

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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M & G POLYMERS USA, LLC

Complainant,

v.

CSX TRANSPORTATION, INC.

Defendant.

Docket No. NOR 42123

PROPOSED PUBLIC VERSION OF APPENDIX

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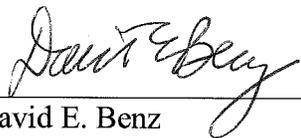
November 13, 2012

CERTIFICATE OF SERVICE

I hereby certify that this 13th day of November 2012, I served a copy of the foregoing upon counsel for defendant CSXT via electronic mail and U.S. first-class mail, postage prepaid, at the address below:

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EXHIBIT 1

HIGHLY CONFIDENTIAL APPENDIX

PRELIMINARY ISSUES*Calculation of Variable Costs*

As noted in the decision, the parties have reached agreement as to eight of the Uniform Railroad Costing System (URCS) inputs used to calculate the variable costs—and the attendant R/VC ratio—associated with each of the issue movements.⁵¹ The parties continue to disagree about the proper method for calculating “railroad miles,” at least insofar as certain lanes are concerned. In its Rebuttal Evidence, M&G accepts CSXT’s mileage calculations for all but 13 of the lanes at issue in this proceeding.⁵² However, CSXT has effectively conceded that it possesses market dominance over eight of the 13 lanes identified by M&G.⁵³ Thus, the parties’ dispute with regard to “railroad miles” is limited to five lanes, governed by the following four rates: Apple Grove-Rochester, Apple Grove-Clifton Forge, Apple Grove-Columbus, and Apple Grove-Belpre.

The basic dispute between the parties on this issue can be summarized as follows. M&G argues that the presence of significant variations in route miles for identical origin and destination pairs contained in CSXT’s car event database—variations that M&G claims are the result of misroutes, errors, or data anomalies—necessitate the use of a “predominant route” approach—i.e., selection of the routing most commonly used by CSXT for each origin and destination pair and CSXT’s portion of each joint movement.⁵⁴ CSXT counters that the most reliable and representative approach is to use a weighted average of mileages for all of the M&G movements between each origin and destination pair, an approach that reflects the relative frequency of each routing.⁵⁵

We agree with CSXT’s weighted average approach to calculating “railroad miles” in this case because such an approach is more consistent with real-world operations than M&G’s predominant route approach. This is particularly true given that (a) M&G’s shipments move in carload traffic rather than unit trains, and (b) CSXT uses a dynamic network.⁵⁶ Thus, particular circumstances and network demands may make it more efficient for M&G’s traffic to be moved via one route at one time and over other routes at other times, and it makes little sense to exclude certain routes from our mileage calculations because one route may be used slightly less often than another. See FMC Wyo. Corp. v. Union Pac. R.R., 4 S.T.B. 699, 748-49 (2000).

⁵¹ See supra p. 6 and note 8.

⁵² Rebuttal Evidence II-A-4.

⁵³ See supra p. 20 and note 50.

⁵⁴ Opening Evidence II-A-2 to II-A-4 and Exhibit II-A-7.

⁵⁵ Reply Evidence II-2 to II-7.

⁵⁶ See id. at II-4.

Calculation of Tariff Rates and Fuel Surcharges

M&G and CSXT have submitted tariff rates and assessed fuel surcharges that differ in minor respects.⁵⁷ Neither party has offered an explanation for the differences. We adopt CSXT's rate and fuel surcharge figures for purposes of our market dominance analysis because doing so is more consistent with our use of CSXT's other data. Given that we have adopted CSXT's mileage and variable cost calculations, we believe that use of CSXT's rate and fuel surcharge data will avoid the possibility of inappropriate comparisons. All data will be normalized to 1Q2011.

GENERAL ISSUES*Customer Requirements*

M&G claims that its customers require and/or strongly prefer delivery by rail, thereby rendering other transportation alternatives infeasible. M&G makes a variety of arguments in support of this assertion. First, it argues that a customer preference for rail delivery of PET can be discerned from the fact that M&G has delivered no more than █████ of all PET shipments in the U.S. and Canada by truck in any year from 2006-2010, and from the fact that this statistic drops to █████ considering only customers with a choice between rail and truck.⁵⁸ Second, M&G contends that PET supply contracts with a number of its customers "expressly require rail delivery," thereby rendering delivery by truck infeasible.⁵⁹ Third, M&G asserts that both it and most of its customers store PET inventory in privately-owned railcars, rendering bulk PET shipment by truck generally cost-prohibitive.⁶⁰ M&G explains this point by stating that construction and maintenance of storage silos at its production facilities makes little sense given the high volumes of PET that already move by rail, while the fact that most of M&G's customers maintain little on-site PET storage capacity prevents them from receiving significant volumes by truck because trucks—in contrast to railcars—"cannot be used for storage...and...must be unloaded immediately upon delivery."⁶¹ Fourth, M&G claims that the facilities of and infrastructure around certain "high-volume" customers cannot accommodate additional truck

⁵⁷ Opening Evidence, Exhibit II-A-5; Reply Evidence, Exhibit II-B-3.

⁵⁸ Opening Evidence II-B-20 (citing DuPont I, slip op. at 7; McCarty Farms, 3 I.C.C.2d at 829).

⁵⁹ Id. at II-B-21 (citing E.I. du Pont de Nemours & Co. v. CSX Transp., Inc. (DuPont III), NOR 42101, slip op. at 6 (STB served June 30, 2008)).

⁶⁰ Id. at II-B-23.

⁶¹ Id. at II-B-23 to II-B-24.

traffic, rendering PET delivery by truck infeasible for these customers.⁶² Finally, M&G maintains that the inability of its consignment customers—i.e., customers that are not billed for a particular shipment of PET until the shipment is unloaded at the point of delivery—to use trucks for PET storage renders such alternative transportation methods infeasible.⁶³

CSXT responds to M&G's "customer requirement" arguments as follows. First, CSXT asserts that M&G's evidence regarding alleged customer preference for rail transportation rests on the flawed assumption that customer preferences are "rigid, static, and completely unaffected by market forces."⁶⁴ [REDACTED]

[REDACTED], CSXT asserts that any customer preference for rail delivery simply amounts to a preference for what is perceived to be the lowest-cost option.⁶⁵ Second, CSXT claims that M&G's evidence regarding express requirements present in various supply contracts is lacking because (a) most of the customers who allegedly require rail deliveries in their contracts in fact have received significant volumes of PET by truck; (b) two of the five documents to which M&G refers in this context are not in fact binding contracts; (c) four of these documents specifically refer to the possibility of delivery by truck; and (d) all but one of them were set to expire around [REDACTED], in any event.⁶⁶ Third, CSXT argues that M&G has produced no direct evidence to support the theory that its customers require rail delivery because they lack silo space and therefore need railcars in order to fulfill their post-delivery storage needs.⁶⁷ Fourth, CSXT maintains that none of M&G's customers are truly "high-volume," given that (a) shifting all of the PET requirements of the highest-volume lane at issue from railcars to trucks would require only a total of 37 trucks per week, and (b) most other lanes would require on average only three trucks per week if the entire volume currently transported were shifted from rail to truck.⁶⁸ Finally, CSXT counters M&G's argument regarding [REDACTED]
[REDACTED]
[REDACTED]

On rebuttal, M&G argues that CSXT is wrong to suggest that the historical data reflects customer preference for lower rates rather than customer preference based on advantages

⁶² Id. at II-B-25.

⁶³ Id. at II-B-26.

⁶⁴ Reply Evidence II-46.

⁶⁵ Id. at II-47.

⁶⁶ Id. at II-50 to II-51.

⁶⁷ Id. at II-51.

⁶⁸ Id. at II-53.

⁶⁹ Id. at II-52.

inherent in delivery by rail.⁷⁰ M&G reiterates its contention that the inherent advantages of delivery by rail—e.g., the ability of the customer to use the railcar for storage of PET, lower handling and administrative costs associated with rail delivery, and the avoidance of product integrity concerns—are the primary drivers of customer decisions regarding the preferred mode for transportation of PET.⁷¹ M&G further contends that the documents it submitted on opening are legally enforceable as contracts even though they are unsigned.⁷² M&G also asserts that references to truck deliveries in contracts that purportedly require delivery by rail reflect provision for the emergency truck shipments that customers occasionally require on an expedited basis, or refer to delivery at customer locations not served by rail in instances where the contract covers delivery to multiple customer locations.⁷³ M&G maintains that its ability to renegotiate expiring contracts has no impact on customer preferences, and that its failure to accommodate such preferences when negotiating new contracts will result in the loss of customers.⁷⁴ M&G's rebuttal acknowledges that it has not provided evidence of customer-specific on-site storage capacity, but contends it has presented "ample evidence" regarding general industry practice and the need of the typical customer for railcar storage.⁷⁵

Finally, M&G disputes CSXT's contention that M&G has no true "high-volume" customers, explaining that CSXT's evidence on this point ignores the higher costs associated with truck delivery to "high-volume" customers.⁷⁷

We agree with CSXT that the evidence presented by M&G regarding customer preferences/requirements is insufficient to demonstrate that delivery of PET by truck to M&G's customers is infeasible. For purposes of determining whether a direct truck option is generally feasible, the fact that significant volumes of PET shipped from M&G to its customers via truck is particularly relevant. From 2006 to 2010, M&G made [REDACTED] shipments of PET by truck.⁷⁸

⁷⁰ Rebuttal Evidence II-B-54.

⁷¹ Id. at II-B-67 to II-B-68.

