

SERVICE DATE – JULY 15, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42142

CONSUMERS ENERGY COMPANY

v.

CSX TRANSPORTATION, INC.

Digest:<sup>1</sup> The Board adopts procedures for the format of evidence to be presented for the market dominance inquiry and the stand-alone cost claim for this case.

Decided: July 10, 2015

On January 13, 2015, Consumers Energy Company (Consumers) filed a complaint challenging the reasonableness of rates established by CSX Transportation, Inc. (CSXT) for coal transportation to Consumers' generating station near West Olive, Mich., from CSXT's railroad interchange with BNSF Railway Company near Chicago, Ill. Consumers alleges that CSXT possesses market dominance over the traffic and that CSXT's rates are unreasonable under both the stand-alone cost constraint and the revenue adequacy constraint.<sup>2</sup> CSXT filed its answer to the complaint on February 2, 2015. The Board entered a protective order in this proceeding on March 18, 2015.

On June 23, 2015, Board staff held a conference with the parties' attorneys and consultants to discuss procedures for the format of evidence to be submitted for the market dominance inquiry and the stand-alone cost claim in this case. In the conference, Board staff and the parties' attorneys and consultants discussed how the parties' evidentiary submissions could best support the Board's efficient processing of the case. The Board is now adopting procedures, as described in the Appendix to this decision, for use in this case.<sup>3</sup>

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

<sup>2</sup> By decision served on June 15, 2015, the Board denied CSXT's motion to dismiss Consumers' revenue adequacy claim.

<sup>3</sup> The parties are reminded that these procedures are in addition to procedures previously adopted by the Board regarding the submission of evidence in stand-alone cost cases. See, e.g., Gen. Procedures for Presenting Evidence in Stand-Alone Cost Rate Cases, EP 347 (Sub-No. 3) (STB served Mar. 12, 2001).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Procedures for the format of evidence to be presented for the market dominance inquiry and the stand-alone cost claim are adopted for this case, as described in the Appendix to this decision.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Miller.

## Appendix

### GENERAL PROCEDURES

1. Documents and evidence referenced in the narrative must be specifically cited and included in the workpapers.
2. All data and claims in the narrative should have citations to the relevant spreadsheet or document. These citations should be as specific as possible (e.g., to the relevant cell or page number in which the data or claim is found).
3. The opening filing establishes the structure of the narrative for the entire case. Each subsequent filing can build upon the structure of the previous filing, but, to the extent possible, should remain consistent with the opening structure. Parties may insert sections if necessary, but should not remove sections.
4. Each round of evidence should be able to stand on its own, and not merely reference evidence from prior rounds of evidence.
5. No narrative information/argument should be included in the exhibits or the workpapers. All narrative information/argument should be consolidated and confined to the narrative and should be submitted in Microsoft Word. Verified statements, real estate appraisals, and other similar reference materials may be included in the exhibits or workpapers.
6. Within each spreadsheet, provide a clear description of what that spreadsheet represents and a clear description of the rows and columns.
7. Provide a clear description of how workpapers are linked, either in a separate document or in summary tabs within the spreadsheets.
8. When using an opposing party's calculation or workpaper, corrections or modifications to values, methodologies, or calculations should be clearly indicated and explained. Changes to numbers submitted in the opening evidence (either in the reply or the rebuttal) must be clearly explained and supported, and include any formula used to calculate those changes.
9. To the maximum extent possible, links between spreadsheets should be used. If links are not practicable, hard-coded numbers may be used, but parties should include references to the relevant source document or method of calculation. In derivative (non-base) spreadsheets, numbers derived by formula and subsequently hard-coded should be clearly and consistently designated as hard-coded (e.g., in bold or color font).
10. To the maximum extent possible, the source of any evidence (e.g., the sources for unit costs, annual frequency, etc.) used in calculations should be noted in the spreadsheet in which the calculation is made.

