

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

REVIEW OF COMMODITY, BOXCAR, AND TOFC/COFC EXEMPTIONS

**COMMENTS OF
CSX TRANSPORTATION, INC.**

CSX Transportation, Inc. (“CSXT”) appreciates the opportunity to comment on the proposed approach by the Office of Economics outlined in the Board’s September 30, 2020 Decision (“OE Proposal”).¹ In general, the OE Proposal reflects a laudable step toward data-based decisionmaking. But in certain respects, the OE Proposal does not use the best available data to study the competitive forces that it intends to observe. In particular, the proposal overrelies on revenue-to-variable-cost ratios, despite the recognized shortcomings in those measures. And it does not use the best available sources to measure the extent of modal competition. Specifically, instead of using actual data on the extent to which trucks transport the commodities being studied, the OE Proposal makes assumptions about truck competition based solely on the distances of rail movements in the waybill sample. In all events, the Board should be mindful that any decision to revoke a commodity exemption previously created by the agency (or to create a new exemption) should be based on an examination of the individual facts and data presented by the parties to such an exemption proceeding, and not driven by any single dashboard, data analysis, or set of “violin plots.”

CSXT joins the comments of the American Association of Railroads (“AAR”) in full, which carefully examine the OE Proposal and offer constructive criticism on the approach. In

¹ See *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Ex Parte 704 (Sub-No. 1) (Sept. 30, 2020).

these separate comments, CSXT briefly highlights certain points CSXT believes are particularly important for the Board to consider. CSXT also offers updated evidence on the intense competition that it sees in the transportation markets for the commodities that have been at issue in the EP 704 proceeding. The attached Verified Statement of Mr. Arthur Adams, Senior Vice President of Sales for CSXT, explains that the transportation markets of the commodities under consideration remain intensely competitive—just as (if not more so than) they were when the agency granted the applicable exemptions. See Exhibit 1, Verified Statement of Arthur Adams (“Adams V.S.”).² Mr. Adams’s Verified Statement supplements and updates competition evidence that CSXT offered at an earlier stage of this proceeding in 2016, which evidence remains unrebutted in the record.³

Section I discusses why R/VC ratios and changes in R/VC ratios are not a reliable indication of market power. Section II encourages the Board to use actual market share data to consider where trucks provide effective competition, rather than extrapolations from railroad waybill data. Section III discusses the high statutory standard that must be met before revoking an exemption, and summarizes the information that Mr. Adams provides in his verified statement about the continued, intense competition that CSXT sees in the markets for transporting the commodities that have been examined in this proceeding.

I. R/VC Ratios Are Not Reliable Measures of Competition.

One concern that CSXT has with the OE Proposal is its reliance on R/VC ratios and changes in R/VC levels at various stages of the analysis. As CSXT has explained at earlier stages of this proceeding, R/VC ratios are inherently unreliable ways to test the effectiveness of competition. “Higher R/VCs are to be expected as length of haul increases,” and higher R/VCs

² Certain portions of Mr. Adams’s Verified Statement are designated Highly Confidential pursuant to the Protective Order entered in this docket on July 29, 2016. Both a Highly Confidential version and a Public version are being filed.

³ See CSXT Comments, *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Ex Parte 704 (Sub-No. 1) (filed July 26, 2016).

also result from “highly efficient ... movements,” neither of which are “a sign of increasing market power” but rather are “sign[s] of active competition and efficiency.”⁴ Indeed, Congress itself has recognized that R/VC ratios alone are unsound measures of competition. Alongside the quantitative jurisdictional limitation of 180% R/VC for the Board to consider the reasonableness of any rate, Congress specifically instructed the Board that it could not use the fact that an R/VC was equal to or greater than 180% to establish any presumption as to market dominance or as to the rate’s reasonableness. See 49 U.S.C. § 10707(d)(1)(a), (d)(2).

The OE Proposal’s reliance on changes to R/VC ratios over time is even more problematic. Changes in R/VC ratios over time are not evidence of changes in the competitive environment or a railroad’s relative market power. By definition, R/VC is driven by cost changes, and productivity changes and efficiency will have an impact on R/VC levels completely unrelated to changes in market power. That is particularly so over long periods over time, such as the 26-year interval between 1992 and 2018 used to calculate the “R/VC Change” category in the OE Proposal.

This is best illustrated by an example. Assume a railroad movement with a variable cost of \$100 that is priced at \$200, thus producing an R/VC of 200%. Now assume that over the next two years the railroad improves its efficiency, so that variable cost of the movement decreases to \$80, but that the railroad keeps the rate at \$200 so that it can keep the business in a competitive market. Now the R/VC of the movement is 250% — an *increase*, even though the customer’s rate has not changed at all. Indeed, even if one assumes that the railroad passed all of the efficiency benefits to its customer by cutting its rate from \$200 to \$180, the R/VC of the movement would still show an increase to 225%.

In sum, changes to R/VC ratios over time are not meaningful indications of changes to market power, particularly when those changes occur over a quarter-century period that has seen

⁴ Comments of CSX Transportation, Inc., EP 704 (Sub-No. 1) (filed July 26, 2016) (“CSXT 2016 Comments”), at 3.

marked changes in technology and operating practices that have improved efficiency and positively affected rail customers.

II. The Board Should Use More Reliable Independent Data To Assess Truck Competition.

The OE Proposal rightly identifies the potential for truck competition as a key data point for the Board to consider when judging whether a new exemption should be created or whether an existing exemption should be revoked. But the OE Proposal goes astray in its efforts to identify truck competition in the market. Rather than rely on independent data that measure railroads' and trucks' modal share for transportation of various commodities, the proposal relies on waybill data on the length of rail movements, and simply assumes that trucks are primarily competitive for rail movements at distances of less than 500 miles but could not compete effectively at longer distances.

This extrapolation from the waybill sample is not reliable for two reasons. First, it is a poor substitute for use of actual marketplace data about the relative market share of trucks and railroads. As AAR's Comments indicate, the Board has multiple options for data about the truck transportation of commodities, including Commodity Flow Survey data that the agency has considered in past exemption proceedings, or Transearch data.⁵ Mr. Adams' verified statement helps explain how illuminating this data can be about the actual state of the transportation marketplace. For metals, trucks had more than 50% of the modal share for the Metals market in general, with water holding over 10%, and rail having only about 39%. Adams V.S. at 4.

Second, the 500-mile cutoff used in the OE Proposal is not consistent with the marketplace, in which trucks are often highly competitive for movements at distances over 500 miles. For many commodities, Commodity Flow Survey data shows that trucks have substantial market share for movements above 500 miles.⁶ The Board's judgments about what commodity

⁵ See, e.g., Ex Parte No. 346 (Sub-No. 24), *Rail General Exemption Authority — Miscellaneous Manufactured Commodities*, 1988 WL 225776, at *4, *8 (ICC decided Jan. 29, 1988).

⁶ In the Board's recent Ex Parte 756 proceeding, a party presented Commodity Flow Survey data that showed that "trucks transport the majority of traffic that moves less than 500 miles, and that

movements are truck competitive at what distances should not be driven by assumptions or anecdotes, but rather by an examination of relevant data about actual commodity movements.

In short, in any proceeding in which the Board is asked to revoke an existing exemption or to create a new exemption, it should base its decision on actual data regarding the extent to which the commodity at issue is transported by truck, water, or other non-rail alternatives.

III. The Commodities at Issue in Ex Parte 704 Remain Subject to Robust Competition.

CSXT appreciates that the OE Proposal has been advanced as a tool for the Board to use when considering exemption issues, and not as a substitute for the Board's final judgment as to whether a new exemption is appropriate or revocation of an existing exemption is needed to carry out the rail transportation policy. CSXT feels compelled to emphasize that these decisions must be guided by the statutory framework, not the shade of a dashboard light or the shape of a violin plot. For example, any party proposing complete revocation of an exemption must demonstrate that regulation is now necessary to remedy abuses of market power occurring on a commodity-wide basis.⁷ Data visualization can help guide the Board's analysis of those issues, but it cannot supplant the fundamental necessity for the Board to find evidence that reregulation is necessary to prevent an abuse of market power before it chooses to revoke a prior agency decision to exempt a commodity.

Given that the OE Proposal "does not seek to answer the ultimate qualitative question of whether a commodity's regulation is necessary to carry out the RTP,"⁸ the Board should

truck and rail have roughly equal market shares for tonnage that moves between 500 and 750 miles." Reply Comments of CN at 2, *Market Dominance Streamlined Approach*, Ex Parte No. 756 (filed Jan. 10, 2020).

⁷ See *WTL Rail Corp. Pet. for Partial Revocation of Exemption*, EP 230 (Sub-No. 9) (STB served Feb. 17, 2006), slip op. at 3 ("Reconciling the RTP with the statutory admonition to be liberal in granting exemptions when regulation is not necessary to protect against market power, we have held that the extent of railroad market power is an essential issue in exemption revocation proceedings."); *id.* (noting that an exemption revocation must "ameliorate [an] alleged harm"); 49 U.S.C. § 10502(d).

