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

Re: *Total Petrochemicals & Refining USA, LLC v. CSX Transportation, Inc.*
STB Docket No. NOR 42121

Dear Ms. Brown:

On behalf of our client CSX Transportation, Inc. (“CSXT”), Defendant in the above-referenced proceeding, we write regarding how recent developments in this proceeding affect CSXT’s uncontested October 24, 2016 Technical Corrections Petition and Petition for Reconsideration.

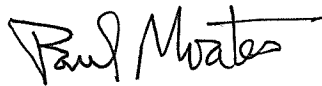
The Board on September 14, 2016 issued its *Decision* in this case, finding that “[t]he rates CSXT charges for the issue traffic have not been shown to be unreasonable.” (*Decision* at 45). TPI then timely filed a “Motion for Extension of Time to File Petitions for Reconsideration and Technical Corrections” to which CSXT did not object, and by a Decision served on September 22, 2016, the Board granted that request, extending the filing deadline for such petitions to October 24, 2016. On that date, CSXT filed a Petition for Technical Corrections and a Petition for Reconsideration. TPI did not file a response to either CSXT Petition.

Separately, the 60-day Hobbs Act deadline for TPI to file a Petition for Review of the Board’s September 14 *Decision* expired last Monday, November 14, 2016. *See* 28 U.S.C. § 2344. CSXT’s counsel has confirmed with TPI’s counsel that TPI did not file any Petition for Review.

In these circumstances, CSXT’s pending Petitions cannot affect the outcome of this case. CSXT strongly believes that the items discussed in its Petition for Technical Corrections are correct, and that the items discussed in its Petition for Reconsideration are meritorious and warrant further consideration – particularly because several items address issues that may arise in

future cases. However, CSXT also recognizes that the Board's scarce resources are needed on a variety of pending matters. Because the items identified in the Petitions cannot now change the outcome of this case, the Board would be justified in finding them to not be material and to not justify the expenditure of additional Board resources.¹

Sincerely,



G. Paul Moates
Matthew J. Warren

cc: Jeffrey O. Moreno, Esq.

¹ Cf. *E.I du Pont de Nemours & Co. v. Norfolk So. Ry. Co.*, at 3-4 Docket No. NOR 42125 (served Dec. 23, 2015) (finding that reconsideration items that could not affect ultimate outcome of case were "not material").