11. Use consistent corporate names, financial quarters, and conversion factors across workpapers and the narrative. Explain all inconsistencies and ambiguities.
12. Where parties employ color coding within workpapers, color coding within each section (e.g., Road Property Investment, etc.) should be consistent and fully explained with a color coding key.
13. Parties may submit password protected hard drives, but no files contained within the hard drive should be restricted or password protected. All files and data should be fully accessible and modifiable by anyone authorized to view the evidence of the case.

## I. MARKET DOMINANCE

### A. QUANTITATIVE EVIDENCE

- Unless otherwise stipulated to by the parties, provide underlying workpapers used to develop disputed Uniform Railroad Costing System (URCS) inputs.
- Unless otherwise stipulated to by the parties, provide 12 months of Car/Train Event data for the issue movement(s).

### B. QUALITATIVE EVIDENCE

- Break each alleged transportation option into component costs (e.g., fuel surcharge, accessorial charges, etc.) and explain which carriers charge which costs. Provide all underlying data or documentation.
- Provide transportation prices over the entire movement and over the challenged segment of the route.
- Any claims about necessary infrastructure investments to accommodate modes of transportation should explain how infrastructure costs should be allocated.

## II. STAND-ALONE COST<sup>\*</sup>

### A. TRAFFIC GROUP

- Identify issue traffic in the traffic group workpapers.
- Describe how traffic group records between workpapers are linked.
- Describe how Average Total Cost look-up tables are developed.
- To the extent possible, divide spreadsheets larger than 200 MB into smaller spreadsheets. If necessary, numbers may be hard-coded to facilitate this; however, hard-coded numbers should clearly indicate how they were calculated.

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<sup>\*</sup> For sections not listed, there are no additional procedures being adopted.

## B. STAND-ALONE RAILROAD (SARR) SYSTEM

- Place the Network Spreadsheet File in Section III-B, which is the derivative source of all mileage-based calculations including URCS, operating service units, construction units including grading and real estate, stick diagrams and Rail Traffic Controller (RTC) network configurations.
- The RTC network design should comport to the stick diagrams with respect to the stick diagram features that affect the flow of traffic in the RTC Model. Stick diagrams should reflect information contained in the Network Spreadsheet File and indicate milepost locations where the SARR traffic originates, terminates, or is interchanged.

## C. OPERATING PLAN

- Train List for peak year traffic should contain flags for forecast, issue traffic, and RTC trains. If train IDs are different for service units and RTC calculations, both train IDs should appear in the records of each worksheet.
- If applicable, for each issue origin/destination pairing, provide the complete series of trains that transport the shipment from SARR origin to SARR destination. Inter-train switching locations should be identified by city and mileposts that appear in the Network Spreadsheet File.

### a. RTC MODEL

- Provide a complete list of all the RTC trains using the RTC train IDs as the identifier. The following characteristics are to be included in this list.
  - Either retain RTC train IDs from prior rounds for trains duplicated in the reply or rebuttal train list or provide a master train list linking train IDs from prior rounds of evidence.
  - Identify all high priority trains.
  - Identify all “Key Trains” while identifying their maximum speed.
  - If using MultiRail, provide the MultiRail train IDs.
- Include a spreadsheet designating the RTC node associated with all mileposts referenced in the narrative, stick diagrams, and workpapers.
- Provide a copy of the following list of RTC files to the Board:
  - RTC.EXE
  - RTC.DLL
  - RTC.LOCO
  - RTC.ASPECT
  - RTC.INI

F. ROAD PROPERTY INVESTMENT

- Where possible, use consistent values across evidence (narrative, exhibit, workpaper). To the extent that a value changes from one part of a party's evidence to another (e.g., a value in the narrative differs from that in the workpapers due to rounding), include a reference or explanation.

G. DISCOUNTED CASH FLOW (DCF) ANALYSIS

- Limit DCF inputs in the DCF model to designated "input" tabs.

H. MMM MODEL

- To the extent possible, divide spreadsheets larger than 200 MB into smaller spreadsheets. If necessary, numbers may be hard-coded to facilitate this; however, hard-coded numbers should clearly indicate how they were calculated.

I. CROSS-SUBSIDY ANALYSIS

- Provide a map delineating any issue segment(s) where there is a cross-subsidy concern.