

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

M&G Polymers USA, LLC)	
)	
Complainant)	
)	
v.)	Docket No. NOR 42123
)	
CSX Transportation, Inc.)	
)	
Defendant)	
)	

Joint Reply Verified Statement

Of
Philip H. Burris
Senior Vice President

and

Sean D. Nolan
Vice President

L. E. Peabody & Associates, Inc.
On Behalf of

M & G Polymers USA, Inc.

February 18, 2011

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LIST OF EXHIBITS

<u>EXHIBIT NO.</u>	<u>EXHIBIT DESCRIPTION</u>
(1)	(2)
1	Statement of Qualifications of Philip H. Burris
2	Statement of Qualifications of Sean D. Nolan
3	Determination of CSXT Rail Market Dominance CSXT Rail Margin, less Difference Between Rail Rate and Cost of Providing Alternative Service
4	Correction of Errors and Miscalculations to the Verified Statement of Gordon R. Heisler

I. INTRODUCTION

We are Philip H. Burris and Sean D. Nolan, Senior Vice President and Vice President, respectively of L. E. Peabody & Associates, Inc., an economic consulting firm that specializes in solving economic, transportation, marketing, financial, accounting and fuel supply problems. Mr. Burris has spent most of his consulting career over thirty-three (33) years evaluating railroad costs, prices, operations, financing, capacity and equipment planning issues. His assignments in these matters were commissioned by railroads, producers, shippers of different commodities, and government departments and agencies. As a part of his work, Mr. Burris has examined pricing for railroad services vis a vis market dynamics and alternative transportation options on numerous occasions, both in litigation and when negotiating railroad rates for either shippers or carriers. Mr. Burris has submitted testimony related to railroad market dominance issues to both the Interstate Commerce Commission and the Surface Transportation Board. A copy of Mr. Burris' credentials are included as Exhibit No. 1 to this reply verified statement ("RVS").

Mr. Nolan has spent his 20 year consulting career evaluating railroad cost of service, pricing and operations issues on behalf of shippers and government departments and agencies. The nature of his work has been supporting shippers in their procurement initiatives including the purchasing of fuel, transportation services, equipment and management of inventories. His development and analysis of alternative scenarios have been supported by tailored financial models used to estimate cost reductions and savings, actual versus budgeted variances, revenue to variable cost of service relationships, cash flows, and break-even and sensitivity analysis. A copy of Mr. Nolan's credentials are included as Exhibit No. 2.

We have been asked by Counsel for M & G Polymers USA, Inc. ("M&G") to review and evaluate the Verified Statement of Gordon R. Heisler, submitted in the above referenced proceeding on January 27, 2011, in support of CSX Transportation, Inc.'s ("CSXT") *Motion of Expedited Determination of Jurisdiction Over the Challenged Rates*. We have also been asked to correct Mr. Heisler's calculations and findings for any theoretical or mathematical errors in the information presented. We were asked to specifically focus on Mr. Heisler's conclusion that effective market competition exists for 32 of the 70 transportation lanes at issue in this proceeding, and Mr. Heisler's underlying premise that if a transportation alternative exists for the issue traffic, at a price close to the price at issue in this proceeding, then CSXT does not have market dominance.

Our Reply testimony is organized below under the following topical headings:

II. Background

III. Effective Competition

IV. Determination of Market Dominance

V. Conclusions

II. BACKGROUND

M&G has production facilities located at Apple Grove, WV and Altamira, Mexico where it produces polyethylene terephthalate (“PET”). M&G ships significant volumes of PET by rail from both of these facilities. Many of M&G’s rail shipments are to rail storage facilities located at Belpre, OH, Parkersburg, WV, Sweetwater, TX, Spring, TX, Vado, NM and Rains, SC. The shipments from the Belpre rail storage facility to customers are by both rail and truck.

Apple Grove is M&G’s largest production facility, where, due to the physical configuration of the production facilities, all production is loaded into railcars. As explained in the accompanying verified statement of Andre Meyer, the Apple Grove facility cannot load PET directly into trucks, therefore any shipment originating at Apple Grove by truck, must first be loaded into a railcar. The railcar is then switched to a storage track or to a truck transload track, where the product can be transloaded to truck.

The Belpre rail storage facility is owned by Bulkmatic Transport Company (“Bulkmatic”). Belpre receives all of its M&G volumes by rail from either the Apple Grove or from the Altamira facility where it is stored in the railcars until scheduled distribution to M&G customers. M&G product is then shipped from Belpre either by rail or it is transloaded for shipment by truck.

The Parkersburg, Sweetwater, Vado and Spring facilities are rail storage-in-transit facilities which receive rail shipments from Apple Grove or Altamira. All shipments from these three in-transit rail storage facilities are by rail.

M&G has challenged CSXT's rail rates for its portion of the rail shipment of M&G PET moving between 70 origin/destination pairs.¹ The table below summarizes the 70 origin destination pairs at issue in this proceeding by origin.

<u>Origin</u> (1)	<u>Number of Issue Origin/Destination Pairs</u> (2)
Apple Grove, WV	41
Belpre, OH	17
Altamira, MX	6
Sweetwater, TX	3
Parkersburg, WV	1
Spring, TX	1
Rains, SC	<u>1</u>
Total	70

As shown in the table above, the vast majority of origin/destination pairs included in this proceeding originates at either Apple Grove, WV or Belpre, OH. CSXT receives the shipments originating at Altamira, MX and Sweetwater, TX in interchange at either Chicago or New Orleans and it receives the shipments originating at Spring, TX in interchange at East Saint Louis, MO.

CSXT witness Heisler alleges that for 32 of the 70 issue movements, feasible and cost effective alternatives exist for CSXT's movement of M&G's PET. Mr. Heisler's proffered alternatives are either direct truck shipments between the origin and destination, or a combination truck/rail shipment between origin and destination. Because Mr. Heisler has devised what he believes are feasible alternatives with rates similar to those at issue in this

¹ See Exhibits A and B to M&G's Third Amended Complaint filed February 1, 2011.

proceeding, he concludes that effective competitive constraints exist to CSXT's rail rates for these movements.

III. EFFECTIVE COMPETITION

We have examined the transportation alternatives presented by Mr. Heisler for each of the 32 origin/destination pairs and find that in numerous instances, Mr. Heisler's assumptions and/or calculations are incorrect. More importantly, we find that Mr. Heisler's basic premise that the mere existence of a transportation alternative with rates for that alternative close to the issue rates (either slightly higher or lower) does not, in and of itself, represent a definitive finding of an effective competitive constraint.

In the recent *DuPont* small rate cases, the Board reaffirmed the long-established principal that comparable pricing among modes does not, by itself, constitute effective competition:

Even if we were to find that the cost of trucking the product is similar to the cost of using rail after the CSXT rate increase, it does not follow that the threat of trucking is evidence of effective competition. After all, even a monopolist finds that there is a profit-maximizing price beyond which it cannot raise prices without adversely affecting its bottom line. A carrier possessing market power might set its rates so high that it would begin to lose business to a higher-cost alternative (such as a trucking company). As the Board has previously noted, while this may create an "outer limit" constraint, it does not necessarily mean that effective competition is present.

E.I. du Pont de Nemours and Company v. CSX Transportation, Inc., STB Docket No. 42099 (served June 30, 2008) (underline in original) (footnotes omitted).

Moreover, in *McCarty Farms*, the Interstate Commerce Commission stated: "The existence of intermodal competition is not enough to establish a lack of market dominance" (3 I.C.C. 2d 832), and in *FMC*, the STB stated:

We conclude that the fact that the [carrier] matches prices set by alternatives with significantly higher costs, while maintaining a dominant market share, is not enough to demonstrate effective competition for the traffic at issue. *FMC* 4 S.T.B. 718.

Finally, in *Ariz. Pub. Serv. Co. v. U.S.*, 742 F.2d 644, 650-51 (D.C. Cir. 1984), the court upheld this notion of effective competition:

At the core of the "effective competition" standard is the idea that there are competitive, market pressures on the railroads deterring them from charging monopoly prices for transporting goods. *Of course, any such effective competition will always be relative to a particular price that the railroads charge* ***. The mere existence of some alternative does not in itself constrain the railroads from charging rates far in excess of the just and reasonable rates that Congress thought the existence of competitive pressures would ensure. (Emphasis in original).

