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January 12, 2018

BY E-FILING

Cynthia T. Brown
Chief, Section of Administration
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Office of Proceedings
January 12, 2018
Part of
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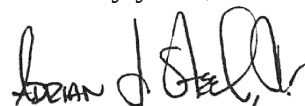
Re: Finance Docket No. 32760 (Sub-No. 46), BNSF
Railway Company—Terminal Trackage Rights—
The Kansas City Southern Railway Company and
Union Pacific Railroad Company

Dear Ms. Brown:

Enclosed for electronic filing in the above-captioned proceeding is a Public version and a Highly Confidential version of BNSF's Petition to Establish Conditions of Use and Compensation (BNSF-132). We are also submitting via hand delivery a disc containing Exhibit B to the Verified Statement of Rob Reilly.

Please contact me if you have any questions. Thank you.

Sincerely yours,



Adrian L. Steel, Jr.

Enclosures

cc: Peter W. Denton, Esq.
Edward D. Greenberg, Esq.
William A. Mullins, Esq.
Michael L. Rosenthal, Esq.
All parties of record

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

APPLICATION FOR TERMINAL TRACKAGE RIGHTS

BNSF's Petition to Establish Conditions of Use and Compensation

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January 12, 2018

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

APPLICATION FOR TERMINAL TRACKAGE RIGHTS

BNSF’s Petition to Establish Conditions of Use and Compensation

Pursuant to 49 C.F.R. § 1117.1 and Decision No. 3 in this sub-docket,¹ served on July 5, 2016, BNSF Railway Company (“BNSF”) respectfully requests that the Surface Transportation Board (the “Board”) establish conditions of use and compensation for BNSF to directly serve a LyondellBasell facility at West Lake Charles, Louisiana, over the Rosebluff Lead and related tracks via the terminal trackage rights granted by the Board to BNSF in Decision No. 3.

BNSF requests that the Board issue an order granting this petition by March 13, 2018, or in any event no later than July 11, 2018, consistent with 49 U.S.C. § 11102(d). To the extent that the Board requires additional time to establish compensation terms for BNSF’s terminal trackage rights operations, BNSF requests that the Board impose the conditions of use and interim compensation terms within the deadlines specified above, to be reconciled once the Board ultimately establishes the final compensation terms.

¹ The acronyms and defined terms used herein are the same as those used in the BNSF Opening Statement and Evidence filed in this proceeding on December 31, 2014, and subsequent BNSF filings in this proceeding, modified as necessary to conform to the Board’s usage in Decision No. 3.

Attached to this petition are (1) the Verified Statement of Rob Reilly, Vice President South Region Operations for BNSF (“Reilly V.S.”), describing BNSF’s operating plan for BNSF direct service to LyondellBasell and concluding that BNSF’s proposed service is practicable and would not substantially impair UP’s and KCS’s ability to handle their own traffic, and (2) the Verified Statement of Michael R. Baranowski, Senior Managing Director at FTI Consulting (“Baranowski Petition V.S.”), analyzing relevant data detailing train operations on the Rosebluff Lead and concluding that capacity exists to accommodate BNSF’s proposed operating plan for serving LyondellBasell.

ARGUMENT

Despite BNSF’s best efforts to reach an agreement with UP and KCS on conditions of use and compensation for BNSF competitive direct service to customers on the Rosebluff Lead, the parties have been unable to find common ground. As conditions of accommodating BNSF’s service, UP and KCS have made intractable and unreasonable demands. Those demands preclude any progress towards a mutually agreed solution. Board intervention is thus necessary to ensure that BNSF can implement the competitive direct service ordered by the Board without further delay and further unproductive negotiations with two competitor carriers who clearly have no interest in accommodating this new service.

1. The Board Has Indicated and the Terminal Trackage Rights Statute Requires That the Board Establish Conditions of Use and Compensation if the Parties Cannot Agree

In Decision No. 3, the Board granted BNSF’s application for terminal trackage rights over the Rosebluff Lead.² The Board reached two factual conclusions: that “BNSF direct service

² On September 1, 2016, KCS filed a petition for review of Decision No. 3 in the U.S. Court of Appeals for the District of Columbia Circuit. On January 3, 2017, the court granted the Board’s motion to hold the case in abeyance pending further order of the Court. The Court

over the Rosebluff Lead (including through the Rosebluff Yard) is practicable,” slip op. at 15, and that “BNSF will be able to use the Rosebluff Lead without substantially impairing the operations of UP or KCS,” slip op. at 16.

In their filings leading to Decision No. 3, neither UP nor KCS argued that capital improvements to the Rosebluff Lead would be required for BNSF direct service on the Lead. Similarly, despite recognizing “that the Rosebluff Lead and the 50/50 Line experience sizable traffic volumes and have various capacity constraints that create challenges in accessing shippers,” Decision No. 3, slip op. at 15, the Board did not indicate that any such capital improvements would be required to meet the statutory standards governing the imposition of terminal trackage rights.

The terminal trackage rights statute provides that “[t]he rail carriers are responsible for establishing the conditions and compensation for use of the facilities.” 49 U.S.C. § 11102(a). “[I]f the rail carriers cannot agree, the Board may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings.” *Id.* The Board must “complete any proceeding under [Section 11102(a)] within 180 days after the filing of the request for relief.” 49 U.S.C. § 11102(d).

In Decision No. 3, the Board directed “BNSF, UP, and KCS to collectively develop conditions governing their use of the Rosebluff Lead, including BNSF’s access (if it so elects) to directly serve shippers other than CITGO.” Decision No. 3, slip op. at 19.³ The Board left “the

directed the parties to file motions to govern future proceedings within 30 days of the resolution of the issues of conditions of use and compensation.

³ UP and KCS were each aware that BNSF, once granted terminal trackage rights over the Rosebluff Lead, may eventually seek to institute direct service to shippers other than CITGO via the Rosebluff Lead. *See, e.g.*, Finance Docket No. 32760 (Sub-No. 46), Reply of the Kansas City Southern Railway Company at 59-62 (filed August 24, 2015); Finance Docket No. 32760 (Sub-

details regarding *how* BNSF will use the facilities (including, e.g., scheduling of window(s) of operation, unit vs. manifest volumes, length of train(s), and similar issues) to all three carriers to resolve among themselves.” *Id.*, slip op. at 16 (emphasis in original). The Board concluded that that “the three carriers can . . . coordinate operations to minimize their interference with one another,” and that a “certain level of interference and delay is common and expected in the railroad industry” *Id.*, slip op. at 17-18, n. 17.⁴ The Board noted that, “[i]f the parties cannot collectively reach an agreement, they may request that the Board establish conditions of use.” *Id.* at 19.

Furthermore, the Board ordered that “all three carriers must attempt to agree upon the terms of compensation for BNSF’s use of the Rosebluff Lead. . . . If such efforts fail, the Board will establish the compensation.” Decision No. 3, slip op. at 20. The Board held that it is “most appropriate and efficient for the carriers to concurrently negotiate regarding both the operating conditions and the compensation.” *Id.* at 19.

2. Following Extensive Negotiations Regarding Conditions of Use and Compensation, the Parties are at an Impasse

Since the Board’s service of Decision No. 3 on July 5, 2016, BNSF has worked diligently to negotiate with UP and KCS regarding both the operating conditions for BNSF direct service

No. 46), Union Pacific’s Reply to BNSF’s Opening Statement and Evidence at 43-45 (filed August 24, 2015).

⁴ The Board has also acknowledged this reality in at least two prior decisions in this UP/SP Merger docket. See UP/SP Decision No. 44, 1 S.T.B. at 447 (“We realize that the terminal trackage rights we are approving may make operations . . . slightly more complicated than they are now because three carriers will be operating over them rather than two, but this will simply ‘require coordination of operations between the parties’”) (quoting *UP/MP/WP*, 366 I.C.C. at 576); see also UP/SP Decision No. 95, slip op. at 4 (STB served March 4, 2002) (“BNSF’s trackage rights operations, by definition, potentially interfere with UP’s operations on the trackage rights lines and UP agreed to this potential interference when it accepted the conditions, including the terms of the BNSF Agreement, that we imposed when we approved the UP/SP merger.”).

on the Rosebluff Lead and the compensation for such use. As discussed below, BNSF's efforts since November 2016 have focused on negotiating operating parameters and related compensation for BNSF direct service to the LyondellBasell facility at West Lake Charles via the Rosebluff Lead and related tracks. However, following extensive negotiations, BNSF has reluctantly concluded that "the parties cannot collectively reach an agreement." Decision No. 3, slip op. at 16.

