297:21 336:3 shipments 28:4 104:8 108:14,20 110:10,15,17,20 129:19 134:4 146:22 163:19 164:1 166:21 220:2 227:19 253:19 255:6 256:10 264:8 265:12 267:18 268:17 274:9 297:16 shipped 74:22 101:18 116:20 128:10 151:8 255:22 shipper 16:17 17:17 50:8 52:9 52:12 57:10,11 58:17 63:4 82:13 109:5 112:8 114:14 125:13 129:12,22 137:3 139:15,18 145:3 146:2 148:3 149:5 152:10,22 159:15 160:22 161:10 180:10 199:1 217:17 234:1 239:22 241:22 242:3,4 253:12 263:15 274:8 276:18 277:6 281:20 288:20 293:9 300:1,16 304:20 307:5	308:13 319:21 321:10 324:8 326:1,11,16 328:17 330:5 338:8 339:6,13,21 340:8,18 341:18 shippers 16:20 18:10 19:15,19 20:20 21:3,14,17 22:2 24:7,17 29:2 29:20 30:12,21 38:7,16 52:19 53:9 59:10,15 60:12 63:17 71:1 71:6,8,20 72:22 76:4 77:18 78:12 79:10 81:7 82:6 90:10 93:3 95:7 113:4 117:2 124:21 125:7 132:17 133:11,14 135:5,8,11 136:5 136:8 137:7,8 140:2 147:4,22 148:11,21 156:1 158:4 169:19 170:7 183:14 184:2 190:7 198:1 199:5,19 200:10 208:22 218:5 235:22 236:1 239:6 254:11 259:9,10 260:1,11 260:12,15 261:3,4 261:12 266:3 275:17 278:12,19 280:11,17 281:15 282:8 283:5,10 284:7,8 285:15,19 286:5,10 297:4 298:11 300:2 308:10,13 310:6 311:22 319:3,11 321:1 326:22 327:13 328:22 334:11 339:10,17 342:5	shipper's 338:11 shipping 15:5 77:14 97:14,21 99:21 102:9,12,22 103:6,12 104:3,10 104:11 105:9 106:9,10 119:16 136:11 137:12 143:3 144:7 164:8 206:11 278:15 281:6 289:1 292:13 294:8 296:2 308:4 ships 81:17 113:14 113:20 274:3 296:11 shook 280:5 shop 75:17 short 17:2 49:15 50:7 69:16,17 72:16 87:18 125:9 133:18 168:19 182:14 200:6 226:8 271:14 274:12 276:7 292:18 312:18 313:16 shorter 253:21 shorter-term 193:6 shortest 210:11,15 shortly 195:10 277:17 short-lines 130:16 short-term 117:3 shot 287:22 shouldering 127:9 show 138:4 showing 52:12 248:4 shown 14:11 111:22 shows 214:11 shut 66:5,6 67:1 137:13 193:11 side 10:14 87:11 97:9 235:22 236:2 248:20 284:5	sided 256:11 siding 223:20 255:20 sidings 255:17 256:7 sight 291:3 sighted 77:21 sign 220:13 301:15 335:9 significant 17:10 24:21 25:4 26:6 35:19 37:22 51:7 66:17 67:18 81:5 87:11 102:17 110:9 115:15 119:10 123:10 131:4 142:7 154:15 192:21 194:6 198:17 225:14,17 233:18 264:2 267:6 290:14 292:7 309:4 321:4 326:15 significantly 49:21 67:22 73:15 100:16 103:9 104:13 114:16 117:16 123:18 125:15 135:15 202:18 264:7 267:1 291:7 signs 282:6 silicates 129:20 silos 269:2,11 silver 57:13,17 68:13 similar 18:3 28:10 47:6 48:12 135:7 135:20 148:5 291:5 314:20 338:9,9 similarly 211:6 simple 139:15 261:6,11 simpler 172:20 182:20 303:20	simplest 148:9 simplification 156:3 simplified 55:14,19 56:2,10,15 172:14 260:10 simplify 109:14 157:2 271:20 simply 31:7,20 88:17 114:13 121:20 166:7 187:12 198:5 228:20 247:16 258:9 259:17 268:8 271:17 310:1 311:19 317:14 345:19 simultaneously 103:5 single 14:22 20:4 26:21 110:14,17 119:19 122:21 129:22 134:20 145:7 212:6 229:3 232:2,2 281:8 single-car 222:4 313:18 single-line 120:6 single-served 86:17 95:7 singly-served 236:1 sir 67:11 68:20 295:8 297:9 sit 159:14,19 175:7 188:9,19 223:22 224:3,4 302:18 305:22 site 140:19 sites 122:20,21 265:1 sitting 10:13 165:7 situation 33:15 40:12 41:11 86:7 93:8 105:1 135:16 148:15,18 160:4 160:15 167:22 179:9,14 180:2,7
--	---	---	---	---