⁸ OE Proposal at 6.

carefully consider whether the “red light, yellow-light, green light” elements of the proposed dashboard are useful or counterproductive. These indicators would appear to reduce a nuanced exploratory data analysis down to a simple “yes, no, maybe,” which could incorrectly be deemed to be the presumptive “final” answer. The effectiveness of competition in the marketplace for a commodity is not a determination that can be boiled down to a cheat sheet. It is rather something that the Board will have to assess on a full, developed record when a party proposes to create a new exemption or revoke an existing exemption.

The shortcomings of the color-coding approach and its associated strength designations are illustrated by the commodities to which the OE Proposal was applied. For example, one of the “strong” indicators on the indicator dashboard was coke (29-914).⁹ But as Mr. Adams’ verified statement explains, “Coke remains one of the most competitive transportation markets, with most receiving locations served by more than one railroad” and many served by barge. Adams V.S. at 7. A competitive environment in which coke receivers possess and exercise this leverage with transportation providers is not susceptible to market power abuse, *id.*, but the color and strength designations on the dashboard would suggest otherwise.

In the same vein, the “strong” indicators that the dashboard produced for certain steel products is not consistent with evidence of rampant and robust competition for transportation of these commodities. As Mr. Adams explains, in the Primary Steel Products (STCC 33-12) market, CSXT continues to face “intense modal competition” and “extensive source competition” from both domestic and foreign suppliers such that “[v]irtually any existing CSXT rail move can be supplanted by one or more alternatives.”¹⁰

⁹ See *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Ex Parte 704 (Sub-No. 1), at 43-44 (Dec. 11, 2020). The R/VC version of the dashboard tagged coke as “strong”, while the RPC version tagged it as “moderate.”

¹⁰ Adams V.S. at 3–4.

Indeed, each of the commodities considered for exemption in this proceeding remains subject to “fierce competition.”¹¹ With regard to Steel Scrap (STCC 40-211), CSXT faces “both modal and source competition [that] ... requires CSXT to closely monitor the market in order to stay competitive.”¹²

In the Crushed Stone (STCC 14-2) and Hydraulic Cement (STCC 32-4) markets, the highly competitive nature of those markets require CSXT to “ensure that its transportation prices are likewise competitive” to avoid losing business.¹³ In addition to a variety of modal options, these customers utilize “an array of strategically located distribution centers,” which give them “leverage and force transportation prices down and service offerings up.”¹⁴

Lumber (STCC 24) customers enjoy robust modal and geographic competition, and competition has only increased in light of import competition from Europe and new mills that have “increased source competition for reaching the warehouse and reload midway points,” where customers have many transportation options.¹⁵ Pulpboard customers likewise enjoy “‘pervasive’” modal and geographic competition and “are ‘able to rely on source shifting and use geographic competition very effectively in contract negotiations,’” given the many pulpboard mills located throughout the United States.¹⁶ Finally, the Scrap Paper (STCC 40241) market “remains highly competitive due to its low value, which drives shippers to choose the lowest possible transportation cost, be it rail or truck—both of which are available options.”¹⁷ In fact, trucks enjoy 75% share of this market.¹⁸ Like pulpboard, scrap paper mills are located

¹¹ *Id.* at 1.

¹² *Id.* at 3.

¹³ *Id.* at 7.

¹⁴ *Id.*

¹⁵ *Id.* at 9–10.

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 11.

¹⁸ *Id.*

throughout the United States, giving customers substantial leverage via geographic competition to drive transportation prices down.¹⁹

In short, CSXT supports the Board's exploration of a data-driven approach. But any data-driven approach needs to account for actual qualitative evidence about the forces in the marketplace. In this long-running proceeding, the evidence in the record shows overwhelmingly that the transportation markets for commodities that the agency has exempted remain highly competitive, and that re-regulation is not necessary to protect against any potential market power abuse.

CONCLUSION

For the foregoing reasons, the Board should maintain the existing exemptions for the commodities at issue and adopt the suggestions of the AAR in full.

Respectfully submitted,

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January 29, 2021

¹⁹ *Id.*

EXHIBIT 1

VERIFIED STATEMENT OF ARTHUR ADAMS

TO

CSXT COMMENTS

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

Review of Commodity, Boxcar, and TOFC/COFC Exemptions

VERIFIED STATEMENT OF ARTHUR ADAMS

I. Introduction

My name is Arthur Adams and I serve as Senior Vice President of Sales for CSX Transportation, Inc. (“CSXT”). In this role, I am responsible for leading all sales portfolios within the Agriculture and Food, Chemicals, Fertilizers, Paper and Forest, Metals, and Minerals markets. I also oversee CSX Customer Engagement and TRANSFLO services. I joined CSXT in 2007 with experience in the retail and healthcare sectors, and since that time I have served in CSX’s Sales and Marketing organization in various positions of increasing responsibility. Prior to my most recent role as vice president of Sales and Supply Chain Solutions, I was head of marketing services, where I led the transformation of customer service operations and e-solutions enhancements.

This Verified Statement is submitted to support CSXT’s comments in the STB’s pending Ex Parte 704 proceeding, in which the STB has asked for comments on potential data analyses that the STB’s Office of Economics has suggested could be useful to examine whether exemptions granted by the Board remain appropriate. I will not comment on the ins and outs of that potential data analysis, which I understand is being addressed by several parties, including the Association of American Railroads. The purpose of this statement is rather to discuss the competition that CSXT actually sees in the markets for some of the commodities that have been at issue in the long-running Ex Parte 704 proceeding. In general, I can attest that CSXT continues to see fierce competition for the bulk commodities that have been discussed in Ex Parte 704. Customers have competitive options—often truck and transload options, but also water carriers and other railroads—and they use them. If we cannot provide a competitive

service product with high quality customer service, we will lose business to these other options. It is just that simple.

My statement supplements and updates the 2016 verified statements submitted by Louis Muldrow (regarding the Stone and Cement markets), Russ Epting (regarding the Coke market), and Michael Rutherford (regarding the Scrap market, Primary Steel Products market, and Forest Products market), all of which are attached as Attachment 1 to this Verified Statement.¹ My statement is generally organized by these commodity groups.

II. Metals

In this section, I will provide updated information about CSXT's Metals market, which, as relevant for this proceeding, consists of iron and steel scrap (STCC 40-211) ("Steel Scrap") and primary iron and steel products (STCC 33-12) ("Primary Steel Products").

CSXT highly values its Metals customers and is constantly working to improve service, increase value, and work with its customers to create efficiencies wherever possible. For example, CSXT recently built a Midwest Terminal Services reload/warehouse facility in East Chicago, IN, that launched in November 2019 to provide customers with the opportunity to maximize rail efficiencies while ensuring timely delivery to their end customers. Customers in Chicago can be served within a day's notice from the reload point. This investment has provided a benefit to customers who otherwise would be disadvantaged by lack of proximity to larger markets, like Chicago.

This is one of the many ways CSXT is innovating to compete with trucks in this market. These innovations—motivated by competition and an unregulated environment—are bringing

¹ Michael Rutherford provided two verified statements in 2016—one for CSXT's Comments and an additional verified statement for CSXT's Reply. Both are included in Attachment 1.

added value to customers. Efforts by the Board to reregulate this market will not result in increased competition, but rather less investment, less strategic and creative innovations, and ultimately less benefits to customers.

A. Steel Scrap (STCC 40-211)

The Steel Scrap market remains highly competitive, in multiple ways. Scrap metal is a fungible commodity that is generated from many sources and consumed at many locations. This creates multiple opportunities for both modal and source competition, and it requires CSXT to closely monitor the market in order to stay competitive. As CSXT explained in 2016, we continue to face competition for steel scrap movements from rail competitors (primarily Norfolk Southern) and vigorous truck competition.² Indeed, trucks continue to offer some competitive advantages that rail cannot offer, such as the ability to provide efficient roundtrip service (*i.e.*, delivering scrap or shredder feedstock to scrap processors and departing with finished steel products).³ In addition, water carriers continue to provide Steel Scrap customers competitive options, as many steel producers are located on or near a coast or river system.⁴

B. Primary Steel Products (STCC 33-12)

In the same vein, the Primary Steel Products market is characterized by intense modal competition, both with other railroads, with trucks, and with barge and ocean vessels.⁵ The vast majority of CSXT customers in this market are able to be served by more than one rail carrier, and trucks can compete effectively for a substantial majority of shipments of these commodities.

² CSXT Comments, EP 704 (Sub-No.1) (filed July 26, 2016), Verified Statement of Michael Rutherford on Iron or Steel Scrap (“Rutherford Scrap V.S.”), at 4.

³ *Id.*

⁴ *Id.*

⁵ CSXT Comments, EP 704 (Sub-No.1) (filed July 26, 2016), Verified Statement of Michael Rutherford on Primary Iron and Steel Products (“Rutherford Primary Steel Products V.S.”), at 5.

In addition, CSXT's Metals business continues to face extensive source competition, both from domestic suppliers (many of which are served by multiple railroads) and from foreign suppliers (which often import product via water, and then move it by truck to the final destination). I can confirm that it is still the case that, as Michael Rutherford stated in 2016, "[v]irtually any existing CSXT rail move can be supplanted by one or more alternatives," including rail, truck, intermodal, or water transport. As of 2017, according to Transearch data, trucks had more than 50% of the modal share for the Metals market in general, with water holding over 10%, and rail having only about 39%. One of our largest sheet steel customers moves 64% of their freight by truck, with 79 percent of those moves traveling less than 200 miles, and approximately a quarter of which do not even leave the city limits of the origin.

