Law Department
500 Water Street
Speed Code J-150
Jacksonville, FL 32202
Tel. (904) 359-3539
Fax (904) 245-3878
Email: David_Prohofsky@csx.com

David Prohofsky
Sr. COUNSEL

Admitted in IL – FL Authorized House Counsel

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Via Electronic Filing
Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, D.C. 20423

RE: Docket No. EP-704 (Sub-No. 1)
Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Dear Ms. Brown:

Enclosed for filing in the above referenced docket are CSX Transportation's reply comments to the Board's Review of Commodity, Boxcar, and TOFC/COFC Exemptions. Thank you for your assistance with this matter. If you have any questions, please do not hesitate to contact me

Respectfully submitted,

David Prohofsky

Enclosures

BEFORE THE SURFACE TRANSPORTATION BOARD

Ex Parte No. 704 (Sub-No. 1)

Review of Commodity, Boxcar, and TOFC/COFC Exemptions

REPLY COMMENTS OF CSX TRANSPORTATION, INC.

Paul R. Hitchcock
Steven C. Armbrust
John P. Patelli
David Prohofsky

CSX Transportation, Inc.
500 Water Street J-150
Jacksonville, FL 32202
904-359-1192
Counsel to CSX Transportation, Inc.

Dated: August 26, 2016

CSXT Reply Comments

CSX Transportation, Inc. joins the reply comments of the Association of American Railroads, and offers these separate comments in the hope that they will help the Board recognize that the record in this proceeding cannot support re-regulating these commodities.

The comments of shippers in this docket would turn back the clock. They pretend that the rail mergers in the second half of the 1990's somehow reduced competition – totally ignoring the carefully crafted competition-preserving conditions required by the STB and ICC in each proceeding. They focus almost exclusively on R/VC ratios and waybill data to claim that the market-driven prices they pay show competitive conditions have changed. The shippers, however, offer no evidence to actually further the Board's understanding the markets in question. In contrast, the evidence the railroads have provided in their comments reveals markets where competition thrives. The railroads' evidence -- clearly the best evidence of record -- does not simply refute the need for re-regulation -- it makes clear that competitive markets are operating just as Congress anticipated they would.

The Markets Are Competitive

One of the most important points made in this docket was made by the Department of Transportation. As DOT put it: a broad spectrum of facts must be considered before the Board may properly conclude that re-regulation is permissible under the statute. "DOT suggests that the Board remain open to considering all available evidence, without placing undue reliance upon any single measure as a proxy for market conditions."[1] While shipping interests have focused on

[1] Comments of the Department of Transportation, at 2.

R/VCs and the number of Class I railroads, CSXT and the AAR have provided the Board with a wide variety of evidence, all of it pointing to the competitiveness of the markets at issue.

By contrast, those shippers seeking the revocation of these exemptions break no new ground. The claim that railroad consolidation has increased rail market power has a superficial attraction to the uncritical ear, and has proven to get some traction in the media. Yet, this agency knows well the history of its detailed reviews of major consolidations and the efforts it has exerted in each one to tailor competition-preserving conditions to address public concerns. The Board is well aware of its own careful analysis and the measures it took to ensure that competition was maintained (and often enhanced) in each of these transactions. Rather than offering genuine evidence, the commenting shipper groups simply cling to the tired refrain that rail consolidation must somehow equal a reduction in competition.

In the end, those who support re-regulation need to offer the Board far more than nationally-averaged R/VCs. The Board should instead look to the small percentage of the market the railroads are able to win, the frequent changes in transportation service providers, and the market structures described by CSXT and the other railroads, and recognize that competition is strong in these markets.

Tellingly, the comments of the Wisconsin Central Group make clear the power of multimodal competition by describing its effects. When direct rail service is supplanted by a dray/transload option, multimodal competition is at work.[2] That same level of competition was repeatedly described to the Board by CSXT's marketing personnel in our original comments, as CSXT competes against a wide variety of transportation options that can be combined in different ways to serve our customers' transportation needs.

[2] Comments of the Wisconsin Central Group, at 5.

If a particular shipper truly feels that its serving railroad(s) face no competitive forces, it should avail itself of the process to seek a partial revocation of an exception.

