

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

E.I. DUPONT DE NEMOURS AND COMPANY	)	
	)	
Complainant,	)	
	)	
v.	)	Docket Nos. NOR 42100
	)	
CSX TRANSPORTATION, INC.	)	
	)	
Defendant.	)	
	)	

**MOTION TO COMPEL
OF E.I. DUPONT DE NEMOURS AND COMPANY**

Pursuant to 49 C.F.R. § 1114.31(a), Complainant, E.I. du Pont de Nemours and Company (“DuPont”), hereby moves the Surface Transportation Board (“STB” or “Board”) to compel CSX Transportation, Inc. (“CSXT”) to respond more completely to certain of DuPont’s “First Discovery Requests” in the above-captioned proceeding.¹ Although CSXT generally has agreed to provide a response to each of DuPont’s discovery requests within a scope acceptable to DuPont, CSXT has unduly narrowed its responses to certain dates that cover less than the fully relevant time period identified by the Board itself. In this Motion, DuPont asks the Board to order CSXT to provide responses to certain discovery requests within the fully relevant time period identified by the Board. DuPont also addresses certain other objections raised by CSXT to specific requests. DuPont has attached a copy of CSXT’s objections in Exhibit A.

¹ Pursuant to an agreement between DuPont and CSXT, Motions to Compel are to be filed on December 21, 2007 and replies on December 31, 2007.

ARGUMENT

A. CSXT Wrongly Contends that Information Concerning the 2002-2005 Waybill Samples is Irrelevant.

In Interrogatory No. 1, DuPont has asked for information pertaining to movements in the Confidential Waybill Sample provided to the parties by the Board, which when the Interrogatory was propounded, covered 2001-2004:

1. Identify all movements in the Confidential Costed Waybill Sample provided to the parties by the Board that CSXT contends are not market dominant because they have effective rail competition at both the origin and destination and that meet ALL of the following criteria:
 - a) Have a revenue/variable cost ("R/VC") ratio greater than or equal to 180%;
 - b) Move in single line CSXT service; and
 - c) Move in tank cars.

Although CSXT has agreed to respond to this Interrogatory for 2004, the most recent year in the Waybill Sample initially provided to the parties by the Board in this case, it has objected to providing responses for 2001-2003 as overbroad, unduly burdensome and irrelevant "to the reasonability of the challenged rates, which were issued in mid-2007." CSXT's objections also extend to the 2004 Waybill Sample, but CSXT nevertheless has agreed to provide responses as to the 2004 waybill sample, notwithstanding its objections, apparently because that is the most recent waybill sample provided by the Board in this case. On December 19, the Board made the 2005 Waybill Sample available to the parties. Accordingly, in light of the Board's action, DuPont agrees to limit its discovery requests to the 2002-2005 Waybill Sample, since they would then constitute the most recent four-year period. However, CSXT's objections

would still appear to encompass the years 2002 and 2003, and in fact it is unclear whether CSXT would withdraw its willingness to provide Waybill Sample information for the year 2004.

CSXT's relevance objection flatly conflicts with the Board's decision in *Simplified Standards*, p. 18, in which the Board declared that comparable movements "must be drawn from the Waybill Sample provided to the parties by the Board at the outset of the case." The Board also stated that "once a shipper files a complaint under the Benchmark methodology, we will release the unmasked Waybill Sample for the defendant carrier...for the 4 years that correspond with the most recently published RSAM figures." *Id.* at 80. In accordance with these statements, the Board initially provided DuPont with the Waybill Sample for 2001-2004, the four years that correspond with the most recently published RSAM figures at the time DuPont filed its Complaint. Thus, CSXT's objection to DuPont's request for information pertaining to the entire waybill sample provided by the Board in this case (with the provision of the 2005 Waybill Sample, now 2002-2005) is completely baseless.