⁷² Id. at II-B-58.

⁷³ Id.

⁷⁴ Id. at II-B-59.

⁷⁵ Id. at II-B-60 to II-B-62.

⁷⁶ Id. at II-B-62 to II-B-63.

⁷⁷ Id. at II-B-63 to II-B-65.

⁷⁸ Reply Evidence II-14. Of this total, [REDACTED] occurred over the lanes at issue in this case.

Id.

M&G thus shipped a weekly average of [REDACTED] of PET during this time period—many of which originated at M&G’s Apple Grove facility, where M&G regularly transloads PET from railcars to trucks for delivery to M&G’s customers. For example, in 2010, M&G conducted over [REDACTED] at Apple Grove, for an average of more than [REDACTED] per workday.⁷⁹ Such statistics belie M&G’s assertion that overwhelming customer preference for delivery of PET by rail renders delivery by truck infeasible. M&G’s evidence that it delivered no more than [REDACTED] of all PET shipments in the U.S. and Canada by truck in any year from 2006-2010, and no more than [REDACTED] considering only customers with a choice between rail and truck,⁸⁰ is likewise insufficient to demonstrate that overwhelming customer preference for delivery of PET by rail renders delivery by truck infeasible. See Amstar Corp. v. Atchison, Topeka & Santa Fe Ry., ICC Docket No. 37478, slip op. at 7 (ICC served Dec. 8, 1987) (concluding that the fact that complainants had shipped 98.5% of the issue movements by rail failed to demonstrate that effective competition did not exist). Even assuming arguendo that the figures cited by M&G indicate an objectively small market share for movement of PET by truck, one cannot conclude that low market share necessarily implies that movement of PET by trucks is infeasible. See Platnick Bros. v. Norfolk & W. Ry., 367 I.C.C. 782, 786 (1983) (holding that trucks could provide effective competition to rail service for iron shipments even if trucks had not been widely used over the issue route).

M&G cites DuPont I for the proposition that “[c]ustomer preference for rail transportation demonstrates the infeasibility of alternative modes.”⁸¹ The decision in that case, however, does not stand for the blanket proposition that customer preference for a particular mode of transportation standing alone necessarily renders other potential modes infeasible. Indeed, “customer preference” was but one of many factors which led the Board to conclude that trucking did not provide effective competition for the relevant movement in that case. DuPont I, slip op. at 7-8. Moreover, the conclusion regarding “customer preference” in DuPont I was predicated on direct evidence regarding the unusually sensitive physical characteristics of the issue commodity, id. at 6, as well as “the lack of specialty equipment needed for carriage of synthetic powder plastics by truck,” id. at 7. The customer in DuPont I “preferred” delivery by rail because the particular characteristics of that commodity presented significant logistical complications for purposes of potential delivery by truck. Id. at 6. M&G has presented no similar direct evidence here.

⁷⁹ Id.

⁸⁰ The fact that M&G regularly supplies PET to customers whose transportation options are limited to motor carriage is a strong indicator that truck delivery as a general matter is not infeasible.

⁸¹ Opening Evidence II-B-20 (citing DuPont I, slip op. at 7).

Further, M&G cites McCarty Farms for the proposition that the “needs of the shipper or receiver’ may determine” the feasibility of proposed alternatives.⁸² While this statement is true and indeed reflects a valid concern, the McCarty Farms decision properly focused on customer “needs” rather than subjective preferences when considering the feasibility of proposed alternatives. Evidence of such customer need is lacking here. None of the documents submitted by M&G specifically require delivery of PET by rail in all or virtually all circumstances,⁸³ and M&G has submitted no direct evidence to support its theory that its customers require rail delivery because they lack silo space and therefore need railcars to accommodate their post-delivery storage needs.⁸⁴ Thus, M&G’s citation to DuPont III for the proposition that a “contractual requirement to deliver product ‘by rail makes a switch to trucks highly infeasible from an economic standpoint due to the risk of losing [the] customer or incurring breach-of-contract liability’”⁸⁵ is inapposite. Moreover, even assuming that certain M&G customers lack on-site silo space, M&G has submitted no evidence to support its claim that trucks can never be used for storage.

[REDACTED]

Finally, while we acknowledge that the infrastructure surrounding certain high-volume customers might pose insurmountable impediments to delivery by truck under certain circumstances, we conclude that none of the movements at issue in this case involve shipments of a magnitude significant enough to justify such a conclusion here. For example, the contested movement with the highest carload volume is [REDACTED], over which M&G ships an

⁸² Id. (citing McCarty Farms, 3 I.C.C.2d at 829).

⁸³ [REDACTED]

⁸⁴ On rebuttal, M&G relies heavily on the testimony of a new witness, Robert Granatelli, to establish a basis for its claim that customer use of railcars for on-site storage is standard practice in the polymer industry. See, e.g., Rebuttal Evidence II-B-61. However, as explained above, supra note 24, we are granting CSXT’s motion to strike Mr. Granatelli’s testimony and all references thereto contained in M&G’s Rebuttal Evidence.

⁸⁵ Opening Evidence II-B-21 (quoting DuPont III, slip op. at 6).

annual average of 644 railcars of PET.⁸⁶ As CSXT notes, shifting this entire volume from railcar to truck would translate to only 37 trucks per week.⁸⁷ And ██████████ is by far the highest volume movement. Shifting the entire volume of most of the other contested movements from railcar to truck would involve an average of only three trucks per week.⁸⁸ This falls far below volume levels the Board has deemed infeasible in the past. See, e.g., W. Tex. Utils. v. Burlington N. R.R., 1 S.T.B. 638, 652 (1996) (concluding that trucking alternative was not an option because it would have required an additional 200 truck shipments daily).

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

Product Integrity

With respect to the issue of product integrity, M&G notes that each transfer of PET degrades its quality.⁸⁹ The product integrity concerns associated with transloading PET primarily take two forms: (1) contamination from dirt and moisture, and (2) the level of dust, "fines," and "streamers" that result.⁹⁰ As to the latter of these concerns, each transfer is performed with a vacuum pneumatic system, which uses pressurized air to blow the product from one container into another.⁹¹ In effect, as the sharp edges of the PET pellets collide with one another and the internal sides of the conveying tube, PET dust and small particles called "fines" are created. In addition, the deposits of dust and "fines" on the inside wall of the conveying tube eventually peel away to create "streamers" or long strings of PET in the product mix.⁹² The existence of "fines" and "streamers," along with the degradation of product shape and size, create quality control issues for M&G's customers.

M&G acknowledges that contamination from dirt and moisture can be reduced by using transload facilities that are paved and covered against the elements, and that contamination from prior shipments in the same truck can be mitigated by cleaning the trucks regularly.⁹³ As to product integrity concerns associated with the force of the pneumatic system, M&G notes that

⁸⁶ Id., Exhibit II-B-5.

⁸⁷ Reply Evidence II-53.

⁸⁸ Id.

⁸⁹ Opening Evidence II-B-27.

⁹⁰ Id.

⁹¹ Id.

⁹² Id. at II-B-27 to II-B-28.

⁹³ Id. at II-B-27.

these effects can be mitigated with slower transfer velocities and smooth conveying lines, which “usually keep the amount within acceptable limits for most of M&G’s truck customers.”⁹⁴ M&G states that nonetheless, “the most effective mitigation is to minimize the number of transfers.”⁹⁵ Accordingly, M&G purportedly avoids any transportation alternative that requires more than a single transload.⁹⁶ M&G cannot directly load trucks at its Apple Grove facility.⁹⁷ If M&G wishes to transport PET from Apple Grove via truck, it must directly load the PET into a railcar before transloading it from the railcar into trucks.⁹⁸ Therefore, for movements originating at Apple Grove, M&G asserts that any transload into trucks at that location “constitutes the one and only acceptable transload.”⁹⁹

In reply, CSXT argues that M&G’s product integrity concerns do not withstand scrutiny.

Moreover, CSXT contends that “every truck that is loaded at Apple Grove using its vacuum pneumatic apparatus will be unloaded using that same apparatus.”¹⁰¹ CSXT argues that every truck shipment out of Apple Grove will necessarily require two transloads whether the product is unloaded into a customer silo or a railcar, and that M&G has failed to provide any evidence that having a truck unload into a railcar presents any greater product integrity concerns than unloading the same truck into a customer silo.¹⁰² CSXT notes that product integrity concerns are “not an insuperable problem, but rather a fact of life in

⁹⁴ Id. at II-B-30.

⁹⁵ Id.

⁹⁶ Id. at II-B-31.

⁹⁷ Id.

⁹⁸ Id. Despite this fact, for purposes of this decision we define “direct truck” alternatives as those in which shipments of PET depart from Apple Grove in trucks and are delivered directly to the customer, unless specifically noted otherwise. We define “transloading” alternatives as those in which shipments of PET depart from Apple Grove in trucks but are subsequently transloaded into railcars prior to ultimate customer delivery, as well as those in which shipments of PET depart from Apple Grove in railcars but are subsequently transloaded into trucks prior to ultimate customer delivery, unless specifically noted otherwise.

⁹⁹ Id.

¹⁰⁰ Reply Evidence II-54. For purposes of this decision, we define “double transload” alternatives as those which involve two separate transloads prior to arriving at the movement’s destination, including those in which the first transload (from railcar to truck) occurs at Apple Grove.

¹⁰¹ Id. at II-56 to II-57.

