

UNITED STATES OF AMERICA
SURFACE TRANSPORTATION BOARD

Ex Parte No. 711 (Sub-No. 1)

RECIPROCAL SWITCHING

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Office of Proceedings
February 8, 2017
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Public Record

Summary of Ex Parte Meeting Between INEOS USA LLC (“INEOS”) and
Surface Transportation Board (“STB” or “Board”) Member

Held February 2, 2017, 1:30 p.m.

INEOS Attendees: Dennis Seith, Chief Executive Officer and President, INEOS Olefins & Polymers USA; Chris Hawes, General Manager, Supply Chain, INEOS Olefins & Polymers USA; Michael McBride and Robin Rotman, Van Ness Feldman LLP

STB Attendees: Acting Chairman Ann D. Begeman; James B. Boles, Chief Legal and Policy Advisor

INEOS began by expressing its appreciation for the STB’s efforts to revise its competitive-switching rules in order to promote rail-to-rail competition and for the STB’s willingness to conduct ex parte meetings in this proceeding.

INEOS explained that its presentation would address various items in the Board’s Notice of Proposed Rulemaking (“NPRM”). INEOS provided a PowerPoint presentation to facilitate the discussion. See Ex. 1, attached hereto. INEOS noted that it had submitted Initial Comments on October 26, 2016 and Reply Comments on January 13, 2017. INEOS also noted that it is a member of the American Fuel & Petrochemical Manufacturers, which is a part of the Shipper Coalition for Railroad Competition, which submitted Initial and Reply Comments in this proceeding.

INEOS provided background information about its business operations, including its broad geographic base and diversified product portfolio. INEOS explained that rail transportation costs in the United States are a significant expense (accounting for 20-30% of INEOS’s costs (excluding raw materials)). INEOS noted that its shipments are not hazardous materials. Because INEOS is a global company, it is able to shift production among its domestic and foreign manufacturing facilities. Rail costs are an important factor affecting levels of production in the United States; competitive rail rates enable INEOS to produce, and ship, more products in the United States.

INEOS described the rail access at its four major U.S. manufacturing sites: two are single-served, one is dual-served, and one is served by three railroads via a short-line. INEOS explained that many of its customers are captive to a single railroad. INEOS presented some numerical information that illustrates the financial implications of a lack of competition. Approximately 36% of INEOS’s moves are competitive at both origin and destination. Approximately 64% of its moves are captive at origin, destination, or both. Taking into account many rail rates, the average R/VC ratio for INEOS’s competitive moves is approximately 185%, and for captive moves, it is approximately 360%.

Acting Chairman Begeman asked whether INEOS moves product by barge or truck. INEOS responded that it has a limited number of truck movements relative to rail movements, and that the majority of INEOS's customer facilities on a product demand basis are configured for rail deliveries only.

INEOS said that the STB should revise its reciprocal switching rules to afford all shippers and their customers a meaningful and realistic opportunity to obtain competitive rail access. INEOS explained that a viable reciprocal switching remedy would help "level the playing field" in its commercial negotiations with railroads. INEOS emphasized the importance of having a positive relationship with railroads and stated that it does not desire to file a petition for reciprocal switching access. Rather, INEOS, like most parties, wants to resolve rail issues through commercial negotiations, and is seeking an additional element of competition in the rail market in order to drive efficiencies that benefit both shippers and railroads.

INEOS mentioned that it has many customers in Canada. Acting Chairman Begeman then asked INEOS to describe its experience with the Canadian reciprocal-switching rules. INEOS responded that, despite the fact that the Canadian rules are extensive in scope, in its experience only a small percentage of Canadian traffic is actually reciprocally switched, illustrating that reciprocal switching is often used as a point of leverage in commercial negotiations rather than actually resulting in a shift from one line-haul carrier to another.

Acting Chairman Begeman asked whether INEOS was seeking access to new destinations or customers through reciprocal switching. INEOS explained that its priority is lower rates and better service to existing destinations.

As to the details of the NPRM, INEOS stated that the proposed reciprocal-switching rules would have a limited net revenue impact to the railroad industry, because they would be volume-neutral or lead to an increase in rail volumes shipped. INEOS explained that the reciprocal switching charge should be subject to negotiation, with the incumbent railroad's fully allocated costs as a price ceiling.

INEOS explained that there should be no "lost profits" or "opportunity cost" adders, because such adders would obviate a primary benefit of the reciprocal switching remedy (i.e., lower rates) and essentially negate the value of the proposed rules.