180:8 185:2 201:6	181:4,13,16	sounded 337:4	297:12 310:20	118:12 124:10
224:12 225:2	182:10 184:9	sounds 298:10	320:7 336:6 337:9	169:22 199:20
240:14 242:22	187:16 189:22	source 267:21	337:10 344:13	254:10,17 275:22
327:17	190:17	sourcing 4:3	specifically 155:7	276:1,6 293:17
situations 37:15	Sobule 2:10 7:5	116:13	250:13	294:15
54:11 148:5	12:1,2,5 52:18	South 162:17	specifics 52:1	stakeholders 81:6
six 67:8 84:11	53:19 54:2,14	Southeast 83:16	speed 210:16	93:17
92:17 150:5	58:4 62:15 63:6,9	southeastern 46:22	302:21 303:2,8	stand 23:7 55:22
151:21 202:19	64:14 67:11 68:20	southern 5:8 8:13	speeding 305:10,13	244:7
253:7 303:4	70:19 71:20	72:22 83:10 88:1	speeds 57:5 68:15	standard 52:14
307:19	Sobule's 62:3	125:18 134:4	spend 37:18 54:20	314:11 316:6,7
six-year 111:15	society 239:12	205:15,19 206:2	64:18 82:8 219:19	standards 259:20
size 35:19 161:22	soda 127:22 129:19	206:15 207:3	246:14,16 284:1	261:9 315:19
297:18 345:17	softball 225:10	208:11 209:18	284:15 293:7	standpoint 69:2
skeptical 318:2	sold 315:5	210:20 211:19	297:16 306:1	196:5,5 205:1
skew 312:16	sole 85:4 263:19	213:14 214:6,15	spending 12:22	223:8 226:8
skewed 145:22	solely 46:16	222:10 236:11	77:1 206:21	232:19 335:16
skyrocketing 151:7	solution 48:22 97:6	240:5 244:5,11	spends 12:17	stands 272:5
slick 224:1	135:17 148:9	279:9	spent 36:4 45:9	stand-alone 304:1
slide 195:8,20	153:9 183:19	Southern's 207:12	52:2 64:21 80:7	start 11:20 34:3
197:13 203:12	184:7 291:3 296:8	209:11 227:18	114:8,9 162:22	161:11 181:1
211:18 214:11	solutions 54:11	southwest 25:14	163:7 204:18	194:18 251:12
slides 204:13	59:9 96:13 132:17	Sow 44:19	216:1 226:6	279:6,10 302:16
319:18	135:6 164:14	so-called 27:11	231:21 270:2	336:9,10
slightly 73:2 152:1	171:15 184:22	108:3	293:5 301:8,13	started 10:6 336:19
slip 287:8	261:4 293:18	span 84:10	spiderweb 227:22	339:10
slow 199:15 226:1	308:21	Sparta 255:14	spill 162:15	starting 14:13 48:1
slowed 187:3	solve 163:17	speak 19:18,22	spine 345:6	51:2 114:13
slows 221:16	184:11	34:15 46:7 61:8	spinning-off	204:12 205:15
sluggish 283:19	somebody 173:19	66:10 67:14 74:10	167:20	start-up 132:22
small 36:21 69:20	somebody's 64:12	85:3 188:18 191:3	spiral 242:19	state 2:2,6 7:6 8:23
75:19 132:22	somewhat 43:4	193:18 251:19	spirit 93:12,14	18:14 23:22 25:14
136:18 146:16	57:7 240:17 332:4	269:18 282:9	319:13	33:16 34:21 35:11
153:17 253:12	soon 286:12	309:21 330:20	splitting 300:10	80:2 116:15
259:9,20 260:1,9	sophistication	speaker 46:5,10	spun 167:17	138:20,22 262:10
260:11,15 261:4	208:13	251:7	spur 223:20	290:22 311:5,7
261:12 279:9	sorely 263:14	speakers 154:3	spurred 186:13	318:5 333:13,14
281:12 298:11	sorry 63:11 214:10	speaking 222:17	spurring 186:10	stated 18:10,16
301:17	284:17 287:7,8	251:10 312:13	201:14	59:12 294:7
smaller 47:6	329:13	speaks 83:21	St 2:13 6:13	statement 19:14,21
123:17 181:12,17	sort 47:18 59:20	specialty 99:2	staff 303:4 318:14	166:2 195:9
181:18 285:19	64:9 92:20 93:8	252:10 273:18	stage 263:1	254:16 312:8
small-volume	97:7 177:12 181:8	specific 25:9,10	staggering 290:21	313:4 337:19
136:17	233:1 297:11	45:1 52:3 53:6	Staggers 30:14,22	statements 29:7
Smith 4:2 8:2 116:2	300:3 342:16,18	55:11 78:2,3 90:9	40:11,13,20 47:14	273:7 322:4
116:4,8,11 127:14	sought 19:6 131:20	138:19 146:13	48:19 49:10 76:8	states 1:1 6:1 8:22
171:4,5 173:16	sound 292:10	192:12 273:10	91:5,5,6,22 93:22	9:2 12:12 99:4,5

99:10 123:12 127:4 128:6,9 141:4 144:4 150:10 195:22 204:20 207:2 263:13 267:13 272:14 273:1 304:13,15 332:20 station 42:20 47:8 47:9 344:12,21 stations 47:8 255:12,18,21 256:3 342:12 statistics 155:14 198:6 stats 246:18 statute 22:3 71:6 stay 85:12 220:10 240:4 286:13 stays 69:7 STB 20:11 21:15 22:2,7,22 50:10 54:22 85:5 94:14 113:2 132:16 136:13 146:17 153:6 163:14 166:14 259:4,14 260:13 283:14 284:7,11,17 285:5 285:21 308:11 310:17 STB's 132:5 283:9 STD 284:17 steadily 214:3 267:1 steam 42:20 steamship 84:8 stemming 39:8 step 160:7 259:21 steps 144:20 184:21 steroids 207:21 Steve 3:11 80:3 Steven 7:18 Stevens 6:7 Steve's 94:7 stick 53:9	stifled 17:16 stock 22:14 78:15 141:6 284:2 stockholders 284:1 stockpile 36:17 stop 23:16 215:20 217:13 220:3 228:12 245:15 280:3 313:8 stopped 18:10,15 64:8,8 276:19 stopping 213:2 217:9 221:11,16 storage 112:16 113:11 255:10,12 255:22 256:19 266:13 268:22 269:2,5,10,11 314:21 stored 225:20 stories 280:16,22 story 203:13 214:1 280:9 STP 113:22 straightforward 159:10 strategic 274:17 288:3 strategically 122:14 strategies 87:4 strategy 282:21 straw 193:17 streamline 109:14 270:22 streamlined 185:11 streamlining 210:21 Street 1:14 2:22 6:3 6:8 strengthen 99:20 strengthening 108:2 stress 11:15 stressful 11:16 stretch 61:13 stretched 140:18	strictly 87:21 297:7 stride 94:1 strides 89:13 strive 213:11 STROHMAIER 6:19 Strohmeyer 9:17 309:12 330:16,18 342:10 345:14 strong 39:13 44:14 44:16 99:13 117:4 263:12 283:14 strongly 124:10 143:16 235:10 284:12 285:22 structure 79:10 240:11 structured 344:10 structures 97:18 struggle 289:17 struggling 183:20 280:18 stubbornly 124:5 studies 290:8 study 161:6 320:7 320:11 stuff 53:10 303:5 331:19 stymie 292:6 subdivision 46:20 subject 74:11 118:6 120:4 140:2,5 145:3,11 147:5 273:10 274:16 288:2 311:11 subjects 288:19 290:13 submission 46:15 145:14 submissions 148:8 submit 11:2 164:16 submitted 19:20 46:13,15 51:15,20 106:20 213:14 253:4 261:18 310:1 subsequent 265:11	subsequently 257:19 333:2 subsidiary 273:2 273:20 substantial 15:14 36:21 37:11 40:18 76:14 141:20 206:14 212:3 213:15 substantially 41:4 77:6 119:17 191:11 substitutes 141:16 sub-optimal 248:13 succeed 144:4 success 22:19 74:14 99:14 115:10 117:5,6 292:18 successes 310:12 successful 69:15 121:10 157:11 172:1,2 175:9 176:4 181:12 187:17 298:17 313:16 315:20 346:14 successfully 314:1 sudden 247:11 suddenly 248:2 Suez 83:13 suffer 331:22 sufficient 40:15 42:7 55:21 64:2 96:17 119:5 267:9 suggest 70:12,18 94:12 96:20 119:1 157:7 159:5 167:22 169:17,18 suggested 55:13 91:20 96:3,3,6,13 311:22 suggesting 64:6 176:12 243:3 suggestion 96:22 107:15 161:21 suggestions 21:10 21:14 54:10	suggests 249:7 suitable 37:4 Suite 1:13 2:23 3:7 3:12 4:9,14 5:6,22 6:8 sulfur 13:2 sulfuric 187:18 sulphur 13:2 sulphuric 189:10 summarize 35:7 310:2 summarized 47:12 summarizes 148:17 summary 141:13 293:20 summer 66:20 67:1 Sunbelt 145:19 146:2 147:17,21 160:4 superior 81:18 supplement 55:2 150:2 347:9 supplemental 159:4 supplier 62:12 80:15 82:13 suppliers 141:3 239:13 supplies 66:7 67:9 128:3 313:9 supply 14:21 20:3 60:8 66:14 69:5 81:4 85:2 127:17 144:15 154:9 169:6 273:20 275:3 288:11 292:22 319:22 supply-chain 85:15 supply/demand 323:9 support 19:21 32:7 87:3 106:19 107:4 107:11 108:2,17 115:5 132:19 133:22 262:11 274:14 328:7 supported 77:16
---	--	--	--	---

