

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



SEMINOLE ELECTRIC COOPERATIVE, INC.

Complainant,

v.

CSX TRANSPORTATION, INC.

Defendant

Docket No. NOR 42110

ENTERED
Office of Proceedings

FEB 22 2010

Part of
Public Record

**DEFENDANT CSX TRANSPORTATION, INC.'S
REPLY TO COMPLAINANT'S PETITION TO EXTEND
REMAINING DUE DATES UNDER PROCEDURAL SCHEDULE**

Defendant CSX Transportation, Inc. ("CSXT") hereby submits its Reply to Complainant Seminole Electric Cooperative Inc.'s ("Seminole" or "SECI") third Petition for Extension of time to file evidence in this case. SECI has not shown good cause for the five-week time extension it requests. Particularly in light of the history of this case, the Board should allow SECI only a limited extension of no more than three weeks, to April 1, 2010.

I. Seminole Has Not Shown Good Cause for Granting it A Third Extension of Time to File Its Evidence in this Case.

Governing rules allow a party to obtain an extension of time schedules adopted by the Board only upon a showing of good cause. *See* 49 C.F.R. 1104.7(b). In this particular case, the Board made clear from the outset that it had established a generous procedural schedule, and that "requests for extensions of time will be viewed with disfavor." *SECI v. CSXT*, STB Dkt. No.

42110, Decision at 3 (served Dec. 11, 2008). Seminole has not shown good cause sufficient to support the five-week extension it seeks.¹

Seminole cites only one unusual event in support of its request that the Board dramatically increase the time allowed for it to develop and file its Rebuttal evidence – the snowstorms that hit the Washington D.C. area during the week of February 5, 2010. That snowfall was extraordinary, and CSXT would not object to an extension of time sufficient to offset the four-to-five work days SECI's consultants and lawyers may have lost due to the effects of the weather. Indeed, in response to SECI's third proposed extension in this case, CSXT advised SECI that it would not oppose a request to extend the procedural schedule for as long as three full weeks. *See* Petition at 2 (acknowledging CSXT's offer not to oppose an extension of the schedule to March 31, 2010). Given that the weather delay resulted in, at most, a single week delay, CSXT believes a two-or-three week schedule extension would be more than sufficient.

Seminole's other proffered justifications for its extension request are routine features of a rate case that provide no cause – and certainly not *good* cause – for further extension of the procedural schedule. *First*, Seminole states that CSXT's Reply filing included approximately 1300 pages, including exhibits (the actual number is 1,127 pages). As the Board knows, 1100 pages is by no means unusual for a SAC case Reply. *Second*, Seminole states that CSXT proposed modifications to the SECI traffic group and a new operating plan. Proposed adjustments to SARR traffic to conform to STB rules are also routine features of Reply evidence in SAC cases. As to the operating plan, the truly extraordinary aspect of this case is that the Complainant *did not provide an* actual, comprehensible, or feasible *operating plan* for the large

¹ The procedural schedule originally announced by the Board in this case provided for 45 days between the filing deadlines for Reply and Rebuttal evidence. *See id.* This request constitutes a 78 percent increase of that original response time.

volumes of non-coal traffic that it posited would move in SFRR trains. This omission forced CSXT to develop an operating plan for that traffic from scratch. *See* CSXT Reply at I-31 to 34; III-C-1 to 19. While SECI's conscious decision not to develop and present a complete and viable operating plan in its case-in-chief forced CSXT to consume substantial additional time and resources to rectify that deficiency on Reply, SECI's decision (and resulting failure of proof) provides no basis for an extension of time for SECI to file its Rebuttal.

Third, and finally, SECI relies on the fact that it asked CSXT routine questions concerning certain workpapers supporting CSXT's Reply evidence. *See* Petition at 2-3. As the Board knows, such follow-up and clarification requests – by the parties and by the Board – are very common in SAC cases. SECI sent the first of those inquiries on February 5, 2010, the first day of the snowstorm SECI uses as the primary justification for its extension request, and seventeen days after CSXT filed its Reply evidence (copy of SECI letter attached as Exhibit A). CSXT's lawyers and expert witnesses – who, like SECI's counsel and witnesses, work and reside in the Washington area -- responded promptly and completely to those inquiries. Despite the snowstorm, CSXT provided responses to many of SECI's workpaper inquiries on February 10. *See* M. Warren Letter to D. Jaffe (Feb. 10, 2009) (copy at Exhibit B). On February 9, SECI sent two additional workpaper requests (Exhibit C), to which CSXT responded (again during the snowstorm week) on February 9 and 12. *See* N. Clements Letter to D. Jaffe (Feb. 9, 2010) (Exhibit D); M. Warren Letter to D. Jaffe (Feb. 12, 2010)(Exhibit E).