¹⁰² Id. at II-57.

the plastic polymers industry that can be substantially mitigated by following certain basic procedures to minimize the dust, fines, and streamers that can develop when PET is transloaded improperly.”¹⁰³ According to CSXT, it is standard practice for shippers to advise motor carriers as to the acceptable range of pressures to use in the pneumatic process to transfer PET pellets. Such an approach reduces the adverse effects caused by the speed of the transfer and the heat generated during the process.¹⁰⁴ CSXT argues that product integrity concerns can be further mitigated by ensuring that the hoses between the truck and the railcar or silo are relatively straight to avoid collisions between the walls and the PET pellets which otherwise lead to breaks and abrasions.¹⁰⁵

On rebuttal, M&G states that it does not “double transload” in the ordinary course of business.¹⁰⁶ M&G notes that either CSXT has misinterpreted its internal correspondence or the instances in question addressed an emergency situation or involved the return of product for recycling where product degradation is not an issue.¹⁰⁷ M&G believes that “CSXT is missing an obvious point: every shipment, whether via rail or truck, must be unloaded at some point; there is no ability for M&G to avoid unloading.”¹⁰⁸ M&G contends that its definition of a “transload” in referencing only one transload per shipment refers to discretionary transfers and that M&G cannot avoid unloading, which it does not consider a discretionary transfer.¹⁰⁹ M&G further argues that CSXT is mistaken to equate unloading a truck into a railcar with unloading a railcar into the customer’s facility, as the former necessarily requires an additional transload.¹¹⁰

Though it is clear that there will always be a certain amount of product degradation when PET pellets are transferred from a railcar to a truck, we conclude that direct trucking of PET does represent a generally feasible alternative under most circumstances. While the parties agree on little in this case, they both agree that the adverse effects of transloading the product to and from a truck can be mitigated.¹¹¹ As M&G itself admits, “trucks are necessary to serve destinations that do not have rail access,” “trucks are needed for expedited and emergency shipments,” “trucks are used to serve small volume customers,” and “trucks can be used to supply customers

¹⁰³ Id. at II-58.

¹⁰⁴ Id. at II-60.

¹⁰⁵ Id.

¹⁰⁶ Rebuttal Evidence II-B-78.

¹⁰⁷ Id. at II-B-78 to II-B-79.

¹⁰⁸ Id. at II-B-80.

¹⁰⁹ Id.

¹¹⁰ Id.

¹¹¹ See Opening Evidence II-B-27 to II-B-30; Reply Evidence II-53 to II-60.

within approximately 200 miles of the supplier, because the short distance makes trucks more cost competitive with rail and mitigates the customer's inventory concerns."¹¹² As CSXT notes, M&G used trucks for █████ shipments of PET between 2006 and 2010.¹¹³ While the economic effectiveness of a transportation alternative that employs a truck option can be debated, there is ample evidence in the record that movement of PET pellets via truck is feasible.

Unlike direct truck alternatives, CSXT's proposed double transload alternatives in which the product is trucked from Apple Grove to a facility with access to a carrier other than CSXT, and then transloaded into railcars for ultimate delivery to the customer, presents a closer call. It is clear from the record that M&G does not "double transload" PET in the normal course of its business. As M&G notes, CSXT identifies only a single instance where M&G suggested double transloading to a customer.¹¹⁴ Notwithstanding the fact that M&G does not double transload

¹¹² Rebuttal Evidence I-11. Accordingly, this case is not on par with the DuPont I case cited by the shipper. See Rebuttal Evidence II-B-83 to II-B-84. In contrast to that case, where the Board concluded that there was "a high risk of contamination when plasticizers are shipped by truck," DuPont I, slip op. at 5, here we have evidence from the parties that such risks can be mitigated. Also in contrast to that case, where the Board concluded that trucking was used "only when CSXT cannot deliver the product in as timely a fashion as the customer demands," id. at 7, here we have M&G's own admissions that they utilize truck shipments in various other circumstances. M&G's use of trucking to service distinct PET markets—including small and non-rail customers—and to mitigate customer inventory concerns are factors that distinguish the circumstances of this case from those present in the cases cited by M&G where the Board found trucking to be a unique and non-representative service and therefore just a stopgap or emergency measure. See Rebuttal Evidence II-B-83 to II-B-84 (citing various cases). The present case is likewise inapposite to Amstar Corp. v. Alabama Great Southern Railroad, ICC Docket No. 38239S (ICC served Dec. 2, 1987). The ICC noted there that "motor carriers generally are used for greater distances only in extraordinary circumstances, i.e., to serve customers of small volumes, those not located on rail sidings, and those with emergency needs." Id. at 8. However, this discussion was included specifically to support the observation that the higher costs of trucking in that case had contributed to the limited use of that intermodal alternative, and was not intended as an overall assessment of the alternative's feasibility. Id. at 8-9. The decision subsequently concluded that a direct trucking alternative was not "sufficiently realistic to constrain effectively defendants' pricing" because "so little of [the issue] traffic currently moves by truck or can reasonably be expected to move by truck." Id. at 9. In contrast to the circumstances present in that case, M&G ships PET in trucks on a regular basis.

¹¹³ Reply Evidence II-14.

¹¹⁴ Rebuttal Evidence II-B-83 (explaining that the lone example cited by CSXT represented a "single isolated offer, made only in order to avoid an 80% rate differential and the relative inaccessibility of the customer's silo to trucks").

PET as a general practice, the issue remains whether there is other evidence in the record to support its feasibility.

CSXT cites to M&G's own Alternative Logistics Plan ("ALP") as "[p]erhaps the best evidence of the real and feasible intermodal options available to M&G."¹¹⁵ In 2009, M&G's consultant [REDACTED] developed the detailed ALP study in an attempt to find alternatives to an exclusive CSXT relationship.¹¹⁶ [REDACTED]

As CSXT notes, "[t]he record does not expressly state why M&G chose not to pursue the Alternative Logistics Plan,"¹²¹ and M&G does not provide any contemporaneous documentation specifically explaining why the ALP study recommendations were not implemented. M&G argues on rebuttal that the plan was ultimately deemed ineffective because "there was no evidence that M&G could obtain the rate reductions that the ALP assumed."¹²² CSXT itself appears to concede this point by providing its own pricing information for its various proposed alternatives. However, the relevant issue in the context of the threshold feasibility analysis is not whether the proposed ALP alternatives would be economically effective, but rather whether they

¹¹⁵ Reply Evidence II-19.

¹¹⁶ See, e.g., id., Exhibit II-B-8.

¹¹⁷ In its opening submission, M&G elected not to discuss the ALP study in detail, making only passing reference to a prior submission in this proceeding. See Opening Evidence I-3 and n.4.

¹¹⁸ Reply Evidence II-19 and II-23.

¹¹⁹ Id., Exhibit II-B-6.

¹²⁰ Id.

¹²¹ Id. at II-25.

¹²² Rebuttal Evidence II-B-35.

provide some support for the general proposition that double transloading is a practically feasible alternative to transporting M&G's PET by railcar.¹²³

With regard to the ALP study, M&G further argues that "product integrity concerns ultimately rendered the transload option untenable."¹²⁴ However, M&G provides no documentation or specific support for this proposition other than references to its prior generalized arguments on product integrity submitted as part of this proceeding, which we have already addressed. [REDACTED]

[REDACTED] We conclude that the product integrity concerns now raised by M&G do not render the double transload alternatives proposed by CSXT infeasible as a general matter, a conclusion supported by the ALP study, M&G's contemporaneous discussion of that study, and the testimony of CSXT's experts.¹²⁵

However, while the record supports the overall feasibility of either direct truck shipments or truck-to-rail alternatives, CSXT fails to justify any alternatives that would require more than two transloads. As M&G notes, CSXT's own expert witnesses were only able to support the addition of one more transload to M&G's existing distribution chain without implicating product integrity concerns.¹²⁶ Accordingly, based upon the current record, we conclude that alternatives involving more than two transloads would not be feasible.¹²⁷

¹²³ Likewise, M&G's assertion that implementation of the overall ALP recommendations would not realize any savings is irrelevant for purposes of the threshold feasibility analysis. See id. at II-B-36.

¹²⁴ Id. at II-B-35.

¹²⁵ Reply Evidence II-58 to II-61. M&G suggests that the ALP study was not adopted because adoption of its recommendations could mean that the company might lose customers, see Rebuttal Evidence II-B-34 to II-B-35 (quoting Reply Evidence, Exhibit II-B-10), pointing to a single email to support this claim. However, the email in question merely notes that to the extent captive CSXT customers were affected by adoption of one of the ALP study proposals, M&G might have to make alternative storage arrangements, convince the customers to accept trucks, or lose the business. We believe that this statement, standing alone, is insufficient to demonstrate that M&G in fact believed that it would lose the captive customers if one of the ALP study proposals was implemented.

¹²⁶ Rebuttal Evidence II-B-89. CSXT notes that in the opinion of its experts, "if M&G follows the best practices outlined above of establishing reasonable pressure guidelines, mitigating heat, and ensuring straight and smooth connections, adding one more transload to its logistics chain does not significantly increase the risk of PET degradation." Reply Evidence II-61.

¹²⁷ Specific alternatives proposed by CSXT involving more than two transloads will be identified and addressed below in the rate-specific analyses.