For example, steel coils can easily be transported in flatbed trucks, and the delivery radius for that product is often less than 300 miles. This combines to make trucks a formidable competitor for steel coil movements. In general, the truck share of the steel coil market is four times the rail share, even though we find that our rates are [REDACTED]

[REDACTED] Moreover, customers located near waterways often find that barge is the cheapest means of shipping steel coils, in large part because each barge can significantly more coils than a railcar.

With regard to sheet steel, source competition is a major factor. Producers are widely dispersed, often producing similar products and targeting a like group of receivers. For this reason, geographic proximity can be a significant advantage or disadvantage for these customers. As a result, these customers are building additional production mills in strategic geographic regions, which is effectively shortening the supply chain and making it tougher to compete with trucks. As more production mills are built, CSXT will enjoy fewer long-haul movements and

truck competition will only increase as hauls become shorter and shorter. For example, CSXT currently ships sheet steel from origins in Michigan, Indiana, and Ohio to destinations in Texas and Mexico. However, two new mills are being built in southern Texas, which likely will result in more competition for short hauls in the Texas and Mexico markets.

[REDACTED]

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Another aspect of the Primary Steel Products market that drives competitive pricing is the fact that the success of CSXT's steel plate customers is closely tied to winning project bids. For this reason, CSXT works with its steel plate customers to understand how both parties can work together to secure business. The customer may be competing with imports or other plate mills to which CSXT does not have access. Freight rates are a factor that can determine whether or not a customer secures the bid, as rail freight averages [REDACTED] of overall cost. As a result, if the customer does not win the project bid, CSXT does not handle the business, either. This dynamic drives flexibility in CSXT pricing for steel plate to ensure that the customer is able to win the bid, which is key to CSXT's success as well.

III. Minerals

A. Coke (STCC 29-914)

As CSXT noted in 2016, the receivers of coke continue to be some of the largest industrial companies in the United States economy, who possess substantial leverage to negotiate competitive rates with CSXT.⁶ Because these companies purchase and transport many raw materials and produce a wide variety of products, "each of them brings to the negotiating table a large book of business with many transportation options for each. These customers often bundle their transportation 'buy' into packages to increase further their negotiating position with

⁶ CSXT Comments, EP 704 (Sub-No, 1) (filed July 26, 2016), at 4.

CSXT.”⁷ Coke receivers also continue to draw from a variety of coke production locations, giving them further options and leverage.

Aside from the leverage Coke receivers enjoy, Coke remains one of the most competitive transportation markets, with most receiving locations served by more than one railroad.⁸ In addition, some of these major steel mills have direct barge service. In short, none of the major steel mills that are CSXT’s customers are without a significant and effective competitive option to CSXT rail service.

B. Crushed Stone (STCC 14-2) & Hydraulic Cement (STCC 32-4)

Crushed Stone and Hydraulic Cement shippers continue to operate in a highly competitive environment.⁹ In particular, end users of these products have multiple options when purchasing these commodities, which forces the markets for these products to vigorously compete. As a result, CSXT must ensure that its transportation prices are likewise competitive, or else its customers (and CSXT itself) will lose business. As CSXT stated in 2016, this is “the very essence of a competitive marketplace.”¹⁰

These shippers also continue to use an array of strategically located distribution centers to give shippers leverage and force transportation prices down and service offerings up. Product competition from imported crushed stone delivered by truck also continues to put competitive pressure on other source options delivered by CSXT or other railroads. CSXT continues to provide transportation as a “middleman in a multistage transportation option,” such that

⁷ *Id.*

⁸ See CSXT Comments, EP 704 (Sub-No, 1) (filed July 26, 2016), Verified Statement of Russ Epting, at 5–11.

⁹ See *generally* CSXT Comments, EP 704 (Sub-No, 1) (filed July 26, 2016), Verified Statement of Louis Muldrow (“Muldrow V.S.”).

¹⁰ CSXT Comments, EP 704 (Sub-No, 1) (filed July 26, 2016), at 2.

“CSXT’s market position is, almost by definition, subject to elimination in favor of direct truck delivery.”¹¹

Many of these shippers, as well as the consuming markets, are served by multiple rail and/or water carriers, all of which ensure that CSXT rail pricing is market-based. This has been confirmed by CSXT customers, who, in the past few years, have opened new distribution facilities or made large investments in facilities served solely by CSXT. For example, Lehigh Hanson Inc. is currently investing approximately \$600 million in a facility served solely by CSXT.¹² If CSXT customers who are served solely by CSXT were worried about CSXT abusing its market power, they would not invest in such facilities.

IV. Lumber (STCC 24), Pulpboard (STCC 26), and Scrap Paper (STCCs 40231, 40241)

The transportation markets for forest products are marked by multiple competitive options. CSXT continues to serve the forest products markets that include 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.

CSXT highly values its forest product customers, and we work hard to incentivize them to choose CSXT over their other transportation options. As Michael Rutherford explained in 2016, CSXT makes substantial investments into boxcars used to move forest products.¹³ CSXT has also been winning business from truck with improving service. At one pulpboard mill, CSXT has increased the percentage of production shipping out by rail from approximately 37%

¹¹ Muldrow V.S. at 1.

¹² See *Lehigh Breaks Ground on New \$600 Million Cement Plant in Mitchell*, WBIW (Oct. 9, 2019), <http://www.wbiw.com/2019/10/09/lehigh-breaks-ground-on-new-600-million-cement-plant-in-mitchell/>

¹³ CSXT Reply Comments, EP 704 (Sub-No. 1) (filed Aug. 26, 2016), Verified Statement of Michael Rutherford (“Rutherford Reply V.S.”), at 4.

to approximately 44% by improving local service and trip plan performance. Due to scheduled railroading, we have seen an improvement in car order fill, which has driven customers to shift truck and intermodal business to CSXT rail service.

Reregulating this highly competitive and efficient market would discourage these types of costly investments and improvements, which CSXT is currently motivated to make within the currently unregulated and competitive environment. Reregulating this market would undermine the benefits CSXT's forest products customers enjoy today.

A. Lumber (STCC 24)

The market for lumber is characterized by extensive modal and geographic competition. CSXT continues to receive most of its lumber movements at interchange locations where multiple railroads can receive the shipment (*e.g.*, Chicago, Buffalo, East Saint Louis, and Memphis).¹⁴ CSXT also continues to compete with other railroads at midway points in the transportation pipeline.¹⁵ In addition, because “truck is universally the final piece of the transportation pipeline” for lumber, direct competition from trucks continues to provide vigorous competition to rail movements.¹⁶ And geographic competition remains a significant source of competition, as there are typically many distribution centers, warehouses, and reload facilities in the same general area, which allows shippers to be selective and to “leverage certain midway points served by one carrier against other midway points served by other rail carriers.”¹⁷

Since Michael Rutherford's 2016 Reply Verified Statement, new market developments have only increased competition in the lumber space. An increase in production in the United

¹⁴ See *id.* at 1–2.

¹⁵ See *id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.*

States and Canada has been met with import competition from Europe. Canadian producers have invested in European and Southern Yellow Pine mills, which has added increased source competition for reaching the warehouse and reload midway points.

Additionally, customers are always looking at their supply chain channels and making changes in the way they reach the end market, ensuring competition remains sharp. For example,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. Pulpboard (STCC 26)

Pulpboard continues to be CSXT's largest forest products commodity by volume. The competition for pulpboard traffic likewise continues to be "pervasive."¹⁸ In particular, geographic competition continues to drive the competitive landscape. The major, consolidated pulpboard mills are "able to rely on source shifting and use geographic competition very effectively in contract negotiations."¹⁹ In addition, because pulpboard mills are located throughout the United States, many mills are able to be served by multiple railroads and/or can take advantage of short-haul truck moves.²⁰

Since Michael Rutherford's 2016 Reply Verified Statement, the pulpboard market continues to experience production capacity increases, largely due to printing paper mill conversions. Several of CSXT's largest customers, such as International Paper and New-Indy,

¹⁸ *Id.* at 2–3.

¹⁹ *Id.* at 3.

²⁰ *Id.* at 2–3.

implemented these conversions in 2020 and more are slated through 2021–2023. This development increases options in the marketplace and thus intensifies source and geographic competition, which is inclusive of not only domestic volumes but also export volumes to the east coast ports.

C. Scrap Paper (STCCs 40231, 40231)

Scrap Paper remains highly competitive due to its low value, which drives shippers to choose the lowest possible transportation cost, be it rail or truck—both of which are available options.²¹ Direct truck competition remains a constant reality for scrap paper commodities, with trucks enjoying a 75% share of the market. In addition, rail competition is vibrant, as most of these products can be shipped via different interchange locations served by alternative railroads. Finally, because the destinations are located throughout the United States, substantial geographic competition continues to ensure that rates and services are constrained by competitive forces from multiple directions.

²¹ *Id.* at 4.

VERIFICATION

I, Arthur Adams, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this verified statement.



