

BEFORE THE
SURFACE TRANSPORTATION BOARD

E.I. DUPONT DE NEMOURS AND COMPANY)

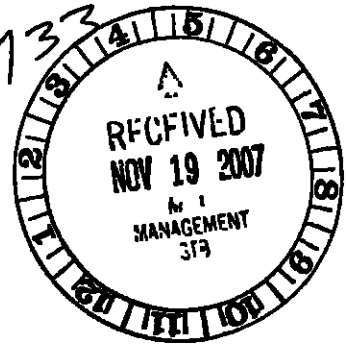
Complainant.)

v.)

CSX TRANSPORTATION, INC.)

Defendant.)

Docket No 42100



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Office of Proceedings
NOV 19 2007
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Public Record

ANSWER TO FIRST AMENDED COMPLAINT

Pursuant to 49 C.F.R. § 1111.4 and other applicable law and authority, Defendant CSX Transportation, Inc. ("CSXT") respectfully submits this Answer to the First Amended Complaint filed by Complainant E.I. du Pont de Nemours and Company ("DuPont") in STB Docket No. 42100 on October 30, 2007 ("First Amended Complaint").

In response to the unnumbered paragraph on page 1 of the First Amended Complaint, CSXT denies that DuPont has paid or will pay common carrier rates in excess of a reasonable maximum rate for CSXT's transportation of the movements set forth in the First Amended Complaint (the "issue movements"), and denies that DuPont is entitled to any of the relief it seeks in this proceeding. CSXT denies that the Surface Transportation Board (the "STB" or "Board") has jurisdiction over the challenged rates under the authorities cited by DuPont. CSXT denies that this proceeding qualifies for evaluation under the Three-Benchmark approach adopted in STB Ex Parte No. 646 (Sub-No. 1), *Simplified Standards for Rail Rate Cases* (served Sept. 5, 2007). The remainder of this unnumbered paragraph consists of a characterization of the First Amended Complaint, as to which no response is required. To the extent that any such response is required, CSXT denies the remaining allegations of this paragraph.

With respect to the numbered paragraphs of the First Amended Complaint, CSXT responds as follows:

1 CSXT lacks sufficient information to admit or deny the allegations of Paragraph 1 of the First Amended Complaint

2. CSXT admits the first and second sentences of Paragraph 2 of the First Amended Complaint. CSXT admits that it is generally subject to Subtitle IV of Title 49 of the United States Code, and to the jurisdiction of the Board. CSXT denies that the challenged rates are subject to the Board's jurisdiction.

3. CSXT admits the allegations of Paragraph 3 of the First Amended Complaint.

4 CSXT admits the allegations of Paragraph 4 of the First Amended Complaint.

5 CSXT denies that the issue movements travel the number of "loaded miles" alleged in Paragraph 5 of the First Amended Complaint. CSXT admits the remaining allegations of Paragraph 5 of the First Amended Complaint

6 CSXT denies the allegations of Paragraph 6 of the First Amended Complaint.

7 CSXT denies the allegations of Paragraph 7 of the First Amended Complaint.

8. CSXT denies that the challenged rates are common carrier rates CSXT admits that the levels of the contract rates DuPont has challenged are approximately as stated in Paragraph 8 of the First Amended Complaint

9 CSXT admits the first two sentences of Paragraph 9 of the First Amended Complaint. CSXT denies the remaining allegations of Paragraph 9 of the First Amended Complaint

10. CSXT denies that it “imposed” the rates challenged in the First Amended Complaint CSXT denies that the challenged rates are common carrier rates. CSXT denies the allegations of the second and third sentences of Paragraph 10 of the First Amended Complaint

11. CSXT denies the allegations of Paragraph 11 of the First Amended Complaint

12 CSXT denies the allegations of Paragraph 12 of the First Amended Complaint. CSXT responds that DuPont’s estimates of the variable costs and the revenue to variable cost (“R/VC”) ratio for the issue movements are incorrect, and CSXT submits accurate estimates with this Answer

13 CSXT denies the allegations of Paragraph 13 of the First Amended Complaint.

14 The first sentence of Paragraph 14 of the First Amended Complaint is ambiguous and is therefore denied CSXT responds that Carney’s Point is served by multiple rail carriers, which provide effective rail transportation competition for traffic to or from that location CSXT admits that DuPont appended to the First Amended Complaint a narrative purporting to describe transportation alternatives for the issue movements CSXT denies the remainder of Paragraph 14 of the First Amended Complaint

15. CSXT admits that chlorine is a hazardous material that is considered toxic-by-inhalation (“TIII”). CSXT admits that chlorine is a disinfectant that is widely used in

water purification. CSXT lacks sufficient information to admit or deny the remaining allegations of Paragraph 15 of the First Amended Complaint.

16. CSXT admits that the U.S. Department of Transportation ("DOT") has adopted standards governing the transportation of chlorine, and avers that DOT is considering the adoption of additional standards and regulations governing the transportation of chlorine. CSXT admits the second sentence of Paragraph 16 of the First Amended Complaint CSXT admits that the rail transportation safety record for chlorine is good, and admits that transportation by rail is a relatively safe mode of transporting chlorine over land

17 CSXT denies that the rate relief cap applies separately to each of the issue movements, and denies the remaining allegations of Paragraph 17 of the First Amended Complaint. CSXT responds that, to the extent the Board has jurisdiction over the challenged rates, they may not be considered under the "Three Benchmark" approach, but may be considered only under the Stand Alone Cost methodology. CSXT further responds that, if this case were considered under the Three Benchmark approach, the total relief that DuPont could obtain under the First Amended Complaint would be limited to \$1 million over five years

18 CSXT denies the allegations of Paragraph 18 of the First Amended Complaint. CSXT responds that, to the extent the Board has jurisdiction over the challenged rates, they must be evaluated under the Stand-Alone Cost methodology, to allow full and adequate consideration of the extraordinary costs and characteristics of these movements.

19. CSXT denies the allegations of Paragraph 19 of the First Amended Complaint

20 CSXT denies the allegations of Paragraph 20 of the First Amended Complaint

21 CSX1 denies the allegations of Paragraph 21 of the First Amended Complaint

22. CSXT denies that the First Amended Complaint should be deemed to include adjustments to the challenged rates, including adjustments to the applicable fuel surcharges and any new rates established by CSX1 after the filing date of the First Amended Complaint.

In response to the First Amended Complaint's prayer for relief (at 8-9), including the clauses numbered 1 through 6, CSXT denies that DuPont is entitled to any of the relief it seeks in this proceeding

Respectfully submitted,



G. Paul Moates
Paul A. Hemmersbaugh
Donald H. Smith
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000
(202) 736-8711 (fax)

Peter J. Shultz
Paul R. Hitchcock
Steven C. Armbrust
CSX Corporation
500 Water Street
Jacksonville, FL 32202

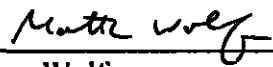
Counsel to CSX Transportation, Inc

Dated: November 19, 2007

EX-11203306-1

CERTIFICATE OF SERVICE

I hereby certify that, on the 19th day of November, 2007, I served a copy of the foregoing Answer and Initial Disclosures of CSX Transportation, Inc. on all parties of record in this proceeding



Matthew Wolfe