The purpose of DuPont's Interrogatory No. 1 is to ascertain which movements from the Waybill Sample provided by the Board for use in selecting comparable traffic for this case CSXT contends are not market dominant and thus should be excluded from the comparable traffic group due to intramodal competition. CSXT has not challenged the relevance of the information that DuPont has requested, just the time period of DuPont's request. In view of the relevance of the information DuPont has requested, the Board should order CSXT to respond for all four years of the waybill sample released in this case, unless CSXT is willing to stipulate that all traffic in the waybill sample with an R/VC ratio greater than 180 is market dominant.

Although CSXT also asserts a burden objection, it has not attempted to explain that burden. DuPont has narrowly phrased Interrogatory No. 1 so that CSXT is required only to

respond as to movements with an R/VC ratio greater than 180%, that move in single-line CSXT service, and that move in tank cars. CSXT already has agreed to do this for the 2004 Waybill Sample and has not explained why a similar effort for 2002-2003 would be more burdensome. CSXT's burden objection would deny DuPont any discovery on the market dominance of waybill movements that the Board has declared to be the source for selecting comparable traffic. This is fundamentally unfair and outweighs CSXT's alleged, but unsubstantiated, burden claims.

B. DuPont Is Entitled to Discovery of CSXT's Private Price Quotes for Movements in the Waybill Sample.

CSXT also has raised a relevance objection to the date range of information requested by DuPont in Document Request No. 2. DuPont has asked CSXT to:

3. Produce all "Private Price Quotations" for movements in the Confidential Costed Waybill Sample provided to the parties by the Board that meet **ALL** of the following criteria:
 - a) R/VC ratio greater than or equal to 180%;
 - b) Move in single line CSXT service; and
 - c) Move in tank cars.

As with Interrogatory No. 1, DuPont tailored this request to a narrow subset of movements in the 2001-2004 waybill sample from which the Board initially directed the parties to select comparable traffic.

CSXT has objected that "production of the requested PPQs would be extraordinarily burdensome and time consuming and that burden would be grossly disproportionate to any evidentiary value of historical information (from 2001 to 2004) for purposes of this proceeding." Nevertheless, CSXT has proposed to alleviate this alleged burden upon itself in two ways. First, CSXT has agreed to "produce documents that flag each movement in the 2004 Waybill Sample

that is subject to a PPQ and meets the three criteria specified in the Document Request,” but it has not offered to do this for 2001-2003. Second, CSXT has agreed to permit DuPont’s outside counsel or consultants “to visit CSXT’s offices in Jacksonville, Florida in order to allow that person to retrieve and review PPQs meeting the criteria specified by this document request.” It is not clear whether CSXT intends also to restrict this offer to the 2004 waybill sample. Any such date restrictions upon either form of CSXT response should be rejected for the same reasons they should be rejected as to Interrogatory No. 1 discussed above.

Furthermore, Document Request No. 2 is highly relevant to selection of the comparable traffic group. In *Simplified Standards*, p. 83, the Board declared that:

In judging which comparison group to select in an individual proceeding, we will consider the amount of contract in the comparison group. Thus, holding everything else constant, a comparison group that consists of just common carrier traffic will be selected over a group that includes contract traffic.

CSXT has alleged that its PPQs are contracts, not tariffs. CSXT Motion to Dismiss, p. 8. Yet DuPont has demonstrated that CSXT’s PPQs are nearly identical to tariffs in content and structure. DuPont Reply to CSXT Motion to Dismiss, pp. 15-16. DuPont requires discovery of CSXT PPQs in the 2002-2005 Waybill Samples, from which the comparable traffic group will be drawn in this case, in order to demonstrate to the Board that PPQ movements are in fact comparable to the issue movements, and thus should not count as a strike against any comparable group that contains PPQ movements.

DuPont has narrowly tailored its request so that CSXT need only review waybill movements with an R/VC ratio greater than or equal to 180%, that are CSXT single line hauls, and that move in tank cars. Because CSXT is requiring DuPont to inspect the PPQ’s in Jacksonville, most of the discovery burden falls upon DuPont.