Geographic Competition

The Board should pay careful attention to railroad arguments relating to geographic competition. While geographic competition is ignored by the STB in rate cases, the Board has always recognized that it is real – and effective. However, indirect competitive forces (including geographic competition) cannot be ignored in this proceeding. After all, the central issue to be addressed is whether the exempted markets are, in fact, competitive. All participants in the marketplace know that geographic competition is real and that it gives tremendous negotiating leverage to rail customers. As shown by Mr. Muldrow, cement and stone shippers utilize an array of strategically located distribution centers. As shown by Mr. Epting, coke receivers draw from a variety of coke production locations, and the strength of this sourcing power is most clearly illustrated when the receiver has the option of sourcing from its own in-house production or next-door third party production facility. Mr. Rutherford explained that CSXT's Metals business faces extensive source competition from domestic suppliers that are typically dual-served and from foreign suppliers as a result of import moves that connect to destinations through river or coal ports coupled with a truck move to destination.

Forest and Paper

The Board should not pursue the revocation requested by the Wisconsin Central Group (WCG) and the American Forest and Paper Association (AFPA). AFPA's comments almost entirely rely on R/VC ratios as evidence of market power. As the AAR's comments and experts explained in this proceeding, R/VC ratios above 180 are not a meaningful threshold for identifying market power. There is no in-depth competitive market analysis of any of the commodities within forest products. Nonetheless, AFPA describes their shipper groups as “captive” throughout the document. In fact, AFPA uses the term “captive” no less than 20 times in their first 20 pages. The term “captive” attempts to paint a picture of a helpless shipper, bound at the wrists and entirely at the mercy of a serving railroad. But that picture is not fact-based, and it fails to comport with the realities of the forest products marketplace. As stated by Mr. Epting in CSXT’s opening comments, such “terminologhy tends to pre-judge the actual circumstances on the ground, and that’s not helpful to the larger dialogue between shippers and railroads where both sides ought to be encouraged to thoroughly understand the other’s situation before any assumptions of market power are made.”[3]

It’s also noteworthy, as stated in WCG’s own comments, that competition is so intense in the log market that a business case for replacing the aging fleet of log cars cannot be justified.[4] If a railroad could earn satisfactory (not excessive – just satisfactory) returns by investing in new equipment, it would. If a shipper could save on transportation costs through investing in railcars rather than using trucks, it would. One cannot reconcile the fact that rail rates do not justify reinvesting in the necessary railcars with the claim that the railroads hold market power.

CSXT also submits the Verified Statement of Michael Rutherford, CSXT’s AVP of Industrial Products, which includes forest products. In light of the short timeframe afforded by the Reply, Mr. Rutherford takes a high-level approach and focuses on the primary commodities within the STCCs identified by AFPA. Mr. Rutherford describes the realities of rail, truck and geographic competition in the lumber, pulpboard, newsprint, printing paper, and scrap paper

[3] CSXT Opening Comments, Russ Epting Verified Statement at 10-11.
[4] Comments of the Wisconsin Central Group, at 4, fn 2.

markets. He also explains that the pulpboard market has undergone extensive consolidation and integration. Pulpboard production at the mill and pulpboard processing at box plants is increasingly being done on the same site, thereby removing the need for rail transportation. Finally, Mr. Rutherford conveys CSXT's commitment to forest products customers and explains the service enhancements and amount of investment the company is making in boxcars—the car type that moves the majority of forest products volume at CSXT.

Conclusion

There is nothing new in the submissions supporting the revocation, and nothing that approaches meeting the evidentiary burden carried by those advocating re-regulation. The Board simply cannot re-regulate on such thin gruel. The best understanding of these markets is that they remain so competitive that in some instances no one can afford to reinvest in railcars. It is difficult to understand how any market could be deemed competitive if these markets are not.

Respectfully Submitted,

Paul R. Hitchcock
Steven C. Armbrust
John P. Patelli
David Prohofsky

Attorneys for CSX Transportation, Inc.

500 Water St. J-150
Jacksonville, Florida 32202
(904) 359-1192

VERIFIED STATEMENT OF MICHAEL RUTHERFORD

TO

CSXT REPLY COMMENTS

Ex Parte No. 704 (Sub-No.1)
Review of Commodity, Boxcar, and TOFC/COFC Exemptions

VERIFIED STATEMENT OF MICHAEL RUTHERFORD

I. Introduction

My name is Michael Rutherford and I serve as Assistant Vice President – Industrial Products for CSXT. My responsibilities include the oversight and management of CSXT's Metals, Forest Products, Minerals, Equipment and Military Business Units. I have had this position since Aug. 1, 2013. Immediately prior to this position, I served as Director – Market Intelligence & strategy for CSXT from Aug 1, 2011 to July 31, 2013. I received my Masters of Science degree in International Economics and Management from SDA Boccioni in Milan, Italy, and a Bachelor of Science in International Finance and Commerce from Georgetown University.