Arthur Adams

Executed on January 29, 2021

Attachment 1

2016 Verified Statements

VERIFIED STATEMENT OF LOUIS MULDROW

TO

CSXT COMMENTS

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

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VERIFIED STATEMENT OF LOUIS MULDROW

My name is Louis Muldrow, and I serve as Director of Marketing - Minerals for CSX Transportation, Inc. ("CSXT"). I have had this position since September 1, 2014. Immediately prior to this position, I served as Director of Sales and Marketing - Coal from November 1, 2001 to August 30, 2014. My responsibilities include the oversight and management of CSXT's pricing in the minerals market. For CSXT, the Minerals market includes both crushed stone products with STCC 14-2 (the "Stone Market"), and hydraulic cement with the STCC 32-4 (the "Cement Market").

In connection with my Verified Statement, I have reviewed the comments of the Association of American Railroads ("AAR") and CSXT in this proceeding.

CSXT shares the concerns expressed in the AAR Comments regarding the Surface Transportation Board's ("STB") disregard of the competitive realities in the Cement and Stone Markets.

CSXT's role in the Stone Market and Cement Market is more limited than the STB perceives. In the majority of cases, CSXT delivers the cement or stone to a distribution center, with final deliveries made by truck. As a middleman in a multistage transportation option, CSXT's market position is, almost by definition, subject to elimination in favor of direct truck delivery. For this reason, a distribution point served exclusively by CSXT (and truck) competes directly for sales to end users with distribution centers that may be served by truck, another railroad, or by vessel deliveries. So long as the respective final truck movements from the distribution centers to point of end use are competitive, the movements to the distribution centers must also be competitive.

The STB's general review of the Stone Market fails to distinguish among the varied competitive conditions in its component markets. The most glaring oversight is the lumping of the scrubber limestone market in with other broken stone markets. Scrubber limestone is a specialized product used by coal-fired electric utilities in flue gas desulfurization ("FGD") systems to control sulfur dioxide (SO₂) emissions. The scrubber limestone must contain specific chemical properties in order to effectively remove emissions from the coal combustion process. These requirements effectively divide scrubber limestone from the remainder of the Stone Market. The Board has not described the competitive situation in the Stone Market since it has not described the distinctions between the two submarkets.

Rail transportation enables utilities to diversify their Scrubber Limestone sources for use in controlling SO₂ emissions of coal-fired electric generation stations, allowing them to comply with federal environmental regulations, including the Clean Air Act. Few electric generation stations are in close proximity to scrubber limestone sources. Those that are, do not have multiple local sourcing options. By expanding utility sourcing options, the overall cost of compliance is reduced. Further, scrubber limestone is a more rare, more valuable commodity, and CSXT's ability to expand the scrubber limestone competition is therefore more valuable than the service it provides in other crushed stone markets. By expanding the reach of electric utilities and expanding the supply of scrubber limestone, CSXT lowers the overall costs of environmental compliance, and benefits the public interest. This market has grown over the last twenty years.

One reason that R/VCs have risen in the crushed stone market is improved service that allows CSXT and its customer to share the value from the reduction of costs. For example, CSXT has developed a dedicated unit train operation for one customer with a 36 hour cycle time

that provides steady and reliable service that creates value for CSXT to share with its customer. The efficiencies of that operation result in a higher R/VC, even though the customer shares from CSXT's ability to increase value for both companies through a mix of better service and pricing.

For the southern crushed stone market, an important factor is that most quarries are located in remote areas, far from consumption markets. For example, Florida is a large market for crushed stone that is predominantly sourced from out of state. Given the geography of Florida, water transportation has easy access to the market, and both U.S. and imported stone arrive by water. As Martin Marietta's most recent 10-K indicates, the company moves aggregates by both rail and water to reach growing markets that do not have aggregate supplies nearby. Martin Marietta indicated that it expects that for those markets, "gross margin (excluding freight and delivery revenues) should continue to improve." Thus, Martin Marietta sees a market opportunity where demand exceeds supply and in which end-market prices are outstripping increases in transportation costs. In that situation, any Board action that would limit investment in transportation infrastructure may be very damaging to the public interest in building supply networks that would bring those markets into balance.

These markets are growing quickly as Florida construction is driven by increasing population. Despite stiff competition from the Norfolk Southern (NS)-Florida East Coast (FEC) connection and imported stone, the relatively high demand has made routes into Florida some of CSXT's most profitable general crushed stone routes. These high revenue routes are experiencing some of the highest carload growth rates as demand continues to push prices up. The high R/VCS in this market are driven by longer length of haul and rising demand, not market power.

Competition comes from rail as well. NS serves numerous quarries that sell into the Florida market, including through its connection with the FEC in Jacksonville. The NS-FEC interline service is a formidable competitor. That the market is functioning properly can be seen in the volatility in volumes in many routes. CSXT has seen swings from month to month of significant amounts of the traffic in some lanes as particular shipments are lost to other railroads, trucks, or vessels.

CSXT also continues to see strong growth for rail transportation to southern destinations as customers seek to build new rail receiving facilities to expand their reach into the consuming market. The investment our customers are making in new, sole-served rail receiving facilities demonstrates their confidence in the constraints other railroads and modes of transportation exert in the transportation market.

CSXT sees strong rail competition across the Great Lakes region, as there is usually a shortline or Norfolk Southern served unloading terminal well within the truck-served radius of aggregates terminals served by CSXT. There are also larger numbers of local production sources in these regions. Rail distribution centers bring competition into the home territories of many local stone producers, enhancing competition and serving the public interest.

Our customers are very aware of the competitive market for transportation. One large aggregates customer's annual report shows how water transportation has grown from 0% to 4% from 1994 to 2015, as water transportation has started to make inroads in aggregates transportation. While that report shows that rail has increased its share from 7% to 21% in the period, that still leaves trucking handling 75% of the customer's aggregates transportation. Competitive actions – not market power – has led to the growth of CSXT's business.

That same report shows that trucking dominates their transportation, even though it is the most costly on ton-mile basis. That report shows that vessel transportation costs \$0.005 to \$0.015 per ton-mile; rail transportation costs \$0.04 to \$0.09 per ton-mile; and trucks costs between \$0.15 to \$0.35 cents per ton-mile. These market prices do not reflect a circumstance where rail generally holds market power. Customer decisions are made on price per ton – not price per ton mile. If a truck move is 20 miles at \$0.015 per ton-mile (\$0.30 per ton), to be competitive CSXT must price its 80 mile move at \$0.00375 per ton-mile (\$0.30 per ton) or less to make its quarry competitive.

The hydraulic cement market is also highly competitive. Many of the larger cement producing plants are dually accessed, either directly or via a shortline. In addition, the volumes originating from those cement mills is predominantly handled by trucks, and rail traffic often shifts between rail providers based on competitive, head-to-head economics.

In this market, again, two or more distribution centers generally compete directly for sales to end users, forcing their transportation suppliers (rail, truck, or water) compete directly with each other. CSXT's customers are investing several million dollars to add rail capacity at their facilities. This is happening at several locations across the CSXT network.

CSXT also sees customers making large investments in rail facilities that allow rail service to compete with all-truck service. In one instance, a multi-million dollar investment by a customer allowed rail service to displace several thousand truck shipments. This displacement released those trucks to compete with rail across the country, and demonstrates rail competing head-to-head with trucking and winning business.

Cement market length of haul has grown since 2008 due to consolidation of cement producers. Plant closings and the resulting consolidation have not been inhibited by

‘uncompetitive’ transportation costs. A result of this consolidation has been longer lengths of haul, which results in higher R/VCs. CSXT has active routes in excess of 1200 miles, demonstrating that rail is underwriting geographical competition in the cement market, by enabling large plants to enter distant markets.

CSXT is well aware of competition from other railroads and from vessels. CSXT has lost business to vessels as well as rail competitors in recent years. CSXT has worked hard to win business from those same competitors.

In particular, CSXT finds that it has tremendous difficulty competing against trucks at distances of less than 500 miles in the cement market. CSXT is not aware of tightness in the trucking market. To the contrary, customers have expressed confidence that, with capital readily available, they can easily expand their trucking operations to replace rail service if CSXT’s prices are not competitive. Customers have also expressed confidence in the ability of trucking companies to support their operations.

The cement market also faces competition from imports. CSXT has lost significant business in recent years in New England as its multinational customers shift production to low-cost overseas sources, including from Turkey.

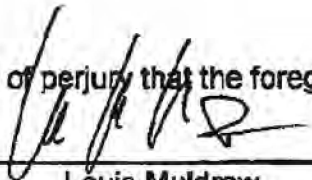
CSXT’s creativity and service have allowed customers to share the value of win-win solutions. For example, In 2012, CSXT developed a unit train operation that took well over 10,000 trucks off the road by shuttling unit trains to fill a barge in order to deliver it by vessel to New York City. This allowed the customer to serve a new market that was unobtainable previously. The efficient service yielded a high R/VC for CSXT’s cement line of business, while expanding competition in New York City and earning new markets for the customer. Yet even here, in 2016 CSXT could not retain the business in the face of stiff import competition.

My experience in the Stone and Cement Markets is that R/VCs rise when CSXT enhances service in ways that allow CSXT and its customer to share the incremental value jointly created by combining consolidated, efficient production with reliable transportation that can enable our customers to expand into new, and ever distant, markets.

