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January 21, 2015

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VIA HAND DELIVERY

The Honorable Cynthia T. Brown
Chief, Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
January 21, 2015
Part of
Public Record

Re: Finance Docket No. 35873, Norfolk Southern Railway
Company – Acquisition and Operation – Certain Rail Lines
Of The Delaware and Hudson Railway Company, Inc.

Dear Ms. Brown:

Enclosed for filing in the referenced proceeding on behalf of PPL EnergyPlus, LLC (“PPL”) please find (1) an original and ten (10) copies of the Highly Confidential Version of PPL’s Comments and Request for Conditions, submitted in accordance with the governing Protective Order; and (2) an original and ten (10) copies of the Public Version of the Comments and Request for Conditions.

Kindly date stamp the extra copies of this cover letter and the enclosed pleadings and return them to our messenger. Thank you for your attention to this matter.

Sincerely,



Kelvin J. Dowd
An Attorney for PPL EnergyPlus, LLC

KJD:lad
Enclosures



PUBLIC VERSION

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

NORFOLK SOUTHERN RAILWAY)	
COMPANY – ACQUISITION AND)	
OPERATION – CERTAIN RAIL LINES)	Finance Docket No. 35873
OF THE DELAWARE AND HUDSON)	
RAILWAY COMPANY, INC.)	

**COMMENTS AND REQUEST FOR
CONDITIONS OF PPL ENERGYPLUS, LLC**

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Dated: January 21, 2015

Attorneys for PPL EnergyPlus, LLC

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

NORFOLK SOUTHERN RAILWAY)	
COMPANY – ACQUISITION AND)	
OPERATION – CERTAIN RAIL LINES)	Finance Docket No. 35873
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RAILWAY COMPANY, INC.)	
)	

**COMMENTS AND REQUEST FOR
CONDITIONS OF PPL ENERGYPLUS, LLC**

In accordance with the Board decisions served December 16, 2014 and January 14, 2015 in this proceeding, and 49 U.S.C. §11324(c), PPL EnergyPlus, LLC (“PPL”), a party of record, submits these Comments and Request for Conditions concerning the proposed acquisition and operation by Norfolk Southern Railway (“NS”) of a total of 282.55 miles of rail line and related facilities roughly between Sunbury, PA and Schenectady, NY, that currently are owned and operated by Delaware and Hudson Railway, Inc. (“D&H”), a wholly-owned, indirect subsidiary of Canadian Pacific Railway Company (“CP”), and certain related transactions proposed between NS and D&H/CP.¹

PPL submits that the Board should condition any approval of NS’ acquisition of the D&H South Lines on its agreement to preserve PPL’s access to

¹ Herein, “D&H South Lines” shall refer to the property that is the subject of NS’ Application for acquisition and operation in this proceeding. “Southern Tier Lines” refers to the NS line between Buffalo and Binghamton, NY, over which CP currently has haulage rights that NS and D&H propose to cancel as part of the subject transaction. *See* Application, p. 10, n.3.

potential alternative rail transportation service to the Montour Generating Station near Sunbury, access which otherwise would be lost as a result of the subject transition. Specifically, the Board should impose post-acquisition conditions under 49 U.S.C. §11324(c), mandating that NS (1) enter into appropriate agreements with PPL and CSX Transportation, Inc. (“CSXT”) for trackage or haulage rights on reasonable terms over the D&H South Lines for loaded and empty trains moving between points served by CSXT and the Montour Station; and (2) enter into a new or an extended trackage or haulage rights agreement with CP on reasonable terms over the Southern Tier Lines, for the handling of loaded and empty trains moving via Buffalo, NY between points served by CSXT and/or CP and the Montour Station. These Comments and Request for Conditions are supported by the accompanying Verified Statements of Henry W. Baumann, PPL’s Director of Coal Purchasing and Transportation, and Thomas D. Crowley, President of L.E. Peabody & Associates, Inc.

In support hereof, PPL shows as follows.

BACKGROUND

PPL is a principal subsidiary of PPL Energy Supply, LLC, which in turn is an indirect wholly-owned subsidiary of PPL Corporation, an energy and utility holding company headquartered in Allentown, PA. Through its subsidiaries, PPL Corporation owns or controls about 18,000 megawatts of electric generating capacity, delivers electricity to about 10,000,000 customers in the United States and the United Kingdom, and markets wholesale and retail energy in the United States. A PPL affiliate and subsidiary of PPL Energy Supply – PPL Generation, LLC – owns and operates the

Montour Station. PPL's responsibilities include the marketing of generation from Montour, the procurement and transportation of fuel for the Station.

The Montour Station is located in Washingtonville, Montour County, PA, approximately 20 miles north of the town of Sunbury. It includes two (2) coal-fired steam units with a combined generating capacity of about 1550 megawatts.

Approximately 180 people are employed at Montour, which consumes between 3.0 and 3.7 million tons of coal each year. Montour can utilize coal from a large number of mines in Appalachia and the Illinois Basin. However, its principal, current sources are in Western Pennsylvania, Northern West Virginia and Eastern Ohio, which are served by NS or short line railroads that connect with NS for the line haul service to Montour. V.S. Baumann, p. 2.

Coal is transported to Montour by rail, typically in unit trains of up to 130 PPL-supplied railcars. Currently and for many years prior, NS has been the sole provider of coal transportation delivery service to Montour, as it is the only railroad that has tracks which physically connect to the delivery loop at the Station. Occasionally, some coal used at Montour originated at mines served by CSXT, and was interchanged to NS at Lurgan, PA for delivery to Montour. However, NS strictly limited the volumes that PPL could transport in this manner, and as noted above, the preponderance of the Eastern coal shipped to Montour originates on NS or its short line connections.

As shown in the Application,² the D&H South Lines connect with the existing NS system near Sunbury, PA, and run generally north-by-northeast through Scranton, PA, Binghamton, NY and Oneonta, NY to Schenectady. At Schenectady, the lines connect through various yards and switching tracks with the remainder of the CP system in New York. However, they also permit the handling of trains in interchange to and from CSXT, which owns and operates the former Consolidated Rail Corporation lines between the Albany area and, *inter alia*, Buffalo, NY and Cleveland, OH and (via CSXT's own lines and trackage rights over those of NS) on to Chicago.

The Application also shows that the D&H South Lines connect at Binghamton, NY with the NS Southern Tier Lines, which run northwest to Buffalo, NY. Prior to 2005, D&H had trackage rights over the Southern Tier Lines as a result of the "Final System Plan" developed by the U.S. Railway Association in the 1970s as part of the process leading to the creation of Conrail. However, in that year, with the Board's approval, those trackage rights were discontinued as part of a series of transactions involving NS, D&H and CP.³ In their place, also with the Board's endorsement, NS and D&H/CP entered into a haulage rights agreement to preserve the latter's ability to, *inter alia*, move freight between the D&H South Lines and connections with the rest of the CP

² Vol. I, Exhibit 1, p. 105.

³ *Delaware and Hudson Railway Company, Inc. – Discontinuance of Trackage Rights – In Susquehanna County, PA and Broome, Tioga, Chemung, Steuben, Allegany, Livingston, Wyoming, Erie and Genesee Counties, NY*, STB Docket AB-156 (Sub-No. 25X)(STB served January 19, 2005)(*"D&H Discontinuance"*).

system, and CSXT, at Buffalo.⁴ That agreement currently is in effect, but according to the Application would be cancelled as part of the transactions that are the subject of this proceeding.

Before the acquisition and other transactions that are described in the Application, shippers with access to the D&H South Lines have routing options to connect with CSXT and with CP, for the movement of traffic to or from points west and southwest of the PA/NY region that the D&H South Lines traverse. In PPL's case, these include both CSXT-served coal origins in Northern Appalachia and the Illinois Basin, and the Chicago area interchanges with the Western railroads. Both NS and D&H/CP tacitly recognize this fact, as they propose to enter into what is designated as a Direct Short Line Access Agreement⁵ as part of the transactions at issue in this proceeding. Under this arrangement, after its acquisition of the D&H South Lines NS will provide haulage service at agreed-upon charges for CP's account between various shortline junctions on those Lines, and/or lines currently operated by NS, and the Schenectady area, to preserve these carriers' and their customers' access to the CP system (including CP's connections to CSXT) following NS' takeover.⁶

As noted *supra*, PPL's Montour Station currently is served exclusively by NS, and relies on Eastern coal from NS-served or controlled origins for its fuel.