C. CSXT Must Produce Density Charts for Each Year of the 2001-2004 Waybill Sample.

In Document Request No. 3, DuPont has asked CSXT to:

4. Produce annual density charts and/or tables showing density by line segment by direction for the entire CSXT system for 2001 through 2006 and explain how the density is measured and what is included in the calculations.

Once again, CSXT has unduly narrowed its response by date. In this case, CSXT has offered to produce only its most current density charts.

In *Simplified Standards*, p. 17, the Board stated that “comparability will be determined by reviewing a variety of factors, such as...traffic densities of the likely routes involved....” Thus, the Board itself declared information on traffic density to be relevant in a three benchmark proceeding.

CSXT’s current density charts, by themselves, are insufficient for the purpose of determining the comparability of movements in the 2002-2005 Waybill Sample with the issue movements. If density is to be a relevant factor, DuPont must be able to match the 2002-2005 densities for the comparable group traffic with the 2002-2005 rates for that traffic.

DuPont is willing to withdraw this document request if CSXT is willing to stipulate that route density will not be used as a factor for determining the comparability of a movement selected from the waybill sample.

In addition to requesting the track density charts, DuPont has asked CSXT to explain how the density is measured and what is included in the calculations. For example, DuPont needs to know what the density data represents (e.g. net tons; gross tons of cars and contents; gross tons of cars, contents, locomotives and cabooses), and how density is measured (e.g. average density

per mile across each line segment, maximum density on any portion of the line segment, etc.). CSXT has not stated whether the documents it has agreed to produce contain this information. If not, CSXT must provide that information along with the density charts so that DuPont can accurately interpret the charts.

D. CSXT's General Objection No. 7 is Overbroad.

CSXT has improperly limited its responses to all of DuPont's discovery request in General Objection No. 7:

CSXT objects to each and every interrogatory and document request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or documents whose public release could jeopardize the safety of the public and of CSXT employees. Subject to and without waiving this objection, unless otherwise indicated CSXT will search for and produce non-privileged information or documents which are not classified, prohibited from disclosure or whose public release would not jeopardize the safety of the public or of CSXT employees.

DuPont accepts CSXT's objection as to classified documents and documents prohibited from disclosure, provided that CSXT stipulates that it too will not use such documents in this case. However, DuPont does not accept CSXT's objection as to documents "whose public release could jeopardize the safety of the public and of CSXT employees."

CSXT's objection leaves too much discretion with CSXT to withhold documents based upon CSXT's subjective determination. Furthermore, the protective order in this proceeding permits CSXT to prevent public disclosure by designating such documents as HIGHLY CONFIDENTIAL. Therefore, unless a responsive document is classified or otherwise prohibited from disclosure to DuPont by law, the Board should compel CSXT to produce such documents to DuPont.

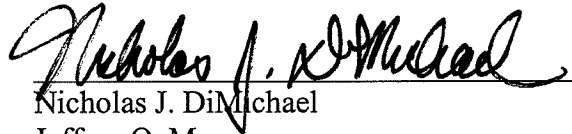
D. CSXT's General Objection No. 11, Objecting To Answering Interrogatories and Producing Documents Prior to January 1, 2005, Is Overbroad

In its General Objection No. 11, CSXT objects to answering interrogatories and producing documents prior to January 1, 2005. For the reasons noted above, CSXT's objection is overbroad. CSXT's General Objection No. 11 would appear to unduly restrict CSXT's answer to several Interrogatories and Document Requests. For example, DuPont's Document Request No. 7 asks CSXT to provide all studies and analyses associated with handling and transporting" the issue commodities. See also, DuPont Document Request No. 8, which asks CSXT to supply documents responsive to DuPont Interrogatory No. 4, which asks CSXT to identify cost differences in transporting the issue commodities.