A. The Parties Cannot Reach Agreement Regarding Conditions of Use for BNSF Direct Service to LyondellBasell via the Rosebluff Lead

The three carriers held their first meeting to negotiate the issues on August 26, 2016.⁵ Before that meeting, BNSF provided to UP and KCS a proposed Rosebluff Lead operating plan for BNSF's service to all customers that BNSF elects to serve directly on the Rosebluff Lead. The parties were unable to reach an agreement at that meeting regarding conditions for BNSF's use of the Rosebluff Lead. See Reilly V.S. at 2-3.

Following this unproductive meeting regarding general BNSF operations on the Rosebluff Lead, BNSF elected through a letter to UP, dated November 7, 2016, to directly serve LyondellBasell via the Rosebluff Lead and the connecting Montell Lead.⁶ See Reilly V.S. at 2. The Montell Lead is owned by the Port of Lake Charles, which has indicated to BNSF that it does not object to BNSF operating on the Montell Lead. See maps attached hereto as Exhibit 1.

⁵ To foster an open and candid dialogue, BNSF, UP, and KCS agreed before the August 26 meeting that it would be considered to be settlement discussions, and that the parties would not characterize each other's positions at that meeting in any Board filings. Accordingly, BNSF does not attach here any correspondence between the parties related to those settlement discussions, and does not describe here any discussions between the parties, except to note the issues that divide the parties. Should UP or KCS raise specific preconditions to the initiation of BNSF service in their reply briefs, BNSF respectfully requests the ability to respond as appropriate.

⁶ As noted above, the Board acknowledged in Decision No. 3, slip op. at 19, that the terminal trackage rights ordered by the Board would allow BNSF "to directly serve shippers other than CITGO."

The parties exchanged additional letters regarding operating conditions for BNSF's use of the Rosebluff Lead to directly serve LyondellBasell. The three carriers met again on November 10, 2016, to discuss the issues. The parties, however, were again unable to reach an agreement regarding conditions for BNSF's use of the Rosebluff Lead to serve LyondellBasell directly. The three carriers met for a third time on March 7, 2017, in an effort to conclude their negotiations concerning direct BNSF service to LyondellBasell. Before that meeting, in a letter dated February 29, 2017, BNSF sent UP and KCS a proposed operating plan for such service.⁷ Yet again, the parties were unable to reach an agreement. On April 21, 2017, UP sent BNSF a letter memorializing UP's rejection of BNSF's proposed operating plan for direct BNSF service to LyondellBasell. *See Reilly V.S.* at 3.

Without divulging confidential settlement discussions, BNSF can report to the Board that the parties cannot reach agreement regarding the necessity of constructing additional rail facilities to facilitate BNSF direct service to LyondellBasell and to other shippers on the Rosebluff Lead. BNSF is concerned that this issue will arise each time BNSF elects to directly serve a new customer via the Rosebluff Lead using the terminal trackage rights granted by the Board, despite the Board's clear findings in Decision No. 3 that "BNSF will be able to use the Rosebluff Lead without substantially impairing the operations of UP or KCS," slip op. at 16, and that "a certain level of interference and delay is common and expected in the railroad industry," slip op. at 17-18, n. 17.⁸ *See Reilly V.S.* at 3. The requirement for capital improvements as a precondition to any institution of BNSF direct service on the Rosebluff Lead reflects a

⁷ BNSF's proposed operating plan for direct BNSF service to LyondellBasell is described below in Section 3.A and attached as Exhibit A to the *Reilly V.S.* The operating plan proposed here is substantially similar to the plan proposed by BNSF in the letter dated February 29, 2017.

⁸ The Board based Decision No. 3 in part on analyses of train data produced by UP and KCS during discovery. UP and KCS have indicated during the negotiation process that such data has not materially changed.

fundamental misapprehension of the Board's directives in Decision No. 3, flies in the face of the Restated & Amended BNSF Agreement, and does not allow for the initiation of new direct competitive service that is logistically and economically feasible.

Given the fruitless nature of prior negotiations, BNSF has concluded that "the parties cannot collectively reach an agreement" with respect to operating conditions for BNSF's operations on the Rosebluff Lead to serve LyondellBasell, and that Board intervention is appropriate at this time. Decision No. 3, slip op. at 19.

B. The Parties Cannot Reach Agreement With Respect to Compensation for BNSF's Use of the Rosebluff Lead

With respect to compensation, KCS discussed the outline of a proposal at the meeting held on March 7, 2017, and followed up with written confirmation of its proposal by a letter dated April 5, 2017. Without divulging confidential settlement discussions, BNSF can report to the Board that the parties cannot reach agreement regarding the rate that BNSF should pay for direct service on the Rosebluff Lead. Given the gulf between the parties with respect to compensation, BNSF has concluded that "the parties cannot collectively reach an agreement" with respect to compensation for BNSF's operations on the Rosebluff Lead to serve LyondellBasell. Decision No. 3, slip op. at 19.

3. The Board Should Adopt BNSF's Proposed Operating Plan for LyondellBasell Service

As described in further detail in the Reilly V.S. attached hereto, BNSF proposes a detailed operating plan for direct BNSF service to LyondellBasell via the Rosebluff Lead and the connecting Montell Lead. As demonstrated by the analyses contained in the Reilly V.S. and the Baranowski Petition V.S., this operating plan is consistent with the Board's finding in Decision No. 3, slip op. at 13, 15-18, that BNSF's use of the terminal facilities would be "practicable" and

would not substantially impair the ability of UP and KCS to handle their own business.⁹ Because the parties cannot collectively reach an agreement with respect to BNSF's use of the terminal trackage rights granted by the Board in Decision No. 3, the Board should establish BNSF's proposed operating plan as the conditions of use.

Furthermore, BNSF requests that the Board affirm its expectation that the parties will work together to implement the trackage rights granted to BNSF by the Board in Decision No. 3, and that the Board's findings in Decision No. 3 with respect to practicability and lack of substantial impairment apply to the tracks and facilities as they currently exist, as described in the record before the Board.

A. Verified Statement of Rob Reilly

In his Verified Statement, Mr. Reilly details BNSF's proposed service to LyondellBasell and concludes that such service is practicable and would not substantially impair UP's and KCS's ability to handle their own traffic on the Rosebluff Lead or the Montell Lead.

As an initial matter, Mr. Reilly testifies as to his and BNSF's understanding of current operations on the Rosebluff Lead and in the Rosebluff Yard, which is consistent with BNSF's previous filings in this docket. Reilly V.S. at 3-5. Mr. Reilly also describes the LyondellBasell facility in relation to the tracks and yards that BNSF must traverse in order to provide direct service to that facility, including the Montell Lead, the Rosebluff Lead, the Rosebluff Yard, and the 50/50 Line. *Id.* at 4. Mr. Reilly concludes that, under current operations, there is clearly

⁹ As Mr. Reilly testifies, BNSF's proposed operations will not affect KCS operations because (1) KCS is scheduled to operate exclusively on the Rosebluff Yard from 6 p.m. to 6 a.m., Reilly V.S. at 4; (2) KCS does not operate south of Rosebluff Yard, *id.*; and (3) if BNSF is unexpectedly delayed, or if KCS unexpectedly operates on the Rosebluff Yard outside of its window, BNSF will coordinate directly with KCS for BNSF's operation through the Rosebluff Yard, *id.* at 9.

capacity for BNSF to operate directly to LyondellBasell and other customers located off the Rosebluff Lead. *Id.* at 5.

Next, Mr. Reilly describes the current BNSF service to LyondellBasell and other Rosebluff Lead customers, whereby UP provides reciprocal switch service on behalf of BNSF. *Id.* at 5-6. According to Mr. Reilly, the current operating plan requires UP to handle BNSF's LyondellBasell cars twice, consuming capacity in both UP's Lake Charles Yard¹⁰ and in the Rosebluff Yard. *Id.* at 6.