⁴ *Id.* at 10-11.

⁵ *See* Application, Vol. II, p. 114.

⁶ Somewhat ironically, this is the same type of arrangement to preserve market access for D&H/CP and shippers that benefit from that access that NS successfully promoted in *D&H Discontinuance*, and which it now proposes to terminate.

However, as discussed in the accompanying Verified Statement of Mr. Baumann, PPL's long-term fuel strategy includes both consideration of expanding the scope of its Eastern coal sources to include origins served by CSXT, and the prospect that lower sulfur Western coal may come into use at Montour. PPL has investigated and identified a feasible "build out" option from Montour to a point on the D&H South Lines, through which PPL could access CP/CSXT service for the delivery of coal from new Eastern or Western origins. The most direct routing would utilize CP's haulage rights between Buffalo and Binghamton, though the coal also could be routed via CSXT to the Schenectady area, thence south on the D&H South Lines. As Mr. Baumann explains, PPL retained consultants in 2013 to explore alternative routings for a new connecting line between Montour and the D&H South Lines. V.S. Baumann, p. 3. That analysis, which is described in detail in the accompanying Verified Statement of Thomas D. Crowley, concluded that it would be feasible to construct a 17-mile connection from Montour to Jerseytown, PA, thence along an abandoned former railroad right-of-way and parallel to NS' existing tracks to Bloomsburg, thence over a new or refurbished bridge to the CP line along the Susquehanna River.⁷ This potential alternative for Montour access to CSXT and/or CP service for Eastern or Western coal would be foreclosed were NS to acquire the D&H South Lines and consummate the other, related transactions as proposed in the Application.

⁷ See V.S. Crowley, p. 7-8 and Exhibit 4.

COMMENTS

The NS Application contains numerous representations concerning the alleged public benefits associated with the subject transactions, including halting the decline in traffic on and investment in the D&H South Lines; the enhancement of competition between NS and other railroads and transportation modes in the Northeast; and the protection of railway workers' jobs. *See* Application, Vol. I, p. 13, 19-23. PPL takes no position on those questions. However, PPL *does* dispute another, related assertion made in the Application: that the transactions “will have no anticompetitive effects”⁸ that would not be ameliorated by the two agreements that NS and D&H propose to enter at closing to preserve existing contract rights and short line connections. *Id.* at 11 n. 6, 17-19, 41. In fact, the proposed transaction *would* adversely affect PPL's potential transportation options⁹ in a manner which is not accounted for in the Application and the proposed NS/D&H agreements, and which applicable Board precedent and 49 U.S.C. §11324(c) require be addressed through appropriate, effective conditions.

⁸ *See* Application, Vol. I, p. 38.

⁹ It is premature at this time to speculate whether the potential alternatives would come to represent “effective competition” for NS' current coal service, as that term generally is understood for the purpose of STB regulatory jurisdiction over rail rates. *See* 49 U.S.C. §10709. *Inter alia*, such relevant factors as the future cost of transportation via CSXT and/or CP, the amortization of the cost of construction of new rail infrastructure, and other elements cannot be known with any certainty at this time. For purposes of this proceeding, however, it suffices that PPL has a physically feasible construction option that potentially offers alternative transportation arrangement which would be foreclosed by the subject transaction. *See, e.g., Union Pacific Corp. – Control and Merger – Pacific Rail Corp.*, STB Finance Docket No. 32760, Decision No. 76 (STB served August 12, 1996) at 146.

NS' claims regarding the effects of the subject transactions on competition are based mainly on the analysis performed by its witness, Dr. Curtis Grimm.¹⁰ While Dr. Grimm describes his assignment as one "to identify and discuss the potential 2-1 intramodal competitive impacts of the asset purchase agreement,"¹¹ and he states that he was "directed to take the broadest possible view of competition"¹² in completing it, he does not appear to have incorporated potential "build-ins" from or "build-outs" to the D&H South Lines into his analysis, and certainly did not examine the PPL build-out alternative described *supra*.

Consistently in prior decisions considering the approval of acquisition or control transactions that are subject to its jurisdiction under 49 U.S.C. § 11323, *et seq.*, the Board has affirmed that so-called "2 to 1" shippers include parties that may have feasible options to construct new rail lines to access alternative service by one of the parties to the transactions at issue. *See, e.g., Union Pacific Corp. – Control and Merger – Southern Pac. Rail Corp.*, 1 S.T.B. 233, 390-393, 420, 469-479 (1996); *Burlington Northern Inc. – Control and Merger – Santa Fe Pac. Corp.*, 10 I.C.C. 2d 661, 744-745, 781 (1995). The Board likewise has held that its conditions authority – and responsibility – under Section 11324(c) applies equally both to "major" and "minor" transactions, as defined in

49 C.F.R. Part 1180.2. *See Canadian National Ry. – Control – Wisconsin Central*

¹⁰ *See, e.g., Application, Vol. I, pp. 38-41.*

¹¹ *Application, V.S. Grimm, p. 4 of 15.*

¹² *Id.*

Transp. Corp., STB Finance Docket No. 34000 (STB served September 7, 2010) at 10, n. 18, and 27.

While the Board's precedents do not require proof of feasibility in order for a shipper with a build-out option to qualify for 2 to 1 protection,¹³ the evidence and testimony submitted by PPL clearly demonstrate that construction of a new connecting track to link Montour to the D&H South Lines is a *bona fide* potential option currently available to PPL, an option that would become meaningless in the event of an unconditioned acquisition of the Lines by NS and the cancellation of the NS-CP Buffalo-Binghamton haulage agreement. Over a year before NS' ambition to purchase the Lines was announced, PPL's experts identified a routing, assessed the engineering and construction parameters of the project, and developed detailed cost estimates. *See* V.S. Crowley, p. 9-12. As Mr. Baumann of PPL explains, the purpose of the analysis was to begin in earnest the process of accessing rail alternatives to NS for future transportation from CSXT-served Eastern mines and Western coal origins to the Montour Station. V.S. Baumann, p. 2-3. Under established precedent, PPL qualifies as a 2 to 1 shipper that would suffer a loss of its potential alternatives as a direct result of the proposed transactions. *CSX Corp. – Control and Operating Leases/Agreements – Conrail Inc.*, 3 S.T.B. 196, 319-320 (1998); *Burlington Northern Inc.*, 10 I.C.C. 2d. at 744-745. Those

¹³ *See Union Pacific Corp.*, Decision No. 76 (STB served August 12, 1996) at 146 (“we further clarify that a shipper invoking this procedure need not demonstrate economic feasibility; the only test of feasibility is whether the line is actually constructed.”).

same precedents make it equally clear that the Board should exercise its authority under 49 U.S.C. §11324(c) to impose conditions to remediate these adverse impacts. *Id.*; *Union Pacific Corp.*, 1 S.T.B. at 469, 473.

REQUEST FOR CONDITIONS

The standard conditions imposed by the Board on transactions approved under 49 U.S.C. §11323, *et seq.* in order to ameliorate the threatened loss of potential transportation alternatives by a “2 to 1 shipper” are requirements that a third rail carrier not affiliated with the parties to the subject transactions be granted trackage rights, on reasonable terms, over the lines of one or both carriers as necessary to preserve the shipper’s prospective options. *Union Pacific Corp.*, 1 S.T.B. at 469, 473; *Burlington Northern Inc.*, 10 I.C.C. 2d at 744, 781-782. *See also, Conrail*, 3 S.T.B. at 319-320. Where circumstances indicate superior practicability, however, the Board also has prescribed an alternative: mandatory haulage rights, also on reasonable terms, to allow the shipper to receive trains from and tender trains to the third carrier via service from one of the parties to the transaction. *Id.*, 3 S.T.B. at 282-283.