INEOS stated that petitions for reciprocal switching filed with the STB should be promptly adjudicated within 180 days after the shipper's filing. Finally, INEOS explained that it would be inappropriate to exempt short-lines from the reciprocal-switching rules, and noted that a short-line serves as the "last mile" at an INEOS manufacturing facility and many customer sites.

Acting Chairman Begeman expressed a concern that in some circumstances, reciprocal switching could cause operational problems on the rail network, even a long distance from the origin and destination. INEOS remarked that in such instances, the railroads would be able to raise this concern to the STB and that the STB could weigh this factor when evaluating a petition for reciprocal switching. INEOS also noted that railroad routing protocols would still be followed,

and thus reciprocal switching is unlikely to cause overcrowding at gateway or other locations. INEOS stated that railroad operational efficiency is critical to INEOS's operations, as it ships product in its own rail cars (owned and leased) and its customers depend on timely deliveries of product. Hence shippers and railroads often have a mutual interest in efficient railroad operations.

To illustrate the potential efficiencies of reciprocal switching, INEOS discussed the example of its manufacturing facility in Chocolate Bayou, Texas, which is served by one railroad. It noted that the incumbent carrier hauls rail cars from the facility to a classification yard in Englewood, Texas, that is an interchange point with another carrier. Currently, INEOS's cars are "classified" only to trains of its incumbent carrier, but it would take essentially the same effort to classify (i.e., switch) them to the other carrier at this interchange point if a reciprocal switching remedy was available. As such, reciprocal switching at this point would not have any material impact on rail volumes or railroad operational efficiency.

In closing, INEOS emphasized that it does not desire to litigate competitive-switching matters before the STB. Rather, it wishes to resolve these matters through commercial negotiations, and the proposed reciprocal-switching rules would help "level the playing field" so that it can do that.

Exhibit 1

INEOS USA LLC
INEOS Olefins & Polymers USA
Surface Transportation Board Meetings

Reciprocal Switching
Ex Parte No. 711 (Sub-No.1)
February 2, 2017

Who Are We?



Our Company:

- ☐ World's largest private chemical company
- ☐ Based in Switzerland
- ☐ 18 businesses
- ☐ 17,000 employees
- ☐ 65 sites in 6 countries

Blue Chip Assets from Blue Chip Companies:

- ☐ BASF, Bayer, Borealis, BP, Degussa, Dow, Enichem, Hoechst, ICI, Norsk Hydro and Solvay

The INEOS Companies

INEOS Group

- INEOS Enterprises
- INEOS Olefins & Polymers EU
- **INEOS Olefins & Polymers USA**
- INEOS Oligomers and Oxides
- INEOS Phenol & Nitriles
- INEOS Technologies

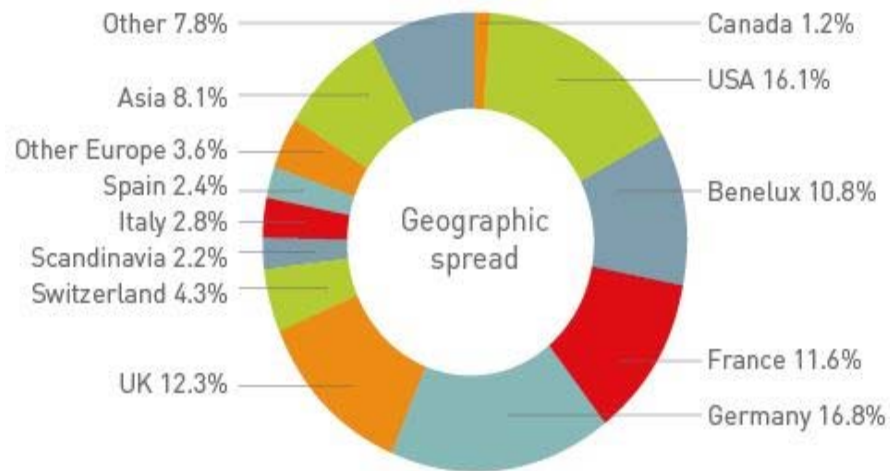
INEOS Industries

- INEOS Melamines
- INEOS BIO
- Styrolution (Styrenics)