VERIFICATION

I, Louis Muldrow, declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2016



Louis Muldrow

REDACTED

HIGHLY CONFIDENTIAL

VERIFIED STATEMENT OF RUSS EPTING

TO

CSXT COMMENTS

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

Review of Commodity, Boxcar, and TOFC/COFC Exemptions

VERIFIED STATEMENT OF RUSS EPTING

I. Introduction

My name is Russ Epting and I serve as CSXT's Assistant Vice President of Export & Pier Operations in the Coal Service Group. In this role, I have responsibility for all of CSXT's Export Pier facilities and the Sales & Marketing function for Export and Industrial Coal Markets.

My prior positions at CSXT include Director of Export Coal from 2009-2014, Director of River and Industrial Coal from 2001-2009, National Account Manager for Integrated Steel Companies from 1996-2001, and Market Manager for Utility Coal from 1999-2000. I've been with CSXT for 26 years, spending time in coal, grain, and network sales & marketing roles. I received my B.S. from the Mars Hill University near Asheville, NC in 1990 and my MBA from the University of Tennessee in Knoxville, TN in 2012.

I understand the Surface Transportation Board has proposed to revoke the current exemption on coke produced from coal (STCC 29-914) with the intention of treating it as a regulated commodity. Upon reviewing the proposal, it appears the agency is taking this action as a result of two perceptions: (1) the 39-mile increase in average length of haul (372-411 miles) for coke movements over a 22-year period may indicate less short haul movements and therefore less modal competition from trucks; and (2) an increase in revenue-to-variable cost ratios (R/VCs) between 1992 and 2013 may indicate coke "is becoming increasingly captive to railroads." To address these concerns, I'd like to give you some context about coke itself, explain the current competitive landscape for the transportation of coke, and help foster a better understanding of how much we value our coke customers and the investment CSXT has made in our service product.

II. Coke's Production and Functionality

Coke is created by baking a blend of metallurgical coal in a high temperature oven without contact with air to around 2000 degrees Fahrenheit for 12-36 hours. The heating process burns off the volatile matter and fuses fixed carbon and inherent ash. Upon completion of the heating process, the coke is removed, cooled with water or air, and weighs about two-thirds the weight of the original raw material. The final product is a nearly pure, non-melting, solid carbon with sizes ranging from basketballs (foundry coke) to a fine powder (coke breeze).

Since metallurgical coal is the key raw ingredient in the making of coke, the coke is commonly referred to as metallurgical coke, or “met coke.” For purposes of this Statement, any reference to coke is a reference to met coke, which is to be distinguished from petroleum coke (or “pet coke”) derived from oil refineries and used in a variety of industrial applications (e.g., production of aluminum).

Metallurgical coal (“met coal”), unique for its low ash, low sulfur content, is mined predominantly in the Central Appalachia region of the United States—the one exception is the much smaller amount of met coal mined out of Alabama with some different characteristics. In light of the concentration of met coal in Central Appalachia, nearly all met coke in the U.S. is produced at plants within convenient reach of that region, mainly in Indiana, Pennsylvania, Michigan and Ohio.

The great majority of met coke is used to produce iron and steel. When met coke is combined with limestone and iron ore in high temperature furnaces (termed “blast furnaces”), the extreme heat causes the chemical properties to bond, forming iron and steel.

III. The Decline of Coke Production in the United States

While coke production reached its height in the 1950s, it has since fallen dramatically due to the decline suffered by the U.S. iron and steel industry. In general, less raw steel is needed due to a combination of greater reliance on imports of finished and semi-finished steel, the introduction of new technologies, and challenges associated with environmental regulations.

On the technology front, blast furnaces have been improved in a way that has reduced the amount of coke needed to produce a ton of pig iron. Over time, we've seen advances to the basic oxygen furnace, which enables scrap iron to replace pig iron in some processes. There is also the electric arc furnace, which produces steel from a charge consisting of 99 percent scrap iron and recycled steel and 1 percent iron pellets. The substitution of other products for steel (including plastics, aluminum, magnesium, and titanium) has also indirectly reduced the need for coke.

We've also seen the use of granulized coal injection (GCI) and pulverized coal injection (PCI) in blast furnaces to supplement and reduce the use of coke by up to 40%. PCI is pulverized coal with the consistency of face powder, while GCI is less finely ground and has a consistency similar to granulated sugar. In both cases, the coal injections are mixed with high-pressure air and blown into the blast furnace. Since the cokemaking is generally seen as the major source of pollution in the production of raw iron, the use of these coal injection technologies are viewed favorably in the effort to decrease emissions. In addition to mitigating environmental issues associated with coke production, they can reduce the need for more costly supplemental blast furnace fuels, including natural gas.

On the environmental front, we've witnessed many closings that targeted older plants as a result of the high cost of refurbishing needed to meet air pollution standards. The coke industry

is faced with the advanced age of many of their coke ovens and the rising costs of replacing them with environmentally clean ovens.

IV. Today's Competitive Landscape for Coke

With respect to plants that receive coke in the U.S., there are currently 16 receivers. They all have rail access. CSXT either connects with them directly or we can reach them through a destination carrier. It's possible there are smaller receivers in the East or the West that I'm not aware of, but these 16 should be generally representative of all receiver locations in the U.S.

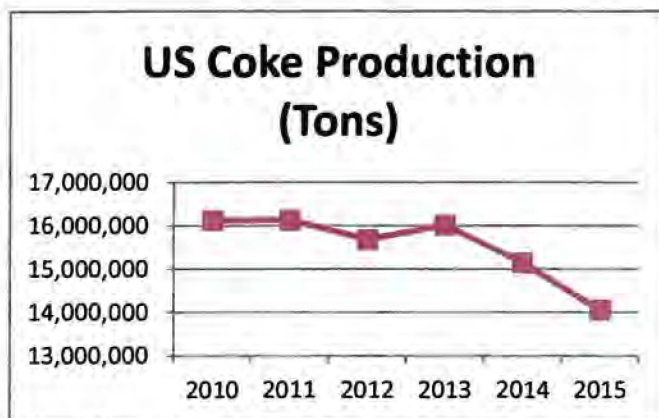
The 16 receivers are indicated on the receiver map, included here as Addendum 1. They are predominantly steel production plants, but there are also a few foundries that use the coke for varying industrial applications, such as the General Motors plant at Defiance. Each one relies on some combination of truck, barge, railroad (CSXT and other railroads) and/or next-door production to meet its coke demand.

It would be mistaken to assume, on the basis of R/VC ratios or other data extrapolations, that any of these plants are "captive" or "potentially captive" to CSXT. That couldn't be further from the truth. The coke marketplace is highly dynamic—a marketplace where receivers have a variety of options, and where CSXT has historically gained or lost significant market share over short periods of time. To better illustrate, the following chart shows CSXT's coke volume trend from 2010 to current:

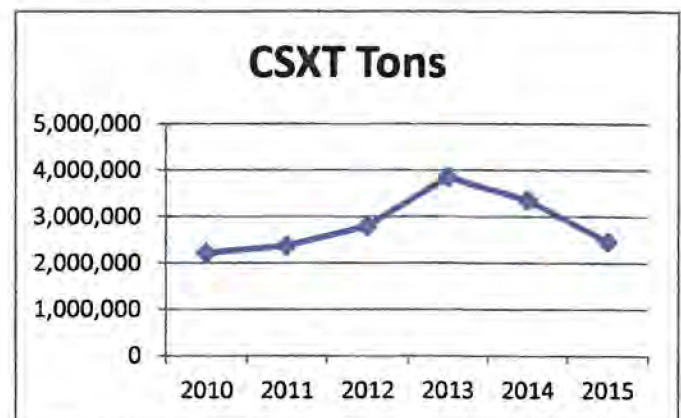
Year	Volume (carloads)
2010	34,185
2011	38,200
2012	45,164
2013	56,629
2014	48,756
2015	36,170
2016 (estimated for full year)	21,396

You'll see that we've fluctuated from a low of 34,185 in 2010 to a high of 56,629 in 2013—a sizable increase of 66%. But in 2015, we unfortunately dropped back down to effectively our 2010 level. Worse yet, we project a dramatically lower amount of coke volume for 2016. This loss is a direct result of competition and the overall declining market.

The charts below provide a comparison between U.S. coke production tonnage and coke tonnage moved on CSXT.



US Coke Production Information provided by the American Coke & Coal Chemicals Institute (ACCCI)



While CSXT tonnage is clearly influenced by overall production, competitive gains and losses have at times caused our volumes to move in contrast to the general trend, and at other times the effect of the general trend is minimized or exacerbated by competitive forces.

In the Board's proposal, I observed that the agency's study of the coke market appeared to heavily rely on waybill records, and that the study ended in 2013. In light of that, I'd like to provide the Board with a closer evaluation of some of the actual competitive dynamics, including some recent examples of the competition we've faced since 2014.

In-House or Nearby Coke Production

I'd like to begin by making clear that five of the 16 receivers served by CSXT have their own in-house coke producing plant and/or a nearby third party coke supplier (Sun Coke Energy),

as set forth on the receiver map. The in-house plants typically rely on conveyor systems to connect their coke plant to their steel plant—usually on the same site. In one case, however, the receiver (Bessemer) is connected to its own coke plant by relying on its own shortline to transport coke over the roughly 12 miles that separate the two plants. Similarly, Sun Coke Energy sites are within immediate proximity to a receiver, and deliveries are made by conveyor belt or via the receivers' own rail car shuttle pulled by the receiver's own motive power.