203:10	swept 289:5	32:17 208:8	325:21	tell 23:16 64:12
supporting 83:4	switch 215:21	219:20 246:7	talk 39:22 42:12	158:9 159:14
supportive 16:16	224:14 343:20,21	273:16,19	64:4 65:21 150:5	174:16 175:8
163:8	switches 227:6	system-wide	181:22 196:9,10	194:5 213:22
supports 153:20	switching 26:12	230:21	317:7 331:6	220:12 247:6
suppose 169:7	28:12 57:11,21	S.C 6:7	345:17	278:10 281:19
supposed 27:16,16	60:4 107:10,19	S.W 1:14	talked 40:10 160:3	telling 203:13
58:7 166:22	115:9,12 124:18		172:4 175:20	282:6
supposedly 267:3	124:19 155:8	T	183:2 192:2	tells 203:12
surcharge 22:21	170:12,16,20	T 3:2 6:2 7:15 8:22	200:22 222:3	ten 12:1 13:5 98:12
320:21 322:20	171:2 172:12	9:2	279:18 304:5	128:22 192:5
323:15 325:16	175:3 183:18	table 59:17 64:3	332:7	194:19 205:17
326:19	184:3,10 185:16	150:13 159:19	talking 29:1 39:18	207:4 249:13
surcharges 20:10	217:19 218:6,9,10	165:8 182:2	39:19 42:5 149:4	251:14 262:3
20:12,13 23:1	218:15,19,21	188:21	164:8 217:5	272:15 314:5
112:14 122:8	219:1,9 222:4,15	tacked 281:2	218:20 221:9	318:11 332:13
134:13 190:1,2,5	222:19,20,22	tactically 86:21	236:4 241:6	tend 97:22
190:12,20 322:5	223:6 227:9	tailored 50:5	248:15 278:12	tended 344:17
324:7,18 325:1,8	229:20 230:3,6,16	take 10:18 17:21	talks 341:16	Tennessee 83:16
326:13 327:3,17	236:21 237:6	22:15 44:8 55:1	tangible 39:1	tension 313:11
334:3,7,12 335:1	239:16 258:11	59:13,14 65:2	tank 253:14,15,16	terephthalate
335:2	261:6,7 271:10,13	84:5 89:17 93:15	253:17 255:18,20	262:16
sure 54:5 55:8	288:16 302:10	107:4 112:10	256:2,6,18,20	term 92:9 117:5
60:20 61:5 66:21	331:16,21 342:12	120:12 121:20	tanks 255:13	125:10 171:11
71:3 92:19 95:2	342:13 343:5	130:1,5 144:20	tap 125:7	182:14 236:5
170:18 206:22	344:12	160:22 165:12	target 266:7	264:13 267:8
222:1 231:16	system 24:4 27:3,6	171:3,7 178:4	targets 220:16	292:18,19
244:3 263:17	29:5,18 31:4,10	200:8 204:9	tariff 15:8,12	terminal 86:11,18
284:8 286:13	31:10,18 71:16	206:13 214:12	114:16 136:12,16	124:22 229:13,16
287:20 337:18	75:12 79:7 83:1	221:12 222:7	137:3,9 140:5	265:9 277:13
surely 292:7	96:11,22 99:21	223:17 232:8	146:7 153:11,16	288:15
surface 1:3,12	108:1 109:3 113:3	235:12 239:17	155:19 158:11,13	terminals 78:14
207:17 282:19	117:7,9 122:16	240:2,6,7 242:6	158:16,19 270:5	81:7 82:8 203:2
284:20 292:10	127:2 134:18,21	245:14 283:8	270:17 298:21,22	217:5 228:13,14
surpassed 21:22	143:9 151:5 153:5	285:3 302:18,19	299:21 300:11	terminate 214:19
surprised 343:1	153:21 187:19	307:14 323:13	301:3,21	terms 54:21 56:14
surrounding 101:6	207:20,21,22	329:8,9 340:22	tariffs 173:3	58:21 71:17 87:3
218:14	208:4 210:7	341:7,20 344:8	182:14 281:2	94:18 100:17
surveyors 63:21	228:14,20 233:5	346:17	tax 27:4,8 336:12	119:22 122:3,5
survival 149:5,10	245:8,20 247:8	taken 129:17 136:5	taxpayer 291:20	140:3 144:21
survive 149:7	248:2 256:20	157:10 201:1	teams 202:1	145:12 154:4
185:8	272:9 290:1 291:2	315:6	tear 134:12	193:18 242:16,17
suspend 299:5	293:21 294:12	takers 166:17	technological 210:5	242:18 243:12,12
suspension 273:16	344:9	167:7,8	263:2	243:13 254:9
sustainable 319:6	systematically	takes 67:19 114:6	technology 82:9	289:12 323:13
sustained 128:14	146:15,19 276:3	156:22 172:8	189:4 276:9	333:12 342:12
swapped 65:7	systems 27:22	210:16 216:8	335:16 336:21	terrible 280:16