On February 15, 2010, SECI sent a follow-up inquiry concerning CSXT's response to one of SECI's February 5 requests. *See* D. Jaffe Letter to P. Moates et al (Feb. 15, 2010) (Exhibit F); *see also* M. Warren Letter to D. Jaffe (Feb. 15, 2010) (further responding to SECI questions) (Exhibit G). CSXT responded to that follow-up inquiry, and completed its responses

to all of SECI's remaining workpaper questions, on February 17. *See* P. Hemmersbaugh Letter to D. Jaffe (Feb. 17, 2010) (Exhibit H); M. Warren Letter to D. Jaffe (Feb. 17, 2010) (Exhibit I).² Thus, despite the historic snowstorms during the week of February 5 – 12 and the Presidents' Day holiday, CSXT responded to all of SECI's questions and inquiries, propounded on February 5, 9, and 15, in just under two weeks. Eliminating the week that SECI suggests it lost as a result of the snowstorm (and which CSXT has acknowledged could justify a week extension of the schedule), it took CSXT a total of just four work days to respond to SECI's requests. Such prompt response hardly constitutes good cause for any extension, let alone one of five weeks.

II. SECI's Proposed Schedule Would Unduly Burden CSXT's Witnesses and Consultants, Who – in Reliance on the Schedule Adopted by the Board -- Have Substantial Commitments in Other Ongoing Rate Proceedings

Several of CSXT's experts and consultants in this case are also serving as experts and consultants in other significant rate cases pending before the Board. In one of those cases, *Arizona Electric Power Co. v. BNSF Ry Co. & Union Pacific R.R.* STB Dkt. No. 42113, the defendants' Reply filing is due on May 7, 2010. This major SAC evidentiary filing on behalf of two rail carriers will require intensive work by the railroad consultants in that case – who are also CSXT's consultants in this case – during April and the first week of May.

Under the extended schedule proposed by SECI, the same consultants would be required to attempt to analyze SECI's Rebuttal evidence for CSXT at the very same time – the last two weeks of April and first week of May – that they will be most intensely engaged in the preparation of the Reply evidence in the *AEPCO*. Extension of the schedule in this case to cause it to overlap with the busiest period of the *AEPCO* case would be unfair to Defendant CSXT, which

² On the morning of February 19, CSXT sent to SECI a replacement for a workpaper, one of whose tabs contained an erroneous database link. *See* M. Warren Letter to D. Jaffe (Feb. 19, 2010) (Exhibit J).

will rely heavily on its rail experts to analyze many aspects of the Rebuttal. This analysis is essential both to the development of CSXT's briefs and to allowing CSXT to evaluate whether to seek other relief in the event that SECI attempts to resurrect its fatally flawed case-in-chief by introducing new evidence in its rebuttal filing. Extending the date for SECI's Rebuttal filing beyond April 1 thus could cause significant unfair prejudice to CSXT. And, as CSXT has demonstrated, SECI has offered no real evidence or persuasive argument that a five-week extension is warranted.

III. SECI Has Not Shown Good Cause To Grant it a Third Extension of the Procedural Schedule.

SECI filed this case on October 3, 2008, and immediately sought a preliminary injunction, contending that SECI would suffer irreparable harm if it paid the challenged rate during the pendency of this case. After the Board denied the injunction, it established a longer procedural schedule than it had used in previous cases, providing "ample" time for the parties to develop and file their evidence. *See SECI v. CSXT*, Decision at 3 (Dec. 11, 2008). In adopting the modified schedule, the Board balanced the need for appropriate time for parties to prepare their evidence "with the need to expedite proceedings to the extent practicable." *Id.* at 2. Near the end of the Decision adopting the schedule, the Board warned: "*As we have built ample time into this schedule, requests for extensions of time will be viewed with disfavor.*" *Id.* at 3 (emphasis added).

Several months later, SECI asked the Board for a substantial extension of time to file its opening evidence, contending that discovery had been complex, and that compliance with the Board's new rules regarding crossover traffic revenue allocation had slowed SECI's development of its evidence. *See SECI v. CSXT*, Decision (served May 6, 2009). Despite the fact that SECI had been aware of the complexity of the case and the Board's rules at the time it

filed the case, and despite the Board's admonition that extensions of time would be disfavored, CSXT agreed to accommodate SECI's purported need for time, and did not oppose SECI's first extension motion. The Board granted SECI's motion and extended the time for filing SECI's opening evidence by 60 days. *See id.*

A few months later, SECI again returned to the Board to seek another extension of time to file its evidence. Again, SECI relied upon the complexity of the case and the evidence. Again, CSXT reluctantly agreed to accommodate SECI, and filed a response indicating that CSXT neither supported nor opposed SECI's extension motion. The Board granted SECI's second extension motion. Notably, the Board declined to extend the length of time it provided for SECI's submission of rebuttal evidence, stating "The Board will not add any time to the schedule for rebuttal evidence because *the last procedural schedule already had extra time built into that phase . . .*" *SECI v. CSXT*, Decision at 2 (served July 13, 2009).³