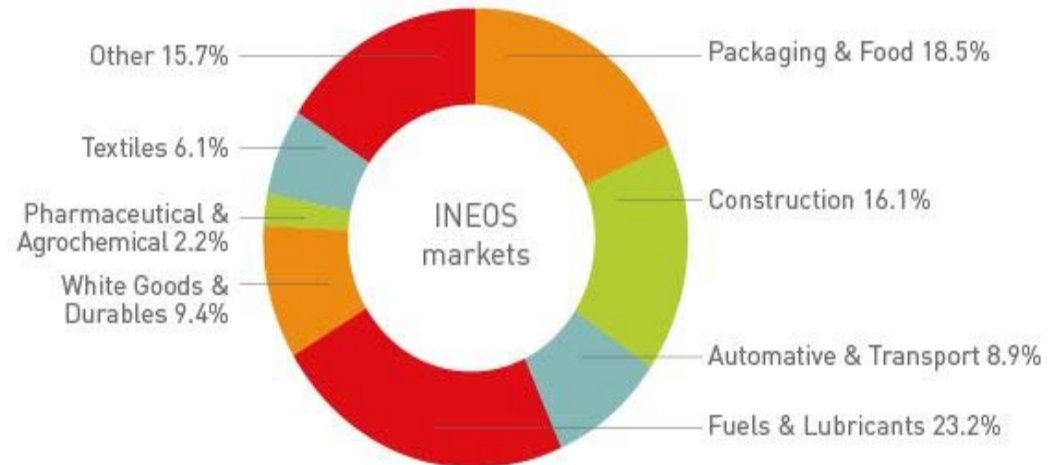
Other

- Inovyn (Chlorvinyls)
- Petroineos (Refining JV w/Petrochina)
- INEOS Olefins & Polymers UK
- INEOS Olefins & Polymers, EU South
- INEOS Shale
- INEOS Upstream

Broad Geographic Base

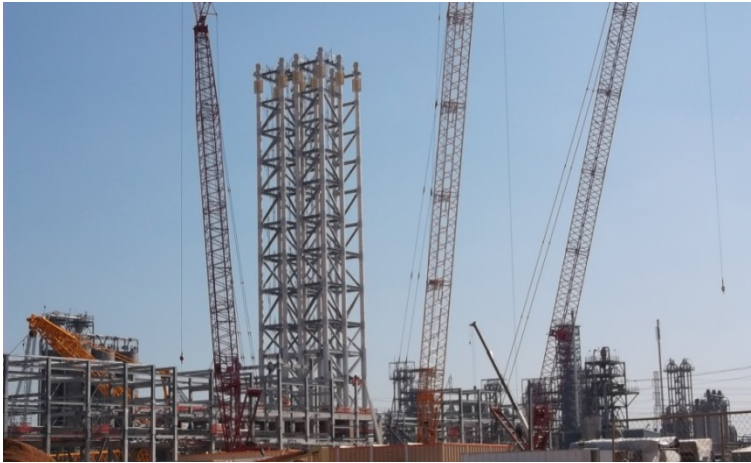


Diversified Product Portfolio



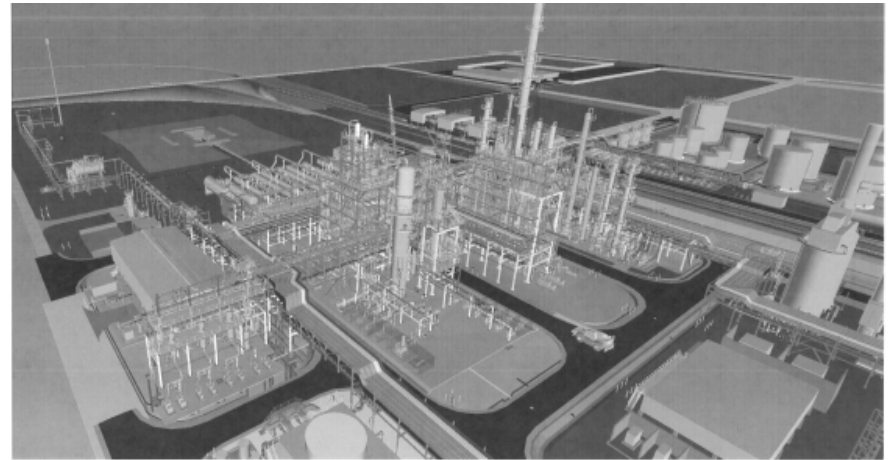
INEOS Olefins & Polymers USA: Grow the Top Line – Adding Derivatives

New HDPE Unit (Gemini JV)