281:14	189:21 191:9,9	245:13,21 246:3,9	347:10	thriving 308:14
territory 208:7	194:9,11,14,20	251:3 280:10	thinking 302:9	throttled 276:19
tested 263:14	205:12 214:20,21	284:7 299:17	third 22:20 140:8	through-route
testified 148:4	215:1 221:17	302:2 323:3 336:9	192:20 345:1	220:8
250:1 297:4	225:8 226:19,21	think 11:5 18:7	Thirdly 122:2	through-routes
testify 92:19 150:1	230:13 235:18,20	39:12,17 41:9	third-party 81:8	277:13
262:9 278:7	244:14 249:19,19	43:12,18 44:15	Thomas 2:21 7:10	throw 247:14 303:5
286:17	250:17,18 251:16	45:8,12 53:7,16	thoroughly 100:1	throwing 247:11
testifying 88:5	251:21 261:22	55:19 56:13 57:15	thought 10:7	thrown 89:20
90:18 140:16	262:1,4 271:22	59:4,9 61:13	145:15 167:21	Thursday 1:10
testimonies 290:12	272:11,12,16,18	64:14 68:20 70:16	225:14 227:5,8	tie 190:4 334:7,17
testimony 10:8	278:2,5,8 286:16	70:20 71:15,19	270:8,9 277:16	tied 190:1,10,13,15
14:12 18:1 22:12	286:20,21 287:3	83:20 89:8,18,20	289:5 300:20	tight 91:12
23:6 27:2 28:21	295:4,5 304:17	92:6 93:22 94:2,5	327:21 346:1	TIH 129:14,16
41:19 53:11 55:12	307:13 308:6	95:1 97:3,11,18	thoughts 30:3	143:14 150:15
57:7 150:2 158:22	309:5,7,10,19	151:22 157:13	33:19 88:7 215:5	154:7 155:11,14
161:4 162:3	318:7,8,15 330:13	161:18 162:12	334:20	162:15 163:19,22
166:14 168:17	330:14,18,19	163:12 168:7	thousand 200:17	164:3,18 166:20
174:19 184:6	333:8 337:2	169:4,15 181:6,10	203:15	178:19 192:12
193:14 231:7,18	338:21 346:5	183:7 186:1,3,4	thousands 105:10	TIHs 163:10
278:9 287:17,21	347:12	187:5,9 189:12,13	205:2,2	time 10:13,20
304:21 310:1,3,19	thankful 346:12	189:18 194:17	threat 59:21 63:19	11:14 13:8,15,17
312:1 313:14	thanks 33:8 283:14	203:12 204:16	63:19 88:12	14:5 15:1,5,8,16
314:6,12 316:13	329:19	205:5 215:9	136:16	15:19 16:9 17:19
316:17 317:6	theirs 179:22	217:17 218:13,17	threaten 44:7	18:7 20:9 23:12
331:5,10	theme 17:22 18:3	218:20 219:10	three 5:10,13 17:2	34:2,8 36:8 43:2
Texas 28:5,9,10	theoretical 169:18	221:18,19 222:2	17:5 21:12,13	45:9 47:17 48:7
131:1 145:18	theory 304:2	224:2,9 230:18	35:12 37:13 57:15	49:19 52:2 53:22
152:16 296:11	they'd 189:18	231:1,15,19	58:5 87:13 88:3	58:18 59:13,14
334:15 337:13	234:2	232:13 234:5	98:10 151:10	63:10 67:19 76:8
thank 12:2,8 23:4,9	thing 11:17 36:13	241:16,18 242:2	152:17 155:10	80:1 90:21 92:18
24:1 33:7,10,18	46:6 49:11 57:5	242:10,12,21	181:16,18 187:4	97:1 114:7 115:21
33:21 34:1 45:18	69:13 95:13	250:22 251:2	216:21 227:6,13	116:14 121:3,12
46:8 52:22 53:1,3	183:21 184:14	270:7,12,21	228:4 255:17	124:16 127:12
53:5 55:10 56:19	202:11 204:9	280:10 295:9	256:22 264:18	128:17 133:16
57:6 61:19,21	220:18 238:1	296:4 297:3	283:15 296:22	138:13 146:12
72:3,4,5,8,16 74:1	248:14 283:3	299:19 300:2	302:16 316:20	147:14 156:8,22
74:2,9 79:14,15	284:4 290:14	302:21 303:13,18	322:15 342:11,21	157:4 158:13
79:19,21 85:17,19	296:4 302:22	306:2,6,21 308:12	345:15	167:16 172:9
90:14 98:2,4,7	303:2,8 342:7	309:8 317:9	threefold 87:13	173:1 178:10
109:20 110:4	things 63:13 67:6	329:15,17 331:19	three-benchmark	183:5 186:18
115:21,22 116:14	73:8 142:8 161:1	331:22 332:1	56:14	191:21 192:3
127:12,13 139:1,6	161:8 165:2 175:2	334:9,20 335:3,5	threshold 22:4 71:5	193:2,5 197:20
149:11,14,18	177:16 201:18	335:10,13,15	71:8,14 285:20	198:12 199:17
156:10,12,15	219:11 220:2	336:8,16 337:14	thresholds 22:1	200:11,14,15,20
157:22 162:20	221:9,15 230:1	338:7 342:2	261:7	201:5,6 202:14
167:9 176:7 186:6	239:11 240:10	345:11 346:14	thrill 289:5	203:11,20 204:12