Although CSXT has agreed to search for and produce studies and analyses, its answer would appear to be improperly limited by CSXT's General Objection. CSXT should be required to produce documents and answer Interrogatories for the period covered by the data provided by the Board, *i.e.*, from January 1, 2002.

WHEREFORE, for the foregoing reasons, DuPont respectfully asks the Board to compel CSXT to respond to DuPont's "First Discovery Requests" as described above.

Respectfully submitted,

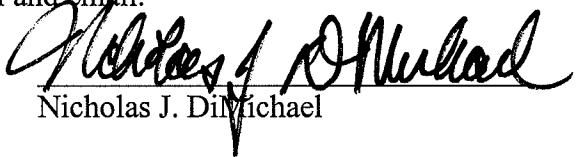


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December 20, 2007

Certificate of Service

I hereby certify that I have on this 20th day of December 2007, served a copy of the foregoing Motion to Compel on Mr. Paul Moates and Mr. Paul Hemmersbaugh, Sidley and Austin, Washington, D.C. 20005, via regular mail and email.



Nicholas J. DiMichael

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

E.I. DUPONT DE NEMOURS AND COMPANY	)	
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<i>Complainant,</i>	)	
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v.	)	Docket No. NOR 42100
	)	
CSX TRANSPORTATION, INC.	)	
	)	
<i>Defendant.</i>	)	
	)	

**DEFENDANT CSX TRANSPORTATION, INC.'S GENERAL AND SPECIFIC
OBJECTIONS TO FIRST DISCOVERY REQUESTS OF COMPLAINANT E.I.
DUPONT DE NEMOURS AND COMPANY**

Pursuant to 49 C.F.R. Part 1114 and other applicable rules and authority, Defendant CSX Transportation, Inc.'s ("CSXT"), by its attorneys, Sidley Austin LLP, objects as follows to the First Discovery Requests of Complainant E.I. du Pont de Nemours and Company ("DuPont")("Discovery Requests").¹

General Objections

CSXT's General Objections, as set forth herein, are to be considered objections to each of the specific interrogatories and document requests that follow. CSXT's objections shall not waive or prejudice any objections that it may later assert.

1. CSXT objects to all of DuPont's Discovery Requests on the ground that the Complaint seeks to challenge contract rates, over which the Surface Transportation Board lacks jurisdiction. CSXT has filed a motion to dismiss this proceeding for lack of jurisdiction, which remains pending before the Board.

¹ The parties have agreed to serve objections to the opposing party's discovery requests on December 14, 2007 (prior to the deadline under STB rules), and to serve full responses to interrogatories and document requests on or before December 18, 2007.

2. CSXT objects to any and all definitions and/or instructions to the extent that the definitions and instructions either expand upon or conflict with 49 C.F.R. Part 1114, Subpart B and STB Ex Parte No. 646, Sub-No. 1 (Sept. 4, 2007). Further, CSXT objects to these interrogatories and document requests to the extent that they seek to impose obligations on CSXT greater than, or are inconsistent with, those imposed under 49 C.F.R. Part 1114, Subpart B and STB Ex Parte No. 646, Sub-No. 1 (Sept. 4, 2007).
3. CSXT objects to each and every interrogatory and document request to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege, exemption, or protection from discovery or disclosure. In the event that any such information is inadvertently produced or provided, and such information is the proper subject of the attorney-client privilege, the attorney work-product doctrine and/or other applicable privilege, exemption, or protection, such disclosure is not to be construed as a waiver of any of these privileges, exemptions, or protections.
4. CSXT objects to each and every interrogatory and document request to the extent that it seeks production of information or data that is not relevant to the subject matter at issue in this proceeding and/or not reasonably calculated to lead to the discovery of admissible evidence.
5. CSXT objects to each and every interrogatory and document request to the extent that it is: a) overly broad; b) impermissibly vague and ambiguous, and fails to describe with reasonable particularity the information sought; or c) imposes undue burdens that outweigh any probative value the information sought may have in this proceeding.