As noted *supra*, NS and D&H have acknowledged that there are some current shippers and connecting short line railroads that would lose alternative routing options as a result of NS’ acquisition of the D&H South Lines,¹⁴ and have committed to enter into a “Direct Short Line Access Agreement” whereunder NS will provide haulage service for CP/D&H’s account over the Lines, in order to preserve those shippers’ and

¹⁴ *See, e.g., Application*, Vol. I, p. 18-19.

short lines' options.¹⁵ According to the text of that Agreement, the parties chose haulage rather than trackage rights because the "low volumes [of CP/D&H traffic] likely to move" made haulage more economically viable.¹⁶ However, by including the Agreement in the transaction, both NS and D&H effectively have stipulated that shippers faced with a loss of potential alternatives should be protected. As demonstrated herein, PPL is one such shipper.

According to maps and other documents included in the NS Application, the D&H South Lines connect at several points in the Albany/Schenectady/ Selkirk area to tracks operated by CSXT, including the South Schenectady Yard and the D&H connection at "CP-VO," both on CSXT's Selkirk's Branch. Other points of connection also may exist, which could be more effective or efficient. Were PPL to construct the track linking Montour to the D&H South Lines, the annual traffic volumes that could be delivered via the Albany/Schenectady/Selkirk area from points served by CSXT easily would be sufficient¹⁷ to support trackage rights in CSXT's favor to allow for direct service to Montour, rather than haulage by NS following an interchange with CSXT. As it is the Board's established policy to mandate Section 11324(c) conditions somewhat generally in the first instance, and allow the involved parties an opportunity to negotiate implementing details (*e.g.*, build-out points, interchange points, trackage rights or

¹⁵ Application, Vol. II, p. 114.

¹⁶ *Id.*

¹⁷ As noted *supra*, annual coal consumption at Montour can approach 3.7 million tons.

haulage compensation, etc.) before prescribing them,¹⁸ PPL requests that the Board first condition NS' acquisition of the D&H South Lines on NS negotiating an agreement or agreements with CSXT and PPL, as appropriate, for trackage or haulage rights, unrestricted as to scope or duration, to permit the efficient movement of loaded and empty trains over the D&H South Lines to and from the Montour Station, contingent only on PPL's construction of a connecting track linking the Lines to Montour. *Conrail*, 3 S.T.B. at 283. If NS, CSXT and PPL cannot reach agreement within a reasonable period of time as determined by the Board, then the Board would retain jurisdiction to open a proceeding to decide any relevant matters that remain unresolved. *Id.*

The second condition that PPL submits the Board should impose is a requirement that NS negotiate a new haulage agreement with CP for PPL traffic that is routed via Buffalo and Binghamton, NY, for delivery to Montour over a new track connecting to the D&H South Lines. While technically the Board does not have approval authority over the planned termination of the D&H/CP-NS agreement that currently is proposed by those parties,¹⁹ the STB has recognized that haulage rights can be used to mitigate the adverse impacts of a transaction that *is* subject to its approval authority,²⁰ as is the case with NS' acquisition of the D&H South Lines. The Buffalo-Binghamton

¹⁸ *Union Pacific Corp.*, 1 S.T.B. at 470-471; *Burlington Northern Inc.*, 10 I.C.C. 2d at 744-745.

¹⁹ *KNRECO, Inc. d/b/a Keokuk Junction Railway – Acquisition and Operation Exemption – The Atchison, Topeka and Santa Fe Railway Company*, ICC Finance Docket No. 30918 (ICC served Apr. 28, 1988), *aff'd sub nom., Simmons v. ICC*, 871 F. 2d 702 (7th Cir. 1989).

²⁰ *D&H Discontinuance*, at 11. *See also, Conrail*, 3 S.T.B. at 282-283.

routing is shorter than a movement to Montour via Albany/Schenectady/Selkirk, both for CSXT-origin Eastern coal shipments and Western coal shipments from Chicago, and previously has been proposed by CP to PPL for Western coal shipments. *See* V.S. Baumann, p. 3. At this time, it cannot be determined which of the two routings would prove most effective over the long term, and it is quite plausible that each would be used for different traffic (*e.g.*, the Buffalo-Binghamton route for Eastern coal, and the Albany/Schenectady/Selkirk route for Western coal). Should one come to predominate for both types of traffic, the Board always could reconsider continuance of the other upon an appropriate petition. For present purposes, however, precedent supports adopting both and allowing PPL the option to select between them once the connecting track is in place. *Conrail*, 3 S.T.B. at 320 and n. 180.

The PPL conditions described above meet the well-established legal standard governing the imposition of conditions under Section 11324(c): (1) they will ameliorate harmful effects of the proposed transaction – the foreclosure of potential transportation alternatives currently available to PPL; (2) they are feasible, as the evidence submitted by PPL and the NS/D&H Direct Shortline Access Agreement demonstrates;²¹ (3) there is a direct nexus between the subject transactions and the harm addressed; (4) the conditions are narrowly tailored to remediate that harm; and (5) they will not put PPL in a better position than it occupies today, as they will preserve existing

²¹ A CP-NS haulage agreement between Buffalo and Binghamton obviously is feasible, as one actually has been in place since 2005.

potential options rather than create new ones. *See Burlington Northern Inc.*, 10 I.C.C. 2d at 729-730; *Union Pacific – Control – Missouri Pacific, Western Pacific*, 366 I.C.C. 462, 562-565 (1982). Moreover, no credible case can be made that they would detract in any meaningful way from the enumerated benefits that NS asserts will result from the transaction. *See Application*, Vol. I, p. 19-23. Indeed, a major feature of NS' justifications both for acquisition of the D&H South Lines and termination of the Buffalo-Binghamton haulage agreement with D&H/CP is the excess capacity that characterize both routes,²² a circumstance which would be improved markedly by the introduction of PPL's Montour coal traffic. PPL's entitlement to relief is clear.

CONCLUSION

Based upon the foregoing, and the accompanying Verified Statements, the Board should condition approval of NS' acquisition of the D&H South Lines on (1) negotiation of appropriate agreements among NS, CSXT and PPL for the granting of trackage or haulage rights over the Lines in favor of CSXT to PPL's Montour Station, should PPL construct a new connecting line between the Station and the D&H South Lines, as further detailed herein and subject to the Board's continued supervisory jurisdiction; and (2) negotiation of appropriate agreements among NS, CP and PPL for the granting of haulage rights over the NS lines between Buffalo and Binghamton, NY, and over the D&H South Lines to Montour, should PPL construct the new connecting line, again subject to the Board's continued supervisory jurisdiction. The Board also

²² *See Application*, Vol. I, p. 10-14, 19-22.

should grant such other and further relief to PPL as may be appropriate based on the full record of this proceeding.

Respectfully submitted,

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Dated: January 21, 2015

Attorneys and Practitioners

VERIFIED STATEMENT
OF
HENRY W. BAUMANN

I am Henry W. Baumann, and my business address is Two North Ninth Street, Allentown, PA 18101. I am Director of Coal Purchasing and Transportation for PPL EnergyPlus, LLC (“PPL”). My area of responsibility includes fuel supply and transportation arrangements for the Montour Generating Station at Washingtonville, PA.

PPL is a subsidiary of PPL Energy Supply, LLC, an energy company primarily engaged in the generation and marketing of electricity in two key markets: the Northeastern and Northwestern United States. Another PPL Energy Supply, LLC subsidiary – PPL Generation, LLC – is the actual owner and operator of the Montour Station. PPL markets electricity from Montour, and manages fuel supply and transportation for the Station. PPL’s ultimate parent is PPL Corporation, an energy and utility holding company incorporated in 1994 and headquartered in Allentown. Through its various subsidiaries, PPL Corporation owns or controls approximately 18,000 megawatts of generation capacity in the Northeast, Northwest and Midwest United States; delivers electricity and natural gas to about 10,000,000 customers in Pennsylvania, Kentucky, Virginia and Tennessee, and in the United Kingdom; and markets wholesale and retail energy in the United States.

The Montour Station in Washingtonville, PA consists of two coal-fired units, with a combined generating capacity of about 1550 megawatts. At full capacity,

the Station can consume almost 12,500 tons of coal each day, or approximately 3.0 to 3.7 million tons each year. PPL has made arrangements for, and Montour has utilized coal from a variety of sources in Appalachia and the Illinois Basin. Most recently and currently, coal sourced for Montour originates in Western Pennsylvania, Northern West Virginia, and Eastern Ohio. Because of the coal volumes involved, the distance they must travel to Montour, and general geography, coal consumed at the Station is transported by rail.