216:2 219:15	140:10,16 145:4	227:17 288:21	265:19 266:2,4,5	16:18 24:9,13,15
224:1 229:2,12	146:7 159:11	300:6	267:6	26:14 32:2,14,18
232:14 233:8	164:15 176:3	touch 259:16	tragic 165:3	35:22 51:8 74:17
239:20 247:15	180:12 182:18	319:18 342:9	trailer 82:10	74:19 83:2 91:8
249:1,16 251:10	188:19 190:11	touched 83:19	trailers 74:20	91:13 99:16 100:4
264:2 267:10	194:13 197:21	176:11	232:4,7	100:10,13,21
283:8 284:16,16	205:7,22 212:22	tough 45:7 303:13	train 36:7,9 67:20	101:14 102:5,6
287:1 300:17	215:2 237:1,3	307:7	207:20 208:3,19	103:8 105:8,18,21
302:15 303:12	250:19 251:1	town 25:13 279:9	215:22 216:14,18	107:8 111:13
318:19 320:16	272:20 278:7	toxic 108:10	217:1,1,20 218:7	112:19 113:10,19
323:14,18 325:9	282:7,14 283:16	to-rail 262:13	218:8,11,12 222:5	117:7 118:8
325:10,13 328:8	283:18 300:7	TRAC 80:10	227:20 228:17	119:11 123:9,13
331:20 333:4	307:1 309:21	track 17:15 19:7	229:15,15 232:3,6	123:17 133:21
337:10 338:18,19	312:2 313:5	48:9 54:8 112:16	232:8 245:16	142:14,15,19
340:3,22 342:8,15	318:16 319:17	133:10 165:14	274:14 313:8	143:5 151:5 154:1
345:13	326:3 328:9	203:2,3 212:7	trains 26:1 68:19	195:21 205:1,2
timeliness 38:18	330:20 342:11	214:9 223:20	197:1 208:5,9	206:19 207:1,17
timely 47:2 51:13	today's 124:8 189:4	266:16 332:19	209:8 210:14	207:17 252:17,20
320:15	321:9,18	tracker's 49:5	212:2,11,22 213:2	252:21 254:1
times 13:5 37:13	told 30:17 69:10	tracks 77:7 133:6	222:8 228:4,20	268:5,22 272:9
65:7 67:16,19,21	132:1 135:21	225:5 266:13	229:2,10,12	273:1 274:21
68:6,10,15 82:6	136:21 168:14	trade 274:1	247:20 248:1	276:16,20 281:9
96:21 101:9	190:9 265:18	traded 141:5	trans 265:7,15,19	282:20 283:2
120:22 138:14	270:11 280:22	tradeoff 341:8	transaction 19:11	284:20 288:7
151:18 171:17	Tom 46:1	trade-offs 122:5	326:9 340:6,14	290:10,15,19
188:1,7 214:3	Tomahawk 316:19	traditional 85:1	transactions 50:11	291:17 293:3,5
216:21 227:13	346:8	traffic 14:3,17	321:17	294:8 295:10
234:10 325:14	ton 200:18 203:15	18:21 67:18 68:9	transfer 241:1	309:2 312:14
327:2 336:18	tonnages 55:21	68:14 69:12 76:21	transit 82:6 120:22	319:7 321:19
time-consuming	tons 12:13 35:14	77:13 83:12 91:1	121:3 134:11	322:3 328:19
126:5 155:12	36:18 47:10 72:21	91:15 92:12,14	171:17 340:22	339:22 340:11
timing 156:5	111:12	96:10 113:16	transmission 34:18	transported 25:22
226:17 232:19	tool 125:2 210:5	119:6 120:4	transparency	75:2 150:19
322:10 336:12	tools 47:13 48:19	134:17,22 151:18	132:13 319:1	transporting 99:18
Timmons 313:14	124:14,17 147:8,9	151:19 154:7	328:11 330:7	100:18 143:16
today 10:10 11:7	147:10,13	167:16,19 168:1	340:7 341:3	trans-loaded 269:7
23:6 24:5,6 28:1	top 114:11	173:12 204:2,5	transparent 22:21	trans-loading
30:4 32:11 33:19	topic 285:11	207:5,10,21,22	133:17 136:4	84:14
36:2 44:16 69:17	topography 247:22	208:8 209:8,21	234:7 329:11	traveled 280:15
69:18 72:6 74:10	total 12:20 49:20	211:8 214:7,7,9	336:15 339:6	treat 135:3
75:14,22 76:12	94:22 95:20	215:14 216:16	341:13	treated 96:7 147:22
77:4,20 81:1 83:7	110:20 121:22	219:2,14 221:16	transport 24:10	treatment 285:14
85:18 94:6 98:6	198:17 250:7	222:19 227:17,19	32:13 87:16	tremendous 89:13
98:20 100:6 103:9	260:6 274:8 293:4	230:15 231:10,13	141:17 165:11	94:1,9 197:4
110:2 126:20	293:7 320:3,19,20	231:15 236:13,18	239:19,20	219:19
129:15 135:9	totally 88:13 94:16	237:10 247:13	transportation 1:3	trials 332:17
138:15 139:7	145:8 152:8	250:3,4,8,9	1:12 12:18,19	tribulations 332:17

tried 91:13,15 137:10 157:3 334:4	313:11 317:20	310:4 324:14	323:7,21 326:14 327:22 336:17	46:5,10
trip 134:15 216:22	trust 328:16	330:10,17 331:8	undermine 19:6	unified 207:19
triple 203:3	truth 149:3	332:9 339:15	42:6 206:4,14	uniformly 268:20
tripling 86:12	try 35:7 37:8 59:1	343:4,10,12,13,15	210:1	Union 83:9
troubling 60:18	62:17 74:6 176:6	346:16,20	undermined 209:3	unique 86:8 113:14
truck 24:9 74:18	201:17 224:7	two-fold 180:11	underperforming	204:16 291:12
76:5,17 94:4	227:14 235:4	TX 4:10 5:3,23	307:17	320:8
113:2 150:21	254:12	type 16:11 56:18	understand 25:7	unit 26:1 68:18
196:14 214:8	trying 40:6 152:6	86:1 124:1 220:1	38:5 54:6 60:2	197:1 222:5,7
231:20,22 232:2,8	235:4 240:16	222:4 247:5 306:5	133:21 138:20	274:14
232:11,13,18	297:17 334:7	316:1 346:20	147:9 160:11	United 1:1 6:1 8:22
241:10 253:21	turn 101:2 212:5	types 16:5,10	191:14 257:15	9:2 12:12 99:5,10
254:1 258:18	220:20	107:12 108:20	272:11 300:3	123:12 127:4
265:7,12 268:13	turned 275:6	209:7 342:22	321:2,10 326:19	128:6,9 141:4
268:19 269:6,7,8	turnout 19:1	345:15	understanding	144:4 150:10
296:20 315:7	turns 220:21,22	typical 27:4 111:22	67:16 90:9 96:17	195:22 204:20
317:4 320:2 327:1	221:2	122:3	167:14 168:3	207:2 241:2
327:8,9 338:13	tweaking 294:13	typically 37:6	169:11 171:10	263:13 267:13
trucking 118:8	twice 199:10	158:19 180:6	190:18,19 218:18	272:14 273:1
196:12 231:22	297:22	227:6	275:3 277:18	304:12,15 332:20
232:17 315:7	Twin 279:14	<hr/> U <hr/>	288:10 307:2	units 35:13 257:5
316:4 338:13	two 6:8 11:4 22:8	UCTS 245:6	340:8	unit-trained 274:7
340:19	25:10 26:3 29:2	ultimate 194:8	understands 60:4	unknown 17:20
truckload 204:19	30:2 47:7,15	265:11	318:5	248:3
204:21 293:8	48:10 52:9 57:3	ultimately 38:16	understood 132:11	unleash 39:11
truckloads 75:1,2,6	72:10 80:13 84:10	91:19 92:8 169:7	227:3	unloading 255:11
trucks 32:13 113:6	86:2 87:13 90:1	228:17 257:7	undertaking 16:20	255:18,21 256:3,4
113:15,15,21	112:22 118:2	285:18 300:1	309:20	unlock 271:17
118:13 268:7	119:2,3 120:8	328:16 339:3	undertook 50:14	unmatched 276:11
269:13 314:2	124:22 125:20	unable 102:21	underway 206:17	293:21
318:1	128:21 130:14	111:17 132:3	under-recovery	unnecessarily
truck-competitive	150:16 155:8	unacceptable 152:8	325:18	133:3
89:15 312:5	165:3 177:14,19	unadjusted 128:19	undue 33:3	unnecessary
true 104:1 118:13	177:20,21 192:4	unbalanced 138:15	unexpected 281:1	134:10
126:7 130:19	193:7 195:17	uncertain 101:8	unfair 112:5	unplanned 248:3
154:7 183:16	202:13 206:2	153:8 264:18	257:17 260:17	unprecedented
188:3 195:15	211:1,9 224:4	uncertainly 237:16	261:14 281:20	82:7 199:18
198:5,22 240:9	225:2,3 227:13	uncertainty 52:17	300:6	unpredictable
268:8 294:21	228:11 229:21,22	52:18 60:13 88:19	unfairly 127:9	236:14 238:1,4
312:9 345:3	232:5 240:3	89:20 207:5	unfortunately 165:3	239:4
truly 85:10 123:10	245:12 246:5,8	unclear 62:16	unfortunately	unprofitable 119:4
145:7 157:6 158:8	263:4 264:17	334:14	102:8 105:6	unrealistic 147:6
171:11 297:5	269:22 271:12	uncover 140:11	136:22 257:14	20:22 21:9 39:4
trumpets 28:22	274:19 275:1	underbid 49:17	299:2,8 300:9	52:21 56:5 59:2
trunk 312:22	279:13 280:14	underlie 324:6	307:11	72:2 88:13 112:6
	288:6 296:9	underlying 135:1	UNIDENTIFIED	113:4 114:15
	306:20 307:21			