Mr. Reilly then details BNSF's proposed operating plan for BNSF direct service to LyondellBasell, whereby BNSF would operate a local job out of BNSF's Lacassine Yard seven days per week, making a round trip to serve the LyondellBasell facility. *Id.* at 6-9; Exhibit A. Mr. Reilly testifies that this train would typically handle 15-20 cars per day for the LyondellBasell facility. *Id.* at 6. Mr. Reilly also attaches to his statement as Exhibit B an animation depicting the proposed BNSF direct service to LyondellBasell and its interaction with other operations.¹¹ The animation uses dialogue boxes to describe each train movement. As described in further detail in the Reilly V.S.:

- The BNSF job would depart from BNSF's Lacassine Yard on the 50/50 Line by 7:30 a.m., pass through the Rosebluff Yard via the Rosebluff Lead running track, continue southbound to the connecting Montell Lead, and arrive at the LyondellBasell facility on the Montell Lead by approximately 9:30 a.m. *Id.* at 7.

¹⁰ UP's Lake Charles Yard is also referred to as UP's "North Yard."

¹¹ The animation: (1) depicts the relative movement of BNSF, UP, and KCS trains in sequence, and does not portray any definitive start or stop times for each movement; (2) does not depict locomotives, cars, and the relative location of track facilities at scale; and (3) does not depict the locomotives performing any stopping or starting motions that may be necessary in order to throw switches along the route.

- BNSF would serve the LyondellBasell facility and make the return trip to Lacassine Yard starting at approximately 1:00 p.m. *Id.* at 7-9.

Mr. Reilly testifies that BNSF will coordinate on a daily basis with the Lake Charles Yardmaster, the other UP trains working on the Rosebluff Lead during that time, and the 50/50 Line dispatcher to obtain proper authority for these movements. He also underscores that BNSF can be flexible in order to accommodate particular operating circumstances on any given day. *Id.*

Mr. Reilly also testifies as to the impact of BNSF direct service to LyondellBasell, concluding that BNSF's proposed direct service will not impede the ability of KCS or UP to handle their own business. *Id.* at 9-12. According to Mr. Reilly, the BNSF operating plan would free up capacity and reduce congestion in UP's Lake Charles Yard and in the Rosebluff Yard, which are currently used by UP for reciprocal switch service performed on behalf of BNSF to LyondellBasell, because BNSF would use its newly-constructed Lacassine Yard for switching and storing cars used in BNSF direct service from or to LyondellBasell. *Id.* at 9; *see also* Decision No. 3, slip op. at 17 ("our review of the record shows that BNSF's direct service will free up capacity and eliminate some congestion in Rosebluff Yard"). Mr. Reilly testifies that the railroad operating personnel in a joint facility such as Lake Charles communicate on a daily basis to coordinate train operations in areas where multiple railroads operate, and that this is consistent with the Board's conclusion in Decision No. 3 that the three carriers can coordinate operations to minimize interference with one another, but that a certain level of interference and delay is common and expected in the railroad industry. *Id.* at 9-10 (quoting Decision No. 3, slip op. at 17-18, n. 17).

Importantly, Mr. Reilly testifies that he does not believe that additional capital improvements are required to the Rosebluff Lead, the Rosebluff Yard, or the Montell Lead, in

order to implement direct BNSF service to LyondellBasell, because a clear route exists daily through the Rosebluff Yard and over the Rosebluff Lead and Montell Lead for BNSF direct service. *Id.* at 10.

Mr. Reilly also details an observational study that BNSF conducted of UP and KCS operations at the Rosebluff Yard and on the Rosebluff Lead and the Montell Lead from October 1 to October 7, 2017, which confirmed Mr. Reilly's conclusion that BNSF direct service trains would not substantially interfere with UP or KCS operations. *Id.* at 10-12; Reilly V.S., Exhibit A at 4-5. Mr. Reilly testifies that BNSF observed that at least one track in the Rosebluff Yard is clear during the time periods that BNSF proposes to move its train through the Rosebluff Yard to and from the LyondellBasell facility and that KCS's Rosebluff Yard operations would not be affected during the times identified in BNSF's operating plan. Reilly V.S. at 10-11.

Mr. Reilly also testifies that BNSF observed that the Rosebluff Lead and Montell Lead are generally clear during the morning and mid-day time periods when the BNSF trains would proceed to and depart from the LyondellBasell facility. *Id.* at 10-11. Mr. Reilly identifies three UP trains using either the Rosebluff Yard, Rosebluff Lead, or Montell Lead during the morning and mid-day time periods when the BNSF direct service train would proceed to and depart from the LyondellBasell facility:

- **YRB66** serves industries on the east end of the Montell Lead from the Firestone Yard, located off the Rosebluff Lead just south of the switch to the Montell Lead.
- **YRB46** moves traffic to Rosebluff Yard from customers on the south end of the Rosebluff Lead and from Firestone Yard.

- **YRB65** performs switching work in Rosebluff Yard during the period that BNSF proposes to switch the LyondellBasell facility. *See* Reilly V.S. at 11; Exhibit 1 at 3.

Mr. Reilly further describes how BNSF and UP could coordinate so that the BNSF service to the LyondellBasell facility would not result in any substantial interference with any of these UP operations:

- **YRB66.** The BNSF train could either (1) precede YRB66 onto the Montell Lead, or (2) delay its departure from Rosebluff Yard to enable YRB66 to enter the Montell Lead before the BNSF train. Reilly V.S. at 11; Reilly V.S., Exhibit A at 6. Mr. Reilly notes that the same basic options are available for the return trip by the BNSF train. Reilly V.S. at 11.
- **YRB46.** With respect to YRB46's return north to the Rosebluff Yard after collecting traffic on the south end of the Rosebluff Lead, either (1) YRB46 could trail the BNSF train on to the Rosebluff Lead after the BNSF train has finished serving the LyondellBasell facility, or (2) the BNSF train could hold on the Montell Lead until after YRB46 has cleared on its trip north. *Id.*
- **YRB65.** YRB65 may need to temporarily cease its switching work in the Rosebluff Yard as BNSF operates through the west end of the Rosebluff Yard, but BNSF should be able to clear within 5-10 minutes. *Id.* at 11-12.

Mr. Reilly also testifies that other alternatives would be available depending on the particular circumstances on any given day, consistent with BNSF's commitment to cooperation and flexibility with UP and KCS. *Id.* at 12. Finally, Mr. Reilly describes how BNSF and UP

successfully coordinate similar joint operations on other rail lines located off of the 50/50 Line.
Id.

B. Verified Statement of Michael R. Baranowski

Mr. Baranowski submitted a Rebuttal Verified Statement in this proceeding on October 23, 2015 (“Baranowski Rebuttal V.S.”), demonstrating, based on data provided by UP and KCS, that operating windows during which neither UP nor KCS trains occupy the Rosebluff Yard or Rosebluff Lead occur daily. In the Baranowski Petition V.S. attached here, Mr. Baranowski refreshed and expanded his prior analysis of the UP and KCS data, and considered additional information from BNSF’s October 2017 observational study described above and in the Reilly V.S., in order to determine whether the BNSF operating plan for LyondellBasell described above and in the Reilly V.S. conflicts with UP or KCS operations. Baranowski Petition V.S. at 1, 8-16. Mr. Baranowski concludes that capacity exists in the Rosebluff Yard and on the Rosebluff Lead to accommodate BNSF’s proposed operating plan for serving LyondellBasell. *Id.* at 1-2.

First, Mr. Baranowski describes his findings detailed in the Baranowski Rebuttal V.S. that operating windows sufficient to allow transit of BNSF trains exist routinely under current Rosebluff Yard and Rosebluff Lead track configuration and operating practices. Baranowski Petition V.S. at 2-6. Mr. Baranowski testifies that he understands that existing operations on the Rosebluff Lead and its connecting spurs potentially relevant to BNSF’s proposed operations to LyondellBasell have not changed significantly from operations during the time period covered by the data produced by UP and KCS in the discovery phase of this proceeding. *Id.* at 2. In the Baranowski Petition V.S., Mr. Baranowski describes the following findings that he made earlier in the Baranowski Rebuttal V.S., and that still apply here:

- During both the morning and afternoon of UP's 12-hour operating period, there are regularly-occurring large windows of time during which no trains operate in Rosebluff Yard. Baranowski Petition V.S. at 5, Figure 3.
- The average duration of the Rosebluff Yard operating windows available to BNSF is { }. *Id.* at 3, Figure 1.
- The Rosebluff Yard was occupied {{ }} of the time by either UP or KCS, and an average day had about {{ }} windows with no trains in the yard. *Id.* at 4, Figure 2 (citing a study result produced earlier by KCS based on April 2014 data).
- The vast majority of UP customer switching along the Rosebluff Lead occurs during the {{ }} time blocks, suggesting that the Rosebluff Lead is unlikely to be blocked by industry switching efforts during that time each day. *Id.* at 6, Table 1.

