

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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RECIPROCAL SWITCHING

TESTIMONY OF BARBARA HAGLER

Good afternoon. We are here representing Indorama sites in North America. My name is Barbara Hagler. I am the North America Logistics Manager, along with Hussam Awad, Sr VP Procurement and Supply Chain for the Americas Region, and Lane Baker, North America Logistics Manager, and we all belong to the Combined PET segment of Indorama Ventures. We are responsible for the logistics function for the majority of Indorama Ventures in the Americas, which includes rail-related activities in North America. We have firsthand experience with being captive shippers and working with the railroads on service issues and rate negotiations since the early 2000's.

I would like to take a minute to sincerely thank the Board for having this hearing on a matter that is extremely important to us and other shippers. For many shippers in a wide range of industries, some of whom are captive shippers; access to competition has been reduced or eliminated completely. Indorama intends to show that Reciprocal Switching is warranted now. It meets a clear need and can be accomplished with minimal adverse effects. We commend the Board for bringing the Reciprocal Switching issue back to the forefront of discussion and holding this hearing to provide an avenue for shippers and receivers to share our experiences, concerns, and strong support of this proposal.

IDENTITY

Indorama is headquartered in Bangkok, Thailand with global operating sites in 33 different countries, with 123 different operating locations.

Indorama Ventures Public Company Limited, listed in Thailand (Bloomberg ticker IVL.TB}, is one of the world's leading petrochemicals producers, with a global manufacturing footprint across Africa, Asia, Europe, and the Americas. The company's portfolio comprises integrated PET, fibers, packaging, specialty chemicals, and olefins. Indorama products serve major fast-moving consumer goods and automotive sectors, i.e., beverages, hygiene, personal care, and tire and safety segments. Indorama has approximately 24,000 employees worldwide and consolidated revenue of approximately US \$11 billion in 2020. The company is listed in the Dow Jones Sustainability Index.

Specifically, in North America, Indorama has 21 manufacturing facilities located in the United States, Canada, and Mexico serving over 200 customers in North America and over 30 transloading sites. Over the past decade, Indorama has invested in greenfields, brownfields, and acquisitions in the Americas with the most recent being the pending acquisition of Oxiteno with a presence in the Americas. Indorama is one of the fastest growing chemical companies in world.

Indorama and its affiliated North American companies are Auriga Polymers, StarPet Inc., AlphaPet Inc., Indorama Ventures Xylenes & PTA, Indorama Ventures PTA Montreal, Indorama Ventures Oxides and Glycols, Indorama Ventures Oxides, Indorama Ventures Oxides International, Indorama Ventures Propylene Oxides, Indorama Ventures Olefins LLC, Indorama Ventures Sustainable Solutions-Athens, Indorama Ventures Sustainable Solutions-Fontana, Indorama Ventures Recycle Solutions-Dallas, and Indorama Ventures Mexico. These sites are located over the states of Texas, Louisiana, North Carolina, South Carolina, Alabama, and California, as well as the countries of Canada and Mexico, and have active relationships with all the Class I railroads and numerous short line railroads.

INTEREST

All but one of Indorama's sites, and most of our suppliers and customers, are captive to one Class 1 railroad. There is little to no competition, and we find that railroads are less willing to negotiate rates and act quickly to remedy service issues when our only other option is moving our product via truck, in some cases. Many sites are only set up to ship / receive products via rail, so there are times when we truly have no other option than rail. We believe increased competition encourages fair pricing and efficient service. The lack of rail competition allows the railroads to focus less on their customers and what effects internal changes have on customer operations and product flow and more on shareholder's value.

BENEFITS to SERVICE

Indorama operates extensively in both the US and Canada. In our experience and observation, the Canadian competitive switching process (interswitching) operates effectively. While the CN physically serves our PTA plant in Montreal, QC, we have used CP in the past under the reciprocal switching process in Canada. We first exercised this option in 2018 and were able to obtain more reasonable rates. We also found service was not significantly affected and in some cases, found that the railroads are more willing to adjust service to accommodate our needs. In one case, the railroad added a service day to a highly congested junction to keep the supply chain flowing smoothly and decrease the bunching of cars we were experiencing. Without this competition from another railroad, we do not believe we would have had success in promoting this crucial change to our service.