6. CSXT objects to each and every interrogatory and document request to the extent that it purports to request information that is already in the possession of DuPont. Further, CSXT objects to each and every interrogatory and document request to the extent that it seeks disclosure of information that is readily available or accessible to DuPont.
7. CSXT objects to each and every interrogatory and document request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or documents whose public release could jeopardize the safety of the public and of CSXT employees. Subject to and without waiving this objection, unless otherwise indicated CSXT will search for and produce non-privileged information or documents which are not classified, prohibited from disclosure or whose public release would not jeopardize the safety of the public or of CSXT employees.
8. CSXT objects to Definition 2 because the parties have agreed that identical versions of the same document from the same custodian's file, but in different media (*e.g.*, paper and electronic forms of an identical document), need only be produced in one medium.
9. CSXT objects to Instruction 1 to the extent it seeks "all" information in the possession, custody or control of CSXT as overbroad, unduly burdensome, and unreasonable. Subject to and without waiving this and its other objections, unless otherwise indicated CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT.
10. CSXT objects to Instruction 5 to the extent that it requires speculation because CSXT may not know that a "document was, but is no longer in its possession" and in those instances in which CSXT might have that it previously had a document in its possession it may have no way to know "what disposition was made of it."

11. CSXT objects to Instruction 14 to the extent that it seeks information or data that is not relevant to the subject matter in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. CSXT further objects to the time period provided in the instruction as overbroad, unduly burdensome and seeking information not relevant. Subject to and without waiving this objection, unless otherwise indicated CSXT will search for and produce responsive, non-privileged information for the period from January 1, 2005 to August 21, 2007 (the date DuPont filed a complaint commencing this proceeding).
12. CSXT does not concede the relevancy, materiality, competency, or admissibility as evidence of the information requested in the interrogatories or document requests. CSXT reserves its right to object on any ground to the use of the responses herein in this proceeding or in any subsequent proceeding, action or trial.
13. CSXT reserves the right to object to additional discovery into the subject matter of these interrogatories and document requests. By producing information or documents responsive to those interrogatories or requests, CSXT does not concede that the information requested or produced is relevant or material to the subject matter of this proceeding or is admissible as evidence in this proceeding or any appeal thereof.
14. CSXT's General Objections, Specific Objections, and responses are based upon information presently known to it. CSXT reserves the rights to rely on facts, documents, or other evidence, which it may develop or may subsequently come to its attention; to assert additional objections should it discover that there is information or grounds for objections; and to supplement or amend these responses at any time.

15. The following responses are based on information available to CSXT as of the date of these responses and are subject to change should additional information become available to CSXT.

Specific Objections

In addition to its General Objections, CSXT also asserts the following Specific Objections. CSXT preserves all of its General Objections set forth above, and none of the following Specific Objections limit the scope, breadth, generality or applicability of those General Objections.

Interrogatories

1. **Identify all movements in the Confidential Waybill Sample provided to the parties by the Board that CSXT contends are not market dominant because they have effective rail competition at both the origin and destination and that meet ALL of the following criteria:**
 - a. **Have a revenue/variable cost (“R/VC”) ratio greater than or equal to 180%;**
 - b. **Move in single-line CSXT service; and**
 - c. **Move in tank cars.**

Objection: CSXT specifically objects to the use of the terms “movements . . . that CSXT contends are not market dominant” and “effective rail competition” as undefined, vague and ambiguous. CSXT further objects to the term “all movements” and the request for information covering the years 2001-2004 as overbroad and unduly burdensome and not relevant to the reasonability of the challenged rates, which were issued in mid-2007. Subject to and without waiving these objections or the General Objections, for purposes of responding to this Interrogatory, CSXT will identify movement pairs from the 2004 Waybill Sample that satisfy the criteria set forth in the Interrogatory and that are directly served by at least two rail carriers at both the origin and destination.