Now SECI has returned to the Board yet again, to seek a third extension of a schedule that the Board specifically expanded at the outset to make sure it had built in ample time, a schedule which the Board has twice previously extended at SECI's behest, including an already extended rebuttal period. CSXT, in contrast, has met the schedules established by the Board, and has sought no such extension. The Board established the original schedule by building in ample time, with the express goal and intention of avoiding multiple extensions, warning parties that it would view extension requests with disfavor. Under the circumstances, SECI has not shown

³ The Board added ten days to the amount of time it had previously for rebuttal response, to account for the late December-early January holiday period. *See id.* Because of the subsequent extension granted to SECI, it did not need or use those additional ten days for the holiday, which fell during CSXT's preparation of its Reply evidence. Thus, SECI already has an additional ten-day cushion built into the existing schedule, which is approximately five days more than the snowstorms consumed. Because SECI's only colorable claim of "good cause" for extension is the four-five days lost because of those storms, those lost days have already been more than recovered by the ten additional days the Board previously added for SECI's rebuttal.

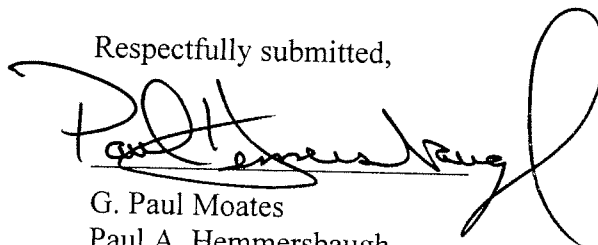
good cause for a third extension of five weeks, and an extension of three weeks should be more than ample.

CONCLUSION

The Board should deny SECI's request for an additional five weeks for the filing of Rebuttal evidence, as the initially generous schedule has already been extended twice at its request, and the Complainant has not shown good cause for further extension. An extension of no more than three weeks (until April 1, 2010) would be more than generous. If the Board extends the Rebuttal filing deadline to April 1, 2010, CSXT requests that the deadline for closing briefs be extended to April 29, 2010.

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Paul R. Hitchcock
John P. Patelli
Kathryn R. Barney
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Respectfully submitted,



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Counsel to CSX Transportation, Inc.

Dated: February 22, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Reply of CSX Transportation, Inc. to Complainant's Petition to Extend Remaining Due Dates Under Procedural Schedule to be served this 22nd day of February 2010 by first class mail, postage prepaid, or more expeditious means of service on the following counsel of record:

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Christopher A. Mills
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Joshua M. Hoffman
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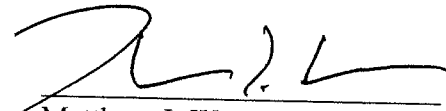

Matthew J. Warren

EXHIBIT A

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February 5, 2010

VIA E-MAIL and FIRST CLASS MAIL

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Matthew J. Warren, Esq.
Noah Clements, Esq.
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Re: STB Docket No. 42110, Seminole Electric
Cooperative, Inc. v. CSXT Transportation, Inc.

Gentlemen:

Seminole's ongoing review of CSXT's Reply Evidence filed January 19, 2010, has identified several areas where CSXT's workpapers are incomplete or missing. Please provide the data requested below.

PART III-A

1. Provide the complete raw data for the period 2Q09 through 4Q09 for the following data sets: Revenue waybill data (table - RATE_CASE_SHIPMENT); Car event data (table - RATE_CASE_EVENT); CSXI intermodal data (table - RATE_CASE_INTERMODAL); Train event data (electronic train dispatcher sheets); and, other related data sets necessary to decode and/or utilize these tables.

PART III-C

2. Please provide CSXT Reply e-workpaper "GF SARR Orig Dest Customers.xls," which is referenced at page III-C-44 of CSXT's Reply Evidence.

PART III-D

3. CSXT Reply e-workpaper "Train Statistics and T&E Crew.xlsx," tab "Road_Crew" contains cells that purport to show the "percent of outlaw trains." Provide workpapers and/or documents supporting the "percent of outlaw trains" for Bulk and Auto/Merchandise trains shown on lines 211 and 212, columns AR through AV.
4. CSXT Reply e-workpaper "Road Locomotive Assets.xlsx" references a linked file titled "XX.Tonnage and Car Increase.xlsx." Please provide the referenced file.
5. Several CSXT Reply e-workpapers reference a linked file titled "Operating Statistics CSXT Reply.xlsx." Please provide the referenced file.
6. CSXT Reply e-workpaper "CSXT Reply Intermodal Lift and Ramp Costs.xlsx" references a linked file titled "2009 Adjustment Factor.xlsx." Please provide the referenced file.
7. Provide the link, file and data needed to populate the data in columns T through AA in CSXT Reply e-workpaper "Locomotive Operating Expense.xls," tab "data."
8. CSXT Reply e-workpaper "Helper locomotive Crews and Miles.xlsx" references a linked file titled "SFRR_CSXT_REPLY_CASE_TIMESTAMP_REPORT.xls." Please provide the referenced file.
9. CSXT Reply e-workpaper "SFRR Operating Statistics CSXT Reply.xlsx" references a linked file titled "Train Statistics and and T&E Crew.xlsx." Please provide the referenced file.
10. CSXT Reply e-workpaper "Train Statistics and T&E Crew.xlsx" references a linked file titled "CSXT T&E Salary Roster (Highly Confidential).xlsx." Please provide the referenced file.

