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Ex Parte No. 724

UNITED STATES RAIL SERVICE ISSUES

VERIFIED STATEMENT

of

Kei Rietz

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I am Kei Rietz, Commercial Manager at Northern Tier Energy LP, an independent downstream energy company with refining, retail and pipeline operations that serve the PADD II region of the United States. Northern Tier Energy's refining business primarily consists of an mid-sized, oil refinery in Saint Paul Park, Minnesota

I am joined here today by Jason Akey, who has served as Commercial Operations Manager the last three years.

I am also joined by Charles H. Banks, President of R.L. Banks & Associates, Inc., an independent railroad consulting firm, headquartered in Arlington, Virginia

My testimony is organized into six parts:

- 1) Background on the St. Paul Park Refinery
- 2) How CP historically served the Refinery;
- 3) How the CP, the only rail carrier which enjoys access to the Refinery, has changed the conduct of its switching operations
- 4) How recent changes in CP's level of switching operations has affected the Refinery adversely;

- 5) How recent changes in CP's level of switching operations impacts our local community adversely and
- 6) What Northern Tier Energy, seeks from the STB as a result from as a result of those impacts, caused by railroad management decisions outside of any rail customer's control but not beyond your authority.

Part One: Background on the St. Paul Park Refinery

The St. Paul Park Refinery is one of only two refineries in Minnesota and one of four refineries in the Upper Great Plains. The Refinery's strategic location allows it direct access to abundant supplies of North American crude oils, which we believe saves our customers money on the fuels, such as gasoline and diesel, that they buy.

In addition to various physical logistic assets, Northern Tier Energy also operates 163 convenience stores and supports 73 franchised stores. SPPR supplies most of the gasoline and diesel sold at these stations.

Part Two: How CP historically served the Saint Paul Park Refinery

CP is supposed to provide switching services, once a day, seven days a week from its St. Paul Yard facility, depicted as number 1 (one) on the map which accompanies my testimony, to the Refinery, depicted as number 2 (two) on that map. The distance between the CP yard and the Refinery is only eight miles down an industrial lead which directly accesses CP's yard without crossing any other rail line, so rail access has been convenient and efficient for both parties. *(If you'd like to know more about the geographic and logistical details of this map or regarding CP's St Paul operations please ask me at the end of my testimony)*

A recently instituted CP policy requires the CP crew to return to Saint Paul Yard after 8 hours regardless of what switching work remains to be done on the line, despite the fact that federal regulations allow crews to work up to twelve hours at a time.

The Refinery's ability to maintain stable production levels is dependent on steady, predictable deliveries from CP.

Part Three: How CP, the only rail carrier which enjoys access to the Saint Paul Park Refinery, has changed the conduct of its switching operations

Beginning in late 2013, CP's switching steadily declined from seven days a week to a sporadic and irregular event to an average of almost six failures a week over that ten week span.

The accompanying calendars provide a graphic demonstration of the extent of CP service failures in the last three months. A failure being defined as a missed switch or a failure to pick up & deliver specifically ordered cars. *A red "X" denotes a day on which CP's Saint Paul*

Transfer failed to arrive at the Refinery at any time. A black "S" denotes an instance when an ordered car essential to maintaining planned production was not delivered to the Refinery on time. In March, only nine days transpired without service failure. It goes without saying that such wildly unpredictable and unreliable service greatly complicates operations, production and production cost at SPPR.

Perhaps the most frustrating aspect of the recent degradation of CP's switching is breakdown in communications. Of the 57 service failures recorded by SPPR and reported to CP via email between January 28th and the 7th of this month, 27 elicited no response whatsoever. Eleven of those 27 failures were missed switch movements at the Refinery. What limited responses SPPR did receive were often vague or not factual in nature, blaming crew shortages or contradicted reports from CP's interchange partners. The simple fact is, we can no longer trust CP to deliver carloads on time, or to produce realistic solutions to past service failures. *(I've focused this on the changes to their level of service, but we have also experienced severe changes in some of the rates we pay to conduct our normal operations, if you'd like more details on this change please ask me following my statement)*

Part Four: How recent changes in CP's level of switching operations has affected the Refinery adversely

There are several by-products of the refining process which require ratable and regular rail service. Without reliable service the refinery is faced with a variety of uneconomical choices, all of which hurt the fuels supply to the local community and cost the refinery in lost revenues. In recent months, service failures have resulted in a total approximate loss in revenues of \$1.3 million dollars, approximately 110,000 barrels in lost fuel production or approx. 225,500 full tanks of gas in the MN area and forced the refinery to make further uneconomic operational changes to avoid a total shut down. *(For the sake of time, I've avoided going into technical detail regarding the specific products affected and their subsequent impact on revenues and operations, however if you'd like more detail please do ask me following my testimony)*