Additional Impediments to Expanded Truck Service from Apple Grove

M&G makes a variety of arguments in support of its contention that expanded truck service for movements originating at Apple Grove is not feasible. First, M&G estimates that the cost to reconfigure Apple Grove to enable actual direct truck loading would be ██████████.¹²⁸ Second, M&G estimates that it would cost over ██████████ to construct sufficient facilities at Apple Grove to increase its transloading capacity to handle the issue traffic by truck without requiring off-site storage.¹²⁹ Third, M&G argues that a substantial increase in trucking out of Apple Grove would entail significantly higher administrative and operating costs.¹³⁰ Fourth, M&G claims that it cannot secure sufficient additional truck capacity to accommodate enhanced truck service from Apple Grove.¹³¹

CSXT counters by asserting that M&G could convert ██████████ railcars per year to truck “without spending a cent on capital infrastructure” and “could therefore ship 100% of the volume of every Apple Grove-originating complaint lane [via truck] without any new capital investments.”¹³² CSXT further argues that M&G exaggerates the logistical difficulties and the

¹²⁸ Opening Evidence II-B-34. As noted above, the existing infrastructure at Apple Grove does not support the direct loading of trucks from the production facilities. See *supra* p. 30. Despite how we have defined “direct trucking” for purposes of the balance of this opinion—see *supra* note 98—the ██████████ figure represents M&G’s estimate of what it would cost to enable actual direct loading of trucks at Apple Grove as opposed to transloading from a railcar to a truck.

¹²⁹ *Id.* at II-B-38. Again, in contrast to how we have defined “direct trucking” for purposes of the balance of this opinion, see *supra* note 98, the ██████████ figure represents M&G’s estimate of what it would cost to expand current truck loading operations at Apple Grove, which involve direct loading of PET from the production facilities into railcars and then transloading it into trucks. Thus, the parties refer to the expansion of existing operations as involving an increase in Apple Grove’s transloading capacity.

¹³⁰ *Id.* at II-B-43. M&G asserts that each truck shipment requires up to nearly three times as many logistical steps as a shipment by rail. *Id.* at II-B-45. M&G further asserts that enhanced trucking operations at Apple Grove would require the hiring of additional personnel. *Id.* at II-B-45 to II-B-46.

¹³¹ *Id.* at II-B-46. M&G explains that capacity constraints in the motor carrier industry, including a shortage of both trucks and drivers, would hinder any shift to enhanced trucking operations. *Id.* at II-B-46 to II-B-47.

¹³² Reply Evidence II-62. CSXT effectively concedes that constructing facilities at Apple Grove to enable direct truck loading would be prohibitively expensive. *Id.* at II-62 n.60. CSXT further asserts, however, that “M&G has grossly inflated [the] purported capital costs” of

(continued...)

higher administrative and operating costs associated with increased trucking operations.¹³³ CSXT also asserts that ample capacity exists in the motor carrier industry, and that M&G easily could secure additional dedicated truck capacity at lower rates in exchange for certain volume commitments.¹³⁴

M&G responds that CSXT's evidence regarding (a) M&G's current ability to handle significantly increased trucking operations at Apple Grove and (b) the capital costs associated with a potential expansion of Apple Grove truck loading capacity lacks credibility and ignores the real-world constraints of that facility.¹³⁵ M&G also disputes CSXT's claim that increased trucking operations at Apple Grove would not entail significantly higher administrative and operating costs.¹³⁶ M&G further explains that truck capacity and driver constraints are real, and that volume commitments would lead to lower rates only in a handful of isolated instances.¹³⁷

Were we to conclude that the rates governing a significant portion of the challenged movements originating from Apple Grove were otherwise being effectively constrained by competitive alternatives, we would need to consider M&G's argument that the increased capital and operating costs associated with significantly enhanced Apple Grove trucking operations render such operations cost-prohibitive, as well as CSXT's argument that shifting all of the challenged movements originating from Apple Grove from railcar to truck could be accomplished at minimal cost. Here, however, we conclude that only three rates governing shipments originating at Apple Grove—covering an annual average of approximately [REDACTED] railcars¹³⁸—are being effectively constrained.¹³⁹ Our conclusion therefore assumes that just over

(continued...)

increasing Apple Grove's internal transloading capacity, and that such an increase is unnecessary in any event. Id. at II-65.

¹³³ Id. CSXT claims that most of these costs would be incurred by the motor carriers, and characterizes as "absurd" the notion that M&G would need to hire [REDACTED] personnel to support increased trucking operations at Apple Grove. Id. at II-66.

¹³⁴ Id. at II-67 to II-68. CSXT suggests that M&G's failure to do so is the result of a business decision to choose flexibility over volume commitments. Id. at II-68.

¹³⁵ Rebuttal Evidence I-19 to I-21.

¹³⁶ Id. at II-B-125 to II-B-128.

¹³⁷ Id. at II-B-130 to II-B-133.

¹³⁸ Opening Evidence, Exhibit II-B-5. The annual average number of carloads moving under the Apple Grove-Columbus rate is [REDACTED] the annual average number of carloads moving under the Apple Grove-Lynchburg rate is [REDACTED] and the annual average number of carloads moving under the Apple Grove-Clifton Forge rate is [REDACTED] Id.

one additional railcar per workday could be cost effectively shifted to trucks at the Apple Grove facility as it is currently structured. There is nothing in the record to suggest that such a relatively small amount of diverted traffic could not currently be accommodated at Apple Grove at minimal cost.¹⁴⁰ We therefore find it unnecessary to address M&G's arguments, and CSXT's counter-arguments, regarding additional impediments to expanded truck service from Apple Grove.

RATE-SPECIFIC ANALYSES

Apple Grove-Chicago

Twelve contested lanes are governed by the Apple Grove-Chicago rate, the first of which is the Apple Grove-Aguila movement (J-7). On opening, M&G proposes a direct truck alternative.¹⁴¹ That alternative has a price of [REDACTED] and a limit price of [REDACTED].¹⁴² CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁴³ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁴⁴ M&G's restated price for CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price RVC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. An alternative that requires trucking to Lima and then transloading for delivery to Chicago would not have any of the intangible benefits typically associated with a direct truck option—e.g., increased reliability, better on-time performance, and the provision of certain

(continued...)

¹³⁹ In 2010, M&G conducted almost [REDACTED] this number of rail-to-truck transloads at Apple Grove. Reply Evidence II-14.

¹⁴⁰ As CSXT notes, some excess transloading capacity already exists at Apple Grove. *Id.* at II-63 to II-65. See also Rebuttal Evidence II-B-99 (explaining that M&G's best loading day during a recent peak period was [REDACTED] and that the average of the heaviest loading days during that period was [REDACTED]).

¹⁴¹ Opening Evidence II-B-83.

¹⁴² In these rate-specific analyses, as a general matter we indicate the limit price for a proposed alternative only when it differs from the stated price of the alternative. The limit price calculations are set forth in the highly confidential electronic workpapers.

¹⁴³ Reply Evidence, Exhibit II-B-2 at 19.

¹⁴⁴ Rebuttal Evidence II-B-179.

inventory control benefits to the parties.¹⁴⁵ Moreover, in situations involving a lowest limit price R/VC ratio significantly above the carrier's RSAM figure, it is unlikely that even a direct truck option would have intangible benefits sufficient to overcome the preliminary conclusion associated with such a discrepancy.

The Apple Grove-Altamira movement (J-9) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes no alternatives.¹⁴⁶ CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁴⁷ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁴⁸ M&G's restated price for CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with the foregoing lane's discussion of a transload option, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-Champaign movement (J-10) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁴⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT likewise proposes a direct truck alternative,¹⁵⁰ which has a price of [REDACTED] and a limit price of [REDACTED]. In addition, CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁵¹ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁵² The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits

¹⁴⁵ Id. at I-11.

¹⁴⁶ Opening Evidence II-B-85.

¹⁴⁷ Reply Evidence, Exhibit II-B-2 at 22.

¹⁴⁸ Rebuttal Evidence II-B-187.

¹⁴⁹ Opening Evidence II-B-86.

¹⁵⁰ Reply Evidence, Exhibit II-B-2 at 23.

¹⁵¹ Id.

¹⁵² Rebuttal Evidence II-B-189.

are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

The Apple Grove-Glendale movement (J-16) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁵³ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁵⁴ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁵⁵ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-Lenexa movement (J-21) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁵⁶ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁵⁷ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁵⁸ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-Little Rock movement (J-22) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁵⁹ That alternative has a

¹⁵³ Opening Evidence II-B-93.

¹⁵⁴ Reply Evidence, Exhibit II-B-2 at 30.

¹⁵⁵ Rebuttal Evidence II-B-205.

¹⁵⁶ Opening Evidence II-B-98.

¹⁵⁷ Reply Evidence, Exhibit II-B-2 at 36.

¹⁵⁸ Rebuttal Evidence II-B-220.

¹⁵⁹ Opening Evidence II-B-99.

price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁶⁰ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁶¹ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-Rockford movement (J-25) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁶² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁶³ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁶⁴ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-Rogers movement (J-26) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁶⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁶⁶ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁶⁷ M&G's restated price for CSXT's transloading alternative represents the lowest limit

¹⁶⁰ Reply Evidence, Exhibit II-B-2 at 38.

¹⁶¹ Rebuttal Evidence II-B-224.

¹⁶² Opening Evidence II-B-103.

¹⁶³ Reply Evidence, Exhibit II-B-2 at 41.

¹⁶⁴ Rebuttal Evidence II-B-232.

¹⁶⁵ Opening Evidence II-B-104.

¹⁶⁶ Reply Evidence, Exhibit II-B-2 at 42.

¹⁶⁷ Rebuttal Evidence II-B-235.

price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-Sweetwater movement (J-30) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁶⁸ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁶⁹ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁷⁰ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-University Park movement (J-32) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁷¹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT likewise proposes a direct truck alternative,¹⁷² which has a price of [REDACTED] and a limit price of [REDACTED]. In addition, CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁷³ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁷⁴ The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, even though this alternative likely has the

¹⁶⁸ Opening Evidence II-B-108.