Norfolk Southern Railway (NS) is the only railroad with tracks that serve the Montour Station, and as a consequence, virtually all of the coal used at Montour originates on NS, or on the lines of shortline or regional railroads that hand the trains off to NS for the line-haul move to Montour. PPL coal generally moves in PPL-supplied railcars in 130-car unit trains. For many years, NS also has controlled the transportation contracting process on behalf of the participating carriers.

While Montour historically has depended on coal from NS-served Eastern sources, changes in environmental laws, the overall regulatory and competitive regimes in which PPL and its parent and affiliates' utility assets must operate, the availability and cost of alternative fuels, and shifting consumer demands all compel PPL to take a more expansive view of its future fuel strategy. As part of this process, PPL has given serious consideration and attention for several years both to the prospect of increasing the number of different Eastern coal sources that we can use to include origins served by CSX Transportation, Inc. ("CSXT") and its shortline connections, and to the introduction of lower cost, less environmentally-challenging Western-sourced coal at Montour.

Rail transportation of coal from Western origins – such as the Powder River Basin in Wyoming – to Pennsylvania necessarily would involve service by at least two carriers: BNSF Railway or Union Pacific Railroad from the mines to a Midwestern interchange hub; and one or more Eastern railroads for the delivery leg. Obviously, NS could perform the latter service, as it has lines that reach common interchange points such as Chicago, and it is the railroad that currently has tracks to the Montour Station. However, PPL actively has considered whether an alternative delivery arrangement also might be feasible, as CSXT and the CP Rail System also interchange with the Western railroads in the vicinity of Chicago. CSXT has connections in the Albany/Schenectady/Selkirk, NY area with the Delaware & Hudson (CP) lines that run to Sunbury, PA, which is about 20 miles from Montour. CP also currently has rights to haulage service over NS from Buffalo to Binghamton, where NS connects with the D&H/CP lines south to Sunbury and north to Schenectady. As recently as 2013, we engaged in discussions with CP concerning its use of the haulage rights to deliver Western coal from a Chicago interchange via Buffalo.

To access CP for potential coal deliveries to Montour (either from CSXT-served Eastern origins or interchanges with the Western railroads near Chicago), PPL recognized that new track construction from the Station to the CP/D&H lines between Schenectady and Sunbury would be required. Early in 2013, therefore, PPL engaged L.E. Peabody & Associates, a consulting firm, to perform a study of the feasibility of constructing a connecting track from the Montour delivery loop to the CP/D&H lines. Mr. Thomas D. Crowley, President of L.E. Peabody & Associates, has submitted a

Verified Statement in this proceeding that details the method used by his firm in carrying out this assignment. As he discusses, the analysis identified a feasible routing from the Station to a point on the CP/D&H line near Bloomsburg, PA. Were PPL to construct the line under current circumstances, it would have alternatives to NS for delivery of trains to Montour, via the interchange between CSXT and CP near Schenectady, NY, and via CP from Buffalo using its haulage rights to Binghamton. If NS acquires the CP/D&H lines between Schenectady and Sunbury and cancels the haulage arrangement between Buffalo and Binghamton, as I understood they have proposed in this proceeding, however, those potential alternatives would be lost.

VERIFICATION

I, Henry W. Baumann, verify under penalty of perjury that I have read this Verified Statement on behalf of PPL EnergyPlus, LLC, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this Statement.



Henry W. Baumann

Executed on 1/13/15

PUBLIC VERSION

BEFORE THE
SURFACE TRANSPORTATION BOARD

NORFOLK SOUTHERN RAILWAY)
COMPANY – ACQUISITION AND)
OPERATION – CERTAIN RAIL)
LINES OF THE DELAWARE AND)
HUDSON RAILWAY, INC.)

Finance Docket No. 35873

Verified Statement

of

Thomas D. Crowley
President

L. E. Peabody & Associates, Inc.

On Behalf of

PPL EnergyPlus, LLC

Due Date: January 15, 2015

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LIST OF EXHIBITS

Exhibit No.	Exhibit Description
(1)	(2)
1	Thomas D. Crowley Qualifications
2	Map of Area Around Montour Plant
3	Map of the Proposed Rail Line From Montour Plant to CP
4	Pictures of the Area Along the Proposed Route for Montour
5	Estimated Costs to Construct Track From PPL's Montour Plant to a Connection With the CP at Bloomsburg PA – 1Q13

I. INTRODUCTION

My name is Thomas D. Crowley. I am an economist and President of the economic consulting firm of L. E. Peabody & Associates, Inc. The Firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, VA 22314, 760 E. Pusch View Lane, Suite 150, Tucson, AZ 85737 and 21 Founders Way, Queensbury, NY 12804. A copy of my qualifications and experience is attached to this Verified Statement as Exhibit No. 1.

This Verified Statement addresses the feasibility of constructing rail lines to provide alternative railroad access to the Montour Power Plant ("Montour"), which is operated by an affiliate of PPL EnergyPlus, LLC ("PPL"). Montour is located in Washingtonville, PA, approximately 20 miles north of Sunbury, PA. Rail service to Montour currently is provided only by Norfolk Southern Railway Company ("NS"). NS delivers coal in unit train service to Montour. The normal train size consists of 130 rail cars.¹ Annual coal volume delivered to the plant can be as much as 3.5 million tons.

L. E. Peabody & Associates, Inc. reviewed the existing rail facilities at Montour to determine the feasibility of constructing rail lines that would access a railroad other than NS. The feasibility of constructing a rail line that would connect Montour with the Canadian Pacific Railway Company ("CP") between Sunbury, PA and Scranton, PA was analyzed. The Montour Plant is located on the north side of the Susquehanna River. Between Sunbury and Scranton, the CP rail line traverses the south side of the Susquehanna River, necessitating the construction of a new bridge, or rehabilitation of an existing bridge, to access the CP.

To gain an understanding of the Montour Plant, the current rail access and potential alternative rail routes, L. E. Peabody & Associates, Inc. conducted a field study on March 18 and

¹ Historically, some of the coal purchased by PPL for Montour originated on CSX Transportation Inc. ("CSXT") and was delivered by NS. The train size for these shipments was limited to 105 cars per train.

March 19, 2013.² With this information, along with L. E. Peabody & Associates, Inc.'s experience in the design and operation of rail facilities, four (4) potential alternative routes were examined for CP to gain access to Montour. Exhibit No. 2 to this Verified Statement is a map showing the area around Montour, including the NS rail lines.

As part of our evaluation, potential routes were excluded if the terrain was too onerous to construct a rail line, the distance made the route unreasonable or the potential route would present excessive interference with the existing NS right-of-way. In this manner, the most feasible new rail line route was determined. Based on this potential route, the construction costs to build the rail line, at first quarter 2013 ("1Q13") wage and price levels, were calculated. The procedures followed to determine the preferred and most feasible alternative route and the methodology to develop the construction costs are discussed in the remainder of this Verified Statement and supporting Exhibits under the following topical headings:

- II. Summary and Findings
- III. Proposed Rail Line for Montour
- IV. Development of Construction Costs

² L. E. Peabody & Associates, Inc. was assisted in the field study and subsequent analyses by Mr. Richard McDonald, president of RHM Consulting, Inc.

II. SUMMARY AND FINDINGS

L. E. Peabody & Associates, Inc. was requested to determine the route for the most feasible rail lines to provide alternative rail access to the Montour Plant. A summary of the results of our analyses is set out below:

1. The guidelines for constructing the proposed rail lines follow the specifications needed to handle unit trains. The right-of-way was determined to equal, on average, 100 feet, with a 24-foot roadbed. Grades for the proposed lines were limited to a maximum of a one (1) percent grade in the loaded direction and a 1.5 percent grade in the empty direction.³ Curves were anticipated to be no greater than three (3) degrees. For the track structure, 136 pound continuously welded rail (“CWR”) was selected.
2. The proposed rail line will move east from the plant, on a course that is south of the NS rail line between Washingtonville and Jerseytown, PA. The rail line will continue east following the abandoned rail line of the former Pennsylvania Railroad (“PRR”). Near Route 42, the rail line will turn south, following the PRR route. Upon arriving in Bloomsburg, PA, the rail line will go under Interstate Highway 80 adjacent to the stream named Fishing Creek. In Bloomsburg, the rail line will move west, crossing Highway 11 at grade. From there, the rail line will parallel the NSR rail line until reaching the abandoned bridge that crosses the Susquehanna River and connect to the CP. The proposed rail line will utilize a bridge in the same location and of similar size and design as the bridge that currently connects to the CP. The proposed route, which equals 17.17 miles, is shown in Exhibit No. 3 to this Verified Statement.
3. Table 1 below summarizes the length of the proposed rail line and the estimated construction costs. The proposed rail line connecting to CP at Bloomsburg, PA equals 17.17 miles and the estimated construction costs equal { }. The construction costs per mile equal { }.