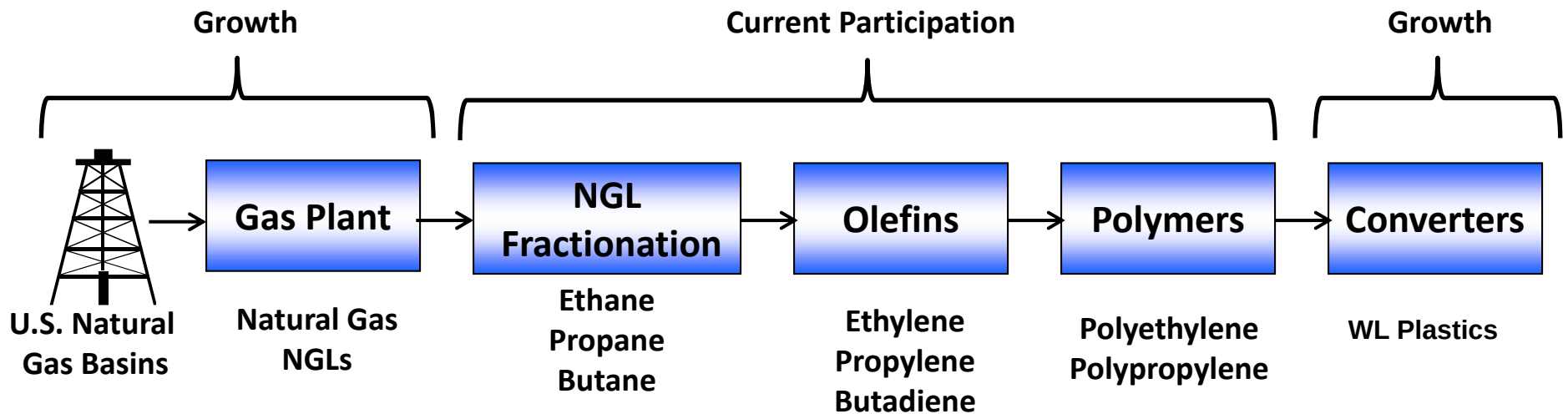


470 KTA HDPE

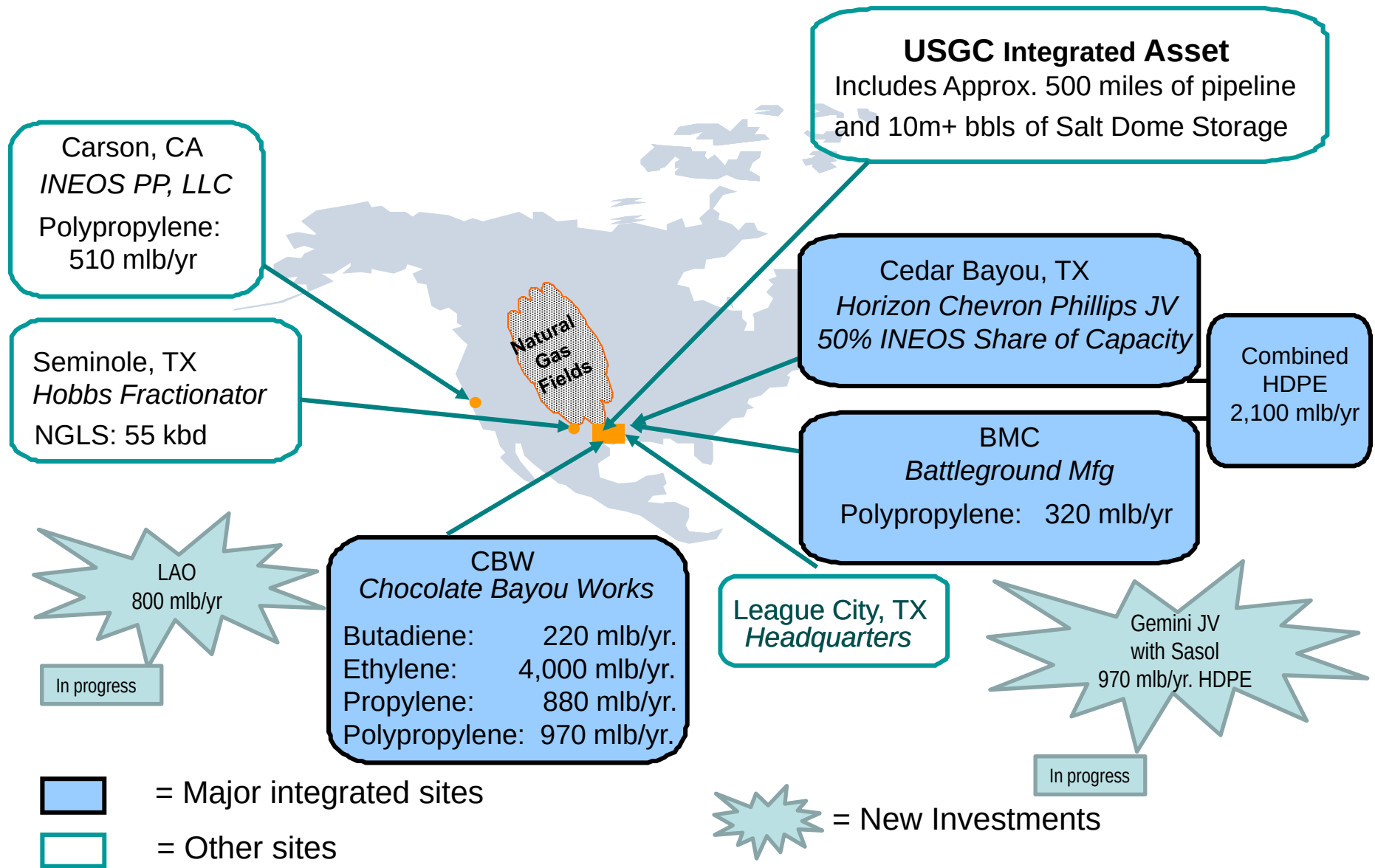
New LAO Unit



350 KTA LAO



INEOS Olefins & Polymers USA: Improved Competitive Integrated Assets



* Per CMAI

Key Products and End Uses - 2015

Sales Products	NA Nameplate* Capacity (mlb)	INEOS US Nameplate Capacity (mlb)	Key End Uses
Ethylene	75,957	4,000	Polyethylene, PVC, VAM, ethylene glycol, Styrene
Butadiene	5,585	220	Synthetic rubber, ABS, nylon
High Density PE	20,500	2,100	Blow molded bottles, injection molding, pipe, packaging
Polypropylene	18,614	1,800	Fiber, film, injection molding, sheet
Feedstock Products			
Propylene	33,414	880	Polypropylene, Acrylonitrile, propylene oxide

* Nexant Chem Systems, March 2016

INEOS Chocolate Bayou: Looking West



INEOS Battleground Manufacturing Complex: Looking North



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INEOS USA LLC submitted Initial Comments on October 26, 2016.

INEOS USA LLC submitted Reply Comments on January 13, 2017.

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INEOS Olefins & Polymers USA: Rail Service Profile

INEOS O&P Rail Service Profile - Manufacturing Sites		
Manufacturing Site	# Rail Carriers Serving	Rail Carriers
Carson, CA	1	UPRR
Chocolate Bayou, TX	1	UPRR
La Porte, TX	3	BNSF, UPRR, KCS (all via PTRR)
Eldon, TX (Horizon JV)	2	BNSF, UPRR

INEOS Olefins & Polymers USA Position: Reciprocal Switching

The Surface Transportation Board (STB) should revise its reciprocal switching rules to afford all shippers and their customers a meaningful opportunity to obtain competitive rail access.

- Operational and economic efficiencies of rail- to-rail competition.
- Limited net revenue impact to the railroad industry.
- Opportunity extends to origin and destination locations.