115:1 148:10 152:9 259:5 260:17 261:14 269:18 283:10 unreasonably 144:16 145:2 unreliable 281:1 unremitting 313:20 unrestrained 137:20 unscramble 159:12 unsupported 213:18 unwilling 267:7 upcoming 173:2 updated 77:7 322:21 upgrade 123:2 upper 310:9 UPS 240:18,21 241:8 upwards 153:13 UP's 18:18 19:19 UP-served 134:4 urge 285:22 urges 214:15 USA 5:20 8:20 262:9 USDA 283:2 284:14 use 13:10,13 18:7 22:22 24:9 60:5 69:20 75:12 99:11 107:5,12,18 108:3 113:6 136:15 155:20 240:18 265:7 266:12 269:4 293:3,9 303:22 304:2 315:19 322:17 335:8 useful 10:8 305:11 user 105:14 uses 25:20 141:12 210:8 344:8 USG 273:2,5,11 274:3,18 288:4	289:17 308:22 USG's 275:20 291:21 292:9 usually 156:19,19 236:5 344:12 345:18 UTCS 208:2,7,14 209:1 245:10,11 245:13,22 246:9 246:14,20,22 247:3,7,14,17,17 248:7,9 utilities 46:13 55:20 56:2 65:22 157:19 278:14 utility 25:17 26:2 27:2 46:18 173:11 173:13 utilization 79:1 utilize 60:16 87:22 293:14 295:15,22 utilized 47:13 183:1 233:14 utilizing 181:11 U.S 2:3,6 24:1 199:13 <hr/> V V 8:17 VA 5:11,14 valid 133:9 Valleys 83:16 valuable 18:7 value 18:2 120:19 121:6 275:1 288:9 293:10 311:16 317:16 valued 295:1 vanilla 312:22 317:20 Varda 6:6 9:10 309:13,15,18 337:20,21 338:7 variable 21:22 70:10 148:8 161:3 161:15 261:7 297:20 305:16	variables 210:9 247:19 varied 16:7 variety 24:8 247:12 280:17 293:3 various 74:20 91:14 108:20 305:2 343:3 344:8 345:10 vast 273:13 velocity 219:18,19 219:22 220:1,15 220:18,20 221:7 221:14,16 235:5 313:6 verified 168:18 version 195:21 versions 195:19 343:3 versus 75:5 83:9,10 170:7 185:1,4 205:6 227:10 231:12 286:5 307:17 vessels 268:22 269:1 vests 142:9 VI 9:7 viable 113:6 237:21 vibrant 40:16 76:11 117:7,9 Vice 1:21 12:4,5 34:6,15 45:22 57:1,6 58:4 59:20 60:15,22 61:19 72:18 74:8 79:20 85:21,22 87:15 88:2 90:5 92:21 98:15 110:3 116:8 116:12 127:17 139:6 149:19,21 176:9,10 177:11 177:22 178:3,8,12 178:21 179:1 181:4,14 182:7,22 183:6 194:21 195:1 205:20,22	226:20,21 228:6,8 230:12,18 231:6 231:17 233:1,13 233:21 234:9,13 235:16 249:20 250:11,14,16 252:3,15 262:5 272:17 295:7,8,13 295:20 297:2 298:6 309:18 318:13 331:13 338:22 342:6 345:11 view 18:5 19:19 35:8 70:20 139:14 256:11 260:21 282:5 292:9 328:11 viewed 289:3,22 views 34:20 80:1 98:21 109:17 287:1 vigorous 315:7 vigorously 14:2 196:12 vinyl 127:21 Virginia 151:9 154:16 240:19 263:7,16,20 264:6 267:11,20 virtually 321:9,20 326:8 visibility 180:19,22 vision 195:9 visit 24:5 33:12 vital 99:13 116:19 128:6 142:4 Vitter 2:3 7:7 23:11 23:14,17,22 33:21 150:3 volatile 321:5 328:21 volume 76:21 101:18 113:13 121:1 143:1 151:1 164:2 175:19 volumes 56:3,8	82:10,11 86:12 143:8 253:13 255:1 259:1 308:1 voluntarily 276:13 voluntary 222:15 343:9 344:4 <hr/> W W 2:21 5:18 7:10 waiting 264:18 waivers 169:1 walk 180:8 walked 306:20 wallboard 273:12 want 10:12 18:8 25:10 30:2 35:22 40:7,7,11 41:16 42:12 43:17 58:19 64:3 67:1 71:12 91:4 95:12,20 98:4 137:11 163:20 164:20 165:20 166:11,11 166:18 169:15 171:3 173:20,22 174:15 193:1 195:13,14 215:20 221:13 228:18 231:15 234:14 239:7 240:3,18 241:13 251:4 278:8 281:15 282:13 303:5 305:17 309:16 333:3 341:22 347:5 wanted 21:10 30:17 131:16 198:2 227:1 241:8 251:8 279:19 319:16 326:3 331:10 333:22 342:7 346:7 wanting 179:5 265:10 wants 234:6 warmly 174:12
---	---	--	---	--