Part Five: How that change in CP's service levels impacts our local community adversely

Since the products I just mentioned may not be familiar to everyone, I would like to take a moment to highlight some of the ways in which our Refinery is tied to the local community and market within which it operates. SPPR's primary focus is taking crude oil and refining it into gasoline, used in our cars, and diesel fuel, which is used to fuel trucks, buses, locomotive engines (including CP's in the Twin Cities) and farming equipment. SPPR also produces jet fuel which supplies all the major carriers at the Minneapolis St Paul Airport. Some of the less obvious byproducts of the SPPR refinery are: 1) asphalt, which is used in road repairs and construction in not only throughout Minnesota and all over the country; 2) propane, used in heating your home, your outdoor grill and also its main use in the fall, drying the crops; 3) sulfur, used mainly in fertilizers market and 4) some liquid petroleum gases I mentioned, such as butane and propylene, which are sold into the chemicals market where they are used in a variety of things, especially including plastics. So not only does the Refinery provide fuels to the local market and

support hundreds of retail gas stations but we are also tied closely to a number of other industries.

Part Six: What my employer, Northern Tier Energy, seeks from the STB

SPRR recognizes there are infrastructural challenges we will never overcome, our refinery is not changing locations nor has a new refinery has been built in the United States in at least four decades.

Because of the aforementioned recognition, SPRR has gone to great lengths to make rail a viable transport option:

- SPRR leases a larger tank car fleet than it needs to ensure that it has enough empty cars and loaded, inbound freight to protect against the risk of needing to reduce or shutdown production;
- SPRR leases 100 freight car lengths of space in two, different rail yards at some distance from the Refinery to provide additional “equipment insurance” against shutting down or reducing production levels;
- SPRR pays CP to move cars to and from those yards at rates which have more than doubled in all cases since January 2011 and
- SPRR pays a third party contactor to provide switching within the facility to compensate for the switching that CP used to provide.

SPRR has tried other initiatives, only to be rebuffed by CP and BNSF.

I also recognize that SPRR is not a large customer from a railroad perspective but neither is it a small one. I believe SPRR is the largest of several rail customers on the industrial lead from which it is served. The Refinery operates 24/7/365 and certainly generates enough inbound and outbound traffic to contribute somewhat, if not handsomely, to a serving railroad’s bottom line, even one whose limited reach into the markets that supply and receive railcars to/from the Refinery confine it to collecting only switching revenues.

However, even if the Refinery does not contribute much to a railroad’s bottom line, surely public convenience and necessity, not to mention energy independence and national security considerations, warrant, if not demand, improved rail service to a refinery that supplies gasoline to approximately 40 percent of the gasoline to drivers in the Twin Cities region and jet fuel to all of the airlines serving carriers the Minneapolis St. Paul International Airport

My employer is not asking the STB to force on an unwilling industry a revolutionary shift in the way CP operates the St. Paul Transfer Crew nor are we asking the Board to introduce competition where there is none today. Nor are we here to complain about our rates, while steadily increasing, there is no such thing as a reasonable rate at any price in the absence of regular service.

Nor do I believe that the action the STB and CP take in the future or have taken in the recent past should serve to change the competitive environment within or across any the industries. But there can be no doubt that the meltdown of CP switching operations have harmed the competitive position of SPPR as compared with the only other refinery in Minnesota.