¹⁶⁹ Reply Evidence, Exhibit II-B-2 at 43.

¹⁷⁰ Rebuttal Evidence II-B-238.

¹⁷¹ Opening Evidence II-B-110.

¹⁷² Reply Evidence, Exhibit II-B-2 at 44.

¹⁷³ Id.

¹⁷⁴ Rebuttal Evidence II-B-241.

same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

The Apple Grove-Vado movement (J-33) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁷⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁷⁶ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁷⁷ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Apple Grove-West Chicago movement (J-34) is also governed by the Apple Grove-Chicago rate. On opening, M&G proposes a direct truck alternative.¹⁷⁸ CSXT likewise proposes a direct truck alternative,¹⁷⁹ which has a price of [REDACTED] and a limit price of [REDACTED]. In addition, CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.¹⁸⁰ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED], and restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).¹⁸¹ The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Chicago rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we

¹⁷⁵ Opening Evidence II-B-111.

¹⁷⁶ Reply Evidence Exhibit, II-B-2 at 46.

¹⁷⁷ Rebuttal Evidence II-B-245.

¹⁷⁸ Opening Evidence II-B-112. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

¹⁷⁹ Reply Evidence, Exhibit II-B-2 at 47.

¹⁸⁰ Id.

¹⁸¹ Rebuttal Evidence II-B-248.

conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

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

Apple Grove-Columbus

Three contested lanes travel under the Apple Grove-Columbus rate, the first of which is the Apple Grove-Fremont movement (J-15). On opening, M&G proposes a direct truck alternative.¹⁸² CSXT likewise proposes a direct truck alternative,¹⁸³ which has a price of [REDACTED] and a limit price of [REDACTED]. In addition, CSXT proposes trucking from Apple Grove to Columbus and then transloading to rail.¹⁸⁴ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED], and restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).¹⁸⁵ M&G's restated price for CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] is below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's Apple Grove-Columbus rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. As previously noted, certain intangible benefits are typically associated with direct trucking.

The Apple Grove-Hebron movement (J-20) is also governed by the Apple Grove-Columbus rate. On opening, M&G proposes a direct truck alternative.¹⁸⁶ CSXT likewise

¹⁸² Opening Evidence II-B-91. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

¹⁸³ Reply Evidence, Exhibit II-B-2 at 28.

¹⁸⁴ *Id.*

¹⁸⁵ Rebuttal Evidence II-B-199.

¹⁸⁶ Opening Evidence II-B-97. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

proposes a direct truck alternative,¹⁸⁷ which has a price of [REDACTED] and a limit price of [REDACTED]. On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).¹⁸⁸ The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's Apple Grove-Columbus rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. As previously noted, certain intangible benefits are typically associated with direct trucking.

The Apple Grove-Nicholasville movement (J-24) is also governed by the Apple Grove-Columbus rate. On opening, M&G proposes a direct truck alternative.¹⁸⁹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Columbus and then transloading to rail for shipment to Nicholasville.¹⁹⁰ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].¹⁹¹ The price of M&G's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's Apple Grove-Columbus rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. As previously noted, certain intangible benefits are typically associated with direct trucking.

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

¹⁸⁷ Reply Evidence, Exhibit II-B-2 at 35.

¹⁸⁸ Rebuttal Evidence II-B-217.

¹⁸⁹ Opening Evidence II-B-101.

¹⁹⁰ Reply Evidence, Exhibit II-B-2 at 39.

¹⁹¹ Rebuttal Evidence II-B-227.

Apple Grove-Effingham

One contested lane, Apple Grove-Champaign (J-11), is governed by the Apple Grove-Effingham rate. On opening, M&G proposes a direct truck alternative.¹⁹² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT likewise proposes a direct truck alternative,¹⁹³ which has a price of [REDACTED] and a limit price of [REDACTED]. The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Effingham rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure. As a result, we conclude that CSXT is market dominant with regard to the Apple Grove-Effingham rate.

Apple Grove-Hagerstown

Three contested lanes are governed by the Apple Grove-Hagerstown rate, the first of which is the Apple Grove-Allentown movement (J-8). On opening, M&G proposes a direct truck alternative.¹⁹⁴ CSXT likewise proposes a direct truck alternative,¹⁹⁵ which has a price of [REDACTED] and a limit price of [REDACTED]. In addition, CSXT proposes trucking from Apple Grove to St. James and then transloading to rail for shipment to Allentown.¹⁹⁶ On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).¹⁹⁷ M&G's restated price for CSXT's direct truck alternative generates the lowest limit price. Thus, the

¹⁹² Opening Evidence II-B-87.

¹⁹³ Reply Evidence, Exhibit II-B-2 at 25.

¹⁹⁴ Opening Evidence II-B-84. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

¹⁹⁵ Reply Evidence, Exhibit II-B-2 at 20.

¹⁹⁶ Id. CSXT claims that the transload location it proposes is Hagerstown. Id. But M&G supports its claim that the proposed transload location is actually in St. James. See Rebuttal Evidence II-B-19 to II-B-20 and Exhibit II-B-30. [REDACTED]

[REDACTED] We therefore conclude that CSXT's proposed transloading option for this lane does not constitute a feasible alternative. As a result, we do not indicate or utilize in our analysis a price/limit price for this transloading alternative or M&G's subsequent restatement thereof.

¹⁹⁷ Rebuttal Evidence II-B-183.

lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Hagerstown rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

The Apple Grove-Havre de Grace movement (J-18) is also governed by the Apple Grove-Hagerstown rate. On opening, M&G proposes a direct truck alternative.¹⁹⁸ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT likewise proposes a direct truck alternative,¹⁹⁹ which has a price of [REDACTED] and a limit price of [REDACTED]. In addition, CSXT proposes trucking from Apple Grove to St. James and then transloading to rail for shipment to Havre de Grace.²⁰⁰ The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Hagerstown rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

The Apple Grove-Hazleton movement (J-19) is also governed by the Apple Grove-Hagerstown rate. On opening, M&G proposes a direct truck alternative.²⁰¹ CSXT likewise proposes a direct truck alternative,²⁰² which has a price of [REDACTED] and a limit price of [REDACTED]. In addition, CSXT proposes trucking from Apple Grove to St. James and then transloading to rail

¹⁹⁸ Opening Evidence II-B-95.

¹⁹⁹ Reply Evidence, Exhibit II-B-2 at 31.

²⁰⁰ *Id.* As previously explained, the St. James location is not a feasible transloading site. See *supra* note 196. We therefore conclude that CSXT's proposed transloading option for this lane does not constitute a feasible alternative. As a result, we do not indicate or utilize in our analysis a price/limit price for this transloading alternative or M&G's subsequent restatement thereof.

²⁰¹ Opening Evidence II-B-96. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

²⁰² Reply Evidence, Exhibit II-B-2 at 33.

for shipment to Hazleton.²⁰³ On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).²⁰⁴ The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Hagerstown rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

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

Apple Grove-Louisville

One contested lane, Apple Grove-Franklin (J-14), is governed by the Apple Grove-Louisville rate. On opening, M&G proposes a direct truck alternative.²⁰⁵ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT likewise proposes a direct truck alternative,²⁰⁶ which has a price of [REDACTED] and a limit price of [REDACTED]. The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Louisville rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM

²⁰³ *Id.* As previously explained, the St. James location is not a feasible transloading site. See *supra* note 196. We therefore conclude that CSXT's proposed transloading option for this lane does not constitute a feasible alternative. As a result, we do not indicate or utilize in our analysis a price/limit price for this transloading alternative or M&G's subsequent restatement thereof.

²⁰⁴ Rebuttal Evidence II-B-212.

²⁰⁵ Opening Evidence II-B-90.

²⁰⁶ Reply Evidence, Exhibit II-B-2 at 26.

figure. As a result, we conclude that CSXT is market dominant with regard to the Apple Grove-Louisville rate.

Apple Grove-Lynchburg

One contested lane, Apple Grove-Waynesville (J-35), is governed by the Apple Grove-Lynchburg rate. On opening, M&G proposes a direct truck alternative.²⁰⁷ CSXT likewise proposes a direct truck alternative,²⁰⁸ which has a price of [REDACTED] and a limit price of [REDACTED]. On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).²⁰⁹ The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's Apple Grove-Lynchburg rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²¹⁰ As a result, we conclude that CSXT is not market dominant with regard to the Apple Grove-Lynchburg rate.

Belpre-Chicago

One contested lane, Belpre-Aguila (J-36), is governed by the Belpre-Chicago rate.²¹¹ On opening, M&G proposes a direct truck alternative.²¹² That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to Lima and then transloading to rail for shipment to Chicago.²¹³ The price of CSXT's transloading alternative is

²⁰⁷ Opening Evidence II-B-113. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

²⁰⁸ Reply Evidence, Exhibit II-B-2 at 49.

²⁰⁹ Rebuttal Evidence II-B-252.

²¹⁰ As previously noted, certain intangible benefits are typically associated with direct trucking.

²¹¹ As discussed elsewhere, none of the proposed alternatives effectively restrain CSXT's Apple Grove-Belpre rate. *See infra* pp. 58-59. Likewise, none of the proposed alternatives effectively restrain CSXT's Chicago-Belpre rate. *See infra* p. 53. CSXT therefore is market dominant as to all of the challenged rates governing movements into Belpre. As a result, alternatives to movements originating in Belpre involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. *See* Rebuttal Evidence II-B-90.