Mr. Heisler's premise fails to address the ability of a monopolist to control the market, through pricing decisions. To draw such a conclusion requires an examination of the economics underlying both the rates at issue and those of the alternative and the margins available to the

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 5) If CSXT's margin (Step 1) is greater than Step 3, then the alternative is not an effective constraint on CSXT's pricing and CSXT does have market dominance.

Our findings are that for each of the 32 origin/destination pairs where Mr. Heisler claims an effective competitive constraint exists, the cost of providing the alternative service is substantially more than CSXT's cost of providing the service at issue. Stated differently, we find CSXT's margin from the rates at issue exceed the difference between CSXT's rate on the issue movement and the cost of the alternative service by a substantial margin. Thus, CSXT has sufficient market power to force the competitor out of the market place. The net result is that CSXT is market dominant in each of the 32 issue origin/destination pairs identified by CSXT as having effective competitive constraints. Our methodology is discussed in the balance of this Reply Verified Statement and our findings are summarized in Exhibit No. 3.

IV. DETERMINATION OF MARKET DOMINANCE

As stated above, a determination of market dominance requires an examination of the economics underlying both the rates at issue and those of the alternative and the margins that can be earned by the defendant carrier. For an effective competitive constraint to exist, CSXT's cost of providing the service must be comparable to or greater than that of the cost of providing the alternative service by all carriers and service providers in that supply chain. Stated differently, if CSXT's margin from the rates at issue, minus the difference between the CSXT rail rate and the cost of providing the alternative service is substantially positive, then the alternative is not an effective constraint on CSXT's pricing and CSXT does have market dominance.

To demonstrate CSXT's market dominance for each of the 32 origin/destination pairs where Mr. Heisler alleges CSXT has an effective competitive alternative, we: 1) determined the rail margin for each origin/destination pair; 2) determined the cost of providing the alternative service; 3) subtracted the cost of the alternative service from the rail rate; and 4) compared the rail margin to the rail rate, less the alternative cost of providing the service. Our procedures and methodology are first discussed generally by topic, i.e., revenue, rail costs, truck costs, transload facility fee and other costs. Then, the specifics of our procedures are discussed under each of the four groups of transportation alternatives proposed by Mr. Heisler, which are:

1. Truck direct from Apple Grove or Belpre to customer;
2. Truck from Apple Grove or Belpre to a rail transload at the current interchange point with the existing connecting rail carrier;
3. Truck from Apple Grove or Belpre to a rail transload at Lima, Ohio on the Chicago, Fort Wayne and Eastern Railroad ("CFER") for delivery to interchange in Chicago with the existing connecting carrier; and
4. Movement by CFER from interchange with existing rail carrier in Chicago to the truck transfer facility in Lima, OH, then truck from Lima to destination.

**A. OVERALL
METHODOLOGY**

1. Rail Revenue

Rail revenue in our analysis is based on the CSXT rates at issue, including the average fuel surcharge applied by CSXT during 4Q2010. This differs slightly from the rail revenues in Mr. Heisler's analysis in that Mr. Heisler includes the rail carrier's fuel surcharge as of January 1, 2011, even though his statement indicates his analysis is as of 4Q2010.²

Connecting carrier revenues are included in our analysis in two circumstances. First, for origin/destination pairs where Mr. Heisler has proposed a truck direct to customer alternative, and the existing move includes both CSXT and a connecting carrier, the revenue for the connecting carrier is included in order that a comparison between revenues for the entire move and cost for the entire move can be made. For example, the existing shipment from Apple Grove to Franklin, IN originates on CSXT and is interchanged to the LIRC at Louisville, KY for delivery to Franklin, IN. In order for revenues to be compared with the cost of providing the alternative service from origin to the customer, both CSXT and LIRC revenues must be

considered.

Second, in those instances where Mr. Heisler has proposed an alternative that would change a connecting carrier's cost of providing service, this change in cost must be accounted for and compared with the revenues associated with that change in cost. For example, Mr. Heisler proposes a truck/rail alternative for the Apple Grove to Fremont, OH origin/destination pair, which currently moves from Apple Grove to Columbus, OH where it connects with Norfolk Southern Railway ("NS") for delivery to Fremont. Mr. Heisler's proposed alternative changes NS' operation from an "interchange received and terminated" shipment to an "originated and

² Mr. Heisler made several similar errors and miscalculations in the development of Exhibit 1 to his verified statement. These errors and miscalculations are addressed in Exhibit No. 4.

terminated” shipment. The originated and terminated shipment is a more costly service for NS to provide. In performing our analysis, we have incorporated NS’ revenue and its cost of service under both the existing movement and the alternative scenarios in order to accurately reflect the costs of providing the service and the margins realized from providing the service.

2. Rail Costs

For each of the 32 origin/destination pairs we developed CSXT’s Uniform Railroad Costing System (“URCS”) Phase III costs of providing service based on the STB’s 2009 URCS unit costs. In addition, to CSXT variable cost, URCS Phase III costs were developed for connecting carriers included in the analysis where appropriate. URCS costs for NS are based on the STB’s 2009 URCS unit costs for NS. URCS costs for Class II and Class III carriers are based on the STB’s 2009 URCS regional costs. All URCS costs were indexed to 4Q2010.

Connecting carrier variable costs were included in our analysis in three circumstances. First, when Mr. Heisler’s alternative is a truck direct to customer shipment and the existing rail shipment includes both the CSXT and a connecting carrier, that carrier’s costs are calculated. Second, when Mr. Heisler’s proposed alternative changes a connecting carrier’s operation and thereby its cost of providing service, the connecting carrier’s cost of providing service is calculated (e.g. the Apple Grove to Fremont, OH move via a Columbus, OH transload discussed above). Finally, the alternative rail carrier’s cost is calculated for all origin/destination pairs where Mr. Heisler has proposed a rail carrier other than CSXT be included in the shipment, i.e., all shipments which involve movement by CFER between Lima, OH and Chicago, IL.

3. Truck Costs

Marginal truck costs were developed for each of Mr. Heisler’s alternatives based on the truck cost per mile found in the December 2008 report titled *An Analysis of the Operational*

Costs of Trucking, by the American Transportation Research Institute (“ATRI”). This report provides a marginal cost per mile for the Motor Carrier industry of \$1.73 per loaded or empty mile for truckload, less-than-truckload and specialty carriers combined. The \$1.73 cost per mile was indexed from annual 2008 expenses to 4Q2010 using the Producer Price Index for “Truck Transportation” which produces a cost per mile at 4Q2010 levels of \$1.70.³ The \$1.70 marginal cost per mile was applied to the truck miles found in Mr. Heisler’s workpapers for each origin/destination pair and increased to reflect a 100 percent empty backhaul.⁴

In addition to the motor carrier rates, Mr. Heisler includes motor carrier charges for rail to truck transloads and for truck cleaning in his analysis. Rather than adopting these charges in our motor carrier cost analysis we have estimated the carriers’ cost of providing this service. To estimate the cost of transfer service we accepted the driver’s wage cost, including benefits, and bonuses per hour from the ATRI Report, indexed to 4Q2010 wage and price levels, multiplied by [REDACTED] hours for transload activities as reported by Mr. Heisler. This yields a cost per transload of [REDACTED] compared with the transload charges used in Mr. Heisler’s analysis of [REDACTED] to [REDACTED] per transload.

Mr. Heisler also includes charges of [REDACTED] per truckload for truck cleaning in his analysis. The charge for cleaning a truck is [REDACTED], however, Mr. Heisler states that trucks

³ As recognized in the ATRI Report, the \$1.70 marginal cost per mile understates the actual cost incurred by specialized motor carriers. The Report indicates at several locations that costs for specialty carriers are greater than the industry average. For instance at page 16, the report indicates that wages for drivers of specialty carriers are paid 28 percent more than the average compensation. In addition, at page 13, the Report acknowledges that specialized carriers operate more expensive, specially-engineered equipment and have a significantly higher cost per mile than the truckload and less-than-truckload sectors. Further refinement of the specialized motor carrier marginal cost per mile will be evaluated in M&G’s Opening Evidence.