It's important to understand from the outset that 31% of the receivers have their own nearby coke production facility to rely upon. Any CSXT-delivered coke to these plants is merely a supplement to their primary supply. The “make-or-buy” decision is based on competing economics, including the cost of CSXT rail delivery.

Rail Competition

On the receiver map, please note that all 16 have railroad access. The related spreadsheet entitled “CSXT Coke Receivers” (Addendum 2), shows that CSXT only connects directly to five of the receivers (Ashland, Defiance, Dearborn, Middletown and Etowah), only three of which are sole-served by CSXT (Ashland, Defiance and Etowah). For the remaining 11 receivers that CSXT does not serve directly, CSXT must rely on another railroad to reach them. It's important to recognize that five of these 11 receivers have chosen to directly involve themselves in their rail transportation by owning in some fashion the shortline delivering carrier. In each case where the delivering carrier is a shortline, that shortline connects to other railroads besides CSXT.

CSXT has both lost and gained significant market share to its rail competitors in the last few years. Here are a few examples:

- CSXT moved coke from {{ }}. The business represented roughly {{ }} carloads of coke in {{ }}, representing 28% of our total volume for that year. Upon expiration of our agreement in {{ }}, the business in its entirety was lost to {{ }}.

- CSXT moved coke from {{ }}. Upon expiration of our agreement at the end of {{ }}, CSXT lost this business to {{ }}. The loss amounted to {{ }} that would have represented an increase of 7% to {{ }} volumes.
- {{ }}
CSXT won roughly {{ }} to be moved in {{ }}, which represents 3% of the {{ }} volume.
- In {{ }}, CSXT bid on new business for {{ }} CSXT lost the bid to {{ }}, losing what would have been a 37% increase to total volume moved in {{ }}.
- {{ }} put out a bid for a projected {{ }}. CSXT lost the bid to {{ }}, which would have represented a 19% increase to total volume moved in {{ }}.

Barge Competition

Five of the 16 receivers (31%) indicated on the receiver map have docks at or near their plants and are capable of receiving coke by barge today:

- Ashland has its own dock on the Ohio river and has received coke by barge;
- Granite City is within a few short miles from a dock owned by a third party transloading facility (Beelman) located on the Mississippi river that has received coke by barge, then short-haul trucked to the Granite City plant;
- Gary has its own dock on Lake Michigan and has taken iron ore by barge;
- Indiana Harbor has a dock on Lake Michigan and has taken coal by barge; and
- East Chicago has a dock on Lake Michigan and has taken coal by barge.

In terms of marketplace examples, there is one particularly significant event where we recently lost out to barge competition that I'd like to highlight. {{ }}

}} This represented a 16% loss to our

{{ }} coke volume.

{{

}}

Truck Competition

While trucks are always a competitive threat in light of their speed and door-to-door capability, we've taken a conservative approach and labeled only nine of the receivers with truck icons on the receiver map. Five of the nine are foundries where the coke is consumed in furnaces for melting metal and in the preparation of molds (Defiance, Zanesville, Etowah, Medley, Waupaca). They often require just-in-time service, have comparatively lower inventory capacity and will frequently ship in smaller quantities, giving trucks a particular advantage for the business. The remaining four are steel production facilities (Ashland, Cleveland, Dearborn, Bessemer) that have the benefit of exceedingly short hauls to origins ranging between 8.5-54 miles. {{

^ {{

}}

}} In sum, it's my view that at least 56% of the receivers are highly truck competitive.

I'll also take a moment here to touch on the Board's concern with the increase in average rail length of haul (39 miles) when comparing 1992 and 2013. First, that's really a minimum amount, and I'd caution the Board from drawing any conclusions from it. I can't recall a time where someone beat us out of a bid, or where we lost a bid, on the basis of a 39-mile difference. It's just not material. Second, there are a variety of reasons as to why it could have occurred. Anything from routing changes, sourcing decisions, or certain shorter hauls by rail being displaced by in-house capabilities or the entrance of SunCoke Energy into the market (e.g., SunCoke began operations at Middletown in 2011, Indiana Harbor in 1998, and Granite City in 2009).² But none of these occurrences led to rail market power. Finally, I'll again re-emphasize that trucks are very competitive in this market, and my team works hard to compete against their distinct advantages.

Product Competition

As I mentioned previously, GCI and PCI are technologies that can reduce the use of coke by up to 40%. {{

² See SunCoke Energy's facility fact sheets for each cokemaking facility at <http://www.suncoke.com/English/our-business/facilities/default.aspx>.

³ {{

}}

}}

It's also a clear indication of product competition in the market.

Geographic/Source Competition

Receivers have a variety of choices on where to source their coke. To best illustrate this, I've included a map, entitled "Coke Receivers Rely on Geographic Competition" that shows the known origination options available to CSXT's top six receivers by revenue (Addendum 3) and a related spreadsheet (Addendum 4). These six combined represent approximately 85% of our 2015 coke revenue.

Each of the six is represented by a different color connecting them to varying sources. Importantly, we've only included known sources of their coke in recent memory—it's possible there are other sources they've drawn from that we're unaware of. Sometimes we're aided by our receivers' geographic sourcing, and sometimes we're hurt by it. But it holds as an undeniable marketplace fact that steel producers benefit immensely from the negotiating leverage that source shifting provides to them.

Competitive Landscape Summary

With respect to the 16 coke receivers in the U.S., 31% have in-house/nearby coke production capabilities, 100% have rail access, 31% have dock-ready barge options, and at least 56% are highly truck competitive. Product competition is an ongoing threat to CSXT, and geographic competition is undeniably pervasive throughout the marketplace.

I'd like to again take this opportunity to refer back to the Board's proposal, and the assumptions of "captive" and "potentially captive" that are drawn on the basis of R/VC ratios. Respectfully, they're not fact-based and they assume a level of market power that's not present. The terminology 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. The coke marketplace is highly dynamic—a marketplace where shippers have a variety of transportation options, and where CSXT is working hard to win the customer's business and constantly improve its service product offering.

V. CSXT's Investment in Coke Customers

CSXT is committed to our coke customers, and we've heavily invested in the service product we provide to them. Since 2006, we've invested more than \$67M in our coke car fleet. We have 1400 cars in our fleet of coke cars, termed "CSXT Coke Express Cars." They are larger in size (holding 75 tons/car) than many other cars carrying coke that only hold up to 62 tons/car. The larger size allows our customers to be more efficient, utilizing less cars in total due to the higher carrying capacity per car. They also allow customers to forego investment in their own private equipment.

As I explained earlier, we have for some time been facing a declining coke market. A business case could be made to do less of the type of investment in rolling stock that we've done in the past as we consider capital expenditure decisions going forward. The prospect of additional regulation and any form of artificial rate compression to today's market-based rates would only dis-incentivize these types of investments that are good for both customers and railroads, and our country's transportation system.

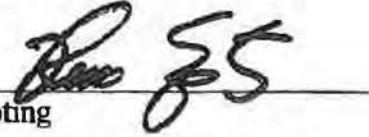
I greatly appreciate the opportunity to provide these comments, and would be glad to serve as resource to answer any questions you might have.

VERIFICATION

I, Russ Epting, declare under penalty of perjury that the foregoing is true and correct.

Executed on July 26, 2016

Russ Epting

A handwritten signature in black ink, appearing to read "Russ Epting", is written over a horizontal line.

ADDENDUM 1
TO
VERIFIED STATEMENT OF RUSS EPTING

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

U.S. COKE RECEIVERS



- Receiver
- In House Coke Plant
- Waterway
- Highway
- Barge
- SCE Sun Cokes Energy Supplier
- Rail
- CSX Rail Service
- Truck
- CSX Operating Agreement

0 150
Miles



July 2016

DISCLAIMER
The CSX Corporation, its subsidiaries, agents, and personnel, hereby disclaim any responsibility for the use of the information contained on this map. Any use of the information on this map is at the user's sole risk, and the user agrees to hold the CSX Corporation, its subsidiaries, agents, and personnel, harmless from any use of the information. The user shall defend, indemnify, and hold the CSX Corporation, its subsidiaries, agents, and personnel, harmless from any use of the information. The user shall defend, indemnify, and hold the CSX Corporation, its subsidiaries, agents, and personnel, harmless from any use of the information. The user shall defend, indemnify, and hold the CSX Corporation, its subsidiaries, agents, and personnel, harmless from any use of the information.