11. CSXT Reply e-workpaper "SFRR Operating Statistics CSXT Reply.xlsx" references a linked file titled "Trackage Rights 2010 01 09.xlsx." Please provide the referenced file.
12. CSXT Reply e-workpaper "CSXT Reply Intermodal Lift and Ramp Costs.xlsx" references a linked file titled "SFRR Tonnage and Carload Index.xlsx." Please provide the referenced file.
13. For CSXT Reply e-workpaper "CSXT Reply Ad Valorem Tax.xls," please provide workpapers and/or documents supporting the calculation or derivation of the following:
 - a. The "Statutory Rates" shown in column I of the "Franchise Tax" tab;
 - b. The "Equalization Factors" shown in column K of the "Prop Tax" tab;
 - c. The "Other Operating Taxes and Fees" shown in column C of the "Other Op Taxes" tab;
 - d. The "Depreciation Rates" in column O of the "1-Book Depr" tab.
14. For CSXT Reply e-workpaper "Seminole Block and Yard Volumes.xlsx," please provide workpapers and/or documents supporting the calculation or derivation of the following:
 - a. The data shown on tab "SARR Yard Block Count"
 - b. The data shown on tab "Blocks and Volumes"
15. For CSXT Reply e-workpaper "DTL, LST, Truck and Other Fuel Cost Data.xlsx," please provide workpapers and/or documents supporting the calculation or derivation of the following:
 - a. The per week Mobile Refueler prices shown on Line 7, columns B through E and Line 9, columns B through E;
 - b. The Dray rates shown on Line 15, columns B through E;
 - c. The LST weekly rates shown on Line 22, columns B through E.
16. Please provide workpapers and/or documents supporting the calculation or derivation of the information shown in CSXT Reply e-workpaper "KEY_STATS_Manifest Line Haul Credit.pdf."

Messrs. Moates, Hemmersbaugh, Warren, and Clements, Esq.
February 5, 2010
Page 4

17. Please provide workpapers and/or documents supporting the calculation or derivation of the information shown in CSXT Reply e-workpaper "KEY_STATS_TRAILERS-CONTAINERS.pdf."

Thank you for your prompt attention to this matter. Please contact us if you have any questions.

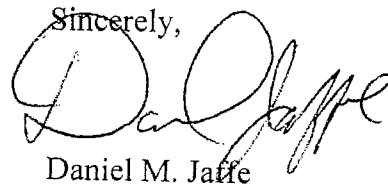
Sincerely,

Daniel M. Jaffe

EXHIBIT B



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FOUNDED 1866

February 10, 2010

By Email

Daniel M. Jaffe
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Re: Seminole Electric Cooperative Inc. v. CSX Transportation, Inc.
STB Docket No. 42110

Dear Dan:

We are writing in response to Seminole Electric Cooperative, Inc.'s ("SECI") February 5, 2010 letter containing several requests related to CSX Transportation, Inc.'s ("CSXT") workpapers in the above-referenced case. In the interest of promptness, we are providing a partial response addressing a number of items in SECI's letter. We are investigating SECI's remaining requests and will provide a response as soon as possible.

The responses below correspond to the paragraph numbers for the requests in SECI's February 5 letter.

Request 1: Contrary to SECI's suggestion, its first request is not a workpaper request at all. The new information SECI seeks in this letter was not used in developing or presenting CSXT's Reply Evidence and is not a "workpaper" that is "incomplete or missing." *Cf.* D. Jaffe Letter to P. Moates et al at 1 (Feb. 5, 2010). As such, CSXT will not produce it.

Request 2: The reference in CSXT's Reply Evidence to "GF SARR Orig Dest Customers.xls" should be to CSXT workpaper "On-SFRR Customer Locations.xlsx." CSXT workpaper "On-SFRR Customer Locations.xlsx" was included with CSXT's workpapers produced on January 19, 2010.

Request 4: The requested link in CSXT workpaper "Road Locomotive Assets.xlsx" can be found in CSXT workpaper "SFRR Operating Statistics CSXT Reply.xlsx," which was included with CSXT's workpapers produced on January 19, 2010.