²¹² Opening Evidence II-B-114.

²¹³ Reply Evidence, Exhibit II-B-2 at 50.

██████████ On rebuttal, M&G restates the price of CSXT's transloading alternative as ██████████²¹⁴ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is ██████████ above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Belpre-Chicago rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Belpre-Chicago rate.

Belpre-Columbus

One contested lane, Belpre-Fremont (I-40), is governed by the Belpre-Columbus rate.²¹⁵ On opening, M&G proposes a direct truck alternative.²¹⁶ That alternative has a price of ██████████ and a limit price of ██████████ CSXT proposes trucking from Belpre to Columbus and then transloading to rail for shipment to Fremont.²¹⁷ The price of CSXT's transloading alternative is ██████████ On rebuttal, M&G restates the price of CSXT's transloading alternative as ██████████²¹⁸ The price of M&G's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is ██████████ below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's Belpre-Columbus rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²¹⁹ As a result, we conclude that CSXT is not market dominant with regard to the Belpre-Columbus rate.

²¹⁴ Rebuttal Evidence II-B-255.

²¹⁵ As discussed elsewhere, none of the proposed alternatives effectively restrain CSXT's Apple Grove-Belpre rate. See *infra* pp. 58-59. Likewise, none of the proposed alternatives effectively restrain CSXT's Chicago-Belpre rate. See *infra* p. 53. CSXT therefore is market dominant as to all of the challenged rates governing movements into Belpre. As a result, alternatives to movements originating in Belpre involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-90.

²¹⁶ Opening Evidence II-B-118.

²¹⁷ Reply Evidence, Exhibit II-B-2 at 53.

²¹⁸ Rebuttal Evidence II-B-264.

²¹⁹ As previously noted, certain intangible benefits are typically associated with direct trucking.

Belpre-Hagerstown

Two contested lanes are governed by the Belpre-Hagerstown rate, the first of which is the Belpre-Allentown movement (J-37).²²⁰ On opening, M&G proposes a direct truck alternative.²²¹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes trucking from Apple Grove to St. James and then transloading to rail for shipment to Allentown.²²² The price of M&G's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Belpre-Hagerstown rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

The second contested lane governed by the Belpre-Hagerstown rate is the Belpre-Hazleton movement (J-41).²²³ On opening, M&G proposes a direct truck alternative.²²⁴ CSXT

²²⁰ As discussed elsewhere, none of the proposed alternatives effectively restrain CSXT's Apple Grove-Belpre rate. See *infra* pp. 58-59. Likewise, none of the proposed alternatives effectively restrain CSXT's Chicago-Belpre rate. See *infra* p. 53. CSXT therefore is market dominant as to all of the challenged rates governing movements into Belpre. As a result, alternatives to movements originating in Belpre involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-90.

²²¹ Opening Evidence II-B-115.

²²² Reply Evidence, Exhibit II-B-2 at 51. As previously explained, the St. James location is not a feasible transloading site. See *supra* note 196. We therefore conclude that CSXT's proposed transloading option for this lane does not constitute a feasible alternative. As a result, we do not indicate or utilize in our analysis a price/limit price for this transloading alternative or M&G's subsequent restatement thereof.

²²³ As discussed elsewhere, none of the proposed alternatives effectively restrain CSXT's Apple Grove-Belpre rate. See *infra* pp. 58-59. Likewise, none of the proposed alternatives effectively restrain CSXT's Chicago-Belpre rate. See *infra* p. 53. CSXT therefore is market dominant as to all of the challenged rates governing movements into Belpre. As a result, alternatives to movements originating in Belpre involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-90.

²²⁴ Opening Evidence II-B-119. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

likewise proposes a direct truck alternative,²²⁵ which has a price of [REDACTED] and a limit price of [REDACTED]. On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).²²⁶ The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Belpre-Hagerstown rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure.

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

Belpre-Louisville

One contested lane, Belpre-Franklin (J-39), is governed by the Belpre-Louisville rate.²²⁷ On opening, M&G proposes a direct truck alternative.²²⁸ CSXT likewise proposes a direct truck alternative,²²⁹ which has a price of [REDACTED] and a limit price of [REDACTED]. On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED] (for a limit price of [REDACTED]).²³⁰

²²⁵ Reply Evidence, Exhibit II-B-2 at 54.

²²⁶ Rebuttal Evidence II-B-267.

²²⁷ As discussed elsewhere, none of the proposed alternatives effectively restrain CSXT's Apple Grove-Belpre rate. *See infra* pp. 58-59. Likewise, none of the proposed alternatives effectively restrain CSXT's Chicago-Belpre rate. *See infra* p. 53. CSXT therefore is market dominant as to all of the challenged rates governing movements into Belpre. As a result, alternatives to movements originating in Belpre involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. *See* Rebuttal Evidence II-B-90.

²²⁸ Opening Evidence II-B-117. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

²²⁹ Reply Evidence, Exhibit II-B-2 at 52.

²³⁰ Rebuttal Evidence II-B-261.

The price of CSXT's direct truck alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Belpre-Louisville rate effectively and, even though this alternative likely has the same intangible benefits associated with any direct truck option, we conclude that such benefits are insufficient to overcome our preliminary conclusion in light of the significant disparity between the lowest limit price R/VC ratio and the carrier's RSAM figure. As a result, we conclude that CSXT is market dominant with regard to the Belpre-Louisville rate.

Chicago-Apple Grove

Two contested lanes are governed by the Chicago-Apple Grove rate, the first of which is the Altamira-Apple Grove movement (J-1). On opening, M&G proposes a transloading alternative from Altamira to Apple Grove.²³¹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes transportation by rail from Chicago to Columbus and then transloading to truck for shipment to Apple Grove.²³² The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].²³³ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Apple Grove rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

The Sweetwater-Apple Grove movement (J-48) is also governed by the Chicago-Apple Grove rate.²³⁴ On opening, M&G proposes both a direct truck alternative and a transloading alternative from Sweetwater to Apple Grove.²³⁵ M&G's direct truck alternative has a price of

²³¹ Opening Evidence II-B-77.

²³² Reply Evidence, Exhibit II-B-2 at 12.

²³³ Rebuttal Evidence II-B-162.

²³⁴ As discussed elsewhere, none of the alternatives proposed for movements from Apple Grove to Sweetwater effectively restrain the rate governing that movement (Apple Grove-Chicago). See *supra* p. 41. CSXT therefore is market dominant as to the challenged rate governing movements into Sweetwater. As a result, alternatives to movements originating in Sweetwater involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-90.

²³⁵ Opening Evidence II-B-126.

██████████ and a limit price of ██████████, while its transloading alternative has a price of ██████████ and a limit price of ██████████. CSXT proposes transportation by rail from Chicago to Columbus and then transloading to truck for shipment to Apple Grove.²³⁶ The price of CSXT's transloading alternative is ██████████. On rebuttal, M&G restates the price of CSXT's transloading alternative as ██████████.²³⁷ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is ██████████ above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Apple Grove rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

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

Chicago-Belpre

The only contested lane governed by the Chicago-Belpre rate is the Altamira-Belpre movement (J-2). On opening, M&G proposes a transloading alternative from Altamira to Belpre.²³⁸ That alternative has a price of ██████████ and a limit price of ██████████. CSXT proposes transportation by rail from Chicago to Columbus and then transloading to truck for shipment to Belpre.²³⁹ The price of CSXT's transloading alternative is ██████████. On rebuttal, M&G restates the price of CSXT's transloading alternative as ██████████.²⁴⁰ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is ██████████ above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Belpre rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Belpre rate.

²³⁶ Reply Evidence, Exhibit II-B-2 at 55.

²³⁷ Rebuttal Evidence II-B-270.

²³⁸ Opening Evidence II-B-78.

²³⁹ Reply Evidence, Exhibit II-B-2 at 13.

²⁴⁰ Rebuttal Evidence II-B-165.

Chicago-Columbus

The only contested lane governed by the Chicago-Columbus rate is the Altamira-Cambridge movement (J-3). On opening, M&G proposes a transloading alternative from Altamira to Cambridge.²⁴¹ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes transportation by rail from Chicago to Lima and then transloading to truck for shipment to Cambridge.²⁴² The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].²⁴³ The price of M&G's transloading alternative generates the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Chicago-Columbus rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. As a result, we conclude that CSXT is market dominant with regard to the Chicago-Columbus rate.

New Orleans-Cartersville

Two contested lanes are governed by the New Orleans-Cartersville rate, the first of which is the Altamira-Cartersville movement (J-4). On opening, M&G proposes a transloading alternative from Altamira to Cartersville.²⁴⁴ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes transportation by rail from New Orleans to Dalton and then transloading to truck for shipment to Cartersville.²⁴⁵ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].²⁴⁶ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Cartersville rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

²⁴¹ Opening Evidence II-B-79.

²⁴² Reply Evidence, Exhibit II-B-2 at 14.

²⁴³ Rebuttal Evidence II-B-168.

²⁴⁴ Opening Evidence II-B-80.

²⁴⁵ Reply Evidence, Exhibit II-B-2 at 15.

²⁴⁶ Rebuttal Evidence II-B-170.

The Sweetwater-Cartersville movement (J-49) is also governed by the New Orleans-Cartersville rate.²⁴⁷ On opening, M&G proposes both a direct truck alternative and a transloading alternative from Sweetwater to Cartersville.²⁴⁸ M&G's direct truck alternative has a price of [REDACTED] and a limit price of [REDACTED] while its transloading alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes transportation by rail from New Orleans to Dalton and then transloading to truck for shipment to Cartersville.²⁴⁹ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].²⁵⁰ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's New Orleans-Cartersville rate effectively and, as with our previous discussion regarding proposed transloading alternatives, conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.