ADDENDUM 2
TO
VERIFIED STATEMENT OF RUSS EPTING

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

Addendum 2

U.S. COKE RECEIVERS

Coke Receivers	Destination	Destination Carrier	Known Potential Modes of Transportation			In House Coke Plant	SunCoke Energy
			Rail	Barge	Truck		
AK Steel	Ashland, KY (facility temporarily idled)	CSXT	X	X	X		
ArcelorMittal	Burns Harbor, IN	2 railroads serve - Chicago South Shore Railroad and NS	X			X	
ArcelorMittal	Cleveland, OH	Cleveland Works Railway Company - Mittal Steel USA (owned by ArcelorMittal)	X		X		
AK Steel (previously Severstal)	Dearborn, MI	3 railroads serve - CN/NS/CSXT	X		X		
General Motors	Defiance, OH	CSXT	X		X		
US Steel	Detroit, MI	Delray Connecting Railroad - Transtar (owned by US Steel)	X				
ArcelorMittal	East Chicago, IN	Indiana Harbor Belt Railroad Company	X	X			X
ArcelorMittal	Indiana Harbor, IN	South Chicago and Indiana Harbor Railway (owned by ArcelorMittal)	X	X			
Waupaca Foundry	Etowah, TN	CSXT	X		X		
US Steel	Gary, IN	Gary Railway Company - Transtar (owned by US Steel)	X	X			
AK Steel	Middletown, OH	2 railroads serve - CSXT/NS	X			X	X
US Steel	Granite City, IL (facility temporarily idled)	Terminal Railroad Association of St. Louis	X	X			X
US Foundry	Medley, FL	Florida East Coast Railway, LLC	X		X		
Waupaca Foundry	Waupaca, WI	Canadian National	X		X		
Casting Solutions	Zanesville, OH	The Columbus & Ohio River Railroad Company	X		X		
Edgar Thomson - Mon Valley Works (owned by US Steel)	Bessemer, PA	Union Railroad (owned by US Steel)	X		X	X	

REDACTED

HIGHLY CONFIDENTIAL - ADDENDUM 3

TO

VERIFIED STATEMENT OF RUSS EPTING

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

Review of Commodity, Boxcar, and TOFC/COFC Exemptions

REDACTED

HIGHLY CONFIDENTIAL - ADDENDUM 4

TO

VERIFIED STATEMENT OF RUSS EPTING

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

Review of Commodity, Boxcar, and TOFC/COFC Exemptions

REDACTED

HIGHLY CONFIDENTIAL

VERIFIED STATEMENT OF MICHAEL RUTHERFORD
ON IRON OR STEEL SCRAP

TO

CSXT COMMENTS

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

VERIFIED STATEMENT OF MICHAEL A. RUTHERFORD

Iron or Steel Scrap

My name is Michael A. Rutherford, and I serve as Assistant Vice President – Industrial Products for CSX Transportation, Inc. (“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 August 1, 2013. Immediately prior to this position, I served as Director – Market Intelligence & Strategy for CSXT from August 1, 2011 to July 31, 2013. I received my Bachelors of Science degree in International Finance and Commerce from Georgetown University, and my Masters of International Economics and Management from SDA Boccioni in Milan, Italy.

For CSXT, the metals markets include both iron and steel scrap with STCC 40-211 (the “Scrap Market”), and the primary iron and steel products markets, with the STCC 33-12 (the “Primary Steel Products Market” and, together with the Scrap Market, the “Metals Market”). In this Verified Statement, I will discuss CSXT’s Scrap Market.

Scrap Market – Industry Description / Introduction:

Ferrous scrap, the most recycled material on a worldwide basis, is a global commodity that is a key raw material utilized by Electrical Arc Furnaces (EAF) / Mini-Mills in the production of steel. Scrap generally comes from two sources: end of life products (“obsolete scrap” – e.g., automobiles); and, scrap generated from an industrial or manufacturing process (“prompt scrap”). Scrap consumed by the EAF process to produce steel accounts for more than 60% of the raw steel produced in the U.S., and trades on a monthly cycle based on the demand of the marketplace.

Exports are also a key attribute of the ferrous scrap market. The U.S. is the single largest global supplier of scrap, exporting nearly 13 million metric tonnes of scrap in 2015 to numerous

countries. Scrap exports can have a significant impact on the domestic marketplace by influencing the supply and demand balance and associated scrap market pricing.

Both domestic and foreign mills rely on scrap as a vital raw material in the production of steel. Like many commodities, market forces can significantly impact and alter shipping patterns.

CSXT's Scrap Market:

On a volume basis, the Scrap Market is the largest line of business among all of CSXT's Metals Market, and accounts for over {{ }} of the carloads shipped in CSXT's Metals Market. It is a mature, highly competitive and transactional marketplace with over {{ }} active customers. The customers are typically scrap processors and brokers. Although CSXT's top {{ }} scrap customers account for {{ }} of its scrap business, the large number of competitors (modal, source, geographic, etc.) keeps the market competitive, and forces CSXT to actively monitor market conditions to stay competitive.

CSXT is well positioned in the Scrap Market because about 87% of the U.S. steel production is located east of the Mississippi. CSXT and Norfolk Southern ("NS") compete hard for business in the Scrap Markets, with NS currently holding a slightly larger share of the portion of the eastern transportation market that moves by rail. Of course, the respective market shares of CSXT and NS, and the rail share of the overall transportation market, shift over time.

The scrap business is primarily regional in nature. The scrap business has an average loaded length of haul by rail of just 480 miles, reflecting the single-car nature of the business and the prevalence and viability of trucking alternatives. It is widely dispersed across the CSXT network and all moves in merchandise (or "batch") service. Key service needs revolve around availability of equipment and consistent, reliable service. {{ }} of all

CSXT moves are local to the CSXT network, as the service requirements and competitive price constraints make more costly interline movements largely uncompetitive.

A mix of railroad and private gondolas are utilized in the transportation of scrap, with private equipment accounting for up to {{ }} of the scrap movements in recent years. Pricing the transportation of scrap by CSXT is frequently done on a “per car” (vs. per ton) basis, which benefits the shipper. The majority of such movements move under contract. Only about {{ }} of the Scrap Market moves under tariffs. CSXT seeks to capitalize on the value of the service it provides. CSXT is very focused on both price and yield management in an effort to earn an appropriate return on assets. Because pricing must reflect the amount of capital sunk into the assets, CSXT frequently cannot meet the pricing of other transportation options, which have lower capital costs.

Competition is so significant that, under current conditions, the return profile on CSXT’s fleet of gondolas does not justify reinvestment. The gondola is the backbone to the steel industry and is a key asset for delivering scrap and metals growth. Over the last 10 years, the CSXT 52’ gondola fleet size has declined {{ }}, falling from {{ }} to {{ }} cars. CSXT’s 52’ gondola fleet continues to be under pressure and will require capital to replace an aging fleet as it is facing significant fallouts over the near term. CSXT has developed a gondola strategy that could provide a systematic approach to address the issues facing the fleet. The strategy includes maintaining a quality 52’ gondola fleet via purchases, repairing heavy bad orders (HBO), life extensions and leasing, employing actions to manage future capital “peaks and valleys” and implementing a transition strategy or moving toward a 65’ 286K gondola in scrap service. Unfortunately, current pricing cannot support most of the elements of this strategy. Absent the ability to reinvest, our customers will have to become increasingly reliant on

privately -owned equipment. The fact that CSXT cannot justify reinvesting in gondolas for the Scrap Market shows the weakness of CSXT's competitive position in the Scrap Market.

Competition:

Customers in the Scrap Market compete strongly with each other, and those competitive pressures are passed through to rail carriers in the Scrap Market. Each shipper (scrap processor) and receiver (steel producer) has a variety of competitive options dependent on location.

Rail and truck are considered the key competitors in this market.

CSXT's primary rail competition comes from the NS. Nearly 85% of the steel mills in our service territory are jointly served through dual rail access, trackage rights agreements, haulage agreements, or reciprocal switching.

Today, given the downturn in many industries, demand for trucking services has weakened, creating truck capacity and more aggressive truck pricing at all mileage levels. In some cases, truck also provides a competitive advantage to customers by round tripping scrap or shredder feedstock with finished steel movements, something that rail cannot provide due to equipment issues.

Ocean vessel and barge also provide competitive options given the number of steel producers located on or near the coast or river system. It has also become more of a factor with the strengthening of the dollar as steel mills look toward scrap imports to supplement their monthly buy program. These steel producers also have access to and benefit of water-borne scrap from the domestic market, especially when the export market is limited and the scrap exporters implement a domestic sell strategy. On the shipper or processor side, those with water access also have competitive options to move material export or domestic.

PUBLIC VERSION

Given multiple competitive options by both the shippers and receivers of scrap, there is no market dominance or justification to re-regulate the commodity.

Ferrous Scrap Financial Metrics:

Based on CSXT financial profitability metrics, ferrous scrap provides thin to modest margins and currently cannot support additional capital investment in system cars, as can be seen in the chart below: {{

}}

Re-Regulation:

Re-regulation of ferrous scrap would restrict the Scrap Market's financial stability and further limit CSXT's ability to invest in equipment and infrastructure required to expeditiously move our customers' traffic today and in the future. Rail productivity enhancements and capital

PUBLIC VERSION

investment would suffer leading to less capacity, reduced service, and reduced ability to pass along productivity cost savings to customers in the form of lower and more competitive rates.

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

Executed on July 25, 2016


Michael A. Rutherford

REDACTED

HIGHLY CONFIDENTIAL

VERIFIED STATEMENT OF MICHAEL RUTHERFORD
ON PRIMARY IRON AND STEEL PRODUCTS

TO

CSXT COMMENTS

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

PUBLIC VERSION

VERIFIED STATEMENT OF MICHAEL A. RUTHERFORD

Primary Iron or Steel Products

My name is Michael A. Rutherford, and I serve as Assistant Vice President – Industrial Products for CSX Transportation, Inc. (“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 August 1, 2013. Immediately prior to this position, I served as Director – Market Intelligence & Strategy for CSXT from August 1, 2011 to July 31, 2013. I received my Bachelors of Science degree in International Finance and Commerce from Georgetown University, and my Masters of International Economics and Management from SDA Bocconi in Milan, Italy.