2. Identify current market factors for transportation of the issue traffic that CSXT contends are not reflected in the RSAM or R/VC_{>180} calculations, or in the Confidential Costed Waybill Sample provided to the parties by the Board.

Objection: CSXT specifically objects to the use of the terms “current market factors” and “reflected in the RSAM or R/VC_{>180} calculations” as undefined, vague and ambiguous. CSXT further objects to the interrogatory to the extent that it assumes that RSAM or R/VC_{>180} calculations “reflect” relevant market conditions for the issue traffic. Subject to and without waiving these objections or CSXT’s General Objections, CSXT will provide information relating to current market, commercial, and other, parameters and conditions affecting the issue traffic that are not captured by, or are not adequately accounted for or factored into, the 2001-2004 RSAM, R/VC_{>180}, or waybill sample.

3. Identify all factors that CSXT contends justify different R/VC ratios for moving the issue commodities in single car, multiple car, and unit train movements.

Objection: CSXT specifically objects to the use of the term “all factors” on the grounds it is overbroad and unduly burdensome. CSXT further objects to the term “justify” as vague, ambiguous, irrelevant, and immaterial. CSXT also specifically objects to this Interrogatory on the grounds that it does not state with reasonable particularity the information or data that is sought. CSXT further specifically objects to this Interrogatory, because, to the extent that it can be understood, a full response would require a special study, which CSXT is not obligated to perform. CSXT also specifically objects that it does not transport the issue commodities in unit trains. In addition, CSXT objects to this Interrogatory to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, for purposes of responding to this Interrogatory, CSXT will identify variables and factors affecting, or potentially affecting, the

R/VC ratios generated by movement of the issue commodities in single cars and multiple cars which are not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

4. **Identify all differences between the cost to CSXT of transporting chlorine, STCC 281285, and the cost to CSXT of transporting other hazard Class 2.3 commodities, as that term is defined in 49 C.F.R. 173.115(c), identified in the Hazardous Materials Table in 49 C.F.R. 172.101.**

Objection: CSXT specifically objects to the use of the term “all differences” as overbroad and unduly burdensome. Further, CSXT specifically objects to this Interrogatory on the grounds that a full response would require CSXT to undertake a burdensome special study, which it is not obligated to perform. In addition, CSXT objects to this Interrogatory to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, CSXT will interpret this Interrogatory as requesting cost differences attributable to the nature of the commodity that do not reveal information which is classified, prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

5. **Identify all differences between the cost to CSXT of transporting chlorine, STCC 2812815, and the cost to CSXT of transporting all other hazardous material (identified in the Hazardous materials Table in 49 C.F.R. 172.101) that are included in the Confidential Costed Waybill Sample provided to the parties by the Board and that meet ALL of the following criteria:**
 - a. **Have an R/VC ratio greater than or equal to 180%;**
 - b. **Move in single-line CSXT service; and**
 - c. **Move in shipper owned or leased tank cars.**

Objection: CSXT specifically objects to the use of the term “all differences” as overbroad and unduly burdensome. Further, CSXT specifically objects to this Interrogatory on the grounds that

a full response would require CSXT to undertake a burdensome special study, which it is not obligated to perform. In addition, CSXT objects to this Interrogatory to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, CSXT will interpret this Interrogatory as seeking information regarding differences in the cost of moving the issue commodity and other movements satisfying the same criteria (a, b, and c) that not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

6. Identify all persons who participated, or were consulted, as part of CSXT's decision to increase the challenged rates to the current levels and describe the role of each person identified.

Objection: CSXT specifically objects to the request to identify "all persons" as overbroad and unduly burdensome. Subject to and without waiving these objections or the General Objections, CSXT will identify the primary persons involved in rate negotiations with DuPont and the development of the challenged rates.

7. Identify all hazardous materials (identified in the Hazardous Material table in 49 C.F.R. 172.101), by commodity name and STCC, that CSXT has transported in tank cars from 2001 through 2006.