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

New Orleans-Clifton Forge

Two contested lanes are governed by the New Orleans-Clifton Forge rate, the first of which is the Altamira-Clifton Forge movement (J-5). On opening, M&G proposes a transloading alternative from Altamira to Clifton Forge.²⁵¹ That alternative has a price of

²⁴⁷ As discussed elsewhere, none of the alternatives proposed for movements from Apple Grove to Sweetwater effectively restrain the rate governing that movement (Apple Grove-Chicago). See *supra* p. 41. CSXT therefore is market dominant as to the challenged rate governing movements into Sweetwater. As a result, alternatives to movements originating in Sweetwater involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-90.

²⁴⁸ Opening Evidence II-B-127.

²⁴⁹ Reply Evidence, Exhibit II-B-2 at 56.

²⁵⁰ Rebuttal Evidence II-B-272.

²⁵¹ Opening Evidence II-B-81.

██████████ and a limit price of ██████████ CSXT proposes transportation by rail from New Orleans to Petersburg and then transloading to truck for shipment to Clifton Forge.²⁵² The price of CSXT's transloading alternative is ██████████. On rebuttal, M&G restates the price of CSXT's transloading alternative as ██████████.²⁵³ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is ██████████ below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Clifton Forge rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²⁵⁴

The Sweetwater-Clifton Forge movement (J-50) is also governed by the New Orleans-Clifton Forge rate.²⁵⁵ On opening, M&G proposes both a direct truck alternative and a transloading alternative from Sweetwater to Clifton Forge.²⁵⁶ M&G's direct truck alternative has a price of ██████████ and a limit price of ██████████ while its transloading alternative has a price of ██████████ and a limit price of ██████████. CSXT proposes transportation by rail from New Orleans to Petersburg and then transloading to truck for shipment to Clifton Forge.²⁵⁷ The price of CSXT's transloading alternative is ██████████. On rebuttal, M&G restates the price of CSXT's transloading alternative as ██████████.²⁵⁸ The price of CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is ██████████ below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the

²⁵² Reply Evidence, Exhibit II-B-2 at 16.

²⁵³ Rebuttal Evidence II-B-173.

²⁵⁴ Under certain circumstances, transportation via railcar might involve certain intangible benefits vis-à-vis transload alternatives (e.g., presumed shorter transport times) sufficient to overcome a preliminary conclusion that such alternatives exert competitive pressure sufficient to restrain rates effectively. Given the length of the movement at issue here and the attendant likelihood that delivery to the ultimate destination is not particularly time-sensitive, however, we conclude that such benefits are not sufficient to overcome our preliminary conclusion.

²⁵⁵ As discussed elsewhere, none of the alternatives proposed for movements from Apple Grove to Sweetwater effectively restrain the rate governing that movement (Apple Grove-Chicago). See supra p. 41. CSXT therefore is market dominant as to the challenged rate governing movements into Sweetwater. As a result, alternatives to movements originating in Sweetwater involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-90.

²⁵⁶ Opening Evidence II-B-128.

²⁵⁷ Reply Evidence, Exhibit II-B-2 at 57.

²⁵⁸ Rebuttal Evidence II-B-275.

lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Clifton Forge rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²⁵⁹

As demonstrated above, the lowest limit price R/VC ratio for each of the lanes governed by the New Orleans-Clifton Forge rate falls below CSXT's RSAM figure, and we therefore preliminarily conclude that the lowest price alternatives proposed for movements governed by the New Orleans-Clifton Forge rate collectively exert competitive pressure sufficient to restrain that rate effectively. Furthermore, none of the lowest price alternatives have intangible features sufficient to overcome our preliminary conclusion. As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Clifton Forge rate.

New Orleans-Orlando

The only contested lane governed by the New Orleans-Orlando rate is the Altamira-Orlando movement (J-6). On opening, M&G proposes a transloading alternative from Altamira to Orlando.²⁶⁰ That alternative has a price of [REDACTED] and a limit price of [REDACTED]. CSXT proposes transportation by rail from New Orleans to City Point and then transloading to truck for shipment to Orlando.²⁶¹ The price of CSXT's transloading alternative is [REDACTED]. On rebuttal, M&G restates the price of CSXT's transloading alternative as [REDACTED].²⁶² M&G's restated price for CSXT's transloading alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's New Orleans-Orlando rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²⁶³ As a result, we conclude that CSXT is not market dominant with regard to the New Orleans-Orlando rate.

²⁵⁹ Under certain circumstances, transportation via railcar might involve certain intangible benefits vis-à-vis transload alternatives (e.g., presumed shorter transport times) sufficient to overcome a preliminary conclusion that such alternatives exert competitive pressure sufficient to restrain rates effectively. Given the length of the movement at issue here and the attendant likelihood that delivery to the ultimate destination is not particularly time-sensitive, however, we conclude that such benefits are not sufficient to overcome our preliminary conclusion.

²⁶⁰ Opening Evidence II-B-82.

²⁶¹ Reply Evidence, Exhibit II-B-2 at 17.

²⁶² Rebuttal Evidence II-B-176.

²⁶³ Under certain circumstances, transportation via railcar might involve certain intangible benefits vis-à-vis transload alternatives (e.g., presumed shorter transport times) sufficient to overcome a preliminary conclusion that such alternatives exert competitive pressure
(continued...)

Apple Grove-Belpre

The Apple Grove-Belpre movement (SL-1) is governed by a single-line rate. On opening, M&G proposes no alternatives.²⁶⁴ CSXT proposes a direct truck alternative, the price of which is [REDACTED].²⁶⁵ On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED].²⁶⁶ The price of CSXT's direct truck alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] below CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does exert competitive pressure sufficient to restrain CSXT's Apple Grove-Belpre rate effectively. However, we conclude that this alternative has intangible features sufficient to overcome our preliminary conclusion. M&G leases approximately [REDACTED] spots at Belpre for railcar storage, and subsequently ships its stored PET from Belpre to various customer locations either by railcar or after being transloaded into trucks.²⁶⁷ Aside from the logical incongruity of using a direct truck option when the movement's destination is a railcar storage facility, shipment by railcar from Apple Grove to Belpre provides clear benefits over CSXT's proposed direct truck alternative, in that shipment by railcar avoids the necessity of M&G pre-positioning a significant number of empty railcars at Belpre solely to function as receptacles of the inevitable transload necessitated by direct trucking.²⁶⁸ Furthermore, as noted above, we have concluded on this record that transportation alternatives involving more than two transloads are not feasible. A direct trucking option for Apple Grove-Belpre movements would necessarily involve two transloads—one at the origin (because Apple Grove has no direct truck loading capability) and one at the destination (because Belpre functions as one of M&G's offsite railcar storage facilities and is not an ultimate customer destination). Given these facts, the proposed direct truck

(continued...)

sufficient to restrain rates effectively. Given the length of the movement at issue here and the attendant likelihood that delivery to the ultimate destination is not particularly time-sensitive, however, we conclude that such benefits are not sufficient to overcome our preliminary conclusion.

²⁶⁴ Opening Evidence II-B-59.

²⁶⁵ Reply Evidence, Exhibit II-B-2 at 1.

²⁶⁶ Rebuttal Evidence II-B-135.

²⁶⁷ Opening Evidence II-B-11.

²⁶⁸ Again, direct trucking generally is thought to provide certain customer-related benefits (e.g., the ability to respond more quickly to customer delivery requests). Under normal circumstances, such benefits might be sufficient to overcome a preliminary conclusion of market dominance in circumstances involving a lowest limit price R/VC ratio that is slightly above a carrier's RSAM figure. Given that Belpre is not an ultimate customer destination, however, such benefits are nonexistent insofar as this particular movement is concerned.

alternative from Apple Grove to Belpre would automatically rule out the possibility of subsequent deliveries of PET from Belpre to M&G customer sites via truck (because such would involve a third transload). As a result, we conclude that CSXT is market dominant with regard to the Apple Grove-Belpre rate.²⁶⁹

Apple Grove-Clifton Forge

The Apple Grove-Clifton Forge movement (SL-4) is governed by a single-line rate. On opening, M&G proposes a direct truck alternative.²⁷⁰ CSXT likewise proposes a direct truck alternative, the price of which is [REDACTED].²⁷¹ On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED].²⁷² The price of CSXT's direct truck alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Clifton Forge rate effectively. However, we conclude that this alternative has intangible features sufficient to overcome our preliminary conclusion. Again, direct trucking generally provides certain customer-related benefits (e.g., the ability to respond more quickly to customer delivery requests). Given that the lowest limit price R/VC ratio for CSXT's proposed direct truck alternative is only slightly above CSXT's RSAM figure, we conclude that such benefits are sufficient to overcome our preliminary conclusion that this alternative does not exert competitive pressure sufficient to restrain the applicable rate effectively. As a result, we conclude that CSXT is not market dominant with regard to the Apple Grove-Clifton Forge rate.

Apple Grove-Devon

The Apple Grove-Devon movement (SL-5) is governed by a single-line rate. On opening, M&G proposes a direct truck alternative.²⁷³ The price of M&G's direct truck alternative is [REDACTED]. CSXT likewise proposes a direct truck alternative, the price of which is [REDACTED].²⁷⁴ The price of CSXT's direct truck alternative represents the lowest limit price. Thus,

²⁶⁹ Because of this conclusion, any alternatives to movements originating in Belpre involving a transload at that location would not implicate the concerns expressed by M&G with respect to proposed alternatives involving more than two transloads.