Next, Mr. Baranowski describes how he updated and refined the analysis from the Baranowski Rebuttal V.S. to focus specifically on the feasibility of the BNSF proposed operating plan for providing direct service to LyondellBasell. Baranowski Petition V.S. at 7-16. Mr. Baranowski conducted a detailed analysis to determine whether existing UP train operations would be affected by the implementation of BNSF's proposed operating plan. *Id.* at 8-9. Mr. Baranowski describes the following findings:

- Over an 18-day study period in April 2014, a number of tracks in the Rosebluff Yard were theoretically available for BNSF trains, representing adequate capacity to accommodate the proposed BNSF operations. *Id.* at 11-12, Table 3.

- The data confirm that there is ample opportunity for BNSF to traverse the Rosebluff Lead from the south end of Rosebluff Yard to the Montell Lead, as proposed in BNSF's operating plan for providing direct service to LyondellBasell.

Id. at 15-16, Figure 7.

In sum, Mr. Baranowski concludes that adequate capacity exists to accommodate the proposed BNSF operations to LyondellBasell under the existing Rosebluff Yard and Rosebluff Lead track configurations. *Id.* at 7.

4. The Board Should Adopt BNSF's Proposed Compensation for LyondellBasell Service

Because the parties cannot reach agreement with respect to compensation terms for BNSF's Rosebluff Lead terminal trackage rights operations, the Board should establish such terms "under the principle controlling compensation in condemnation proceedings." 49 U.S.C. § 11102(a). Such compensation must be "paid or adequately secured before" BNSF may begin direct service on the Rosebluff Lead. *Id.*

BNSF continues to believe that BNSF should be responsible for payment to UP of the level of compensation that BNSF must pay for trackage rights under the UP/SP merger conditions – namely the rate set by Section 9 of the BNSF Settlement Agreement (the GTM rate), as escalated by Section 7 of the CMA Agreement (and as modified by BNSF and UP in the 50/50 Line Agreement) (collectively, the "Prescribed Fee"). UP should then be responsible for any compensation due to KCS for BNSF access to the Rosebluff Lead beyond the Prescribed Fee. *See* BNSF Opening Statement at 21-22 (Dec. 31, 2014); BNSF Rebuttal at 33-34 (Oct. 23, 2015).

Therefore, BNSF proposes that the Board establish compensation terms under the principle controlling compensation in condemnation proceedings, require BNSF to pay UP the

Prescribed Fee, and require UP to pay KCS any amount due to KCS under the compensation terms established by the Board that is greater than the Prescribed Fee. Furthermore, BNSF requests that the Board establish that the compensation terms determined through this proceeding will apply to any BNSF operations using the terminal trackage rights granted by the Board in Decision No. 3.

BNSF was granted access by the Board to the Rosebluff Lead as a condition to the UP/SP merger, in order to preserve the pre-merger competition that existed between UP and SP. The level of compensation that BNSF should pay for such access has been conclusively established as the Prescribed Fee. Forcing BNSF to pay some higher rate than the Prescribed Fee would risk making BNSF uncompetitive and jeopardize the effectiveness of the Board's merger conditions. Moreover, it would undermine the salutary objectives of giving full effect to the terms of BNSF's and UP's freely negotiated, mutually agreed, and Board-imposed agreements.

It is UP that has the obligation under the BNSF-UP agreements and the Board's merger conditions to provide BNSF with direct access to Lake Charles area shippers via direct train service. BNSF resorted to this terminal trackage rights proceeding to gain access to the Rosebluff Lead only because UP repeatedly failed to uphold its obligations under the BNSF Settlement Agreement, the CMA Agreement, the 50/50 Line Agreement, and the UP/SP merger conditions by failing to obtain the consent of KCS (as a 50% owner of the Rosebluff Lead) to permit BNSF to access the Rosebluff Lead. Therefore, UP should be responsible for any Board-imposed compensation that is greater than the Prescribed Fee.

If the Board is unable to establish the compensation terms for BNSF's trackage rights operations in a timely manner, then BNSF should be permitted to commence trackage rights operations immediately upon the Board's imposition of operating terms through this proceeding.

BNSF is willing to pay the Prescribed Fee as interim compensation for such operations, or otherwise “adequately secure” such payment, in accordance with 49 U.S.C. § 11102(a).

If the compensation terms ultimately imposed by the Board through this proceeding differ from the Prescribed Fee, then such compensation terms would be deemed to accrue from the start of BNSF’s trackage rights operations. The Interstate Commerce Commission used just such a process in the UP/MP/WP merger, permitting the parties to commence trackage rights operations immediately upon consummation of the consolidation. *See UP/MP/WP*, 366 I.C.C. 462, 590 (1982). The compensation terms to be later established were required to accrue from the start of trackage rights operations, and to be payable after terms were determined. *See id.* at 590.

If the ultimate Board-imposed compensation terms are greater than the Prescribed Fee, then UP and KCS would then determine amongst themselves how to apportion any such difference on retroactive and going-forward bases.¹² However, any dispute between UP and KCS over the apportionment of any difference between the Prescribed Fee and the ultimate Board-imposed compensation terms should not further delay the implementation of BNSF’s terminal trackage rights.

CONCLUSION

BNSF hereby requests that the Board issue an order establishing conditions of use and compensation for BNSF’s use of the Rosebluff Lead and related tracks to serve the LyondellBasell facility at West Lake Charles, consistent with the operating plan as described above and in the Reilly V.S. and the compensation terms described above.

BNSF requests that the Board issue the order requested by this petition by March 13, 2018, or in any event no later than July 11, 2018, consistent with the requirements of 49 U.S.C. §

¹² Conversely, if the Board-imposed compensation terms are less than the Prescribed Fee, then BNSF would be credited by UP or KCS for any such difference.

11102(d) for the Board to complete this proceeding within 180 days after the filing of this petition. Should the Board require additional time to determine compensation terms, BNSF requests that the Board establish conditions of use and establish the Prescribed Fee as an interim compensation rate, to be reconciled as described above once the Board ultimately establishes the final compensation terms.