⁴ Specialized carriers such as those operating self-loading and unloading pneumatic/vacuum trailers have little to no opportunity for loaded backhaul shipments and as a result typically operate with a 100 percent empty backhaul. This would be especially true for the operations proposed by Mr. Heisler which requires an increase of [REDACTED] truckloads operating between the issue movement origin/destination pairs or transload facilities.

require cleaning [REDACTED] hence a cost per truckload of [REDACTED].⁵ Based on the labor costs for cleaners of vehicles and equipment as reported by the Bureau of Labor statistics, and an assumption that [REDACTED] persons working [REDACTED] hours are required to clean a self-loading and unloading pneumatic/vacuum trailer, the cost of labor of cleaning equals [REDACTED] per trailer, or [REDACTED] per truckload when the trailer is cleaned every [REDACTED] load.

4. Transfer Facility Fee

Mr. Heisler includes transfer facility fees for each of the truck transload facilities ranging from [REDACTED] to [REDACTED] per railcar based on information provided by the individual transfer facilities or their tariffs. These charges typically include a [REDACTED].
[REDACTED] We have accepted Mr. Heisler's transfer facility charges, making corrections to reflect errors in his calculations. The corrections are addressed on an individual movement basis in the specific application section below.

5. Other Costs

In addition to the costs addressed above, two other costs are included in our analysis. First, Mr. Heisler's proposed transportation alternatives require a substantial increase in the number of truckloads originating at M&G's Apple Grove production facility. As fully addressed in the accompanying verified statement of M&G witness Andre Meyer, the proposed increase in truck originations requires an expansion of the truck transload facilities at Apple Grove and a significant change in operations in the rail operations at the plant. To some extent, the change in operations will require loaded railcars to be switched from the high volume production side of the Apple Grove plant to the expanded truck transload facility and empty cars to be switched

⁵ M&G confirms it requires trucks be cleaned every [REDACTED] loads and cleaned with every change in commodity transported. Assuming these trailers are used in continuous service for moving PET, truck cleaning every five loads is adequate.

back from the truck transload facility to the high volume production side of the plant for reloading.

As the high volume production section of the Apple Grove plant and the location of the expanded truck transload facility, as proposed by Mr. Heisler, are separated by the CSXT mainline track, CSXT must perform this switch operation. Mr. Heisler's proposed transportation alternatives require an additional [REDACTED] loaded railcars be transloaded to truck at Apple Grove. M&G personnel, conservatively estimate (without the time to perform a thorough assessment of the operations changes required) that CSXT will have to switch [REDACTED] loaded railcars from the high production section of the plant to the transload facility and [REDACTED] empty railcars back from the transload facility. Currently, CSXT provides minimal intraplant switching at Apple Grove, however, if CSXT is required to switch cars on an ongoing basis, (especially if this service is a result of the diversion of traffic and profits away from CSXT) it is highly likely that CSXT will charge for this intraplant switch service. CSXT's current intraplant switch charge is \$175 per car switched, loaded or empty. We have included the CSXT charge for intraplant switching service in our analysis for [REDACTED] railcars annually and distributed that cost on a per loaded car basis to each of the [REDACTED] cars Mr. Heisler proposes to divert to truck origination at the Apple Grove plant. This results in a charge of [REDACTED] per carload.⁶

Second, Mr. Heisler proposes to divert shipments moving to and from interchange in Chicago between CSXT and connecting carriers to a connection between the CFER and connecting carriers in Chicago. These connecting carriers include BNSF Railway Company

⁶ M&G's assumption that the CSXT switch charge will apply to [REDACTED] of the [REDACTED] cars diverted to truck originations may be revised after a study is performed of the impact of this diversion on operations at the Apple Grove plant. Moreover, the [REDACTED] per railcar load does not include the cost of the expansion of the truck transload facility at Apple Grove, which Mr. Heisler claims to equal only [REDACTED]

("BNSF"), Union Pacific Railroad Company ("UP"), Canadian National Railway Company ("CN") and Canadian Pacific ("CP").

The CFER destination in Chicago is Indiana Harbor Belt's ("IHB") Blue Island yard. CFER does not directly interchange with any of CSXT connecting carriers for shipments of M&G PET, instead IHB provides an intraterminal switch effecting this interchange within the Chicago switching district. For this service, IHB charges a \$138 switch fee for loaded or empty cars. Mr. Heisler's workpapers indicate that the [REDACTED]

[REDACTED] However, close examination of Mr. Heisler's workpapers reveals [REDACTED]

[REDACTED]

As a result, our analysis adds the [REDACTED] to the movements with required connection between CFER and [REDACTED] or [REDACTED] in Chicago.

**B. SPECIFIC APPLICATION
TO INDIVIDUAL
ORIGIN/DESTINATION PAIRS**

The specific application of our methodology to individual origin/destination pairs is discussed below and is organized under each of the four categories of transportation alternatives proposed by Mr. Heisler.

1. Truck Direct to Customer

Mr. Heisler proposes that shipments for twelve origin/destination pairs can be moved by truck from origin to destination. Of these twelve origin/destination pairs, 10 originate at Apple Grove and 2 originate at the Belpre rail storage facility. The highway distance for these twelve origin/destination pairs range from [REDACTED] miles to [REDACTED] miles, and according to Mr. Heisler these origin/destination pairs represent [REDACTED] rail car shipments in 2009 or [REDACTED]

truckloads.⁷ The rail route of movement for [REDACTED] of these origin/destination pairs involves CSXT and a connecting carrier.

Mr. Heisler contends that a truck direct to customer movement is a “logistically feasible and economically competitive” alternative for the existing rail movement for each of these twelve origin/destination pairs. Further, Mr. Heisler contends that for [REDACTED] of the origin/destination pairs the truck direct rate is less than the current rail rate and for the remaining [REDACTED] origin/destination pairs the truck rate is only slightly higher than the rail rate. Mr. Heisler therefore concludes that the truck alternative acts as a competitive constraint on CSXT’s rail rates.

The table below lists each of the twelve origin destination pairs for which Mr. Heisler alleges a viable and economically competitive truck direct move exists. The table also shows the existing rail rates and costs for the issue movements to destination and the costs of the direct truck alternative. As shown in the table the cost of the truck alternative is up to 3.7 times higher than that of the rail alternative. Most importantly, the table shows that the margin from the rail rate is substantially greater than the rail rate, less the cost of the truck alternative.

⁷ For purposes of our analysis we accept Mr. Heisler’s assumption that four truckloads are equal to one railcar equivalent.

Table 2
Truck Direct to Customer Alternatives

<u>Lane No.</u> (1)	<u>Origin/ Destination</u> (2)	<u>Rail Rate</u> (3)	<u>Rail Cost</u> (4)	<u>Truck Alt Cost</u> (5)	<u>Alt Cost/ Rail Cost 1/</u> (6)	<u>Rail Margin 2/</u> (7)	<u>Rail Rate less Alt Cost 3/</u> (8)	<u>Difference 4/</u> (9)
14b	APG/Franklin, TN		\$1,409	\$4,132	2.9			
4a	APG/Clifton Forge, VA		\$1,112	\$3,017	2.7			
8a	APG/Parkersburg, WV		\$805	\$1,290	1.6			
1a	APG/Belpre, OH		\$807	\$1,290	1.6			
35b	APG/Waynesville, NC		\$2,022	\$5,070	2.5			
20b	APG/Hebron, OH		\$1,035	\$2,174	2.1			
10a	APG/Rochester, NY		\$1,704	\$7,219	4.2			
14a	Belpre/Devon, KY		\$1,177	\$3,083	2.6			
35b	Belpre/Franklin, IN		\$1,598	\$4,266	2.7			
5a	APG/Devon, KY		\$1,009	\$2,772	2.7			
8b	APG/Allentown, PA		\$1,797	\$6,716	3.7			
18b	APG/Havre de Grace, MD		\$1,773	\$6,172	3.5			

1/ Column 5 – Column 4

2/ Column 3 – Column 4.

3/ Column 3 – Column 5

4/ Column 7 – Column 8

The rail cost associated with each origin/destination pair is significantly less than the alternative cost of providing service; and the difference between the rail margin and the rail rate minus the cost of providing the alternative service is significant. Thus CSXT has market dominance over each of these origin/destination pairs.