The reciprocal switching right in Canada helps to keep rail freight rates reasonable and the railroad quickly reacting to service issues. It provides major benefits to shippers and receivers and has not resulted in significant adverse effects to the railroads by causing service problems. If anything, reciprocal switching has improved service overall for Indorama.

In the US, railroads sometimes have shown tendencies to serve their own interests to the detriment of "captive" shippers' interests and the public interest. Most recently, this has been evidenced through the service issues that have developed after Class 1 railroads (with the exception of BNSF) began implementing Precision Scheduled Railroading (PSR) in 2017.

Through implementation of PSR in the US, Class I railroads over the past 5 years have closed hump yards, cut thousands of employees, reduced service, and changed overall operating guidelines to improve their operating ratios. This was done at the expense of their customers and employees. Based on numbers from STB Form C on the STB website, since 2017 CSX has cut approximately 28% of its employees, UP has cut 26% since 2018, and NS has cut 27% since 2019. Since 2017, Indorama sites have experienced missed switches at plants and customer sites, bunching of cars in transit leading to a feast or famine scenario at the delivery site, slow return of empties back to the operating sites, and longer transits. The railroads have pushed our sites to take on more expense and change operations to match their new processes and operating strategies. We have had to increase our rail car fleet by over 10% in the past couple of years solely due to inconsistencies with rail service. We have brought on additional storage yards, at our expense, to accommodate changes in free time and last-mile operations and schedules.

Service issues related to PSR implementation have not gone unnoticed by the Board, and Indorama again commends the Board for holding the railroads accountable for such egregious service issues. Beginning with the listening session in 2017 with CSX to requesting service performance information toward the end of 2021 due to a steady stream of complaints about substandard performance, the Board has tried to hold the railroads accountable for the problems caused by PSR. We understand that Indorama is not alone in having service issues with the railroads and changes must be made.

To make matters worse, just as the railroads were smoothing out some of the problems caused by the implementation of PSR and service was beginning to improve in most locations – COVID-19 hit. The railroads had cut so many employees with PSR that they have been unable to recover as employees call in sick or leave for other industries. Any small uptick in volume causes significant issues for the railroads. We have had multiple instances of not receiving the service needed by our Class I railroads and having to slow or stop production lines at our plants as a result of the lack of raw material railcars being delivered to our plants. This is devastating to our business. **In our plants in the Southeast, we have lost almost 110 million pounds of production in the last 14 months at one plant. Another plant in the Southeast lost production of over 5.5 million pounds over a 6-month period. Both sites are captive with competing railroads nearby.** This results in lost sales for our sites ... and lost revenue for the railroads because we

cannot ship what we cannot make! In addition, even though this inadequate rail service resulted in millions of dollars in damages to our company, we have no recourse against the serving railroad who will not provide any type of service guarantee and will not share any responsibility for the damages it causes to our business. With reciprocal switching, we could keep our supply chain moving by engaging another Class I railroad to help accommodate these huge gaps in rail service by our serving railroad.

We have had to ship via truck in many cases when we have not been able to get our empty railcars back to the plant in time to load and ship back out to customers. In the past year, we have used multiple special trains – which we paid significantly more for due to the lack of service by the railroad ironically, but at least they kept our plants running. We were granted these special trains on only two occasions out of more than a dozen requests with the railroad stating they did not have the crews to make the special moves. During a 10-month duration in 2021, one plant alone had to ship approximately 280 trucks to cover customer shipments primarily due to rail service issues. With today's supply chain issues, trucks come at a very high cost, and even when we are willing to pay the higher rate, we cannot always find available equipment, especially if it is short notice. Again, lost revenue for the railroads and much higher costs for Indorama.

Indorama fully believes that if reciprocal switching was in place providing competition where currently we are only served by one Class I railroad, the railroads would be forced to focus more on serving our plants' needs as required by their common carrier obligations. If Indorama had another rail option at captive operating sites and customer sites, we would be able to switch to the railroad that provided the best service, not just use the only one available.