Respectfully submitted,



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Dated: January 12, 2018

CERTIFICATE OF SERVICE

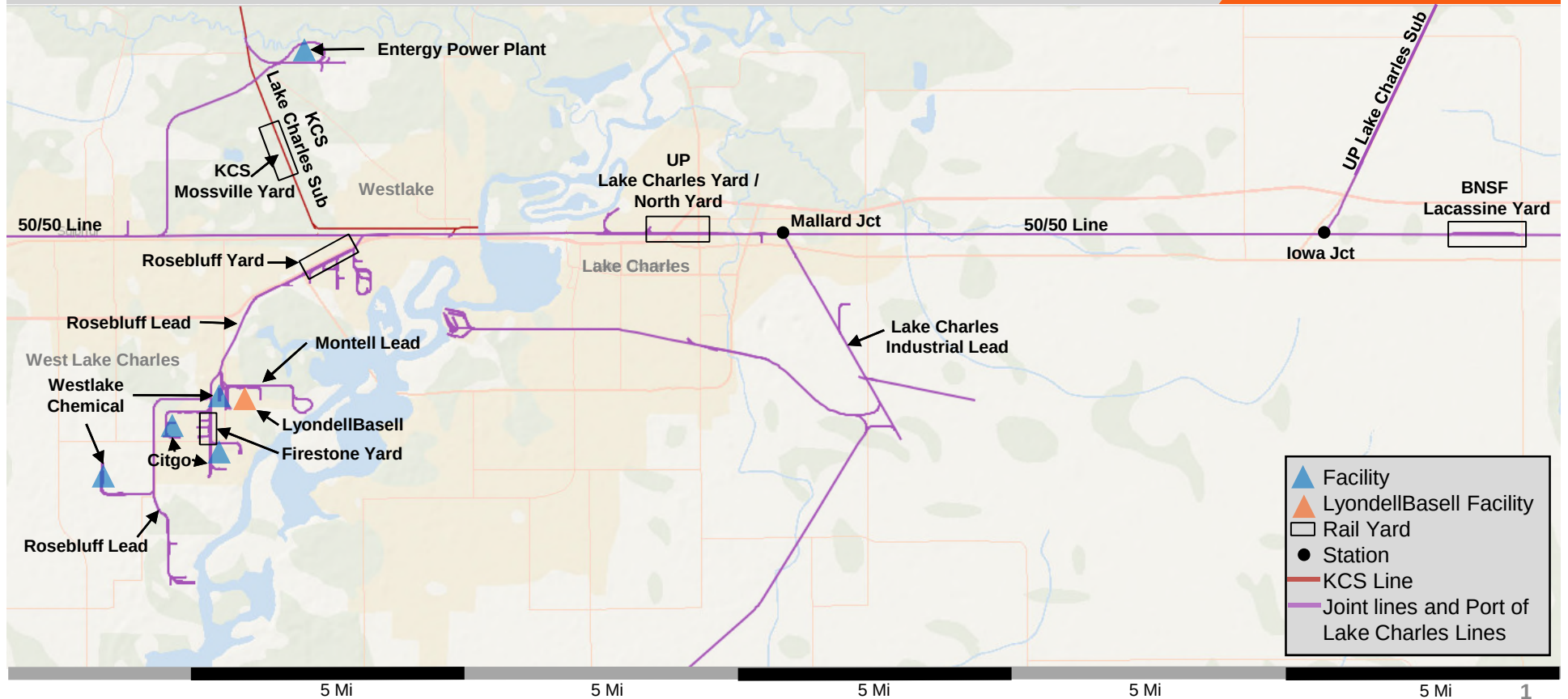
I hereby certify that on this 12th day of January, 2018, copies of the foregoing BNSF's Petition to Establish Conditions of Use and Compensation have been served by e-mail on Counsel for UP, KCSR and CITGO.

A handwritten signature in black ink, appearing to read "Adrian L. Steel, Jr.", is positioned above a horizontal line.

Adrian L. Steel, Jr.