As discussed in the previous section, all the rates and costs are shown at 4Q2010 levels. Rail shipments to Franklin, IN, Waynesville, SC, Hebron, OH, Allentown, PA and Harve de Grace, MD are joint line moves, where CSXT is the originating carrier. As the truck rates proposed by Mr. Heisler are rates to destination, not interchange, the rail revenues and rail costs shown in the table above include both CSXT and the connecting carriers' data.

The rail costs are based on the STB's 2009 URCS unit costs and its Phase III cost program. Costs for the alternative transportation include truck cost, truck transload and truck cleaning costs, transload facility fees and the incremental CSXT switch fees at Apple Grove discussed in the previous section.

Two of Mr. Heisler's proposed alternatives are 71-mile truck direct moves from Apple Grove to the rail storage facilities at Belpre, OH and Parkersburg, WV. While both of these moves are a relatively short distance, they represent moves to rail storage facilities where M&G stores PET in railcars until the customer requires order fulfillment. From Belpre PET is shipped either by rail or truck, from Parkersburg all outbound shipments are by rail. Mr. Heisler fails to recognize that his proposed truck moves to Belpre and Parkersburg require PET to be loaded into railcars at Apple Grove, transloaded to truck at Apple Grove, moved by truck to either Belpre or Parkersburg and then *reloaded* into railcars for storage until such time as the customer requires delivery. Mr. Heisler also fails to account for the fact that M&G would have to position empty railcars at Belpre and Parkersburg to receive the product shipped by truck to these storage facilities.

2. Truck to Current Interchange Location for Transload

Mr. Heisler claims that M&G has competitive alternatives to CSXT's rail rates for six origin/destination pairs by moving product by truck from either Apple Grove or Belpre to transload facilities located where CSXT currently connects with the delivering carrier. Specifically, Mr. Heisler claims M&G could move PET from Apple Grove and Belpre by truck to Hagerstown, MD for transload to NS for delivery to the customer, and from Apple Grove to Columbus, OH for transload to NS for delivery to the customer. Mr. Heisler concludes that in all six instances the rate for the alternative service is less than that for the existing service and therefore the alternative service effectively constrains CSXT's pricing.

As with the truck direct to customer alternatives proposed by Mr. Heisler the truck to transload at existing interchange locations is not economically feasible as the cost of providing the alternative service far exceeds the cost of providing the existing rail service.

The table below summarizes the comparative economics of the existing rail service and Mr. Heisler's proposed truck transload alternatives for each of these six origin/destination pairs.

Table 3
Truck Transload to Connecting Carrier at Existing Rail Interchange Location

<u>Lane No.</u>	<u>Origin/ Destination</u>	<u>Rail Rate</u>	<u>Rail Cost</u>	<u>Truck/Rail Alt Cost</u>	<u>Alt Cost/ Rail Cost 1/</u>	<u>Rail Margin 2/</u>	<u>Rail Rate less Alt Cost 3/</u>	<u>Difference 4/</u>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
8b	APG/Allentown, PA		\$1,797	\$5,868	3.3			
18b	APG/Havre de Grace, MD		\$1,773	\$5,836	3.3			
19b	APG/Hazleton, PA		\$1,917	\$5,988	3.1			
37b	Belpre/Allentown PA		\$1,613	\$4,911	3.0			
15b	APG/Fremont, OH		\$1,183	\$3,124	2.6			
24b	APG/Nicholasville, KY		\$1,420	\$3,361	2.4			

1/ Column 5 + Column 4
2/ Column 3 - Column 4
3/ Column 3 - Column 5.
4/ Column 7 - Column 8

Mr. Heisler's proposed alternatives require a change in operations for NS at both the existing interchange locations, i.e., under the proposed alternative, rather than receiving loaded railcars from CSXT in interchange, NS will originate railcars at the transload facilities. Because of this change in the cost of providing service, our analysis includes both the rail rate from origin to destination and the rail cost from origin to destination for both the existing rail service and the proposed alternative service.

As shown in the table above, the rail cost associated with each origin/destination pair is significantly less than the alternative cost of providing service. Further, the difference between the rail margin and the rail rate minus the cost of providing the alternative service is significant. Thus CSXT has market dominance over each of these origin/destination pairs.

In addition to CSXT having a significant economic advantage over Mr. Heisler's proposed alternatives for these six origin/destination pairs, several of Mr. Heisler's assumptions

regarding the Hagerstown transload alternative are ill-founded and incorrect.⁸ First, Mr. Heisler proposes that Utility Supply Company, a utility pole transload facility, provide the necessary facility for transload of M&G's PET from truck to railcar on NS' rail line. As fully discussed in the accompanying statement of Mr. Meyer, Utility Supply Company's property is not suitable for transloading M&G's PET from bulk truck to railcars.

Second, Mr. Heisler incorrectly assumes that NS will move a railcar of M&G's PET which originates at the [St. James transload facility to destination for the same rate that it would] move a railcar it receives in interchange from CSXT at Hagerstown. However, Mr. Heisler admits that the NS Rule 11 rate that applies to railcars received from CSXT at Hagerstown would not cover rates from the Utility Supply facility. However, Mr. Heisler states that in his experience, it is *extremely likely* that M&G would be able to secure the same or a very similar contract rate for railcars originating at a transload facility located just 1.5 miles away from Vardo.⁹ The fact is, however, that NS is not willing to provide M&G with the same rate for cars originating at Utility Supply Company in St. James. As indicated in the statement of Mr. Meyer, NS has provided a quote for moving railcars from the Utility Supply Company in St. James equal to [REDACTED] more per carload than its existing rate for moving M&G's PET from interchange with CSXT in Hagerstown. Mr. Heisler's conclusion that the truck transload/NS rate for moving M&G's PET via the Hagerstown transload is less than the existing rail rate is incorrect.

⁸ These include the Apple Grove and Belpre to Allentown, PA and Apple Grove to Havre de Grace, MD and Hazelton. PA origin/destination pairs.

⁹ Heisler VS at p. 12, note 8. (Emphasis added). Mr. Heisler indicates that Utility Supply Company's transload facility is located in Hagerstown, MD where the existing interchange between CSXT and NS takes place. In actuality Utility Supply Company is located six miles south of Hagerstown in St. James, MD.

3. Truck from Origin to Lima, OH Transload to CFER

Twelve of the issue origin/destination pairs originate at Apple Grove and move via CSXT to interchange with Western carriers in Chicago. Mr. Heisler proposes a truck/rail alternative for the CSXT portion of the move which assumes shipments will originate by truck at Apple Grove and move a highway distance of [REDACTED] miles to Lima, OH where M&G PET would transload to railcars on the CFER. CFER would then transport the railcars to connection with the same Western carriers in Chicago that currently participate in the issue movements. The table below summarizes the comparative economics of the CSXT move from Apple Grove to connection with the Western carriers in Chicago and Mr. Heisler's proposed truck/CFER move through the Lima, OH transload. As shown in the table, CSXT's cost associated with each origin/destination pair is significantly less than the cost of Mr. Heisler's proposed alternative service. Further, the difference between the rail margin and the CSXT rail rate minus the cost of providing the alternative service is significant. Thus CSXT has market dominance over each of these origin/destination pairs.