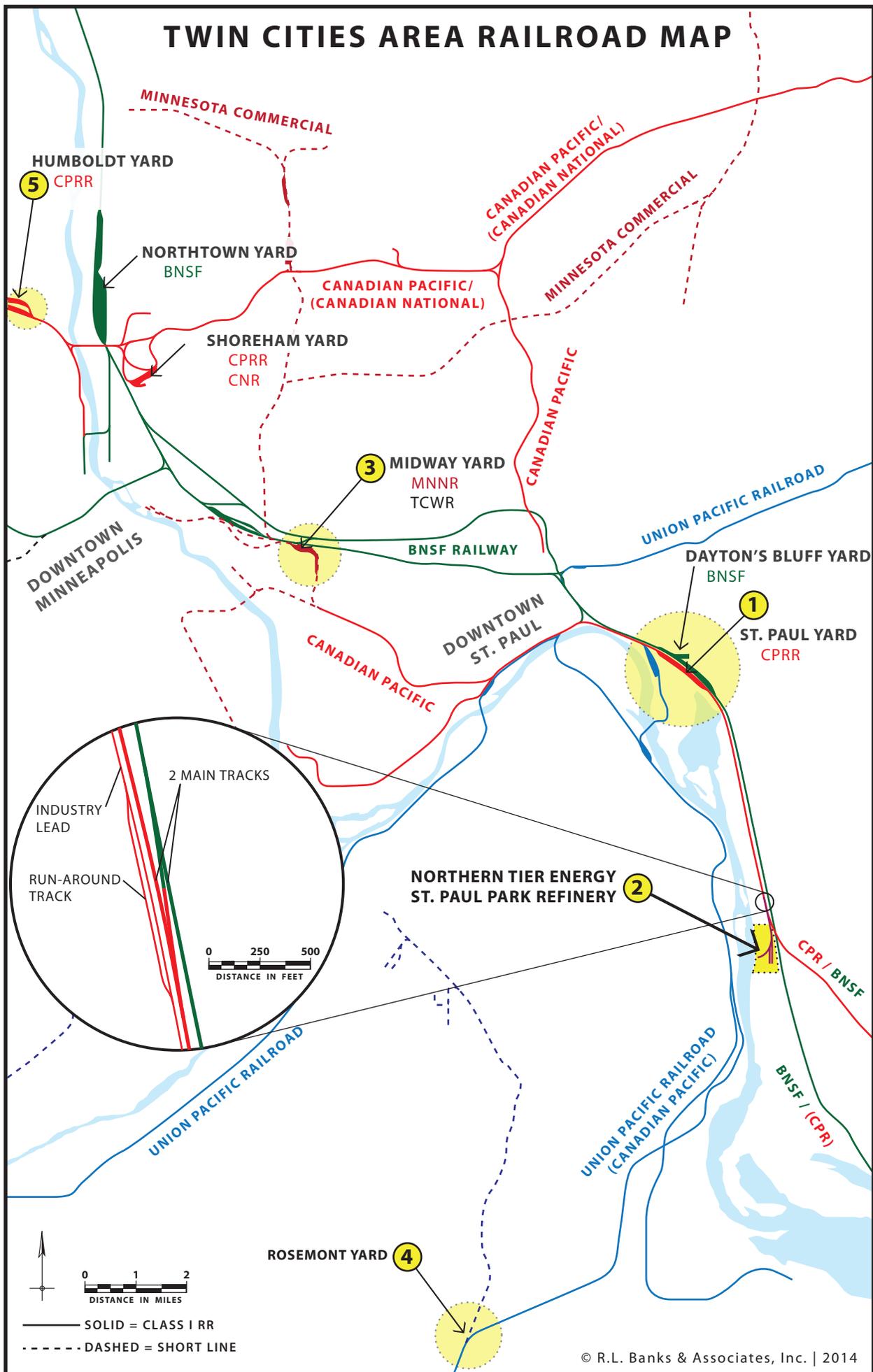
During the recent hearing on Ex Parte 711, Competitive Switching Proposal, the railroad industry and select carriers repeatedly made the claim that the STB should not play the role of picking “winners and losers”. Therefore, it is indeed ironic that CP should be able to change the delicate, competitive balance that has existed for many years between SPPR and its only competitor within Minnesota. The railroad industry, powerful as it clearly is, should not be able to choose “winners and losers” either, in the absence of adequate regulatory oversight.

What my employer is seeking specifically, at a minimum, is increased communication from CP. An increase, in both the quality and quantity, of communication, from both the local and corporate levels, hopefully, will resolve our fears that the complete absence of communication in the recent past was not indicative of the fact that CP had no plans or intentions to make operational changes which might restore service. We NEED transparency into what operational changes are being evaluated and implemented in the coming weeks and months so that we not only can interpret what we are experiencing but also give us a timeline and foundation on which to make our own future operational decisions. After all, we’ve got a business to run also.

Lastly, the most important action I am seeking is accountability. Whatever plans are discussed and communicated by CP need to be dependable and based on a service model which addresses the importance and reliance on consistent rail service that our company and all the industries represented here today have. We have little choice but to demand this action so that we can protect the interests of our employees, our management, our customers and suppliers, our business associates, our equity partners and shareholders, hundreds of thousands of Minnesota area consumers and in the vernacular of a railroad, **OUR** operating ratio.

Thank you again for the opportunity to have been provided a forum in which my employer could express its concerns and hopes.

TWIN CITIES AREA RAILROAD MAP



March 2014 CP Service Failures

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 X
2 X	3	4	5 X S	6 X S	7	8 S
9 X	10 X	11 X	12 X	13	14	15 X
16 X	17 X S	18 S	19 S	20	21 X	22
23	24 X	25 X	26 X S	27	28 X	29 X
30 X	31 X S					

April 2014 CP Service Failures

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
			X	X	S	
6	7					
	X					

X = Missed switch at SPPR

S = "Shut down" car past due

February 2014 CP Service Failures

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5 X	6	7	8 S
9	10 S	11	12	13 S	14	15 X
16 X	17 S	18	19 X S	20 S	21 S	22
23	24 S	25	26 X	27	28 S	

X = Missed switch at SPPR

S = "Shut down" car past due