Daniel M. Jaffe
February 10, 2010
Page 2

Request 5: The requested file is CSXT workpaper “SFRR Operating Statistics CSXT Reply.xlsx,” which was included with CSXT’s workpapers produced on January 19, 2010.

Request 10: The requested file is CSXT workpaper “CSX T&E Salary Roster.xlsx,” which was included with CSXT’s workpapers produced on January 19, 2010.

Request 11: CSXT workpaper “SFRR Operating Statistics CSXT Reply.xlsx” does not contain a link to a file named “Trackage Rights 2010 01 09.xlsx.” If SECI’s Request 11 was intended to reference CSXT workpaper “SFRR Operating Expenses CSXT Reply.xlsx,” the requested file is CSXT workpaper “Trackage Rights and Handling Carrier Payments.xlsx,” which was included with CSXT’s workpapers produced on January 19, 2010.

Request 12: The requested file is CSXT workpaper “SFRR Tonmile Index CSXT Reply.xlsx,” which was included with CSXT’s workpapers produced on January 19, 2010.

We will provide responses to SECI’s remaining requests as soon as possible. If you have any questions, please let us know.

Sincerely,

/s/ Matthew J. Warren

EXHIBIT C

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February 9, 2010

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Re: STB Docket No. 42110, Seminole Electric
Cooperative, Inc. v. CSXT Transportation, Inc.

Gentlemen:

Seminole's ongoing review of CSXT's Reply Evidence filed January 19, 2010, has identified several areas where CSXT's workpapers are incomplete or missing. Please provide the data requested below.

PART III-C

1. Please provide the MultiRail computer program including all inputs required to evaluate and/or verify any MultiRail process or data developed and/or utilized by CSXT in its Reply Evidence.

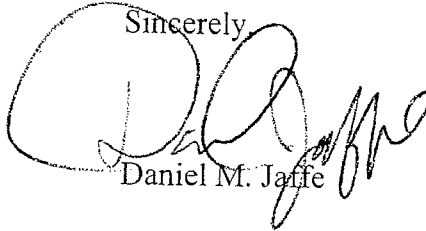
Reply Exhibits

2. Please provide CSXT Reply e-workpaper "09-12-03_GF_Examples.xlsx," which is referenced at page 11 of CSXT Reply Exhibit I-2.

Messrs. Moates, Hemmersbaugh, Warren, and Clements, Esq.
February 9, 2010
Page 2

Thank you for your prompt attention to this matter. Please contact us if you have any questions.

Sincerely

A handwritten signature in black ink, appearing to read "D. Jaffe", written over the printed name.

Daniel M. Jaffe

EXHIBIT D



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FOUNDED 1866

February 9, 2010

By Email

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Re: *Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc.*, STB Docket No. 42110

Dear Dan:

Enclosed please find CSXT Workpaper "09-12-03_GF_Examples.xlsx," which we are producing in response to your workpaper request of February 9, 2010. This workpaper was referenced on page 11 of Exhibit I-2 in CSX Transportation, Inc.'s Reply to Seminole Electric Cooperative, Inc.'s Opening evidence in the above captioned proceeding. This workpaper has been designated "Highly Confidential" pursuant to the October 22, 2008 Protective Order entered by the Surface Transportation Board in this proceeding.

If you have any questions, please contact me.

Sincerely,

/s/ Noah Clements
Noah Clements

EXHIBIT E



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February 12, 2010

By Email and First Class Mail

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Washington, DC 20036-3081

Re: Seminole Electric Cooperative Inc. v. CSX Transportation, Inc.
STB Docket No. 42110

Dear Dan:

We are writing in response to the request in your letter dated February 9, 2010 for "the MultiRail program including all inputs required to evaluate and/or verify any MultiRail process or data developed and/or utilized by CSXT in its Reply Evidence." As you and your consultants are no doubt aware, MultiRail is a proprietary program available under a license agreement with Oliver Wyman. *See CSXT Reply Evidence at III-C-57 n.31.* CSXT has long held a license to the methodology which it uses regularly in the course of its business, and it is a tool used by other railroads, including in connection with STB proceedings. *Id.* at III-C-56 n.29. Under the terms of its license agreement, CSXT is not permitted to share its license for the MultiRail program with other entities. However, Seminole is fully capable of acquiring its own license should it desire to do so, and we believe that Oliver Wyman may be prepared to negotiate a relatively nominal fee to grant Seminole a limited license restricting use of the program to this case. (We strongly suggest that if Seminole does acquire a license from Oliver Wyman, you should specify that you seek access to the same version of MultiRail as that licensed to CSXT.) The contact person at Oliver Wyman with whom Seminole should speak is Mr. Carl Van Dyke, who can be reached at (609) 520-2194.