**Table 4
Truck to Transload in Lima, OH and CFER Connection in Chicago**

<u>Lane No.</u> (1)	<u>Origin/Destination</u> (2)	<u>CSXT Rail Rate</u> (3)	<u>CSXT Rail Cost</u> (4)	<u>Truck/Rail Alt Cost</u> (5)	<u>Alt Cost/ Rail Cost 1/</u> (6)	<u>CSXT Margin 2/</u> (7)	<u>CSXT Rate less Alt Cost 3/</u> (8)	<u>Difference 4/</u> (9)
21b	APG/Lenexa, KS	\$5,646	\$1,325	\$4,142	3.1	\$4,321	\$1,504	\$2,817
30b	APG/Sweetwater, TX	\$5,646	\$1,323	\$4,140	3.1	\$4,323	\$1,506	\$2,817
32b	APG/University Park, IL	\$5,646	\$1,330	\$4,287	3.2	\$4,316	\$1,359	\$2,957
10b	APG/Champagne, IL	\$5,646	\$1,328	\$4,283	3.2	\$4,318	\$1,363	\$2,955
22b	APG/Little Rock, AR	\$5,646	\$1,324	\$4,141	3.1	\$4,322	\$1,505	\$2,817
25b	APG/Rockford, IL	\$5,646	\$1,329	\$4,283	3.2	\$4,317	\$1,363	\$2,955
16b	APG/Glendale, AZ	\$5,646	\$1,322	\$4,139	3.1	\$4,324	\$1,507	\$2,818
34b	APG/West Chicago, IL	\$5,646	\$1,330	\$4,148	3.1	\$4,316	\$1,498	\$2,818
7b	APG/Aquila, AZ	\$5,646	\$1,322	\$4,139	3.1	\$4,324	\$1,506	\$2,818
9b	APG/Altamira, TM	\$5,646	\$1,321	\$4,139	3.1	\$4,324	\$1,507	\$2,818
26b	APG/Rogers, MN	\$5,646	\$1,325	\$4,142	3.1	\$4,321	\$1,504	\$2,817
33b	APG/Vado, NM	\$5,646	\$1,322	\$4,140	3.1	\$4,324	\$1,506	\$2,818

1/ Column 5 ÷ Column 4.

2/ Column 3 – Column 4.

3/ Column 3 – Column 5.

4/ Column 7 – Column 8.

In addition to CSXT having a significant economic advantage over Mr. Heisler's proposed alternatives for these twelve origin/destination pairs, we have corrected several of Mr. Heisler's assumptions regarding the Lima, OH/CFER transload alternative. First, for each of the moves we increased the transfer facility fee per railcar load from [REDACTED] to [REDACTED], based on information provided to [REDACTED]. The additional cost is related to lease payments to [REDACTED] for the proposed transload operation to be performed in Lima on an ongoing basis.¹⁰ In addition, Mr. Heisler's workpaper shows a [REDACTED] spot at the Lima transload facility, however, the email supporting this charge is for a three-car spot. We have increased the rental fee to [REDACTED].¹¹

¹⁰ [REDACTED]

¹¹ [REDACTED]

As discussed earlier, the CFER operations terminate at the IHB Blue Island yard in Chicago and the CFER does not directly interchange with BNSF, UP, CP or CN. Instead, IHB provides interchange services between CFER and these Western carriers. Per CFER's email to Mr. Heisler, CFER's rate for shipments from the Lima transload to Chicago include the IHB switch charge for connections with BNSF and UP, but there is no mention of the rate including the switch charge for interchange with CN and CP. We have added this switch charge to the issue origin/destination pairs that connect with these two carriers, i.e., shipments terminating at University Park, Champaign and Rockford, IL.

It should also be noted that CFER leases its right-of-way from CSXT for approximately [REDACTED] annually.¹² In addition, [REDACTED] [REDACTED] Neither of these costs are reflected in the URCS costs attributed to the CFER alternatives in our analysis.

4. CFER to Lima, OH Transload to Destination

Four of the issue origin/destination pairs originate on Western carriers and connect with CSXT in Chicago for furtherance to destination. Mr. Heisler proposes the same CFER Lima, OH truck transload operation for these origin/destination pairs as proposed for the twelve origin/destination pairs discussed in the previous section, only in the reverse order, i.e., CFER receives the loaded railcars in Blue Island yard in Chicago and moves them to the Lima transload site, where the PET is transloaded to bulk truck then moved by truck to destination.

As shown in the table, CSXT's cost associated with each origin/destination pair is significantly less than the cost of the alternative service. Further, the difference between the rail

¹² This amount is comprised of two components, [REDACTED]
[REDACTED]

margin and the CSXT rail rate minus the cost of providing the alternative service is significant.

Thus CSXT has market dominance over each of these origin/destination pairs.

Table 5
Connection with CFER in Chicago and Transload to Truck in Lima, OH

<u>Lane No.</u>	<u>Origin/Destination</u>	<u>CSXT Rail Rate</u>	<u>CSXT Rail Cost</u>	<u>Truck/Rail Alt Cost</u>	<u>Alt Cost/Rail Cost 1/</u>	<u>CSXT Margin 2/</u>	<u>CSXT Rate less Alt Cost 3/</u>	<u>Difference 4/</u>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
3b	Altamira/Cambridge, OH	\$5,864	\$1,193	\$3,417	2.9	\$4,671	\$2,447	\$2,224
2b	Altamira/Belpre, OH	\$5,633	\$1,509	\$3,852	2.6	\$4,124	\$1,781	\$2,343
1b	Altamira/Apple Grove	\$5,699	\$1,321	\$4,139	3.1	\$4,377	\$1,560	\$2,818
48b	Sweetwater/Apple Grove	\$5,699	\$1,323	\$4,140	3.1	\$4,376	\$1,559	\$2,817

1/ Column 5 - Column 4.

2/ Column 3 - Column 4

3/ Column 3 - Column 5

4/ Column 7 - Column 8

The same adjustments were made to the costs for these four origin/destination pairs as were made to the twelve origin/destination pairs discussed in the previous section.

V. CONCLUSION

Our analysis of the economics of the issue traffic rates and CSXT's existing operations with those of Mr. Heisler's proposed alternatives, demonstrate that CSXT's margin from the rates at issue exceed the difference between CSXT's rate on the issue movement and the cost of the alternative service by a substantial margin. Thus, CSXT has sufficient market power to force the competitor out of the market place. The net result is that CSXT is market dominant in each of the 32 issue lanes where CSXT claims that an effective competitive alternative exists.

STATEMENT OF QUALIFICATIONS

My name is Philip H. Burris. I am an economist and Senior Vice President of the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314; 760 E. Pusch View Lane, Suite 150, Tucson, Arizona 85737; and 21 Founders Way, Queensbury, New York 85737.

I am a graduate of Virginia Polytechnic Institute and State University from which I received a Bachelor of Science degree in Business Administration. I am also a graduate of The American University from which I received a Masters of Business Administration degree, specializing in Transportation.

I have thirty-three (33) years experience in the field of transportation economics as it pertains to transportation supply alternatives, plant location analysis, regulatory policy and dispute resolution before regulatory agencies as well as state and federal courts. I have designed, directed and executed analyses of the costs of moving various commodities by different modes of transportation including rail, barge, truck, air, pipeline and intermodal. The commodities considered in these studies included coal, phosphorus, soda ash, grain, automobiles, cold rolled steel, iron ore, limestone, copper coil and sheet, pulpwood, woodchips and water.

I have examined pricing for railroad services vis-à-vis market dynamics and alternative transportation options on numerous occasions, both in litigation and when negotiating railroad rates for either shippers or carriers. I have submitted testimony related to market dominance Issues to both the Interstate Commerce Commission ("ICC") and the Surface Transportation Board ("STB").

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I have performed economic analyses of maximum reasonable rate levels for the movement of coal, phosphorus, soda ash, grain and water using the STB's Constrained Market Pricing ("CMP") standard and specifically the stand-alone cost constraint. I have submitted evidence regarding maximum reasonable rate levels using the stand-alone cost constraint to the STB, its predecessor, the ICC and the State of Colorado District Court for the City and County of Denver. L. E. Peabody & Associates, Inc. has participated in the development of the stand-alone cost constraint and has submitted testimony to the Commission using the stand-alone cost constraint on behalf of shippers in every STB and ICC proceeding where CMP has been used.

In addition to development of cost of moving various commodities by different modes of transportation, I have performed evaluations of the economic viability and financial health of short line railroads. These studies were performed on behalf of state agencies to determine the financial viability of the railroads or on behalf of investors considering the purchase and operation of short line railroads. I have also conducted studies of railcar lease and purchase options and negotiated rate reductions on behalf of shippers resulting from the use of shipper provided equipment. I have determined both the costs and profits attributable to the performance of services subject to specific transportation contracts. I have performed studies and written draft reports for the Railroad Accounting Principles Board, an independent body created by Congress to establish cost accounting principles for use in implementing the regulatory provisions of the Staggers Act of 1980.