- Reciprocal switching decisions by the STB should be managed promptly against a 180 day time bar from the date of shipper's filing.

“Practicable and Public Interest” Prong

- STB should adopt rules that are clear on the elements of a *prima facie* case.
- Reciprocal switch plan must be feasible, safe, and not unduly hamper the ability of rail carrier to serve other customers.
- Reciprocal switch plan benefits outweigh detriments. This analysis provides the framework for establishing “need” for reciprocal switching under this prong.
- Access to a only single Class 1 carrier at origin or destination.
- Safe and efficient interchange connection to a second Class 1 carrier
- Willingness to pay fully allocated costs as a ceiling to facilitate, but a negotiation between shipper and carrier providing shipment to competitive interchange.

INEOS Olefins & Polymers USA Position: Reciprocal Switching

“Necessary to Provide for Competitive Railroad Service” Prong

- No statutory basis to demonstrate “market dominance”.
- Such “test” overly cumbersome and complex.
- Access to a single carrier at a given manufacturing location or a given serving location demonstrates a lack of rail-to-rail competition.
- No effective intermodal or intramodal competition.
- Shipper rate in excess of 180% of serving rail carrier variable cost.

Limits on Reciprocal Switching Access Charges

- Limited “at most” to the incumbent railroad’s fully allocated costs.
- No “Lost Contribution” or “Opportunity Cost” adders.

Exclusion of “Short Lines” is Inappropriate and Contrary to Law and the Rail Transportation Policy

- “Last Mile” at destination for INEOS and predominantly Captive
- Nullifies STB efforts to provide a competitive rail network to destination.