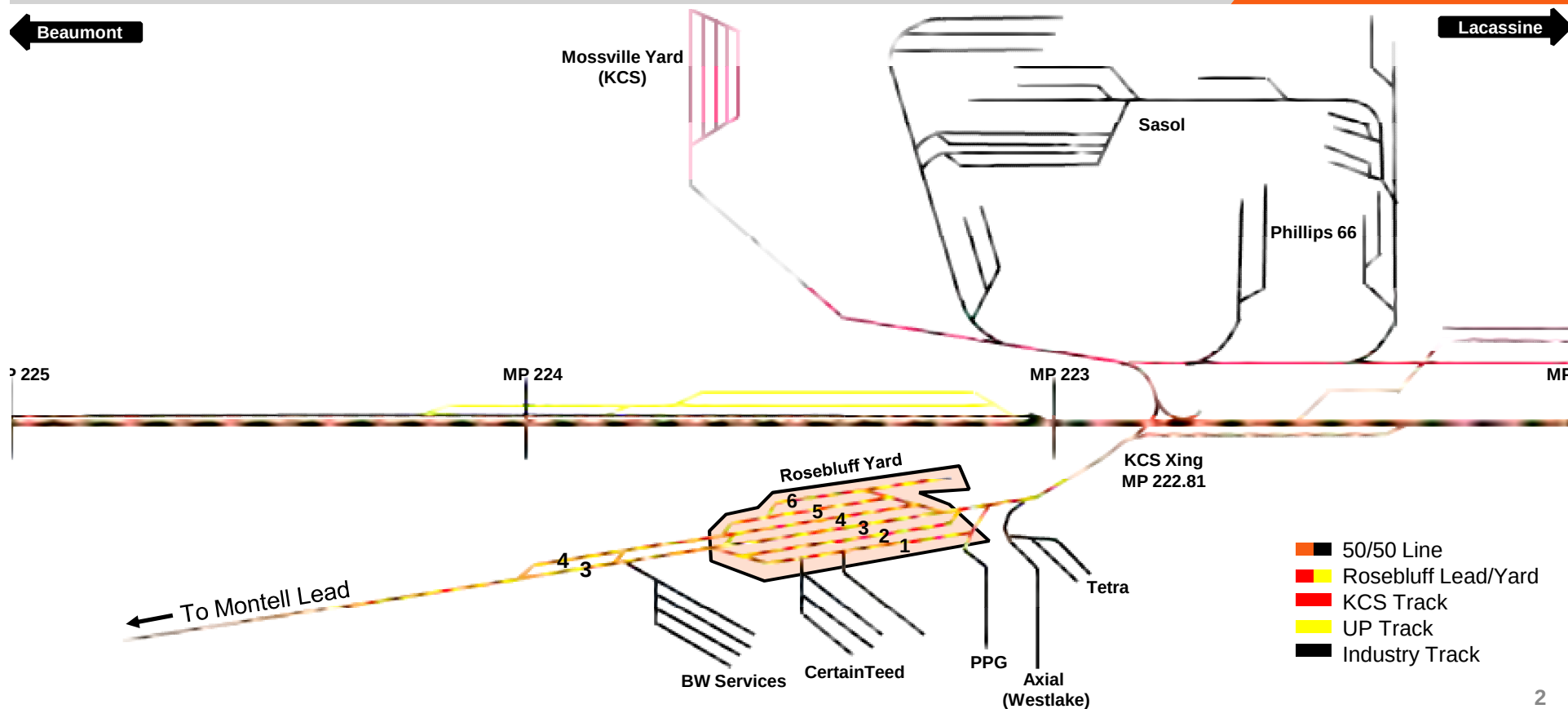
Regional Map

EXHIBIT 1
BNSF
RAILWAY



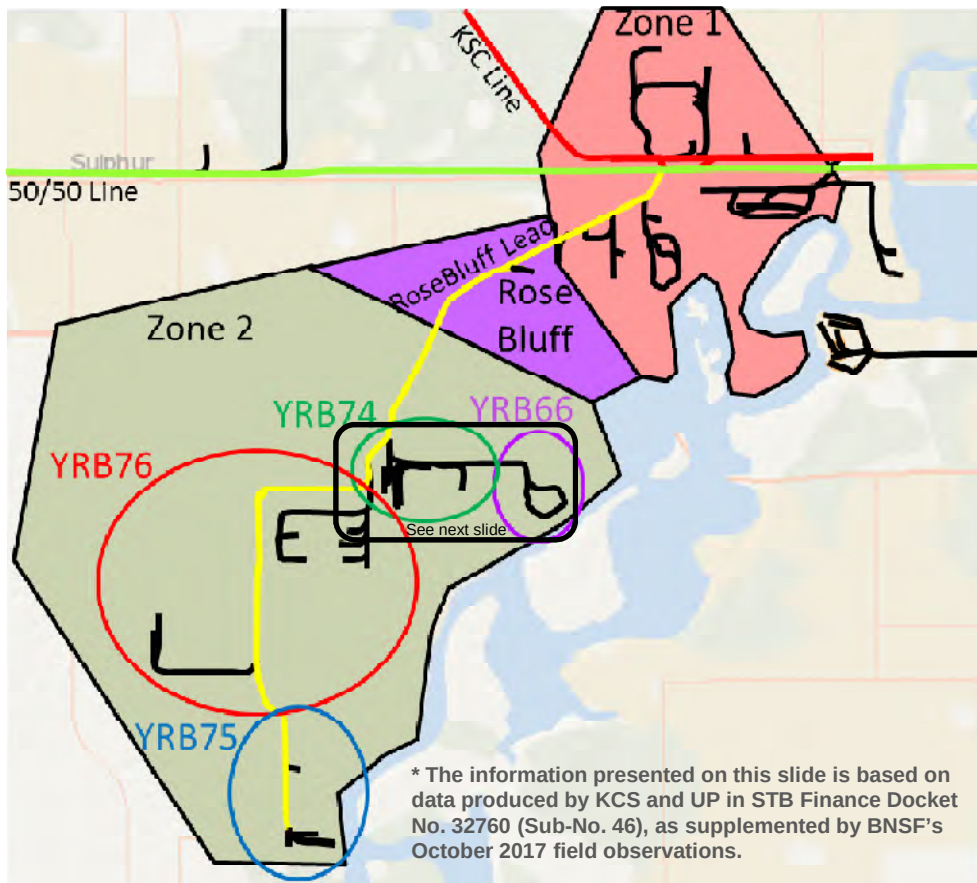
Rosebluff Yard Tracks

EXHIBIT 1
BNSF
RAILWAY



Rosebluff Lead Operations*

EXHIBIT 1
BNSF
RAILWAY



KCS Operations

- **R-LC210** on duty at Mossville Yard at 1700
 - Pulls into Rosebluff Yard track 4 and switches cars to tracks 1, 2 & 3
 - Sets out UP cars to Rosebluff Yard tracks 5 & 6
 - Serves Certainteed off Rosebluff Yard track 1
 - Serves BW Services off Rosebluff Yard track 3
- **R-LC304** (M-F)
 - Vans to Rose Bluff uses 210's power
 - Serves Customers
 - Axial A Plant – pulls outbound and shoves to Rosebluff Yard track 4
 - Axial A Plant – works plant
 - Axial B Plant – works plant
 - PPG Plant – works plant
 - Doubles cars from Rosebluff Yard tracks 1 to 4 and departs to Mossville

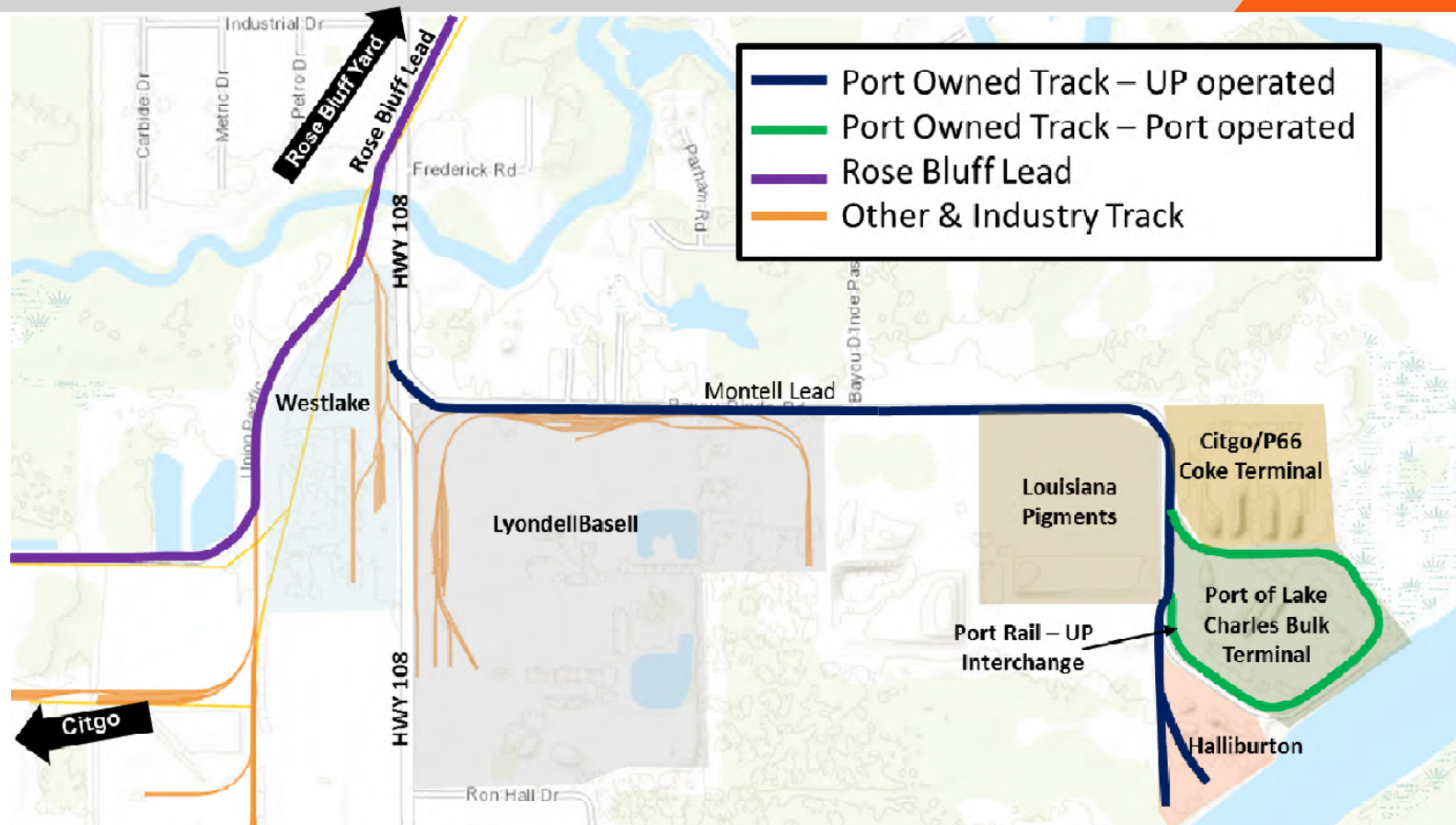
UP Operations

- **YAK63** (1400-1800) – brings cars from North Yard* to Rosebluff Lead
- **YRB65** (0700-1900)
 - Switches on West end of Rosebluff Yard
 - Spreads spotting blocks
 - Makes spotting blocks for zone 2 customers
- **YRB75** (1600-0400)
 - Serves **Blue Industries**
- **YRB76** (1500-0300) – serves **Red Industries**
- **YRB74** (1500-0300) – serves **Green Industries**
- **YRB66** (0700-1800) – serves **Purple Industries**
- **YRB46** (0100-1300)
 - Picks up traffic along Rosebluff Lead destined to North Yard*
 - Sets out and picks up KCS cars before departing to North Yard* (after KCS window ends)

*UP's North Yard is also referred to as UP's Lake Charles Yard

Port of Lake Charles Track

EXHIBIT 1
BNSF
RAILWAY



**VERIFIED STATEMENT OF
ROB REILLY**

My name is Rob Reilly, and my business address is 2600 Lou Menk Drive, NOC-2, Fort Worth, Texas 76131. I am Vice President South Region Operations for BNSF Railway Company (“BNSF”). I have over 28 years of experience in railroad operations and management including experience in various terminal operations and the oversight of the scheduling of railroad operations to meet customer expectations. I am familiar with BNSF’s operations system wide, including those at West Lake Charles, Louisiana. During my railroad career, I have worked in multiple field locations spanning from Chicago to California including positions as General Manager in Chicago and General Manager in Los Angeles. In these roles, I have had responsibility for ensuring fluid operations in high traffic terminal areas with significant through and interchange traffic as well as numerous local industries being served by multiple carriers. In my current role as Vice President of the South Region, I have oversight of the hundreds of industries we serve in the Region and responsibility for BNSF operations over the 50/50 Line in Louisiana.

I am making this statement in support of BNSF’s Petition to Establish Conditions of Use and Compensation in Finance Docket No. 32760 (Sub-No. 46) (BNSF-131) (hereinafter “Petition”). More specifically, this statement describes and documents an operating plan, attached to this statement as **Exhibit A**, for BNSF’s direct service to LyondellBasell via the Rosebluff Lead and the connecting Montell Lead. Included as **Exhibit B** to this statement is an animated visualization depicting BNSF’s proposed operating plan and interaction with existing operations.¹ This statement concludes that BNSF’s proposed service to LyondellBasell via the

¹ The visualization depicts the relative movement of BNSF, UP, and KCS trains in sequence, and does not portray any definitive start or stop times for each movement. The visualization does not depict locomotives, cars, and the

Rosebluff Lead and the Montell Lead, as currently configured, is practicable and would not substantially impair UP's and KCS's ability to handle their own traffic on the Rosebluff Lead or the Montell Lead.

1. Communications Regarding Implementation of the Terminal Trackage Rights Granted to BNSF by the Board

Following service of the Board's Decision No. 3 on July 5, 2016, granting BNSF's application for terminal trackage rights over the Rosebluff Lead, BNSF has sought unsuccessfully to negotiate with UP and KCS operating parameters and related compensation for BNSF direct service to customers via the Rosebluff Lead.