The transportation studies I have designed and executed have been commissioned for the purpose of negotiating with transportation companies, for use in dispute resolution before

STATEMENT OF QUALIFICATIONS

various regulatory agencies and state and federal courts and on behalf of electric utility companies in prudency examination. I have testified before the STB, the ICC, the Railroad Commission of Texas, the Colorado Public Utilities Commission, the Illinois Commerce Commission, the Public Service Commission of Nevada, various state and federal courts and arbitration panels. I have also negotiated transportation rates and service on behalf of shipper clients.

I have worked in the consulting industry for a period of thirty-three (33) years. In addition to my current position as a Senior Vice President of L. E. Peabody & Associates, Inc., I have been an employee of the following consulting firms; A. T. Kearney, Wyer Dick & Associates, Inc. and George C. Shaffer & Associates.

TESTIMONY AND PUBLICATIONS

STB Docket No. 42113, Arizona Electric Power Cooperative v. The BNSF Railway Company and Union Pacific Railroad Company, January 25, 2010 and July 1, 2010.

STB Docket No. 42110, Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc., August 31, 2009 and April 15, 2010.

Arbitration Proceedings, New Page Wisconsin System, Inc v. Canadian National Railway Company and Wisconsin Central, Ltd, Confidential Contract No. FWV-C-0001, July 25, 2008, August 20, 2008 and October 29, 2009.

United States District Court, Eastern District of Louisiana Civil Action No. 08-1666 Section "I" (4), New Orleans and Gulf Coast Railway Company v. Delta Terminal Services, L.L.C., et al, February 27, 2009 and March 26, 2009.

STB Docket No. 42088, Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Company, April 19, 2005, July 20, 2005, October 3, 2005, May 13, 2008 and August 15, 2008.

STB Docket No. 41191 (Sub-No. 1), AEP Texas North v. BNSF Railway Company, March 1, 2004, July 27, 2004, May 15, 2006 and July 14, 2006.

STB Docket No. 42071, Otter Tail Power Company v. Burlington Northern and Santa Fe Railway Company, June 13, 2003, October 8, 2003, January 9, 2004, April 29, 2004, March 1, 2005 and April 4, 2005.

STB Docket No. 42058, Arizona Electric Power Cooperative v. The Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company, July 3, 2003 and April 2, 2004.

STB Docket No. 42057, Xcel Energy d/b/a, Public Service of Colorado v. The Burlington Northern and Santa Fe Railway Company, January 10, 2003 and May 19, 2003.

U. S. District Court for the Northern District of Illinois Eastern Division, Case No. 02 C 2850, Heartland Rail Corporation v. Railroad Development Corporation, Depositions on ~~November 8, 2002~~ and January 3, 2003

American Arbitration Association, Case No. 16 199 00356 02, CSX Transportation, Inc. and Baltimore and Ohio Terminal Company v South Central Florida Express, July 8, 2002.

TESTIMONY AND PUBLICATIONS

STB Docket No. WCC-101, Government of the Territory of Guam v. Sea-Land Service, Inc. and Matson Navigation Company, Inc., April 23, 2002 and June 17, 2002.

STB Docket No. 42054, PPL Montana, LLC v. The Burlington Northern and Santa Fe Railway Company, December 14, 2000 and May 7, 2001.

STB Docket No. 42051, Wisconsin Power and Light v. Union Pacific Railroad Company; September 28, 2000.

STB Docket No. 42022, FMC Corporation and FMC Wyoming Company v. Union Pacific Railroad Company; January 15, 1999, March 31, 1999 and April 30, 1999.

Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc. Norfolk Southern Corporation and Norfolk Railway Company - - Central and Operating Lease/Agreement - - Conrail Inc. and Consolidated Rail Corporation; October 21, 1997, February 2, 1998 and July 14, 2000.

Finance Docket No. 33290, Nevada Public Service Commission, Sault Ste. Marie Bridge Co... Acquisition Exemption —Lines of Union Pacific Railroad Company; January and September 1997

Nevada Public Service Commission, Docket Nos. 95-7021, 95-5062, 95-5063; Nevada Power Company; March 1996 and September 1996.

Nevada Public Service Commission, Nevada Power Company, Docket Nos. 95-7021, 95-5062, 95-5063, March 1996.

U.S. District Court for the Northern District of Iowa, Eastern Division, Case No. C91-2086; Rail Intermodal Specialist, Inc. vs. General Electric Capital Corporation; February 1994 and May 1995.

State of Colorado District Court, City and County of Denver, Case No. CV 13042; Bear Creek Water and Sanitation District, et al. vs. The City and County of Denver; July 1992 and April 1993.

Illinois Commerce Commission Docket 89-0351; Reconciliation of Revenues Collected Under Fuel and Gas Adjustment Charges with Actual Cost; April 1992 and March 1993.

ICC Docket No. AB-1 (Sub-No. 230);; Chicago and North Western Transportation Company - Abandonment - Between Norfolk and Chadron, NE; January 1992.

TESTIMONY AND PUBLICATIONS

ICC Docket Nos. 37809 (Sub-No. 1) and 37815S; McCarty Farms, Inc., et al. vs. Burlington Northern, Inc.; November, 1986, August 1987, and October 1987, May 1988, May 1989, July 1989, December 1989 and July 1991.

ICC Docket No. 37038; Bituminous Coal, Hiawatha, Utah to Moapa, Nevada; and ICC Docket No. 37409; Aggregate Volume Rate on Coal, Acco, Utah to Moapa, Nevada; January 1985, March 1988, July 1990 and April 1991.

Railroad Accounting Principles Board; Staff Issue Paper on Reporting Costs and Outputs; June 1985.

Railroad Accounting Principles Board; Staff Issue Paper on Movement Parameters; May 1986. Virginia Department of Highways and Transportation, Rail and Public Transportation Division; Light Density Line Analysis Seaboard System Railroad, Suffolk to college Park, and South Suffolk to Nurney; September 1985.

Colorado Public Utilities Commission, Docket No. 6397; Colorado-Ute Electric Association vs. Denver & Rio Grande Western Railroad Company; June 1984.

ICC Docket No. AB6 (Sub-No. 175F), Burlington Northern Railroad Company Abandonment in Fergus, Judith Basin and Chouteau Counties, Montana; February 1984.

Ex Parte 431; Adoption of the Uniform Rail Costing System for Determining Variable Costs for Purposes of Surcharges and Jurisdictional Threshold Calculations; September 1983.

Co-authored Influence of Transportation Factors in the Site Selection of a United States Mazda Automobile Assembly Plant; September 1983.

Ex Parte 347 (Sub-No. 1); Coal Rate Guidelines - Nationwide; July 1983.

ICC Docket No. 38823; R. A. Williams, Inc. vs. Illinois Central Gulf Railroad Company; April 1983.

Montana Department of Commerce; Montana Rail Cost Data Base; December 1982.

ICC Docket No. 37626; Consolidated Papers, Inc. et al. vs. Chicago & Northwestern Transportation Company, et al.; April 1981, November 1981 and November 1991.

Ex Parte 411; Complaints Filed Under Section 229 of the Staggers Rail Act of 1980; October 1981.

TESTIMONY AND PUBLICATIONS

Railroad Commission of Texas, RCT Docket No. 024130ZZR; Switching and Minimum Carload Charges, Houston, Texas; October 1980.

Co-authored Influence on Transportation of U.S. Production of Toyota Motor Vehicles; April 1980.

Co-authored Foreign Agriculture Service, U.S.D.A.; Supplement No. 1, Ocean Liner Cargo Services; 1977.

STATEMENT OF QUALIFICATIONS

My name is Sean D. Nolan. I am Vice President of the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, VA 22314; 760 E. Pusch View Lane, Suite 150, Tucson, Arizona 85737; and 21 Founders Way, Queensbury, New York 85737.

I received a Bachelor of Arts degree in Psychology with a minor in Economics from Bates College in 1988, and a Master of Business Administration degree from the University of Phoenix in 2006, specializing in managerial accounting. I first joined the firm of L. E. Peabody & Associates, Inc. in November 1989.