³ A 1.0 percent grade equals a change in the elevation of the rail line of 1 foot per 100 feet of track. A 1.5 percent grade equals a change in the elevation of the rail line of 1.5 feet (18 inches) per 100 feet of track. Trains moving towards the plant reflect the loaded direction and trains leaving the plant represent the empty direction.

Table 1
Summary of Estimated Construction Costs of the
Proposed Rail Line to the Montour Plant – 1Q13

<u>Item</u>	<u>Montour</u>
(1)	(2)
1. Estimated Construction Costs	{ }
2. Length of Rail Line - Miles	17.17
3. Construction Costs Per Mile (L1 / L2)	{ }

Source: Exhibit No. 5.

4. Estimated costs are subject to {
}
5. The costs calculated in this Verified Statement do not include costs associated with environmental studies or permits, legal fees or regulatory approvals, if required.

The details supporting this summary and findings are discussed in the remainder of the text and Exhibits supporting this Verified Statement.

III. PROPOSED RAIL LINE FOR MONTOUR

The Montour Plant is located in Washingtonville, PA, approximately 20 miles north of Sunbury, PA. NS's access to the Montour Plant is via the rail line that follows the West Branch of the Susquehanna River to Watsonstown, PA where the rail line moves easterly to the Montour Plant and beyond to Jerseytown, PA. In order to access the CP, any proposed rail line must cross the Susquehanna River between Sunbury, PA and Wilkes Barre, PA.⁴ Because NS traverses the north side of the Susquehanna River from Sunbury to Beach Haven, PA, a rail line constructed from CP to Montour must cross NS at some point.

The development of the proposed rail line from the Montour Plant to connect to the CP is discussed under the following topics:

- A. Potential Routes
- B. Description of Proposed Route

A. POTENTIAL ROUTES

Understanding the potential routes from Montour to the CP began with a review of the layout and operations at the Montour Plant. Based on the location of the Montour Plant and the CP rail line, four (4) options were reviewed. Each option is discussed below.

1. Potential Route No. 1

This route would run west from the plant towards Watsonstown, PA or Milton, PA and then head south along the West Branch of the Susquehanna River. The rail route will be on the western side of the hill named Montour Ridge.⁵ After going around Montour Ridge, the rail line would turn east to avoid the residential areas of Sunbury, PA and then turn south to cross the Susquehanna River to connect to the CP.

⁴ At Wilkes Barre, PA, the CP rail line is on the north side of the Susquehanna River for a short distance, in an urban area, and then crosses back to the south side of the river until Scranton, PA.

⁵ Montour Ridge is a large hill with steep grades. The peak is at approximately 1425 feet above sea level. By way of contrast, the elevation for the Montour Plant equals 538 feet above sea level.

2. Potential Route No. 2

A second potential route would run generally south through the hills to Danville, PA, where the rail line would cross the river to connect to the CP.

3. Potential Route No. 3

This route would run generally east, parallel to NS to Jerseytown, PA. From there, the rail line would follow the abandoned rail line of the former PRR to Evers Grove, PA where the rail line would turn south, parallel to Route 42, to Bloomsburg, PA. At Bloomsburg, the rail line will go under Interstate Highway 80, adjacent to Fishing Creek, cross NS and connect to CP at a location where an out-of-service rail bridge now stands.

4. Potential Route No. 4

The fourth route examined would head east, parallel to NS to Jerseytown, PA and then follow the abandoned PRR line to Evers Grove, PA. From there, the rail line would head easterly to connect to CP at Wilkes Barre, PA.⁶

All of these routes were reviewed as part of our field study. The results of this review led to the following conclusions:

1. For Potential Route No. 1, we found that {
is slightly less mileage (14.6 miles) than the proposed route (17.17 miles), {
route also would require an overpass near Milton, PA to cross Interstate Highway 80. } This
2. For Potential Route No. 2, {
north of Danville, PA. }
3. Potential Route No. 3 requires following an abandoned rail line and re-establishing a rail line in Bloomsburg, PA. While there are some small, older houses, they have modest prices. Additionally, the abandoned rail route allows

⁶ An easterly route also could connect to CP east of Beach Haven, PA in Wapwallopen, PA. While this route eliminates crossing NS, the terrain is more rugged than other routes and a bridge is still required to connect to CP.

the space needed to grade the route to the specifications required for a unit train. The potential also exists to utilize part or all of the abandoned bridge over the Susquehanna River to connect to CP.

4. Potential Route No. 4 requires a rail line of over 40 miles to Wilkes-Barre, PA, through rugged terrain, with the only benefit being the elimination of a bridge to cross the Susquehanna River. The route is the longest and least desirable of the potential routes reviewed.

Based on the above information, Potential Route No. 3 was selected as the preferred, most feasible option. The relatively favorable terrain and the benefit of the use of an abandoned rail line for a significant portion of the route create advantages for this route when compared to the alternatives.

B. DESCRIPTION OF PROPOSED ROUTE

The proposed route is designed to minimize the distance to CP while avoiding, as much as possible, hills and residential areas. The general criteria for the construction would be a grade of not more than one (1) percent in the loaded direction of the trains and not more than 1.5 percent in the empty direction. A detailed map of the proposed route is shown on Exhibit No. 3 to this Verified Statement. Pictures along the proposed route for the Montour rail line are shown in Exhibit No. 4 to this Verified Statement. Starting at the plant and moving east, the description of the proposed route is as follows:

1. The rail line will exit the loop track at Montour and cross Strawberry Ridge Road. The rail line will parallel the NS rail line approximately ¼ mile south of the NS line.
2. At Jerseytown, PA, the rail line will cross Route 44 and follow the former PRR route to Evers Grove, PA.
3. At Evers Grove, PA, the rail line will turn south and generally follow Route 42 and Little Fishing Creek.
4. Before arriving at Bloomsburg, PA, the rail line will continue to follow Little Fishing Creek and go under Interstate Highway 80, approximately 0.75 miles east of exit 232.

5. Following Fishing Creek, the rail line will enter Bloomsburg, PA parallel to West 1st Street, crossing Route 11 at the southern end of town.
6. The rail line will traverse the open area in Bloomsburg that currently is used occasionally as fairgrounds. At this point, the rail line will cross NS and Fishing Creek near West Fort McClure Boulevard.
7. The rail line then will parallel NS until it reaches the rail bridge that crosses the Susquehanna River, and connect to the CP.

In addition to {

} . For at-grade crossings

with limited traffic, railroad warning signs, called cross bucks, would be placed in both directions. For the crossings at Route 44, Route 42 and Route 11, electronic flashers with gates would be erected in both directions.

IV. DEVELOPMENT OF CONSTRUCTION COSTS

The construction costs for the preferred alternative rail route proposed for Montour are based on the requirements to handle unit trains at annual volumes of at least the level that PPL is currently receiving at the plant. The right-of-way width, on average, equals 100 feet. As noted above, the grades in the loaded direction are limited to a positive (ascending) one (1) percent and a negative (descending) 1.5 percent in the empty direction.⁷ Curves would be limited to three (3) degrees. The rail line would be constructed with 136 pound rail, with ties spaced 20.5 inches apart. The development of the construction costs is discussed under the following topics:

- A. Land
- B. Grading
- C. Bridge over the Susquehanna River
- D. Other Construction Costs
- E. Engineering, Mobilization and Contingencies
- F. Summary of Construction Costs

A. LAND

In order to construct the proposed new line, a contiguous right-of-way must be assembled.⁸ Based on an average width of 100 feet, the proposed Montour line would require { } of land. Land costs in this Verified Statement are based on the average price for actual listings of property for sale along the proposed route in 2013. The majority of the routes will be in undeveloped or rural areas, but because some urban neighborhoods will be disturbed to

⁷ Conversely, in the empty direction, where the trains are much lighter, the ruling grades are 1.5 percent ascending and 1.0 percent descending.

