

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42121

TOTAL PETROCHEMICALS & REFINING USA, INC.

v.

CSX TRANSPORTATION, INC.

Digest:¹ The parties are directed to attend a technical conference with Board staff to discuss the operating plan and Rail Traffic Controller model evidence submitted in this rail rate reasonableness proceeding.

Decided: May 15, 2015

On May 3, 2010, Total Petrochemicals & Refining USA, Inc. (TPI), filed a complaint challenging the reasonableness of rates established by CSX Transportation, Inc. (CSXT), for transportation between 104 origin and destination pairs, located primarily in the Midwestern and Southeastern United States. TPI seeks rate relief using the Board's Stand Alone Cost (SAC) methodology. Following the Board's decision in the market dominance phase of this proceeding, the parties have submitted rate reasonableness evidence, but the Board held the deadline for filing final briefs in abeyance pending resolution of TPI's November 5, 2014 petition to supplement the record.

The Board has determined that a technical conference is necessary to discuss the parties' operating plan and Rail Traffic Controller (RTC) model evidence. How a stand-alone railroad (SARR) would operate influences both its configuration and annual operating expenses. AEP Tex. N. Co. v. BNSF Ry., NOR 41191, slip op. at 16 (Sub-No. 1) (STB served Sept. 10, 2007), reconsideration denied (STB served May 15, 2009), vacated on other grounds and remanded sub nom. AEP Tex. N. Co. v. STB, 609 F.3d 432 (D.C. Cir. 2010). Although the operating plan must be able to meet the transportation needs of the traffic to be served, it need not match the existing practices of the defendant railroad, as the objective of the SAC test is to determine what it would cost to provide the service with optimal efficiency. The assumptions used in the SAC analysis, including the operating plan, nonetheless must be realistic, i.e., consistent with the underlying realities of real-world transportation. Ariz. Elec. Power Coop. v. BNSF Ry., NOR 42113, slip op. at 16 (STB served Nov. 22, 2011). The RTC model supports the operating

¹ 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).

plan by demonstrating the adequacy of the configuration and providing transit times and mileage-based service units.

Each party should be prepared to discuss its operating plan and RTC model. In particular, Board staff will discuss with each party how its RTC model supports its operating plan and configuration as specified in its narrative statements and workpapers. In addition, parties should be prepared to discuss: (1) whether the RTC model is sufficient to support all the necessary trains identified in the parties' submissions; (2) how the parties' train list(s) are represented in the RTC model; (3) the identification of trains in the RTC model; (4) the correlation between RTC mileposts, field mileposts, and RTC nodes; (5) the availability of the model's track-mile totals for mainline, sidings, yards, and industry leads; and (6) timing issues associated with "leapfrog" train segments that begin before preceding leapfrog train segments have ended.

The technical conference will be held by May 27, 2015, at the Board's headquarters located at 395 E Street, S.W., Washington, DC. Board staff will be in contact with the parties to schedule the exact date and time. The parties should be represented by their legal counsel and should have their relevant consultants in attendance.

It is ordered:

1. A technical conference will be held by May 27, 2015, at the Board's headquarters located at 395 E Street, S.W., Washington, DC, as described above.
2. This decision is effective on the date of service.

By the Board, Acting Chairman Miller and Vice Chairman Begeman.