As part of my work for L. E. Peabody & Associates, Inc., I have performed and directed numerous projects and analyses undertaken on behalf of utility companies, trucking companies, major mailers, and industry and trade associations. Examples of studies which I have participated in organizing and presenting include the operational and cost analyses of truck and rail movements of coal and other commodities, traffic studies, the development and forecasting of rates and charges in competitive and non-competitive markets, and the analysis of service standards. I have also analyzed cost savings and the pass through to rates and charges from operational productivities achieved through work-sharing initiatives, investment in equipment and facilities, adjustments to traffic and operating characteristics including operating multiple car movements and unit train operations, and the impact of competitive alternatives on rates and charges. The nature of these studies enabled me to become familiar with the operating procedures utilized by railroads and the cost of service in the normal course of business.

STATEMENT OF QUALIFICATIONS

Since 1989, I have participated in the development of cost of service analyses for the movement of coal over the major eastern and western coal-hauling railroads and I have conducted on-site studies of switching, detention and line-haul activities relating to the handling of coal. I have also participated in several projects providing potential build-out opportunities as effective competition in utilities' fuel procurement initiatives. Procurement initiatives have included the purchasing of fuel, transportation services, equipment, and management of inventories. Alternative scenarios have been supported by tailored financial models developed to estimate cost reductions and savings, actual versus budgeted variances, revenue to variable cost of service relationships, cash flows, and break-even and sensitivity analysis.

In my tenure with L. E. Peabody & Associates, Inc., I have collected and analyzed information needed to efficiently calculate rail costs utilizing the Surface Transportation Board's ("STB") Uniform Railroad Costing System ("URCS") to determine the maximum rate a captive shipper should pay based on the STB's constrained market pricing principles, and have supported the development and presentation of traffic and revenue forecasts, operating expense forecasts, and discounted cash-flow models presented in proceedings before the STB.

In every major mail classification and rate design case since PRC Docket R90-1, I have analyzed and supported the restatement of evidence related to the development of proposed rates and fees presented by the United States Postal Service and various interveners. Evidence supported on behalf of major mailers included the quantification of costs realized through work-sharing initiatives and the advocacy of cost savings realized throughout the supply chain passed through as rate discounts.

STATEMENT OF QUALIFICATIONS

In addition I directly supported the Financial Resources Division of USAID's Office of Inspector General providing guidance and recommendations with respect to the agency's short term and long term goals. My customized financial models were integral in the justification and execution of the group's 2010-2012 budget presented to the Office of Management and Budget. The decision process was supported by the alternative budget scenarios developed based on the identification of fixed and variable costs, the prioritization of the group's initiatives, and the allocation of its human and capital resources.

**Determination of CSXT Rail Market Dominance
CSXT Rail Market, less Difference Between Rail Rate and Cost of Providing Alternative Service**

No.	Origin (2)	Destination (3)	Route (4)	Rail Rate (5)	Alternative Rate (6)	Rail Cost (7)	Alternative Cost (8)	Rail Margin col(5)-col(7) (9)	Rail Rate less Alt. Cost col(5)-col(8) (10)	Rail Margin less Alternative col(9)-col(10) (11)	
	Truck to Customer										
a	Apple Grove, WV	Franklin, IN	CSXT-LOUUVL-LIRC								
b	Apple Grove, WV	Clifton Forge, VA	CSXT Direct								
1	Apple Grove, WV	Parkersburg, WV	CSXT Direct								
2	Apple Grove, WV	Belpre, OH	CSXT Direct								
3	Apple Grove, WV	Waynesville, NC	CSXT-LYNCH-NS								
4	Apple Grove, WV	Hebron, OH	CSXT-CLMBO-CUOH								
5	Apple Grove, WV	Rochester, NY	CSXT Direct								
6	Belpre, OH	Devon, KY	CSXT [CINTI-NS switch]								
7	Belpre, OH	Franklin, IN	CSXT-LOUUVL-LIRC								
8	Apple Grove, WV	Devon, KY	CSXT [CINTI-NS switch]								
9	Apple Grove, WV	Allentown, PA	CSXT-HAGTN-NS								
10	Apple Grove, WV	Havre de Grace, MD	CSXT-HAGTN-NS								

**Determination of CSXT Rail Market Dominance
 CSXT Rail Margin, less Difference Between Rail Rate and Cost of Providing Alternative Service**

Lane No. (1)	Origin (2)	Destination (3)	Route (4)	Rail Rate (5)	Alternative Rate (6)	Rail Cost (7)	Alternative Cost (8)	Rail Margin col(5)-col(7) (9)	Rail Rate less Alt. Cost col(5)-col(8) (10)	Rail Margin less Alternative col(9)-col(10) (11)
Alternative - Truck to Transload on NS										
8b	Apple Grove, WV	Allentown, PA	CSXT-HAGTN-NS							
18b	Apple Grove, WV	Havre de Grace, MD	CSXT-HAGTN-NS							
19b	Apple Grove, WV	Hazleton, PA	CSXT-HAGTN-NS							
37b	Belpre, OH	Allentown, PA	CSXT-HAGTN-NS							
15b	Apple Grove, WV	Fremont, OH	CSXT-CLMBO-NS							
24b	Apple Grove, WV	Nicholasville, KY	CSXT-CLMBO-NS							

**Determination of CSXT Rail Market Dominance
CSXT Rail Margin, less Difference Between Rail Rate and Cost of Providing Alternative Service**

Lane No. (1)	Origin (2)	Destination (3)	Route (4)	Rail Rate (5)	Alternative Rate (6)	Rail Cost (7)	Alternative Cost (8)	Rail Margin col(5)-col(7) (9)	Rail Rate less Alt. Cost col(5)-col(8) (10)	Rail Margin less Alternative col(9)-col(10) (11)
Alternative - Truck to Lima, OH then CEER to Chicago										
21b	Apple Grove, WV	Lenexa, KS	CSXT-CHGO-BNSF							
30b	Apple Grove, WV	Sweetwater, TX	CSXT-CHGO-BNSF							
32b	Apple Grove, WV	University Park, IL	CSXT-CHGO-CN							
10b	Apple Grove, WV	Champaign, IL	CSXT-CHGO-CN							
22b	Apple Grove, WV	Little Rock, AR	CSXT-CHGO-BNSF (UP switch)							
25b	Apple Grove, WV	Rockford, IL	CSXT-CHGO-CPRS							
16b	Apple Grove, WV	Glendale, AZ	CSXT-CHGO-BNSF							
34b	Apple Grove, WV	West Chicago, IL	CSXT-CHGO-UP							
7b	Apple Grove, WV	Aguaia, AZ	CSXT-CHGO-BNSF							
9b	Apple Grove, WV	Altamira, TM	CSXT-CHGO-BNSF-EAGPA-FXE							
26b	Apple Grove, WV	Rogers, MN	CSXT-CHGO-BNSF							
33b	Apple Grove, WV	Vado, NM	CSXT-CHGO-BNSF							

**Determination of CSXT Rail Market Dominance
CSXT Rail Margin, less Difference Between Rail Rate and Cost of Providing Alternative Service**

<u>Lane No.</u> (1)	<u>Origin</u> (2)	<u>Destination</u> (3)	<u>Route</u> (4)	<u>Rail Rate</u> (5)	<u>Alternative Rate</u> (6)	<u>Rail Cost</u> (7)	<u>Alternative Cost</u> (8)	<u>Rail Margin</u> col(5)-col(7) (9)	<u>Rail Rate less Alt Cost</u> col(5)-col(8) (10)	<u>Rail Margin less Alternative</u> col(9)-col(10) (11)
Alternative - CFER from Chicago to Lima, OH then Truck to Customer										
3b	Altamira, TM	Cambriage, OH	FXE-EAGPA-BNSF-CHGO-CSXT-CLMBO-CUOH							
2b	Altamira, TM	Belpre, OH	FXE-EAGPA-BNSF-CHGO-CSXT							
1b	Altamira, TM	Apple Grove, WV	FXE-EAGPA-BNSF-CHGO-CSXT							
48b	Sweetwater, TX	Apple Grove, WV	BNSF-CHGO-CSXT							

**Correction of Errors and Miscalculations
to the Verified Statement of Gordon R. Heisler**

The verified statement of Gordon R. Heisler supporting CSXT's January 27, 2011 Motion for Expedited Determination of Jurisdiction Over Challenged Rates contains numerous errors and miscalculations. Each of these errors is addressed in this Exhibit and a corrected version of Mr. Heisler's electronic workpaper titled "CSX M&G Challenge Competitive Lane.xls" is included in our workpapers.