⁸ {
}

construct the rail lines, we developed the cost per acre for both categories of land. Table 2 below summarizes the average land values used in this analysis.

Table 2
Summary of Estimated Land Costs for the Proposed Route to the Montour Plant

Type of Land (1)	Miles (2)	Acres (3)	Unit Cost Per Acre (4)	Total Cost of Land (5)
1. Undeveloped/Rural	{ }	{ }	{ }	{ }
2. Urban	{ }	{ }	{ }	{ }
3. Total (Line 1 + Line 2)	{ }	{ }	{ }	{ }

Sources:
 Column (2): Based on proposed route and evaluation of residential areas.
 Column (3): Column (2) x 100 feet x 5,280 feet per mile ÷ 43,560 square feet per acre.
 Column (4): Based on real estate survey over proposed route.
 Column (5): Column (3) x Column (4).

The cost of land for the proposed Montour route is estimated to equal { } (Table 2, Line 3, Column (5)).

B. GRADING

Other than the cost for the right-of-way, the most expensive construction cost component is grading. Grading costs reflect the excavation and fill required to construct the rail at the required elevation. As noted above, grades for the proposed line were limited to maximum of a 1.0 percent grade in the loaded direction of the trains and a 1.5 percent grade in the empty direction. The current elevation over the proposed route was identified using the software developed by Delorme, Inc. titled "Topo North America 10.0." The elevation desired for the rail line was then determined based on the grade limitations discussed above. The cubic yards of earth that were required to be moved were based on the difference between the two grade levels. In order to calculate the quantities by type of excavation (common, loose rock, solid rock, etc.), information from the ICC Engineering Verified Statements for existing NS rail lines in the area of Montour were utilized.

C. BRIDGE OVER THE SUSQUEHANNA RIVER

A major cost item is the bridge over the Susquehanna River at Bloomsburg, PA. Based on our field study and available maps, the length of the existing bridge is { }. The bridge is {

}⁹Therefore, the costs in this Verified Statement conservatively reflect the estimated cost to install a new bridge of similar design and length.¹⁰

D. OTHER CONSTRUCTION COSTS

The other quantities for the proposed route are based on the track specifications and the requirements discussed above. The number of culverts required as well as the number and length of bridges needed were based on detailed review of route maps. Ballast quantities are based on { } below the railroad tie. Subballast quantities are based on { }. Unit costs are based on { }. The details of the quantities, unit costs and aggregate costs, by component are shown in Exhibit No. 5.

E. ENGINEERING, MOBILIZATION AND CONTINGENCIES

In addition to the costs identified above, construction of the proposed rail line would entail costs for engineering, mobilization, and contingencies. For this Verified Statement, these costs are calculated as percent additives based on { }.

⁹ Our understanding is that the bridge at Bloomsburg, PA currently is owned by a private individual who is not associated with either NS or CP.

¹⁰ For this Verified Statement, the costs for this type of rail bridge are { }. This cost reflects {

}

Engineering costs reflect the design and management costs incurred to get detailed drawings so that the project is built according to specifications. For engineering, {
} excluding land (Exhibit No. 5, Line 26).

Mobilization costs cover the costs, of transporting manpower and equipment to/from the job site. For mobilization, {
} excluding land (Exhibit No. 5, Line 27).

Contingency costs reflect the additive to cover unexpected changes in the construction quantities and/or the variance between the estimated prices shown in this Verified Statement and the actual costs when bids are received. For contingencies, {
} including land (Exhibit No. 5, Line 28).

**F. SUMMARY OF
CONSTRUCTION COSTS**

Exhibit No. 5 summarizes the aggregate estimated construction costs for PPL to access the CP rail line between Sunbury and Scranton, PA, based on the quantities and unit costs discussed above.

Our analysis determined that PPL has a feasible option to access a second rail carrier for service to Montour through construction of a rail line connecting to CP near Bloomsburg, PA. The line would be 17.17 miles in length, and the estimated construction costs equal {
} (Table 1, Column (2)).

VERIFICATION

I, Thomas D. Crowley, verify under penalty of perjury that I have read this Verified Statement on behalf of PPL EnergyPlus, LLC, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

Thomas D. Crowley

Executed on _____

THOMAS D. CROWLEY
STATEMENT OF QUALIFICATIONS

My name is Thomas D. Crowley. I am an economist and President of the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314, 760 E. Pusch View Lane, Suite 150, Tucson, Arizona 85737, and 7 Horicon Avenue, Glens Falls, New York 12801.

I am a graduate of the University of Maine from which I obtained a Bachelor of Science degree in Economics. I have also taken graduate courses in transportation at George Washington University in Washington, D.C. I spent three years in the United States Army and since February 1971 have been employed by L. E. Peabody & Associates, Inc.

I am a member of the American Economic Association, the Transportation Research Forum, and the American Railway Engineering and Maintenance-of-Way Association.

The firm of L. E. Peabody & Associates, Inc. specializes in analyzing matters related to the rail transportation of all commodities. As a result of my extensive economic consulting practice since 1971 and my participation in maximum-rate, rail merger, service disputes and rule-making proceedings before various government and private governing bodies, I have become thoroughly familiar with the rail carriers that move coal over the major coal routes in the United States. This familiarity extends to subjects of railroad service, costs and profitability, cost of capital, railroad capacity, railroad traffic prioritization and the structure and operation of the various contracts and tariffs that historically have governed the movement of traffic by rail.

THOMAS D. CROWLEY
STATEMENT OF QUALIFICATIONS

As an economic consultant, I have organized and directed economic studies and prepared reports for railroads, freight forwarders and other carriers, for shippers, for associations and for state governments and other public bodies dealing with transportation and related economic problems. Examples of studies I have participated in include organizing and directing traffic, operational and cost analyses in connection with multiple car movements, unit train operations for coal and other commodities, freight forwarder facilities, TOFC/COFC rail facilities, divisions of through rail rates, operating commuter passenger service, and other studies dealing with markets and the transportation by different modes of various commodities from both eastern and western origins to various destinations in the United States. The nature of these studies enabled me to become familiar with the operating practices and accounting procedures utilized by railroads in the normal course of business.

Additionally, I have inspected and studied both railroad terminal and line-haul facilities used in handling various commodities, including unit train coal movements from coal mine origins in the Powder River Basin and in Colorado to various utility destinations in the eastern, mid-western and western portions of the United States and from the Eastern coal fields to various destinations in the Mid-Atlantic, northeastern, southeastern and mid-western portions of the United States. These operational reviews and studies were used as a basis for the determination of the traffic and operating characteristics for specific movements of numerous commodities handled by rail.

THOMAS D. CROWLEY
STATEMENT OF QUALIFICATIONS

I have frequently been called upon to develop and coordinate economic and operational studies relative to the rail transportation of various commodities. My responsibilities in these undertakings included the analyses of rail routes, rail operations and an assessment of the relative efficiency and costs of railroad operations over those routes. I have also analyzed and made recommendations regarding the acquisition of railcars according to the specific needs of various shippers. The results of these analyses have been employed in order to assist shippers in the development and negotiation of rail transportation contracts which optimize operational efficiency and cost effectiveness.

I have developed property and business valuations of privately held freight and passenger railroads for use in regulatory, litigation and commercial settings. These valuation assignments required me to develop company and/or industry specific costs of debt, preferred equity and common equity, as well as target and actual capital structures. I am also well acquainted with and have used the commonly accepted models for determining a company's cost of common equity, including the Discounted Cash Flow Model ("DCF"), Capital Asset Pricing Model ("CAPM"), and the Farma-French Three Factor Model.