warn 10:12	welcome 10:4	152:20 156:8	310:16 327:7	119:10 120:10
warning 11:13	72:12 98:9 99:19	158:5 164:7 172:7	339:16,18 341:4	123:7
warnings 257:7	109:13	172:18,21 173:12	341:13	won 49:18 198:7,9
warranting 91:2	well-being 321:7	173:13 176:6	whack 148:20	198:18 299:12
warrants 124:12	well-defined 39:2	180:12 182:17	whatsoever 241:4	wonderful 302:11
Washington 1:14	well-versed 126:1	183:3,10,13	whichever 50:1	wondering 157:11
2:4,8 6:13 46:3	went 47:19 62:17	188:11 190:10	307:9	225:17 250:5
wasn't 53:15 62:10	94:16,21 112:18	194:17 196:22	whim 209:1	301:1
192:16 225:15	181:20 182:15	201:21 202:7	white 74:17	word 236:3
279:12 298:9	199:9 279:21	203:9 205:15	wholeheartedly	words 15:4 17:14
waste 18:6 338:18	280:2 301:13	217:5,14 221:9	99:19	39:12 95:18
watch 312:10	306:10 344:17	226:11,12,13	WI 6:9,13	243:14 259:12
watching 183:3	346:10	227:22 228:20	wide 247:12	317:18 338:14
Watchung 6:21	weren't 346:2	231:12 232:11	widely 124:19	work 27:16 40:8
water 24:10 32:13	347:4	234:21 236:4	206:18	55:3 60:11 86:21
128:3	West 5:5 6:3 87:21	240:16 241:6	wide-open 94:16	87:4 93:15 160:13
waterways 197:9	94:22 119:3 151:8	242:2 246:16	Wilcox 2:21 7:10	160:14 161:5
way 2:17 23:7	154:15 198:4	250:22 251:1	45:20,22 46:1,9	185:18,19 208:4
27:15 32:7 37:9	232:15 248:20	257:2 261:17	46:12 53:4 55:12	213:3,7,9 214:8
37:18 38:17 39:14	249:5 253:5 263:6	269:21 270:13,14	55:16,18 56:20	223:11,12,12,16
41:18 54:16 58:20	263:16,19 264:6	277:10 282:11	57:2 58:16 59:22	224:11 232:9,17
59:6,9,18 64:13	267:11,20 296:11	288:12 301:10	69:14,18 71:13	239:12 271:3
81:11 92:7 112:4	334:15	302:20,22 308:3	72:8	272:5 276:7
135:14 147:22	Western 13:16,18	309:8 319:21	wild 37:14 94:22	286:11 296:22
159:10 165:14	13:22 14:15 17:12	334:6 336:1	wildly 37:14	306:11 311:22
167:5 185:22	26:4 199:13 250:1	338:19 339:22	William 5:17 8:19	320:1,2,2 333:13
188:9 189:19	we'll 10:9 11:20,21	340:4	willing 167:4 171:1	worked 63:15 64:7
200:14 216:11,19	23:12 45:19 61:16	we've 21:11 35:6	178:18,20	75:20 80:14 135:9
223:9 227:20	79:17 98:9 116:2	37:2,3 40:21 41:2	willingness 54:18	200:8 218:3
230:5 239:2	127:14 139:3	61:7 66:10 68:13	Wilmington 4:5	workers 74:18
245:16 282:3	149:16 194:15,16	73:3,10,11,15	windfall 148:22	115:19 124:3
300:10 306:11	199:7 205:14	87:7,11 88:20	windows 75:16	working 64:8,9
314:4 315:12	213:16 227:17	121:10 141:1	146:16	79:10 136:3 154:2
319:6 327:20	233:11 235:15	142:15 146:19	winner 326:8	201:21 212:11
334:9 345:21	250:20 251:12	151:20 153:10	wins 152:7 220:5,6	222:17 225:4
ways 100:11 118:16	262:2 272:14	157:17 172:6	220:17 300:1	339:10
188:6,13 271:1	273:4 277:16	175:22 181:16	Wisconsin 6:5 9:9	works 159:18,21
286:1	298:14 303:16	187:22 188:5	310:8,9,11,14	160:21 233:4
WC 310:21 333:17	318:9	198:9,18 201:5,8	312:10,11,13	321:22
WC's 317:1	we're 34:3,18 35:18	203:7 204:5	314:1,13,14	world 28:11 73:14
wear 134:11	39:16,18 40:6	213:16 216:1	333:12,13,14,15	76:1 99:9 142:18
weather 203:4	42:5 44:19 69:1,9	232:14 234:12	333:20,20 346:9	189:4 196:13
week 33:15 197:14	70:22 72:19,21	249:9 258:20	withers 89:1,1	208:12 263:1
Weicher 5:5 8:12	86:9 112:2 118:1	270:2 276:6	withstand 213:19	276:12 293:21
weigh 94:4	139:7 141:4	282:10 283:15	witness 19:13	295:3
weighing 137:18	143:16 148:3,18	287:4 301:13	41:21	world's 81:16
weight 51:14	149:4 150:5,7,13	304:20 308:2	witnessed 82:1	worse 76:4 186:5

236:22 287:5 307:3 worst 134:20 worth 5:3 193:14 341:9 wouldn't 62:9,11 166:5 224:11 240:9,9 241:14,21 248:9 280:3 337:6 written 14:12 35:6 41:19 145:14 193:21 310:1,18 316:17 317:5 331:3,5,9 wrong 38:12 wrote 331:9 Wyoming 25:21	years 63:14 66:9 67:8 73:5,7 75:21 79:4 80:7 82:1,17 83:6 86:13 87:13 96:3 102:13 103:10 104:16 121:8 126:3 128:12,21 133:9 135:6 139:12,13 141:2,8 142:16 146:5 150:7 151:22 181:7 187:4 188:5 189:7 189:7 190:3 191:17 192:5 193:3,7 195:16 199:16 200:8 202:19,20 204:18 207:5 218:4 231:21 233:17,20 236:16,16,16,17 249:2 252:18 256:22 264:18,20 269:22 275:5 276:10 279:2,13 279:16 280:9,12 280:14 283:20 290:11 291:11 299:19 302:16 314:5 332:13 year-to-date 244:8 year-to-year 249:12 yellow 11:9,12 45:6 Yep 329:17 yesterday 10:8 18:1 22:12 41:10 45:13 53:8 57:9 59:13 60:1 95:11 111:3 112:2 162:2 168:18 174:9 186:10 196:13 204:15 215:4 249:22 301:8 302:14 311:21 313:15 314:13 317:7,8 320:17	yesterday's 290:12 York 279:19 Young 95:13 <hr/> \$ <hr/> \$1,500 146:7 \$1,800 131:12 \$1.2 27:6 \$10 270:12 \$100 51:2 \$11 270:12 300:21 \$12 147:18 157:5 \$12,000 146:8 \$13 150:11 \$15 270:14,20 300:19 \$2.2 255:3 \$2.5 74:16 \$2.6 297:16 301:18 302:6 \$20 153:13 157:6 241:12,13 270:14 300:19 \$200 27:5 134:15 \$220 128:11 \$3 156:20 \$4 156:20 \$4.7 301:21 302:7 \$400 293:5 \$43 162:6 \$46 141:22 \$480 76:22 \$5 56:9 \$500,000 256:19 \$650 12:17 \$7.3 270:2 <hr/> 0 <hr/> 07069 6:21 <hr/> 1 <hr/> 1 2:17 74:20,22 80:14 82:16 84:12 132:19 140:21 144:2 151:1 160:16,19 162:8 213:5 253:14,18 274:12 276:6	280:19 283:17 317:9 1s 87:18 310:7 312:17,20 317:19 332:15 343:2 1's 135:8 1,000 113:21 253:17 303:6 317:2 320:9 1/10th 151:2 1:58 347:16 10 7:2 20:3 133:9 138:5 191:16 10th 46:16 323:18 100 3:7 116:21 121:2 141:2,8 145:6 150:7 151:2 151:21 165:4 258:4 311:17 1054 2:22 10707 52:8 1076 308:3 109 7:24 11 108:3,8,13,18 128:20 176:12,15 177:9 179:4,13 180:4 198:13 233:3,7,11,19 274:12 11s 180:11 11-type 146:21 110,000 110:10 1100 3:12 115 8:2 11785 3:12 12 7:5 139:12 224:3 120 1:13 120,000 25:13 126 8:4 13 198:8 222:18 230:14 252:18 130 73:6 1310 2:12 138 8:6 14 35:14 99:3 336:2 14,000 150:9 1400 296:14	148 8:8 15 73:5 138:5 146:4 189:7 192:5 268:12 280:11 293:6 295:9 150 104:15 192:11 232:6,8 1500 27:3 1500-mile 26:15,20 1509 5:6 151 192:1,7 15146 4:19 1530 4:14 155 8:9 16 204:18 218:4 231:21 256:2 160 128:16 274:2 1600 74:17 17 121:3 170,000 210:7 18 325:4 180 21:22 70:9,14 71:2 161:14 285:19 297:22 311:17 1800 74:18 181 253:14 184,000 324:17 184,674 320:7 1858 116:19 1883 150:4 19 128:19 131:7,11 312:15 190 4:14 1901 2:12 1917 141:6 194 8:12 19406-1308 3:17 194208 2:17 1970s 40:9 75:22 1971 75:15 1973 51:5 1978 47:22 1980 30:18 32:1 76:8,19 77:22 91:7,9,12 1980s 310:7
--	---	---	--	--