With respect to your request for "all inputs" to the MultiRail process, Seminole of course already has the traffic data used by CSXT in conducting its MultiRail analyses. In addition, should Seminole decide to license MultiRail for use in the preparation of Seminole's Rebuttal Evidence, CSXT can provide the "scenario files" associated with its MultiRail analyses, namely the traffic categories, the SFRR network configuration, the traffic blocks and train databases



Daniel M. Jaffe
February 12, 2010
Page 2

used in the preparation of CSXT's Reply Evidence. Please advise if Seminole intends to license MultiRail, and if so, CSXT will generate these "scenario files."

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew J. Warren". The signature is stylized with a large, sweeping "M" and a long, horizontal stroke at the end.

Matthew J. Warren

EXHIBIT F

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February 15, 2010

VIA E-MAIL and FIRST CLASS MAIL

G. Paul Moates, Esq.
Paul A. Hemmersbaugh, Esq.
Matthew J. Warren, Esq.
Noah Clements, Esq.
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

Re: STB Docket No. 42110, Seminole Electric
Cooperative, Inc. v. CSXT Transportation, Inc.

Gentlemen:

In its Reply Evidence of January 19, 2010, CSXT purports to have used the actual coal traffic for the first three quarters of 2009 in developing its revised coal traffic volumes and revenues. In particular, CSXT's Reply e-workpaper "CSXT 2009 Coal Actuals.xlsx" contains a series of hard-coded tables that contain data labeled as "2008" and "2009." CSXT did not provide any specific sources that link to or otherwise support the hard-coded data. The only element of the e-workpaper that has any apparent connection to another e-workpaper is a reference in the file to a worksheet titled "Eyepfit Data," which appears to contain the data used in another CSXT's Reply e-workpaper, "Exhibit III-A-2 and III-A-3 Reply.xlsx." The second e-workpaper also purports to include actual 1Q09-3Q09 coal volumes and revenues. However, there is no electronic link between the files and neither file indicates the original source of the data.

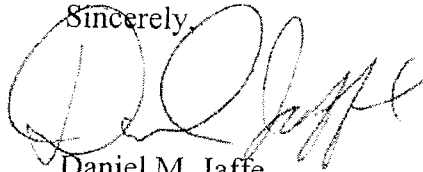
On February 5, 2010, Seminole requested that CSXT provide raw traffic and related data for the period 2Q09-4Q09. SECI made this request under the assumption that such data was used in developing in CSXT's Reply coal traffic volumes

Messrs. Moates, Hemmersbaugh, Warren, and Clements, Esq.
February 15, 2010
Page 2

and revenues, and, therefore, the raw data should have been included with CSXT's Reply Evidence. CSXT flatly refused, claiming in part that it did not utilize the sought after information in "developing or presenting CSXT's Reply Evidence." Given CSXT's response, Seminole hereby requests that CSXT provide the complete data set(s) that CSXT did utilize in developing its coal volumes and revenues for the period 1Q09-3Q09. Please provide any other related data sets necessary to decode and/or utilize the traffic data set(s). In addition, please describe the data selection process that CSXT utilized in developing in its Reply coal volumes and revenues.

Thank you for your prompt attention to this matter. Please contact us if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. M. Jaffe", written over the word "Sincerely,".

Daniel M. Jaffe

EXHIBIT G



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FOUNDED 1866

February 15, 2010

By Email and Hand Delivery

Daniel M. Jaffe
Slover & Loftus
1224 17th Street Northwest
Washington, DC 20036-3081

Re: Seminole Electric Cooperative Inc. v. CSX Transportation, Inc.
STB Docket No. 42110

Dear Dan:

We are writing to provide further responses to Seminole Electric Cooperative, Inc.'s ("SECI") February 5, 2010 letter containing requests related to CSX Transportation, Inc.'s ("CSXT") workpapers in the above-referenced case. *Cf.* M. Warren Letter to D. Jaffe (Feb. 10, 2010) (responding to multiple requests in Feb. 5 SECI Letter).

The responses below correspond to the paragraph numbers for the requests in SECI's February 5 letter.

Request 3: As explained in CSXT's Reply, the percent of outlaw trains was based upon the judgment of CSXT expert John Gibson. Mr. Gibson estimated the percentage of trains that would outlaw "based upon the amount of work the train would perform, the distance and terrain covered, the level of congestion along the line, and the assumed speeds the trains will travel." (CSXT Reply, Narr. at III-C-99-100). No additional workpapers responsive to SECI's request exist.