Mr. Heisler alleges that 32 of the 70 issue origin/destination pairs have feasible and economically viable competitive alternatives. Mr. Heisler claims the rates that would be charged for the alternative service for 12 of the 32 origin/destination pairs would be lower than the CSXT rates at issue, with the rates on the remaining origin/destination pairs being slightly higher than the CSXT rates at issue in this proceeding.

A. Fuel Surcharge Calculations

Mr. Heisler makes three errors in the calculation of fuel surcharges.

1. CSXT Fourth Quarter 2010 Fuel Surcharge

Mr. Heisler adds a fuel surcharge to the existing CSXT rates based on the fuel surcharge in effect on January 1, 2011 of \$0.29 per loaded mile, yet he claims that his analysis is at 4Q2010 levels. The correct fuel surcharge to be used for a 4Q2010 analysis is the CSXT fuel surcharges that are in effect during the quarter, i.e. an average of the October, November and December 2010 fuel surcharges. This average is equal to \$0.25 per loaded car mile.

**Correction of Errors and Miscalculations
to the Verified Statement of Gordon R. Heisler**

2. Calculation of Bulkmatic Transport Company Fuel Surcharge

Mr. Heisler makes two errors in calculating the fuel surcharge for certain of the competitive alternatives using Bulkmatic Transport Company ("Bulkmatic"). These errors are in spite of the fact that for many of the competitive alternatives using Bulkmatic, Mr. Heisler's fuel surcharge calculation is correct. The first Bulkmatic fuel surcharge error is simply a mathematical calculation error for the Belpre, OH to Devon, KY lane and for the Altamira, TM to Cambridge, OH lane. According to Mr. Heisler's workpapers, the Bulkmatic fuel surcharge is [REDACTED] per mile, however, for these two lanes the fuel surcharge is [REDACTED] and [REDACTED] per mile, respectively.

The second, and more significant error in calculating the Bulkmatic fuel surcharge is for the Apple Grove to Franklin, IN and the Apple Grove to Devon, KY lanes. In both of these instances, Mr. Heisler failed to multiply the fuel surcharge amount by a factor of four when calculating the railcar equivalent cost. Mr. Heisler correctly multiplied the Bulkmatic fuel surcharge amount by a factor of four in the 24 remaining alternatives using Bulkmatic.

A. Trailer Cleaning Charges

Mr. Heisler overstated the trailer cleaning charges for the two alternative lanes where R&J Trucking Company is used. These are the Apple Grove to Clifton Forge, VA and Apple Grove to Waynesville, NC lanes. According to Mr. Heisler's workpapers R&J Trucking's cleaning cost per trailer is [REDACTED]. The amount included in Mr. Heisler's cost per railcar equivalent for R&J Trucking's cleaning charge is [REDACTED] or [REDACTED] times four truckloads per

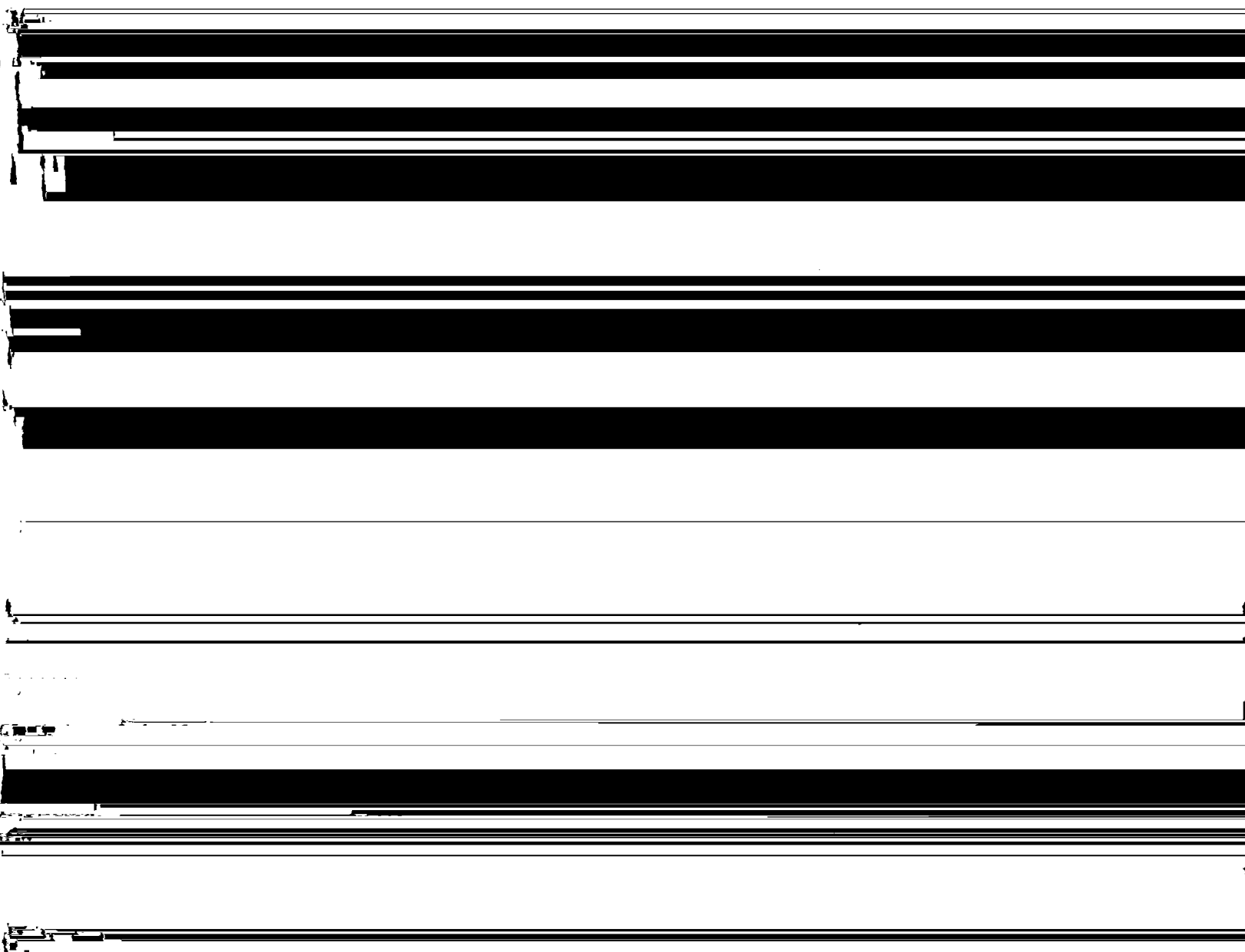
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railcar. However, as cleaning is required [REDACTED] (or when a change in the commodity hauled occurs), the [REDACTED] per railcar equivalent should be divided by [REDACTED] to yield [REDACTED] per railcar equivalent.¹

B. Transfer Facility Fees at Columbus, OH

Mr. Heisler includes a Transfer Facility Fee of [REDACTED] per railcar for shipments moving

~~from NSI Terminal and Bulk Transfer Facility in Columbus, OH. However, Mr. Heisler's~~



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likely that M&G would be able to secure the same or a very similar contract rate for railcars originating at a transload facility located just 1.5 miles away from Vardo.²

The fact is, however, that NS is not willing to provide M&G with the same rate for cars originating at Utility Supply Company in St. James. NS has provided a quote for moving railcars from the Utility Supply Company in St. James equal to [REDACTED] more per carload than its existing rate for moving M&G's PET from interchange with CSXT in Hagerstown. Mr. Heisler's conclusion that the truck transload/NS rate for moving M&G's PET via the Hagerstown transload is less than the existing rail rate is incorrect and understates the rate that would be charged for the alternative movement.

² Heisler VS at p. 12, note 8. (Emphasis added). Mr. Heisler indicates that Utility Supply Company's transload facility is located in Hagerstown, MD where the existing interchange between CSXT and NS takes place. In actuality Utility Supply Company is located six miles south of Hagerstown in St. James, MD.