Objection: CSXT specifically objects to the unduly broad request to identify "all hazardous materials . . . that CSXT has transported in tank cars from 2001 through 2006." Further, CSXT specifically objects to this Interrogatory to the extent that it seeks information and data that is not relevant to the subject matter of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections of the

General Objections, CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT.

Document Production Requests

1. **Produce all documents created, reviewed or referred to by CSXT, from January 1, 2006 through August 21, 2007, to assess the market for transportation of the issue movements and to set rates on the issue traffic, including but not limited to any competitive alternatives to CSXT rail transportation and any comparisons to other CSXT movements.**

Objection: CSXT specifically objects to the request for the production of “all documents” on the ground it is overbroad and unduly burdensome. In addition, CSXT objects to this Request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, for purposes of responding to this Request, CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT which is not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

2. **Produce all “Private Price Quotations” for movements in the Confidential Costed Waybill Sample provided to the parties by the Board that meet ALL of the following criteria:**
 - a. **R/VC ratio greater than or equal to 180%;**
 - b. **Move in single-line CSXT service; and**
 - c. **Move in tank cars.**

Objection: CSXT specifically objects to the request for the production of “Private Price Quotations (“PPQs”)” matching the 2001-2004 Waybill Sample criteria on the grounds it is overbroad, extraordinarily and unduly burdensome and onerous and seeks information that is not relevant to this proceeding. CSXT further objects that its PPQs contain highly confidential customer-specific rates and commercial information, which those customers expect will not be

disclosed to others. CSXT also objects because many of its PPQs contain transportation agreements and terms for joint line movements and for CSXT single-line service and joint line rates, and the rates charged by carriers other than CSXT are not relevant to this proceeding.

CSXT's historical PPQ's are complex documents maintained on CSXT mainframe computers. Those documents are very voluminous and are not readily extractable or printable in bulk. The existing version of a single PPQ that includes an origin-destination pair selected for a Waybill Sample in 2004 or earlier will frequently include numerous other movements, as well as rates and terms developed, revised, and amended multiples times over the course of several years. In order to produce one such historical PPQ -- which often constitutes many separate, interlinked and overlapping files and documents -- CSXT would be required to manually extract and format the file and then print the resulting hundreds of pages. CSXT has preliminarily determined that approximately 200 movements from the 2004 Waybill Sample alone satisfy the criteria specified by this Request, so producing responsive documents for that year's Waybill Sample would require CSXT to repeat that time-and-resource-intensive process at least 200 times. Further, most PPQ's include highly confidential business and commercial information, including rates, that is neither responsive to the interrogatory nor relevant to this proceeding. Such highly confidential but irrelevant would have to be manually redacted to isolate the information sought by this document request. As a result, production of the requested PPQs would be extraordinarily burdensome and time consuming and that burden would be grossly disproportionate to any potential evidentiary value of historical information (from 2001 to 2004) for purposes of this proceeding.

Subject to and without waiving its objections, CSXT will produce documents that flag each movement in the 2004 Waybill Sample that is subject to a PPQ and meets the three criteria

specified in the Document Request. In addition, and still subject to all of CSXT's objections, it would be willing to permit DuPont's outside counsel or consultants who have executed a highly confidential undertaking and agreement under the Protective Order issued in this proceeding to visit CSXT's offices in Jacksonville, Florida in order to allow that person to retrieve and review PPQs meeting the criteria specified by this document request. CSXT would provide such counsel or consultant(s) with supervised access to a computer terminal and reasonable assistance from a CSXT employee so that such counsel or consultant (s) may retrieve responsive PPQs. CSXT is prepared to negotiate reasonable terms and protocols for such a review with DuPont, such as redaction of information, copies of information retrieved, and printing charges.