At CSXT, the forest products markets include the STCCs that the American Forest & Paper Association ("AFPA") and Wisconsin Central Group ("WCG") requested for revocation: STCC 24 Lumber, wood products; STCC 26 Pulp, paper or allied products, and wallboard; STCC 40231 Wood scrap or waste, and STCC 40241 Paper Waste or scrap. In light of time constraints afforded by the Reply timeline, I'll keep my comments here fairly light and high-level. I will, however, provide a few market insights into some of the primary commodities at issue to give the Board a deeper appreciation for the competitive landscape.

II. Lumber, STCC 40231

Lumber is CSXT's second largest forest products commodity by volume. We moved approximately 37,000 carloads in 2015. Roughly 85% of lumber movements on CSXT are originated by another carrier. Most of these movements are received by CSXT at interchange locations where multiple railroads can receive it (e.g., Chicago, Buffalo, East Saint Louis, and Memphis). The majority of lumber then proceeds to rail destinations that are actually *midway points* in the transportation pipeline. These midway points consist of: (a) distribution centers; (b) warehouses (covered facilities that allow for long term storage) or (c) reloads (uncovered areas for temporary holding). It's important to understand that from each of these midway points, lumber is trucked to final destinations, such as contractor yards and retail hardware stores. Since truck is universally the final piece of the transportation pipeline, truck direct provides vigorous competition to rail. It's also the case that many of these midway points are dual rail served, which means CSXT often has rail competition at the origin interchange *and* at the midway point.

With respect to geographic competition, these midway points do not stand alone in the marketplace. Where there is one distribution center, there are typically many others in the general area, and the same is true for warehouses and reloads. It follows that shippers are able to be selective and leverage certain midway points served by one carrier against other midway points served by other rail carriers.

III. Pulpboard and Paper, STCC 26

Pulpboard is CSXT's largest forest products commodity by volume. We moved approximately 94,000 carloads in 2015. Pulpboard is a thick, paper-based material commonly used to make brown paper for cardboard boxes, kraft paper for paper milk cartons, and food packages, such as cereal boxes. When shipped by rail, pulpboard moves in boxcars originating at pulpboard mills for ultimate delivery to box plants or warehouses.

I'd like to make two principal points about pulpboard. First, the competition for this boxcar traffic is pervasive. Pulpboard mill origins are scattered throughout the U.S. – they're not limited to select geographic areas, and many are jointly served or reach multiple railroads via a serving shortline. The rail destinations on CSXT roughly consist of box plants (65%), warehouses (15%) and export ports (20%). Box plants are often jointly served and frequently take advantage of short haul truck moves. As stated above, warehouse destinations enjoy strong geographic competition, as well as truck direct and rail alternatives. Export pulpboard has the benefit of multi-railroad accessibility at the ports.

Second, it's a bit ironic that AFPA's comments focus on rail consolidation. Nothing was said about the extraordinary consolidation and integration that has been occurring in the pulpboard market. Today, the production and processing of pulpboard is dominated by three major players that represent approximately 75% of CSXT's pulpboard volume. More consolidation could be forthcoming.[1] The major players have focused both on acquisitions of pulpboard mills (origins) and box plants (destinations), while at the same time integrating these functions whenever possible to allow for the production and processing to occur on the same site, thereby removing the transportation piece altogether. It goes without saying that the major players are able to rely on source shifting and use geographic competition very effectively in contract negotiations. As someone who fights every day for market share in this business, and someone who loses volume every day to a growing number of integrated plants, I'll just say that when AFPA complains about rail consolidation, it rings hollow.

Before leaving STCC 26, I'll give some brief insights into the newsprint and printing paper markets. Like pulpboard, these products move in boxcars and truck direct is a constant competitor. When it moves by rail, CSXT is almost always receiving these products from

[1] Andy Meek, *M&A Speculation Directed at International Paper*, THE DAILYNEWS, Aug. 15, 2016, available at https://www.memphisdailynews.com/news/2016/aug/15/ma-speculation-directed-at-international-paper/. Attached hereto as Addendum 1.

another railroad (88% of the time for newsprint, and 77% of the time for printing paper). Another railroad either serves the interchange location, or a different interchange could've been selected to allow for an alternative railroad to move the freight. The destinations are a mix of warehouses, distribution centers, and printing presses that allow for substantial geographic, rail, and truck competition.

IV. Scrap Paper, STCCs 40231, 40241

In 2015, we handled about 200 cars of wood scrap, STCC 40231. This is typically woodpulp that has been contaminated and cannot be salvaged for its original purpose (e.g., food grade). It's often used as raw fiber for pulpboard production. We also handled about 15,000 cars per year of paper waste or scrap, STCC 40241. It's trim from paper or box production that can be recycled into raw fiber for pulpboard and other paper production.