The three carriers held their first meeting to negotiate the conditions for use of the Rosebluff Lead on August 26, 2016. In this initial meeting, BNSF provided to UP and KCS a proposed Rosebluff Lead operating plan for BNSF direct service to all customers that BNSF elects to serve directly via the Rosebluff Lead. The parties were unable to reach an agreement at that August 26, 2016 meeting. In a letter to UP dated November 7, 2016, BNSF elected to directly serve LyondellBasell via the Rosebluff Lead and the connecting Montell Lead.² The parties met on November 10, 2016, to discuss the issues, and failed again to reach an agreement at that meeting. The parties exchanged additional letters, including a BNSF letter dated February 29, 2017, in which BNSF proposed a detailed operating plan for how BNSF would coordinate operations to minimize BNSF's, KCS's and UP's interference with one another, including scheduling of windows of operation, unit vs. manifest volumes, length of trains, and similar

relative location of track facilities at scale. The visualization also does not depict the locomotives performing any stopping or starting motions that may be necessary in order to throw switches along the route.

² The Board acknowledged in Decision No. 3, slip op. at 19, that the terminal trackage rights ordered by the Board would allow BNSF "to directly serve shippers other than CITGO." BNSF is not currently seeking to implement direct service to CITGO, because CITGO does not currently ship from its Rosebluff Lead facility on any regular basis, as it did at the beginning of this proceeding.

issues. The parties met again on March 7, 2017, to discuss the issues. On April 21, 2017, UP sent BNSF a letter memorializing UP's rejection of BNSF's proposed operating plan for direct BNSF service to LyondellBasell.

Without divulging confidential settlement discussions, I can report that the parties cannot reach agreement regarding the necessity of constructing additional rail facilities to facilitate BNSF direct service to LyondellBasell and to other shippers on the Rosebluff Lead. I am concerned that this issue will arise each time BNSF elects to directly serve a new customer via the Rosebluff Lead using the terminal trackage rights granted by the Board.

2. Current Operations on the Rosebluff Lead and in the Rosebluff Yard

As described fully in BNSF's previous filings in this docket, including Verified Statements filed by Rollin D. Bredenberg with BNSF's Opening Statement in December 2014 and with BNSF's Rebuttal in October 2015 ("Bredenberg Rebuttal V.S."), the terminal trackage involved in this Petition consists of a single track segment jointly owned by KCS and UP (as successor to SP) connecting to the "50/50 Line" at MP 222.3 and extending south for approximately nine miles.³ This terminal trackage is generally referred to as the "Rosebluff Lead." The Rosebluff Lead runs through the Rosebluff Yard, which is approximately 0.5 miles south of the 50/50 Line and consists of five yard tracks and the Rosebluff Lead, which also is referred to as a running track or "Track 4."⁴ The Rosebluff Lead is used for line-haul movements through the terminal, as well as for switching and interchange movements within Rosebluff Yard. The Rosebluff Lead is located in a predominantly industrial area consisting of a number of

³ The "50/50 Line" is the former SP Lafayette Subdivision between Dawes, Texas and Avondale, Louisiana that is now jointly and equally owned by BNSF and UP.

⁴ See maps attached as Exhibit 1 to accompanying Petition.

large refineries and industrial plants. In my experience, the Rosebluff Lead is a classic example of a switching lead within a terminal facility.

The Rosebluff Lead, and branches and spurs extending therefrom, are used for access to multiple customers located at the stations of West Lake Charles (south of the 50/50 Line) and Westlake (adjacent to the Rosebluff Yard). Among the customers served off the Rosebluff Lead is LyondellBasell, whose facility is approximately 4.25 miles south of the 50/50 Line. The LyondellBasell facility is accessed via the Montell Lead, which is owned by the Port of Lake Charles, and which connects with the Rosebluff Lead approximately 2.37 miles southwest of the Rosebluff Yard and extends east for approximately 1.63 miles. Because the only connection to the Montell Lead is via the Rosebluff Lead, and because the Montell Lead is the only rail line immediately adjacent to the LyondellBasell facility, BNSF could not provide direct service to the LyondellBasell facility without access to the Rosebluff Lead and the Montell Lead.

It is my understanding that operations over the Rosebluff Lead and the Montell Lead are controlled in accordance with General Code of Operating Rule 6.28 (Movement on Other than Main Track). UP and KCS operate at restricted speed over the Rosebluff Lead and use the Rosebluff Yard during alternating twelve-hour windows in which UP is scheduled to operate exclusively from 6 a.m. to 6 p.m. and KCS is scheduled to operate exclusively on the Rosebluff Yard from 6 p.m. to 6 a.m. UP is the only carrier that currently operates on the Montell Lead. KCS does not operate on the Rosebluff Lead south of the Rosebluff Yard. Based on inquiries to UP and KCS and the observation study described below, I understand that UP and KCS operations on the Rosebluff Lead and its connecting spurs have not changed materially from operations during the time period covered by the data produced by UP and KCS in the discovery phase of this proceeding. Both UP and KCS use Rosebluff Yard for switching and storing cars

originating from or destined to West Lake Charles customers and Westlake customers adjacent to Rosebluff Yard. It is my understanding that KCS uses three Rosebluff Yard tracks for switching and storage (Tracks 1-3), and UP uses two Rosebluff Yard tracks for switching and storage (Tracks 5-6). The remaining track, designated as Track 4, is the Rosebluff Lead running track.

It is my further understanding that KCS and UP each currently operate one train each into Rosebluff Yard from their respective yards and one train each out of Rosebluff Yard to their respective yards per day. In addition, UP currently operates one train out of the Rosebluff Yard to industries on the Rosebluff Lead and one train into the Rosebluff Yard from industries on the Rosebluff Lead per day. In my experience and based on my understanding of the operations of the Rosebluff Lead, there is clearly capacity for BNSF to operate directly to LyondellBasell and other customers. In Decision No. 3, slip op. at 16, the Board agreed that “BNSF will be able to use the Rosebluff Lead without substantially impairing the operations of UP or KCS,” and I concur in that assessment.

3. Current BNSF Reciprocal Switch Service to LyondellBasell

UP currently provides reciprocal switch service on behalf of BNSF to all West Lake Charles customers, including LyondellBasell. A BNSF train carrying empty cars destined for LyondellBasell departs Houston and heads east along the 50/50 Line to BNSF’s Lacassine Yard in Lacassine, Louisiana. BNSF recently invested more than \$31 million in constructing the multi-track Lacassine Yard in order to enable volume growth in the Lake Charles area, optimize operations on the 50/50 Line, and support direct service to customers at West Lake Charles – all of which implements the Board’s UP/SP merger conditions by effectively providing competition in the Lake Charles area.

Upon arrival to BNSF's Lacassine Yard, the cars are sorted, and a train is built for UP. The train built for UP leaves BNSF's Lacassine Yard and heads west approximately 13 miles along the 50/50 Line for delivery to UP at UP's Lake Charles Yard, which is located on the 50/50 Line approximately three-and-a-half miles east of the connection to the Rosebluff Lead.⁵

Following delivery, the train returns to BNSF's Lacassine Yard with outbound cars interchanged from UP that have been released from LyondellBasell. After the inbound cars arrive at UP's Lake Charles Yard, UP builds a train with the BNSF cars and other traffic destined to West Lake Charles customers. UP runs that train from its Lake Charles Yard over the 50/50 Line to the Rosebluff Yard. At the Rosebluff Yard, the train is switched to sort cars for spotting at the various West Lake Charles customers and then taken down the Rosebluff Lead for spotting to customers, including LyondellBasell off the Montell Lead.

As described above, the current operating plan requires UP to handle BNSF's LyondellBasell cars twice, consuming capacity in both the Lake Charles Yard and the Rosebluff Yard.

4. Proposed Operating Plan for BNSF Direct Service to LyondellBasell

For BNSF direct service to LyondellBasell, BNSF proposes an operation, described more fully in **Exhibit A**, whereby BNSF would operate a local job out of BNSF's Lacassine Yard up to seven days per week, making a round trip to serve the LyondellBasell facility. **Exhibit B** contains an animation video depicting this BNSF operating plan and its interaction with existing operations. The animation uses dialogue boxes to describe each train movement. Typically, the BNSF train would handle 15-20 cars per day for the LyondellBasell facility. Our proposed operation would include the following:

⁵ UP's Lake Charles Yard is also referred to as UP's "North Yard."