Examples of favoring railroad interests over “captive” shipper interests and the public interest also historically include excessive rates and charges, paper barriers, over-recovering fuel surcharges, restricted routing, and other techniques that impede access to more reasonable rates. Reciprocal switching will allow for use of the most efficient routes and thereby provide improved service. When moving raw materials from Wilmington NC to our Asheboro NC site, each captive to different railroads, we must travel significantly farther than the most efficient route for the two to connect. If Reciprocal Switching was in place, we could ship directly with just one Class I railroad and travel more efficiently. Also, when shipping out of one of our sites in Decatur AL to

a customer in the Northeast, one Class I railroad must go through a short line which is over congested to serve the customer, but a competing railroad has the ability to bypass that short line and shave days, if not over a week, off of the transit time.

With the global supply chain disruption due to the pandemic over the past two years, the railroads could have capitalized on additional volumes by pulling more product from the highways and inland waterways. An efficient and consistent rail system is crucial to North America's and Indorama's supply chain – now more than ever. Indorama values our relationships with the railroads and strives for open and honest communication, hoping to combine efforts that result in pathways to improved service issues. We currently have sites that when they contact the local serving railroad representatives, they cannot reach a live person or get anyone to return phone calls. They have even attempted meetings, but the response time has not improved. We must resort to contacting the railroads' corporate offices to get any kind of response or action. Reciprocal switching can help improve service by allowing more than one railroad to serve a captive shipper/receiver and provide more options to move additional volume.

BENEFITS to RATE REASONABLENESS

While service has declined, rates have continued to increase. In the 3 months ending 2021, one Class I railroad increased its operating revenue by 11% over the same period in 2020, which the railroad attributed to a 15% increase in revenue per unit, while volume decreased by 4% during the same time period. (Railwayage.com, "*NS reports 4Q, Full-Year '21 Financials, Board Changes*", Jan. 2022). The railroads are no longer focusing on growth, instead the focus has shifted to lowering their operating ratio by whatever means possible.

When negotiating rates with the Class I railroads as a captive shipper/receiver, we are often told that rates no longer are based on cost or distance or other historically relevant factors. They are now based on what the railroad interprets as the market – which is what profit they are getting from a competing shipper or similar lane. We no longer have geographical advantages in cases where our plants are closer to the customer and have no alternatives other than truck – which as mentioned previously is not always a true alternative due to availability and cost.

We have observed often that as competitive alternatives decrease, rates increase significantly. The proposed revised reciprocal switching rules can serve to mitigate some of the adverse effects of this loss of access to competitive alternatives. The railroads will argue that these new rules will not allow them to properly invest in their railroad infrastructure. However, if one looks at the actual numbers, railroads do not invest as much money as they claim. In fact, especially more recently, significant amounts of monies have been spent on dividends and stock buybacks – over \$164 billion from 2010 to 2019 by all seven Class 1 railroads, almost double what they spent on track and bridges during the same time frame. This is in line with the real reason for PSR which is to lower their operating ratios. As a result of these low infrastructure investment numbers and large job cuts, the railroads can spend their monies to impress Wall Street. While there is nothing wrong with taking care of shareholders and improving stock values, all of these efforts by the railroads are extreme and shortsighted and will eventually lead to a greater deterioration in rail service and the rail system as a whole. This is exactly why rail shippers need the protection of reciprocal switching right now.

CONCLUSION

Based on the foregoing discussion, Indorama strongly urges the STB to adopt the reciprocal switching rules proposed in this proceeding. The argument for these new rules is stronger now than in 2016 because of the implementation of PSR, the railroads' greater focus on Wall Street, and the deterioration of service across the rail network. The implementation of the rules in this proposal will improve the service of our railroads and make their networks more efficient. Allowing captive shippers/receivers to work with competing railroads within a reasonable distance will provide options for better routes and more reasonable rates.

We thank the Board again for your time and consideration today.

Respectfully submitted,

/s/ Barbara Hagler
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