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October 29, 2010

**Via Electronic Filing**

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

Re: *Total Petrochemicals USA, Inc. v. CSX Transportation, Inc., et al*, STB Dkt. No. 42121

Dear Ms. Brown:

On October 27, 2010, Complainant TPI filed a surreply letter brief in response to CSXT's Reply to TPI's Motion for Leave to file a Second Amended Complaint in the above-captioned matter, justifying its unauthorized surreply as necessary to address "a significant factual disparity." CSXT respectfully submits this brief response to correct the record with respect to the purported "disparities" raised in TPI's surreply.

First, CSXT reiterates that it is not aware of "contractual restrictions" that preclude any of the proposed short line defendants from negotiating separate rates for their portion of a TPI movement at issue in this case. As TPI knows, CSXT previously searched for and produced to TPI all potentially relevant contracts and agreements with the eleven short lines involved in TPI movements at issue in this case. It has always been CSXT's position that the "short line defendants" (i.e. those defendants that TPI proposes to add to this case in its Second Amended Complaint) are free to negotiate separate rates for TPI traffic.

Second, CSXT clarifies that it will not object to TPI's voluntary dismissal of movements, lanes, or parties that are named in a TPI complaint but not necessary to grant the relief TPI seeks in this rate case, so long as TPI seeks such dismissal in a timely manner that does not prejudice CSXT and in all events prior to TPI's filing of its Opening Evidence in this case. As CSXT has

Cynthia T. Brown

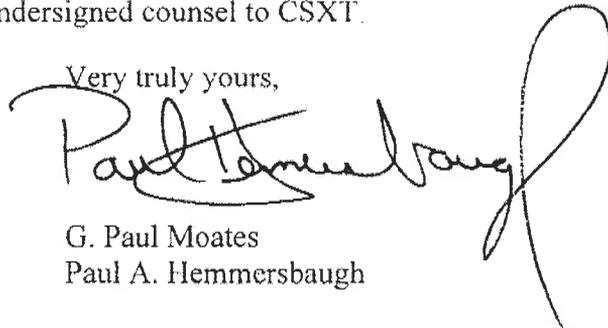
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explained several times, Complainant TPI could readily resolve this side-dispute, and eliminate the resulting additional complexity, burdens, and costs to the short lines, by simply confining its challenge to CSXT's public tariff rates for movements on the CSXT system (what TPI refers to as the "CSXT segment rate"), and withdrawing its challenges to joint line tariff rates comprised of combinations of CSXT rates and rates established by connecting short lines.

We appreciate the opportunity to correct the record and clarify CSXT's position in response to the new allegations raised in TPI's surreply. If the Board has questions or requires additional information, please contact the undersigned counsel to CSXT.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Hemmersbaugh". The signature is written in a cursive style with a large, looping flourish at the end.

G. Paul Moates  
Paul A. Hemmersbaugh

Cc: Jeffrey T. Moreno (by email)  
Counsel of Record (by U.S. mail)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of October, 2010, I caused CSXT's forgoing Response to be served by first class mail or more expeditious means on Counsel of Record.

A handwritten signature in black ink, appearing to read 'Eva Mozena Brandon', written over a horizontal line.

Eva Mozena Brandon