These categories of scrap paper under STCCs 40231 and 40241 are very low value commodities that move to locations representing the lowest transportation cost for the customer, whether it be rail or truck. Again, these commodities move in boxcars and are highly truck competitive.

V. Conclusion

In closing, I'd like the Board and all stakeholders to understand that CSXT is committed to our forest products customers. The majority of forest products move in boxcars, and we invest a substantial amount into boxcars. Between now and 2018, CSXT is investing in 1,150 boxcars that are a combination of 50-foot and 60-foot in length. We're always working to enhance and improve our overall service product to customers, and we've devoted a significant amount of resources to our first mile-last mile performance. The prospect of any additional regulation and artificial rate compression to today's market based rates threatens to dis-incentivize the progress and investments that we've made. This is an evolution that both railroads and our customers are proud of – let's not turn back the regulatory clock and introduce distortions to what is an efficient and highly competitive marketplace.

I greatly appreciate the opportunity to provide these comments, and would be glad to serve as resource in the future.

VERIFICATION

I, Michael Rutherford, declare under penalty of perjury that the foregoing is true and correct.

Executed on August 26, 2016

Michael Rutherford

THE DailyNews EST. MEMPHIS 1886

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M&A Speculation Directed at International Paper

By Andy Meek

It took just two words to send shares of Memphis-based International Paper as high as they've been all year.

The two words were "Takeover Target," and – along with a question mark to punctuate the phrase – they were the headline chosen by the financial publication Barron's to reflect what it said is chatter about the paper and packaging company looking like an acquisition target.

INTERNATIONAL PAPER

IP hasn't responded publicly to the speculation, which multiple sites including TheStreet.com have since run with, and the company did not respond to a request for comment from The Daily News. For its part, Barron's laid out a case via analyst Mark Wilde and his team from BMO Capital that noted privately held Koch Industries has been mentioned as a possible acquirer.

"The Kochs have been actively consolidating the forest products sector for more than a decade, with acquisitions in pulp, containerboard, bleached board, lumber, panels, gypsum wallboard, and oriented strand board," the BMO Capital team noted.

"A very big deal at an interesting point in the cycle? Despite evidence of reduced volatility, cyclical fears remain an overhang on most public companies. With a lengthening track record in the sector, the Kochs may be willing to take the other side of the argument."

IP, for its part, has been pursuing plenty of acquisitions of its own lately. Among the latest news on that front, IP announced earlier this month that the U.S. Justice Department is taking no action on the company's acquisition of the pulp business of Weyerhaeuser.

International Paper announced in May it had signed an agreement with Weyerhaeuser to buy five pulp mills and two converting facilities to produce different kinds of pulp for a number of consumer applications such as diapers, other hygiene products, tissue, and textiles. As a result of the deal, IP said it forecasts annual synergies of about $175 million by the end of 2018.

IP also earlier this year said it bought a newsprint mill in Madrid, Spain, with plans to covert the plant to produce recycled containerboard.

IP at the end of July reported a second-quarter profit that beat analysts' estimates, posting earnings of 92 cents a share where analysts were expecting 84 cents. Revenue for the quarter also beat expectations, with

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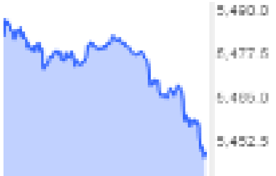

Real Time Updates

Symbol	Chg	Chg%	Last
Morningstar	-30.81	-0.56%	5,455.41
Small Cap	-72.38	-0.89%	8,062.92
Nasdaq			

the company's $5.32 billion for the quarter topping consensus forecasts of $5.27 billion.

"I am encouraged by how International Paper continues to consistently perform in a challenging and changing global environment," IP CEO Mark Sutton told analysts during the company's second-quarter earnings presentation on July 28. "Our focus is squarely on execution, from working closely with our customers to deliver superior value, to running and improving our operations, to driving cost out of our system and supply chain, all to maintain and improve margins, as you've seen IP do over the last several years.

"We're committed to strengthening our portfolio businesses and to increase the value of the company and ensure an attractive future for IP and our shareholders."

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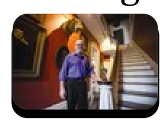
PROPERTY SALES	72	268	13,108
MORTGAGES	90	354	16,452
FORECLOSURE NOTICES	0	0	2,278
BUILDING PERMITS	264	613	28,363
BANKRUPTCIES	75	206	9,821
BUSINESS LICENSES	26	64	4,319
UTILITY CONNECTIONS	86	288	16,177
MARRIAGE LICENSES	13	61	3,437

Through the Lens





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