19805 4:5	2009/2010 203:20	272 8:22	410 3:4	609 3:13
1984 48:1	2010 14:20 15:16	278 8:24	424-2000 5:19	610 3:17
1990 16:22	20:1 74:22 128:10	28 104:6	43 15:9,12 62:6,10	617-3078 6:14
1990s 13:3 14:6	128:13,21 193:3	281 5:23	62:10,20 63:1,3	63,000 128:10
48:1 310:12	225:13 226:1	288 9:2	436-4176 6:4	630 3:8
1992 214:3	245:3 320:17	295 9:5	440 4:19	631-6426 3:4
1998 49:14 50:16	323:14 325:13		4417 4:4	63105-7406 4:15
	2011 1:11 198:9,13	3	45 111:15	63166-6149 2:13
2	214:4 244:6,10	3 138:1	450 5:22	638-5345 3:22
2 333:17	202 2:5,8,23	3,000 128:8	46 7:10	66149 2:12
2,000 320:9	2020 3:20	3.1 75:6	48 253:9	68 75:8
2,400 316:22	205 8:14	30 79:4 128:16	480-1407 4:15	
20 26:9,15 80:7	205-7677 3:17	198:10 290:10	484 134:10	7
81:22 83:6 133:9	20510 2:4,8	347:2,8	48674 3:21	7 47:10
191:16 192:6	20705-4048 3:13	30-day 112:12		7,500 12:16
231:5 276:14	21 128:7 198:11	30-year 254:9	5	70 129:5 316:21
290:10 315:4	201:20	300 232:6,8 305:15	5 155:15	70s 336:19
317:3	21224-6404 3:3	302 4:5	5,000 226:11	700,000 75:1,6
200 2:23	213 8:14	3050 3:6	5.7 83:4	705 1:9 31:11
2000 203:14	214 8:15	309 2:7 9:10	5/29/2011 197:15	272:20
2000s 199:21	22 99:4	31 121:8	50 28:8 101:17	71 104:4
2002 146:11	22nd 213:6	31st 2:22	152:18 202:5	72 7:15
2003 49:17 50:16	22/1320 4:4	312 5:7 6:4	280:9 316:21	72219-4208 2:18
121:1 317:3	2200 4:9	314 2:13 4:15	5005 4:9	724 4:21
2003/2004 199:17	224-4623 2:5	318 9:14	501 2:18	74 7:17
200:15	224-5641 2:8	32 122:20	516 2:4	75 75:20 198:15
2004 13:16,21	23 1:11 7:7 99:2	325-5982 4:21	53 7:12 84:15	75244-6119 4:10
14:13,14,19 15:16	23,000 110:8	33 274:10	53703-2865 6:9	757-629-2680 5:12
15:22 16:13 17:11	23510-2191 5:11,14	330 9:17	54 197:13	5:14
19:15 20:1 21:19	24 256:6	333 9:19	54301 6:13	76161-2830 5:3
54:3 62:5 64:8	24th 80:17 83:19	34 7:9	547 5:5	77067 5:23
65:13 111:4,13	322:7	340,000 46:21	55 12:20 76:20	79 7:18
197:12 198:4,7,13	24,000 116:20	342-5248 2:23	550 6:3	
198:20 201:7	240 5:22	35 72:20 212:8	554-2276 2:13	8
202:16 204:12	24338 5:18	36 75:21 274:10	56-mile 69:21,22	8:30 1:17 10:2
256:13	25 103:10 110:19	361-2435 6:22	56.7 48:16	80 110:15 122:20
2005 18:20 66:16	123:13,14 138:6	37 253:13	570-2488 2:18	122:21 314:18,22
67:5 68:2,4,5,10	155:14 200:8	3800 3:2	58 110:14	800 131:17 146:9
128:13 193:3	336:22	39 12:13		296:13
198:9 203:5	25,000 274:9	395 1:14	6	809050 4:10
316:22 339:11	25-year 200:11		60 150:10 270:4	81 6:20
2007 19:3	250 339:21	4	314:18,22	815 5:19
2008 50:14 64:8	251 8:19	40 122:19 315:4	600 6:8 146:13	817 5:4
128:21 136:19	252-9311 6:9	400 6:13 268:4	60410 5:18	85 151:9,9 268:9
201:8 312:15	262 8:21	274:13 297:21	60515 3:8	850-5679 5:7
332:14	27th 18:9	305:15 332:19	60661 6:4	86 7:19
2009 51:2 225:16	271-3600 3:8	404-3305 4:11	60661-5717 5:6	867-6400 5:4
		41 257:2	608 6:9	87 15:19 62:8

874-8076 5:23

9

90 80:5 129:17

90s 197:14

900 3:16

908 6:22

920 6:14

961051 5:2

972 4:11

98 7:22

986-0214 3:13

989 3:22

992-4221 4:5

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Competition in the RR Industry

Before: STB

Date: 06-23-11

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701