3. **Produce annual density charts and/or tables showing density by line segment by direction for the entire CSXT system for 2001 through 2006 and explain how the density is measured and what is included in the calculations.**

Objection: CSXT specifically objects to this Request because it seeks information and data that is not relevant to the subject matter of this Three Benchmark proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. CSXT further specifically objects to this Request to the extent that it is unduly burdensome and seeks old and superseded information and data that is not reasonably accessible by CSXT. In addition, CSXT specifically objects to this Request because that the requested information is unavailable for the entire time period requested. Subject to and without waiving these objections or the General Objections, CSXT will search for and produce current density charts for the CSXT system.

4. **Produce a copy of the current timetables and track charts for the entire CSXT system.**

Objection: CSXT specifically objects to this Request to the extent that it seeks information and data that is not relevant to the subject matter of this Three Benchmark proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without

waiving these objections or the General Objections, CSXT will produce current timetables and track charts for the CSXT system.

5. Produce all documents that refer to or relate to the market factors identified in response to Int. #2.

Objection: CSXT specifically objects to the request for the production of “all documents” on the ground it is overbroad and unduly burdensome. In addition, CSXT objects to this Request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT which is not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

6. Produce all documents that refer or relate to the factors identified in response to Int. #3.

Objection: CSXT specifically objects to the request for the production of “all documents” on the grounds it is unduly burdensome. CSXT further incorporates by reference to this response all of its objections to Interrogatory Number 3. In addition, CSXT objects to this Request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT which is not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

7. Please provide all studies and analyses associated with handling and transporting the commodities that are toxic-by-inhalation, including chlorine.

Objection: CSXT specifically objects to the use of the term “all studies and analyses associated with handling and transporting” on the grounds that it is overbroad and unduly burdensome as well as vague and ambiguous. CSXT further objects to this Request to the extent that it seeks information and data that are publicly available and/or readily available to DuPont. In addition, CSXT objects to this Request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, for purposes of responding to this Request, CSXT will search for and produce studies and analyses which are not classified, prohibited from disclosure or whose public release would not jeopardize the public’s safety.

8. Produce all documents that refer or relate to the cost differences identified in response to Int. #4.

Objection: CSXT specifically objects to the request for the production of “all documents that refer or relate to . . . cost differences” on the grounds it is unduly burdensome. CSXT further incorporates by reference to this response all of its objections to Interrogatory Number 4. In addition, CSXT objects to this Request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT which is not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

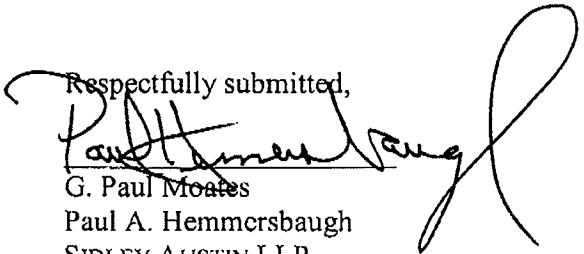
9. Produce all documents that refer or relate to the cost differences identified in response to Int. #5.

Objection: CSXT specifically objects to the request for the production of “all documents that refer to . . . cost differences” on the grounds it is unduly burdensome. CSXT further incorporates by reference to this response all of its objections to Interrogatory Number 5. In addition, CSXT objects to this Request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT which is not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

10. Produce all documents that refer or relate to the “extraordinary costs and characteristics alleged in paragraph 18 of CSXT’s Answer.

Objection: CSXT specifically objects to the request for the production of “all documents” on the grounds it is unduly burdensome. CSXT further objects to this Request to the extent that it purports to request information and data that is classified or otherwise prohibited from disclosure, or whose public release could jeopardize the safety of the public or of CSXT employees. Subject to and without waiving these objections or the General Objections, for purposes of responding to this Request, CSXT will search for and produce responsive, non-privileged information that is reasonably accessible and available to CSXT which is not classified or otherwise prohibited from disclosure, or whose public release would not jeopardize the safety of the public or of CSXT employees.

Respectfully submitted,



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