Moreover, I have developed numerous variable cost calculations utilizing the various formulas employed by the Interstate Commerce Commission ("ICC") and the Surface Transportation Board ("STB") for the development of variable costs for common carriers, with particular emphasis on the basis and use of the Uniform Railroad Costing System ("URCS") and its predecessor, Rail Form A. I have utilized URCS/Rail form A

THOMAS D. CROWLEY
STATEMENT OF QUALIFICATIONS

costing principles since the beginning of my career with L. E. Peabody & Associates Inc. in 1971.

I have frequently presented both oral and written testimony before the ICC, STB, Federal Energy Regulatory Commission, Railroad Accounting Principles Board, Postal Rate Commission and numerous state regulatory commissions, federal courts and state courts. This testimony was generally related to the development of variable cost of service calculations, rail traffic and operating patterns, fuel supply economics, contract interpretations, economic principles concerning the maximum level of rates, implementation of maximum rate principles, and calculation of reparations or damages, including interest. I presented testimony before the Congress of the United States, Committee on Transportation and Infrastructure on the status of rail competition in the western United States. I have also presented expert testimony in a number of court and arbitration proceedings concerning the level of rates, rate adjustment procedures, service, capacity, costing, rail operating procedures and other economic components of specific contracts.

Since the implementation of the *Staggers Rail Act of 1980*, which clarified that rail carriers could enter into transportation contracts with shippers, I have been actively involved in negotiating transportation contracts on behalf of shippers. Specifically, I have advised shippers concerning transportation rates based on market conditions and carrier competition, movement specific service commitments, specific cost-based rate

THOMAS D. CROWLEY
STATEMENT OF QUALIFICATIONS

adjustment provisions, contract reopeners that recognize changes in productivity and cost-based ancillary charges.

I have been actively engaged in negotiating coal supply contracts for various users throughout the United States. In addition, I have analyzed the economic impact of buying out, brokering, and modifying existing coal supply agreements. My coal supply assignments have encompassed analyzing alternative coals to determine the impact on the delivered price of operating and maintenance costs, unloading costs, shrinkage factor and by-product savings.

I have developed different economic analyses regarding rail transportation matters for over sixty (60) electric utility companies located in all parts of the United States, and for major associations, including American Paper Institute, American Petroleum Institute, Chemical Manufacturers Association, Coal Exporters Association, Edison Electric Institute, Mail Order Association of America, National Coal Association, National Industrial Transportation League, North America Freight Car Association, the Fertilizer Institute and Western Coal Traffic League. In addition, I have assisted numerous government agencies, major industries and major railroad companies in solving various transportation-related problems.

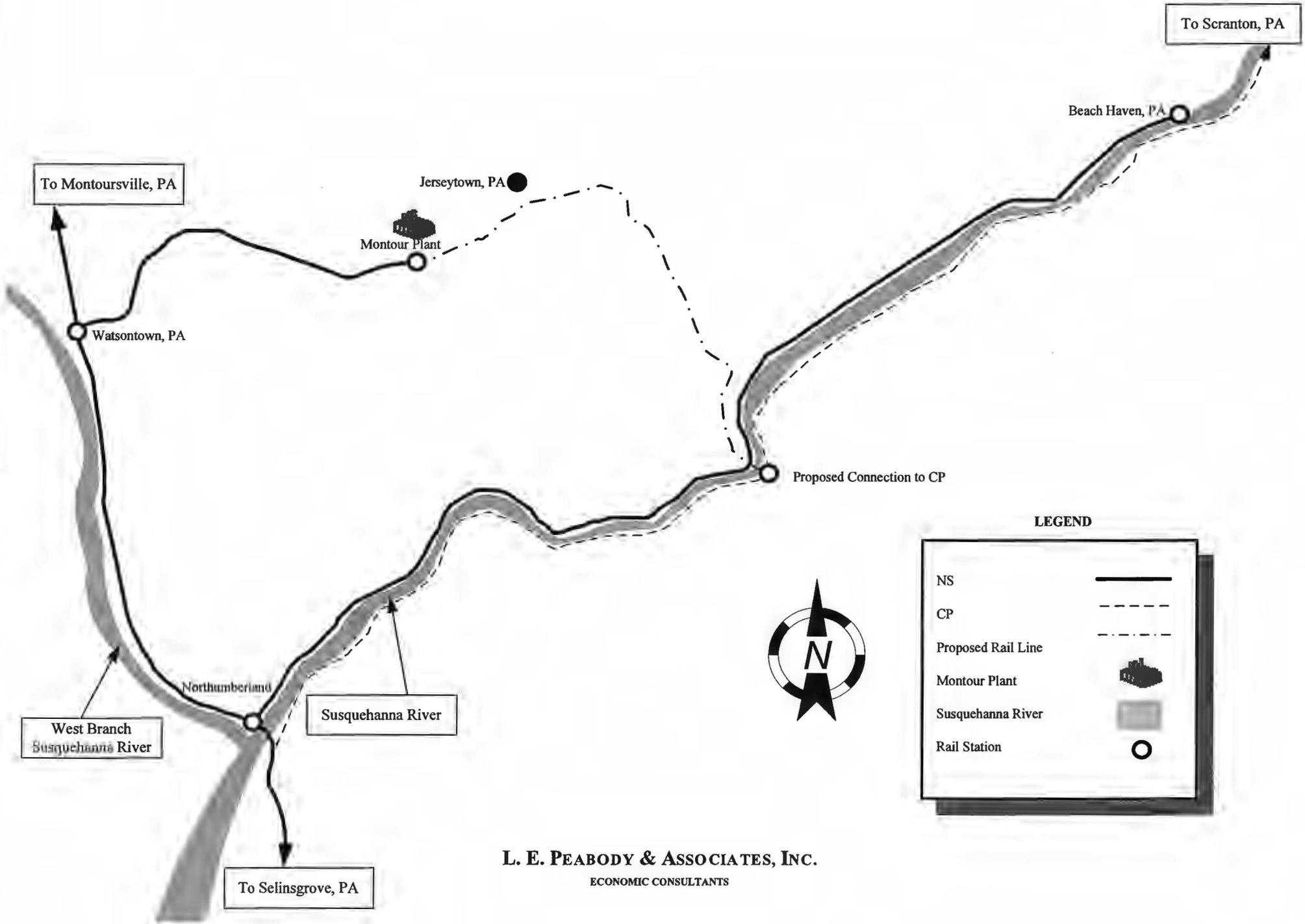
In the two Western rail mergers that resulted in the creation of the present BNSF Railway Company and Union Pacific Railroad Company and in the acquisition of Conrail by Norfolk Southern Railway Company and CSX Transportation, Inc., I reviewed the railroads' applications including their supporting traffic, cost and operating data and