Request 13: CSXT notes that many of the items SECI requested are publicly available state laws and regulations that are as accessible to SECI as they are to CSXT. Nevertheless, CSXT includes with this response the requested information as follows. For 13.a., see the copies of relevant statutes included in the "Statutory Franchise Tax Rates folder" on the enclosed disk. For 13.b., see the "Statutory Assessment Levels.doc" file on the enclosed disk. For 13.c., see the documents enclosed in the "Other Operating Taxes and Fees" folder on the enclosed disk. (Note that the CSXT tax returns in that folder have been designated Highly Confidential pursuant

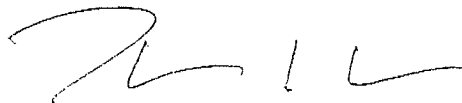
Daniel M. Jaffe
February 15, 2010
Page 2

to the Board's Protective Order in this case.) CSXT will provide information responsive to request 13.d. soon.

Requests 16 and 17: CSXT Reply workpapers "KEY_STATS_Manifest Line Haul Credit.pdf" and "KEY_STATS_TRAILERS-CONTAINERS.pdf" are output reports generated from MultiRail. As discussed in our letter of February 12, CSXT is not permitted to share its license for the MultiRail program, but CSXT believes that SECI could acquire a license for purposes of this case for a relatively nominal fee. With this letter CSXT is producing Excel versions of these MultiRail output reports, titled "Seminole-Key Stats Manifest Line Haul Credit.xls" and "Seminole-Key Stats Trailers Containers.xls." CSXT notes that the data in "Seminole-Key Stats Manifest Line Haul Credit.xls" are the same as that provided to SECI in "KEY_STATS_Manifest Line Haul Credit.pdf" on January 19, and that the data in "Seminole-Key Stats Trailers Containers.xls" are the same as that provided to SECI in "KEY_STATS_TRAILERS-CONTAINERS.pdf" on January 19.

We are investigating SECI's remaining requests and will provide responses soon. If you have any questions, please let us know.

Sincerely,



Matthew J. Warren

Enclosure

EXHIBIT H



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FOUNDED 1866

February 17, 2010

Via Email and First Class Mail

Daniel M. Jaffe
Slover & Loftus, LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Re: Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc. STB Dkt. 42110

Dear Dan:

We write in response to your letter dated February 15, 2010. In that letter, Complainant SECI revised its February 5, 2010 workpaper request, asking that CSXT gather and produce the "complete data" that it used to develop the "coal volumes and revenues for the period 1Q09-3Q09" for purposes of its Reply evidence, and that CSXT provide further description of how it selected and used that data to generate its Reply evidence. *See* D. Jaffe Letter to P. Moates et al at 2 (Feb. 15, 2010).

To clarify, CSXT has produced to SECI, in its narrative Reply, Exhibits, and workpapers, all of the data it used to develop SARR coal volumes for the first three quarters of 2009. Specifically, the "complete data set" that CSXT used to develop Reply coal volumes for the period 1Q09-3Q09 was provided to SECI in CSXT electronic work paper "CSXT 2009 Coal Actuals.xlsx." The actual coal traffic volumes for the first three quarters of 2009 contained in that file represent the only source of actual 1Q09-3Q09 coal volumes CSXT used to derive SFRR coal traffic volumes for that period. In an effort to avoid unnecessary further disputes or confusion, below CSXT again explains the process it used to determine 2009 SARR coal traffic volumes with specific references to electronic work papers already in SECI's possession.

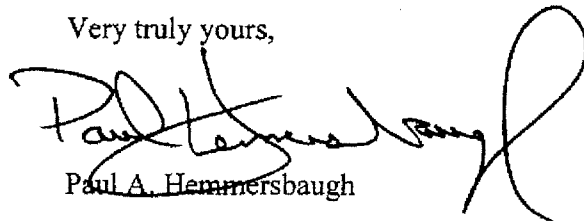
As CSXT explained in its Reply, the forecast that SECI used to hypothesize 2009 SARR traffic volumes was erroneous, and substantially overstated actual CSXT coal traffic levels. *See, e.g.,* CSXT Reply III-A-2 to 3, III-A-28 to 39. To correct this distorting volume overstatement, CSXT substituted for that erroneous forecast actual CSXT coal traffic volume data for the first three quarters of 2009, and an updated fourth quarter traffic estimate, based upon recent projections issued by the Energy Information Administration. *See id.*, III-A-37 to III-A-39, III-A-51 to 53. CSXT used that data to identify the 2009 coal traffic that moved to the destinations that SECI included in its SFRR traffic group.