For CSXT, the metals markets include both iron and steel scrap with STCC 40-211 (the “Scrap Market”), and the primary iron and steel products markets, with STCC 33-12 (the “Primary Steel Products Market” and, together with the Scrap Market, the “Metals Market”). In this Verified Statement, I will discuss CSXT’s Primary Steel Products Market.

Primary Steel Products Market – Industry Description / Introduction:

The 33-12 STCC group is made up of a diverse set of steel products that include Semi-Finished, Sheet, Plate, Bar, Rod, Structurals, Pipe, and Track Material. These are also the basic steel products that define the key segments of the steel industry and Metals business at CSXT.

The steel marketplace is no longer just domestically oriented and driven, as it was decades ago. Today, it is an intensely competitive global marketplace that can have far reaching impacts on the U.S. steel industry.

Global steel production has grown significantly over the last 15 years driven primarily by China. China now dominates global production producing over 803 million tonnes in 2015,

followed by Japan at 105 million tonnes. The U.S. ranks fourth producing 79 million tonnes, which accounts for about 5% of the global steel produced.

The U.S. steel industry has also changed significantly due largely to improvements in steel making technology, global competition and industry consolidation. The mini-mills have become dominant producers due to their lower production costs and more efficient operations. Numerous consolidations have redefined the industry. There have been over 50 steel mergers and acquisitions in the U.S. over the last 15 years. Today the U.S. steel market is fairly concentrated, with the three largest producers accounting for about 60% of the domestic steel output.

Steel imports also play an important role in the U.S. marketplace. For the past several decades, the U.S. has imported up to 30% of its steel. Typically the U.S. consumes more steel than it produces, creating a supply gap. Imports have long played a key role in filling that gap. Today however, slowing global economic conditions, especially in China, has created a significant surplus of steel. This surplus has found its way to the U.S. in the form of excessive imports and has been a key headwind for domestic steel producers and their ability to compete. This oversupply situation put downward pressure on prices, squeezed margins, and caused numerous domestic mills to idle or cut production. In turn, U.S. producers filed trade cases and received favorable rulings in an effort to re-balance the market and level the playing field.

Overall steel industry demand is primarily driven by three key steel end-markets. The automotive and construction sectors are the two largest steel consuming industries or end-markets, accounting for 24% and 42% of the steel consumed respectively. Energy is the third key steel consuming sector and accounts for around 7% of the steel shipped. Today, the market is being driven by continued strength in automotive. The construction sector has been improving

but remains below pre-recession levels. Energy (drilling) is a challenged market that has struggled since the decline in oil prices and is not expected to rebound over the near term.

CSXT Steel Products / Metals Market:

The Metals business at CSXT is composed of ten lines of business of which five are associated with the 33-12 STCC group. These five primary LOB markets make up the bulk of the CSXT Metals business. It is a mature and highly competitive market where the shippers / producers typically pay the freight. A majority of steel shipments are sold by steel companies directly to end-use markets. The balance is distributed by service centers, converters and other processors. There are approximately {{ }} in the CSXT primary steel products space. In this space the freight payer customer base is highly concentrated with the {{ }} freight payers accounting for {{ }} of the business. Conversely, the receiver side of the CSXT primary steel products business contains approximately {{ }} customers and is highly fragmented with the {{ }} receivers accounting for {{ }} of the business.

CSXT is well positioned to compete actively in the metals market given about {{ }} of the U.S. steel production is located in CSXT territory. The Metals traffic is most heavily concentrated in the Indiana-Ohio region and along the East Coast, although many new entrants into the market have located in the South, which is consistent with the shift in population centers and transplant automotive producers. With the industry consolidations and strong global demand dynamics, traditional shipping patterns have also shifted with many shippers and receivers reaching well beyond their normal shipping limits.

With the advent of mini-mills, steel producers are now located closer to end-use markets. However, consolidations and market forces continue to impact shipping patterns. The Metals

business has an average loaded length of haul of approximately {{ }} but is also competitive on shorter haul traffic.

A majority of the Metals business moves in the batch or merchandise service network. Key service needs revolve around availability of equipment and consistent, reliable service. Unit train movements are also utilized, but are not as common, with about {{ }} of the Metals traffic moving in unit trains.

The Metals business is predominately local traffic with {{ }} of the business moving within the CSXT local network. However, with over {{ }} of CSXT's traffic originating on CSXT (local + forwarded), our Metals business is highly equipment dependent. As such, equipment is a key competitive attribute of the business. The overwhelming majority of this business moves in railroad supplied equipment. Private car usage is best described as minimal to limited. Given the variety of steel products that move by rail, a mix of equipment types are required and include coil cars, gondolas and flat cars.

Capital Investment:

Capital investment in both equipment and infrastructure will be required to develop service packages that consistently meet our steel customers' needs and expectations.

Supplying equipment is a core competency of the Metals' business given a majority of the Metals' business moves in system equipment. Yield improvement strategies are currently in place for all Metals' car types. The goal is to improve the various fleets' profitability profiles to a level that justifies re-investment, and enables the Metals' fleets to successfully compete with other CSXT needs for scarce capital. Unfortunately, {{ }} are the only equipment type that currently meets the CSXT reinvestment hurdle.

Competition:

Norfolk Southern (“NS”) and truck are the primary CSXT competitors in the metals market. But barge, and even ocean vessel, are intense transportation competitors in the market. CSXT faces extensive source competition not only from other domestic steel producers, but also from imports. Virtually any existing CSXT rail move can be supplanted by one or more alternatives:

1. A direct NS rail move from an alternative domestic supplier (where the end user is one of the many destinations in CSXT’s service territory that is jointly served in one capacity or another, as further described below).
2. A truck move from an alternative domestic supplier.
3. A NS rail-truck move via a nearby metals distribution center to the destination user.
4. An import steel move through a river or coastal port and a truck move to the destination user.

Modal decisions in the metals market are typically based on the lowest cost provider, on a delivered basis. Pricing dynamics fluctuate with market conditions and available transportation capacity.

The NS Metals franchise has a significantly larger presence in the market with its eastern rail share currently running at 67%. This advantage is due, in part, to certain of the routes allocated to NS in connection with the CSX-NS joint acquisition of control of Conrail (“CR”), which routes served a majority of the former-CR Metals portfolio.

Very few customers in this market would be considered local to one rail carrier as nearly 85% of the steel mills in our service territory are jointly served in one capacity or another (including via haulage, trackage rights or reciprocal switching).

Truck is typically limited to shorter haul traffic that is not considered to be rail-centric. Today, however, given the downturn in many industries, demand for trucking services has weakened, creating increased truck capacity and more aggressive pricing at all mileage levels. In some cases, truck also provides a competitive advantage to customers by round tripping scrap or shredder feedstock with finished steel movements; something that is not viable by rail.

Ocean vessel and barge also provide competitive options given the number of steel producers located on or near the coast or river system. Imports have also become more of a factor with the strengthening of the dollar as steel consumers look toward potential steel imports to fulfill or supplement their buy programs.

Given multiple competitive options by both the shippers and receivers of primary steel products, there is no market dominance or justification to re-regulate the Metals Market.

Primary Steel Products Financial Metrics:

Primary steel products deliver a diverse range of profitability but the pricing certainty does not reflect rail market power. In fact, except for {{ }}, none of the profitability of steel products supports reinvestment. {{

}}

Re-Regulation:

Re-regulation of the primary steel products market threatens to constrain the attractiveness of the various lines of business, and to further limit our ability to invest in equipment and infrastructure required to compete in these markets. Rail productivity enhancements and capital investment would suffer, leading inevitably to less rail capacity, and reduced rail service.

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

Executed on July 25, 2016



Michael A. Rutherford

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 Bocconi 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

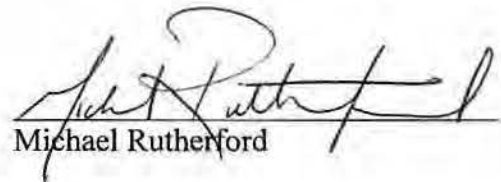
artificial rate compression to today's market based rates threatens to dis-incentivize the progress and investments that we've made. This is an evolution that both railroads and our customers are proud of – let's not turn back the regulatory clock and introduce distortions to what is an efficient and 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

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VOL. 131 | NO. 162 | Monday, August 15, 2016

M&A Speculation Directed at International Paper

By Andy Meek

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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.

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 convert the plant to produce recycled containerboard.

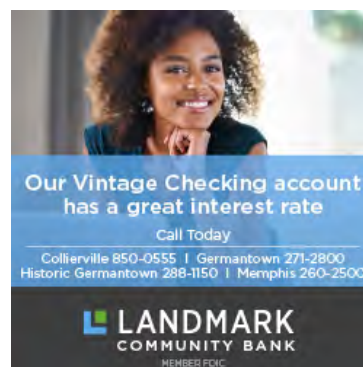
IP at the end of July reported a second-quarter profit that beat analysts' estimates, posting earnings of 92 cents a share where analysts were expecting 84 cents. Revenue for the quarter also beat expectations, with

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Small Cap	-72.38	-0.89%	8,062.92

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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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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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