THOMAS D. CROWLEY
STATEMENT OF QUALIFICATIONS

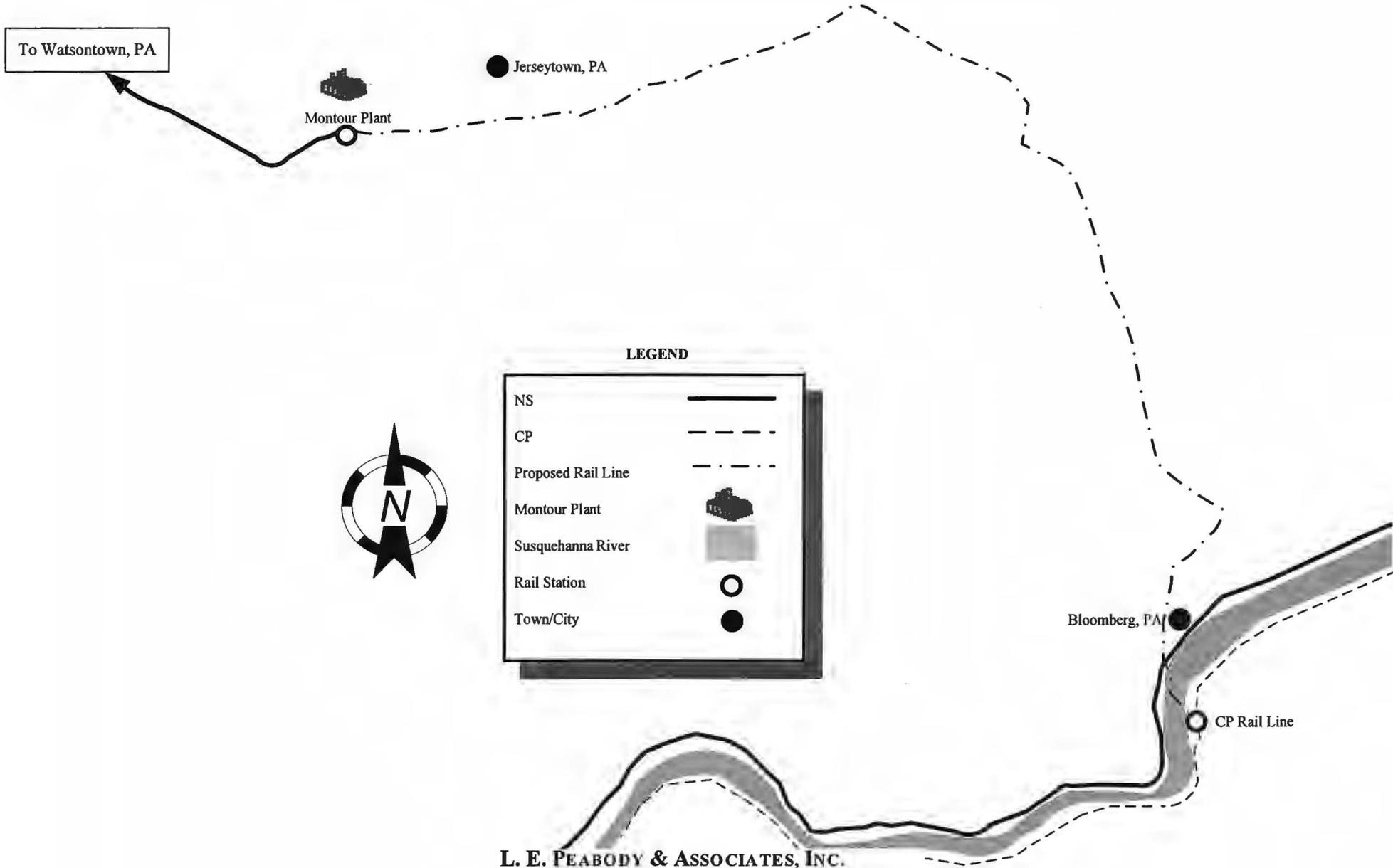
provided detailed evidence supporting requests for conditions designed to maintain the competitive rail environment that existed before the proposed mergers and acquisition. In these proceedings, I represented shipper interests, including plastic, chemical, coal, paper and steel shippers.

I have participated in various proceedings involved with the division of through rail rates. For example, I participated in ICC Docket No. 35585, *Akron, Canton & Youngstown Railroad Company, et al. v. Aberdeen and Rockfish Railroad Company, et al.* which was a complaint filed by the northern and mid-western rail lines to change the primary north-south divisions. I was personally involved in all traffic, operating and cost aspects of this proceeding on behalf of the northern and mid-western rail lines. I was the lead witness on behalf of the Long Island Rail Road in ICC Docket No. 36874, *Notice of Intent to File Division Complaint by the Long Island Rail Road Company.*

Map of Area Around Montour Plant



Map of Proposed Rail Line From Montour Plant to CP



LEGEND

NS	—————
CP	- - - - -
Proposed Rail Line	- · - · -
Montour Plant	
Susquehanna River	
Rail Station	○
Town/City	●



**PICTURES OF THE AREA ALONG THE
PROPOSED ROUTE FOR MONTOUR**

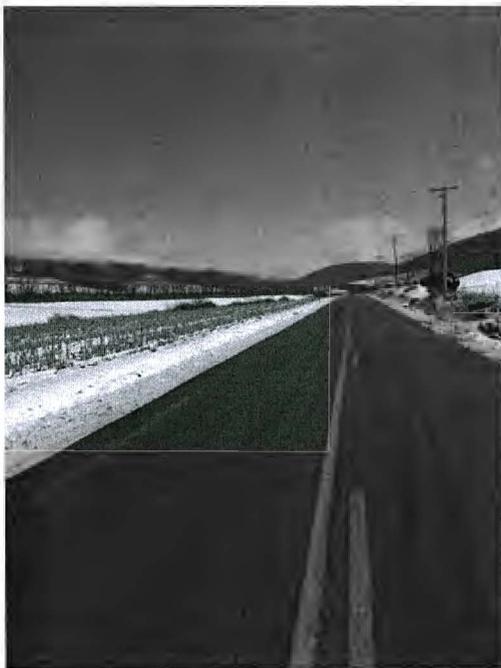


NS Track Into Montour – Looking East



NS Track (and Siding) West of Montour -- Looking East

**PICTURES OF THE AREA ALONG THE
PROPOSED ROUTE FOR MONTOUR**



Terrain Near Jerseytown, PA – Looking South



PRR Abandoned Line Between Jerseytown and Evers Grove, PA – Looking South
[Note: Old Track Structure Follows the Line of Snow Approximately ½ Up the Hill]

**PICTURES OF THE AREA ALONG THE
PROPOSED ROUTE FOR MONTOUR**



PRR Abandoned Rail Line (on Left) on Side Road off Route 42 – Looking North



Underpass of Interstate Highway 80 at Fishing Creek

**PICTURES OF THE AREA ALONG THE
PROPOSED ROUTE FOR MONTOUR**



PRR Abandoned Line (Currently a Trail) on Fishing Creek in Bloomsburg, PA – Looking East



PRR Abandoned Line Along W. 1st St in Bloomsburg, PA – Looking West

**PICTURES OF THE AREA ALONG THE
PROPOSED ROUTE FOR MONTOUR**



NSR Main Line Near W. Ft. McClure Blvd in Bloomsburg, PA – Looking North



Abandoned Bridge in Bloomsburg Connecting to CP – Looking South

**Estimated Costs to Construct Track from the Montour Power Plant
To a Connection with the CP at Bloomsburg, PA -- 1Q13 -- REDACTED**

Item (1)	Quantity (2)	Unit (3)	Unit Cost (4)	Amount (5)
1. Right-of-way 1/				
a. Undeveloped		Acres		
b. Urban (with houses)		Acres		
2. Grading and compaction		Cubic Yards		
3. Clearing and grubbing		Acres		
4. Erosion control (rip-rap)		Mile		
5. Subballast		Cubic Yards		
6. Ballast		Cubic Yards		
7. Rail - 136lb CWR 2/		Linear Feet		
8. Diamond crossings 3/		Each		
9. Ties		Each		
10. Tie Plates		Each		
11. Rail Anchors		Each		
12. Spikes		Each		
13. Turnouts 4/		Each		
14. Field welds - Turnouts 5/		Each		
15. Track construction (Labor/Installation)		Mile		
16. Material Transportation		Additive to Materials		
17. Culverts		Per Culvert		
18. Bridges:				
a. Concrete trestle		Linear Feet		
b. Crossing Susquehanna River		Each		
19. Public highway crossings at-grade		Each		
20. Crossing protection (at-grade crossings)				
a. Flashers		Each		
b. Cross bucks only		Each		
21. Highway traffic relocation detours		Each		
22. Fencing 6/		Mile		
23. Rail lubricators		Each		
24. Utility relocations/reinforcements		Mile		
25. Subtotal				
26. Engineering excluding Land		Additive to total		
27. Mobilization excluding Land		Additive to total		
28. Contingencies including Land		Additive to total		
29. Total				

1/ Based on ____ total miles and a 100 foot right-of way.

2/ 136 lb. new continuous welded rail.

3/ One crossing over the North Shore Railroad in Bloomsburg, PA.

4/ One turnout at Montour plant and one turnout at connection with CP in Bloomsburg, PA.

5/ _____ per turnout plus _____ per diamond crossing plus _____ per mile of track.

6/ Estimated all of route would need to be fenced.

CERTIFICATE OF SERVICE

I hereby certify that I have this 21st day of January, 2015, caused a copy of the foregoing Comments and Request for Conditions to be served via United States Postal service upon all parties of record in this proceeding, as well as:

Secretary of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Attorney General of the United States
c/o Assistant Attorney General
Antitrust Division
Room 3109
Department of Justice
Washington, DC 20530

William A. Mullins
Baker & Miller PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037



Kelvin J. Dowd