²⁷⁰ *Id.* at II-B-62. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

²⁷¹ Reply Evidence, Exhibit II-B-2 at 2.

²⁷² Rebuttal Evidence II-B-138.

²⁷³ Opening Evidence II-B-63.

²⁷⁴ Reply Evidence, Exhibit II-B-2 at 3.

the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Devon rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²⁷⁵ As a result, we conclude that CSXT is market dominant with regard to the Apple Grove-Devon rate.

Apple Grove-Parkersburg

The Apple Grove-Parkersburg movement (SL-8) is governed by a single-line rate. M&G proposes no alternatives on opening.²⁷⁶ In reply, CSXT proposes a direct truck alternative.²⁷⁷ We conclude that the proposed alternative is not feasible. As M&G has explained, the Parkersburg location is a CSXT rail yard, not a customer or a traditional storage/transload facility.²⁷⁸ Thus, "direct trucking" in this scenario necessarily would involve a transload in Parkersburg. Because Parkersburg is a CSXT-owned facility, M&G contends that it would need CSXT's consent to engage in transloading operations there.²⁷⁹ While CSXT asserts in response that "M&G has not produced any evidence that CSXT would not consent to truck transloading at Parkersburg,"²⁸⁰ it does not substantively dispute M&G's assertion.²⁸¹ Because the record contains no evidence of a feasible alternative, we conclude that CSXT is market dominant with regard to the Apple Grove-Parkersburg rate.

²⁷⁵ Again, direct trucking generally is thought to provide certain customer-related benefits (e.g., the ability to respond more quickly to customer delivery requests). Such benefits might be sufficient to overcome a preliminary conclusion of market dominance in circumstances involving a lowest limit price R/VC ratio that is slightly above a carrier's RSAM figure. However, this particular rate involves a lowest limit price R/VC ratio that is significantly above CSXT's RSAM figure, and we conclude that the customer-related benefits to direct trucking are insufficient to overcome our preliminary conclusion that this alternative does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Devon rate effectively.

²⁷⁶ Opening Evidence II-B-66.

²⁷⁷ Reply Evidence, Exhibit II-B-2 at 5.

²⁷⁸ Opening Evidence II-B-12.

²⁷⁹ Id.

²⁸⁰ Reply Evidence, Exhibit II-B-2 at 5. See also id., Exhibit II-B-2 at 11 (stating that M&G "has the ability to truck both to and from Parkersburg" but failing to concede that CSXT would actually allow M&G to do so).

²⁸¹ Because we conclude that the proposed alternative is not feasible on this basis, we need not address the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-89.

Apple Grove-Rochester

The Apple Grove-Rochester movement (SL-10) is governed by a single-line rate. On opening, M&G proposes a direct truck alternative.²⁸² CSXT likewise proposes a direct truck alternative, the price of which is [REDACTED].²⁸³ On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED].²⁸⁴ The price of CSXT's direct truck alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Rochester rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²⁸⁵ As a result, we conclude that CSXT is market dominant with regard to the Apple Grove-Rochester rate.

Belpre-Apple Grove

The Belpre-Apple Grove movement (SL-11) is governed by a single-line rate.²⁸⁶ On opening, M&G proposes a direct truck alternative.²⁸⁷ CSXT likewise proposes a direct truck

²⁸² Opening Evidence II-B-68. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

²⁸³ Reply Evidence, Exhibit II-B-2 at 6.

²⁸⁴ Rebuttal Evidence II-B-148.

²⁸⁵ Again, direct trucking generally is thought to provide certain customer-related benefits (e.g., the ability to respond more quickly to customer delivery requests). Such benefits might be sufficient to overcome a preliminary conclusion of market dominance in circumstances involving a lowest limit price R/VC ratio that is slightly above a carrier's RSAM figure. However, this particular rate involves a lowest limit price R/VC ratio that is significantly above CSXT's RSAM figure, and we conclude that the customer-related benefits to direct trucking are insufficient to overcome our preliminary conclusion that this alternative does not exert competitive pressure sufficient to restrain CSXT's Apple Grove-Rochester rate effectively.

²⁸⁶ As discussed elsewhere, none of the proposed alternatives effectively restrain CSXT's Apple Grove-Belpre rate. See supra pp. 58-59. Likewise, none of the proposed alternatives effectively restrain CSXT's Chicago-Belpre rate. See supra p. 53. CSXT therefore is market dominant as to all of the challenged rates governing movements into Belpre. As a result, alternatives to movements originating in Belpre involving a transload at that location would not implicate the general concerns expressed by M&G with respect to alternatives that might involve more than two transloads.

alternative, the price of which is [REDACTED].²⁸⁸ On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED].²⁸⁹ The price of CSXT's direct truck alternative represents the lowest limit price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Belpre-Apple Grove rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion. Again, direct trucking generally is thought to provide certain customer-related benefits (e.g., the ability to respond more quickly to customer delivery requests). Under normal circumstances, such benefits might be sufficient to overcome a preliminary conclusion of market dominance in circumstances involving a lowest limit price R/VC ratio that is slightly above a carrier's RSAM figure. Given that Apple Grove is not an ultimate customer destination, however, such benefits are nonexistent insofar as this particular movement is concerned. As a result, we conclude that CSXT is market dominant with regard to the Belpre-Apple Grove rate.

Belpre-Devon

The Belpre-Devon movement (SL-14) is governed by a single-line rate.²⁹⁰ On opening, M&G proposes a direct truck alternative.²⁹¹ CSXT likewise proposes a direct truck alternative, the price of which is [REDACTED].²⁹² On rebuttal, M&G restates the price of CSXT's direct truck alternative as [REDACTED].²⁹³ The price of CSXT's direct truck alternative represents the lowest limit

(continued...)

²⁸⁷ Opening Evidence II-B-69. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

²⁸⁸ Reply Evidence, Exhibit II-B-2 at 8.

²⁸⁹ Rebuttal Evidence II-B-152.

²⁹⁰ As discussed elsewhere, none of the proposed alternatives effectively restrain CSXT's Apple Grove-Belpre rate. See supra pp. 58-59. Likewise, none of the proposed alternatives effectively restrain CSXT's Chicago-Belpre rate. See supra p. 53. CSXT therefore is market dominant as to all of the challenged rates governing movements into Belpre. As a result, alternatives to movements originating in Belpre involving a transload at that location would not implicate the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-89.

²⁹¹ Opening Evidence II-B-72. We do not indicate or utilize in our analysis a price/limit price for this particular truck alternative given M&G's subsequent restatement of CSXT's direct truck alternative.

²⁹² Reply Evidence, Exhibit II-B-2 at 9.

²⁹³ Rebuttal Evidence II-B-155.

price. Thus, the lowest limit price R/VC ratio for this movement is [REDACTED] above CSXT's 293% RSAM figure. We therefore preliminarily conclude that the alternative with the lowest limit price does not exert competitive pressure sufficient to restrain CSXT's Belpre-Devon rate effectively, and conclude that this alternative has no intangible features sufficient to overcome our preliminary conclusion.²⁹⁴ As a result, we conclude that CSXT is market dominant with regard to the Belpre-Devon rate.

Parkersburg-Apple Grove

The Parkersburg-Apple Grove movement (SL-17) is governed by a single-line rate. M&G proposes no alternatives on opening.²⁹⁵ In reply, CSXT proposes a direct truck alternative.²⁹⁶ We conclude that the proposed alternative is not feasible. As M&G has explained, the Parkersburg location is a CSXT rail yard, not a customer or a traditional storage/transload facility.²⁹⁷ Thus, "direct trucking" in this scenario necessarily would involve a transload in Parkersburg. Because Parkersburg is a CSXT-owned facility, M&G contends that it would need CSXT's consent to engage in transloading operations there.²⁹⁸ While CSXT asserts in response that "M&G has not produced any evidence that CSXT would not consent to truck transloading at Parkersburg,"²⁹⁹ it does not substantively dispute M&G's assertion.³⁰⁰ Because the record contains no evidence of a feasible alternative, we conclude that CSXT is market dominant with regard to the Parkersburg-Apple Grove rate.

²⁹⁴ Again, direct trucking generally is thought to provide certain customer-related benefits (e.g., the ability to respond more quickly to customer delivery requests). Such benefits might be sufficient to overcome a preliminary conclusion of market dominance in circumstances involving a lowest limit price R/VC ratio that is slightly above a carrier's RSAM figure. However, this particular rate involves a lowest limit price R/VC ratio that is significantly above CSXT's RSAM figure, and we conclude that the customer-related benefits to direct trucking are insufficient to overcome our preliminary conclusion that this alternative does not exert competitive pressure sufficient to restrain CSXT's Belpre-Devon rate effectively.

²⁹⁵ Opening Evidence II-B-75.

²⁹⁶ Reply Evidence, Exhibit II-B-2 at 11.

²⁹⁷ Opening Evidence II-B-12.

²⁹⁸ Id.

²⁹⁹ Reply Evidence, Exhibit II-B-2 at 5. See also id., Exhibit II-B-2 at 11 (stating that M&G "has the ability to truck both to and from Parkersburg" but failing to concede that CSXT would actually allow M&G to do so).

³⁰⁰ Because we conclude that the proposed alternative is not feasible on this basis, we need not address the concerns expressed by M&G with respect to alternatives that might involve more than two transloads. See Rebuttal Evidence II-B-89.