Daniel M. Jaffe
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Page 2

To assign 2009 CSXT coal traffic volumes to the SFRR, CSXT first identified shipments between the same origin-destination pairs that SECI selected for the SFRR, which represented the majority of CSXT's 2009 coal traffic volume. For each SFRR traffic destination, CSXT also included 2009 shipments from additional mines in the same mine origin network (e.g., C&O KY) as other traffic that SECI included in the SFRR traffic group. Next, for the relatively small volume of 2009 shipments from origin networks that did not ship coal to destinations in the SFRR traffic group in 2008, CSXT allocated traffic volumes based on the mix of 2008 traffic from other origin networks to the destination(s) that SECI included in the SFRR group. When identifying 2009 SFRR coal traffic, CSXT excluded shipments from O/D pairs or origin network/destination pairs that moved coal traffic in 2008 that SECI did not include in its SFRR group. As CSXT explained, 2008 event records produced in discovery show that shipments from these origins did not traverse the lines replicated by the SFRR. *See* CSXT Reply at III-A-48 to 51. Details of all of these assignments are set forth in CSXT Reply electronic work paper "Exhibits III-A-2 and III-A-3 Reply.xlsx"; *see also* CSXT Reply Exhibits III-A-2, III-A-3, and III-A-4 (further explaining and illustrating distribution of 2009 actual coal traffic volumes).

If you wish to discuss this further, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Hemmersbaugh", with a large, stylized loop at the end.

Paul A. Hemmersbaugh

EXHIBIT I



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February 17, 2010

By Email and First Class Mail

Daniel M. Jaffe
Slover & Loftus
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Re: Seminole Electric Cooperative Inc. v. CSX Transportation, Inc.
STB Docket No. 42110

Dear Dan:

We are writing to complete CSX Transportation, Inc.'s ("CSXT") responses to Seminole Electric Cooperative, Inc.'s ("SECI") multiple letters containing requests related to CSXT's workpapers in the above-referenced case. Including subparts, SECI made over twenty requests in its letters of February 5, February 9, and February 15. CSXT has responded to SECI as expeditiously as possible, and most of SECI's requests have been addressed in CSXT's prior letters of February 9, February 10, February 12, and February 15. The remaining items are addressed below.

The responses below correspond to the paragraph numbers for the requests in SECI's February 5 letter.

Request 6: SECI's request asks for information about the link in Cell E-34 of the "Results" Tab of "CSXT Reply Intermodal Lift and Ramp Costs.xlsx." The value in that cell is the average of the four quarterly RCAF-U values for 2008: 1.118. SECI used the same simple average in its own workpapers, such as "III-D-1 Servicing cost.xls."

Request 7: CSXT will provide a supplemental workpaper to address this request in the near future.

Request 8: The referenced link in "Helper locomotive Crews and Miles.xlsx" does not provide any information and was not relied upon to support CSXT's Reply Evidence. The link can be ignored or deleted.

Daniel M. Jaffe
February 17, 2010
Page 2

Request 9: The link in cell K7 of "SFRR Operating Statistics CSXT Reply.xlsx" to the file "Train Statistics and and T&E Crew.xlsx" refers to "Train Statistics and T&E Crew.xlsx," which was provided as a work paper on January 19. If needed, SECI can refresh the link in cell K7 to refer to cells B9 and B15 in the "Switch and Helpers" tab of "Train Statistics and T&E Crew.xlsx." This link updating does not affect the value of cell K7 or any other calculations in "SFRR Operating Statistics CSXT Reply.xlsx," which are unchanged from those provided on January 19.

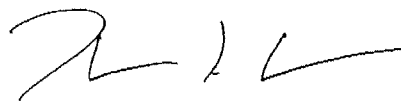
Request 13.d: With this letter CSXT is producing three files that support the depreciation rates in column O of the "1-Book Depr" tab of "CSXT Reply Ad Valorem Tax.xls": "CSXTrackDepreciationSummary 12 9 2008.xls"; "2007 CSX Equipment Life Study 12 18 2008.xls"; and "CSX 2008 Road Depr Summary 12 18 2008.xls."

Request 14: CSXT Reply workpapers "Seminole Block and Yard Volumes.xlsx" is an output report generated from MultiRail. As discussed in our letter of February 12, CSXT is not permitted to share its license for the MultiRail program, but CSXT believes that SECI could acquire a license for purposes of this case for a relatively nominal fee.

Request 15: CSXT refers SECI to the workpapers already produced on January 19, 2010, including "Kenan Advantage Drayage Quote.xlsx," to CSXT's Reply Narrative at III-D-25, and to the additional workpaper "Penn Tank Lines.msg" produced with this letter.

If you have any questions, please let us know.

Sincerely,



Matthew J. Warren

EXHIBIT J



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FOUNDED 1866

February 19, 2010

By Email and First Class Mail

Daniel M. Jaffe
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Re: Seminole Electric Cooperative Inc. v. CSX Transportation, Inc.
STB Docket No. 42110

Dear Dan:

As mentioned in our February 17 letter, CSXT is producing today a workpaper to address Request 7 in SECI's February 5 letter. The attached workpaper is "Locomotive Operating Expense.xlsx" and is a replacement for the file of the same name in the workpapers CSXT produced on January 19. The replacement workpaper corrects the error in the "Data" tab that SECI identified; all other tabs in the spreadsheet are unchanged from the file produced on January 19.

If you have any questions, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "M. J. Warren", written over a horizontal line.

Matthew J. Warren