- BNSF Job comes on duty at 0600 at BNSF's Lacassine Yard. BNSF proposes this time because BNSF has observed Track 1 and/or Track 4 in the Rosebluff Yard as clear when KCS closes their window and departs.
- BNSF Job departs by 0730 from Lacassine Yard for LyondellBasell in West Lake Charles.⁶ BNSF Job will contact the Lake Charles Yardmaster, the other jobs working on the Rosebluff Lead, and the 50/50 Line dispatcher to request authority and identify a clear track to make the move through the Rosebluff Yard.
- Between approximately 0730 to approximately 0930, BNSF Job passes through the Rosebluff Yard, via whichever clear track is available in the Rosebluff Yard, and continues southbound to the connecting Montell Lead.⁷ BNSF expects the movement described in the preceding sentence to take approximately thirty minutes to ninety minutes, depending on traffic.
- By approximately 0930, BNSF Job arrives at the LyondellBasell facility on the Montell Lead.
- From approximately 0930 to approximately 1130, BNSF Job serves the LyondellBasell facility. BNSF expects the operation described in the preceding sentence to take approximately one to two hours and to include the following:
 - o BNSF engine arrives on Montell Lead track with inbound empty cars for LyondellBasell and engines on head-end (east).

⁶ While BNSF proposes 0730 for departure from Lacassine Yard, BNSF plans to be flexible on the departure time, depending on the operating circumstances on any given day.

⁷ As discussed below at page 11, BNSF Job can either precede UP's train onto the Montell Lead, or BNSF Job could delay its departure from Rosebluff Yard to enable UP's train to enter the Montell Lead before the BNSF Job.

- o BNSF engine cuts away from inbound empty cars, leaving them on the Montell Lead.
- o BNSF engine enters the LyondellBasell facility from the east switch.
- o BNSF engine gathers loaded outbound cars from various tracks inside the facility as necessary.
- o BNSF engine exits the LyondellBasell facility from the east switch, pulling the loaded outbound cars, and doubling the loaded outbound cars over to the inbound empty cars on the Montell Lead.
- o BNSF engine spots the inbound empty cars into the LyondellBasell facility using the east switch.
- o BNSF engine spots the outbound loaded cars onto the Montell Lead and cuts away the engine. BNSF engine runs around the outbound loaded cars by entering the LyondellBasell facility at the east switch, running through the facility, and exiting back out onto the Montell Lead using the west switch.
- o BNSF engine couples to the west end of the outbound loaded cars on the Montell Lead.
- BNSF Job performs air test on the train on the Montell Lead and prepares to depart by approximately 1300.
- BNSF Job will contact the Lake Charles Yardmaster, the other jobs working on the Rosebluff Lead, and the 50/50 Line dispatcher to request authority to make the approximately 0.40-mile move from the Montell Lead onto the Rosebluff Lead,

run through the Rosebluff Yard on whichever clear track is available, then onto the 50/50 Line to head east to Lacassine Yard.

- o BNSF Job can move from the Montell Lead to the Rosebluff Yard ahead of UP train YRB66 as UP completes its work at the east end of the Montell Lead, and ahead of UP train YRB46 as UP makes their train.⁸ Alternatively, BNSF Job can follow YRB46 up the Rosebluff Lead and use the same Rosebluff Yard track that UP clears in order to accommodate the movement of YRB46 through the Rosebluff Yard en route to the UP Lake Charles Yard.
- o If BNSF is unexpectedly delayed, BNSF will coordinate directly with KCS for operation through the Rosebluff Yard during KCS's operating window.

5. Impact of BNSF Direct Service to LyondellBasell

BNSF's proposed direct service to LyondellBasell via the Rosebluff Lead and the Montell Lead will not impede the ability of KCS or UP to handle their own business. BNSF proposes using its newly-constructed Lacassine Yard for staging, switching, and storing cars used in BNSF direct service originating from or destined to LyondellBasell. As noted above, this would allow BNSF to bypass UP's Lake Charles Yard and the Rosebluff Yard switching tracks, thereby freeing up capacity and reducing congestion in those yards. In my experience, this proposed operating plan should be workable for all parties.

⁸ UP train YRB66 serves industries on the east end of the Montell Lead from the UP Firestone Yard, located off the Rosebluff Lead just south of the switch to the Montell Lead. UP train YRB46 moves traffic to Rosebluff Yard from customers on the south end of the Rosebluff Lead and from Firestone Yard. *See infra* at 11; BNSF Petition, Exhibit 1 at 3.

BNSF understands that direct service to LyondellBasell will require railroad operating personnel to communicate to ensure fluid operations, maximize velocity and reduce congestion in the Lake Charles Area. As a practical matter, the railroad operating personnel in a joint facility such as this communicate on a daily basis to coordinate train operations in areas where multiple railroads operate, and direct service to LyondellBasell will require the same level of coordination. The Board recognized this in Decision No. 3, slip op. at 17-18, n. 17, concluding that “the three carriers can . . . coordinate operations to minimize their interference with one another,” and that a “certain level of interference and delay is common and expected in the railroad industry”

Contrary to UP’s assertions, I do not believe that additional capital improvements are required to the Rosebluff Lead, the Rosebluff Yard, or the Montell Lead, in order to implement direct BNSF service to LyondellBasell. As described in more detail by Mr. Bredenberg in his Rebuttal Verified Statement, and as affirmed by Mr. Baranowski in his Verified Statement (“Baranowski Petition V.S.”) also attached to this Petition, a clear route exists daily through the Rosebluff Yard and over the Rosebluff Lead for BNSF direct service. Mr. Bredenberg and Mr. Baranowski have concluded that there is an opportunity every day during UP’s 12-hour operating period for BNSF to operate direct trains on the Rosebluff Lead without material interference to UP or KCS. *See* Bredenberg Rebuttal V.S. at 4-6; Baranowski Petition V.S. at 7. Additionally, we have recently confirmed that there is also ample time when there is clear running track available through Rosebluff Yard during the KCS window, providing backup or flex capacity as needed from time to time.

BNSF confirmed the conclusion that BNSF direct service trains would not materially interfere with UP or KCS operations by conducting an observation study of the two carriers’

operations at the Rosebluff Yard and on the Rosebluff and Montell Leads from October 1 to October 7, 2017. *See* Exhibit A at 4-6. The study observed that the Rosebluff Yard Track 1 and/or Track 4 is clear during the time periods that BNSF proposes to move its train through the Rosebluff Yard to and from the LyondellBasell facility and that KCS's Rosebluff Yard operations would not be affected during the times identified in BNSF's operating plan. *Id.* at 6. Furthermore, the study reflected that the Rosebluff Lead and Montell Lead are generally clear during the morning and mid-day time periods when the BNSF trains would proceed to and depart from the LyondellBasell facility. The chart and explanatory text at pages 5-6 of Exhibit A show the operational flexibility that exists for BNSF trains to operate during UP's operating window.

The only UP trains observed using the two Leads during those time periods are YRB66 and YRB46. *See* BNSF Petition, Exhibit 1 at 3. YRB66 serves industries on the east end of the Montell Lead, and YRB46 moves traffic to Rosebluff Yard from customers on the south end of the Rosebluff Lead and from Firestone Yard (south of the switch to the Montell Lead). Neither UP train would conflict with BNSF's proposed operating plan.

As to UP's current operating plan for YRB66, page 7 of Exhibit A sets forth two alternatives for BNSF service to the LyondellBasell facility based on the actual traffic observed on October 3, 2017.⁹ Each of these alternatives would avoid any material disruption of UP's service. As detailed, the BNSF direct service train could either precede YRB66 onto the Montell Lead (Option 1), or the BNSF train could delay its departure from Rosebluff Yard to enable YRB66 to enter the Montell Lead before the BNSF train (Option 2). The same basic options are available for the return trip by the BNSF train.

⁹ As I discuss further below, I expect that BNSF direct service to LyondellBasell would also result in a reduction in UP operations in the area. Regardless, my analysis here demonstrates that the BNSF operating plan would work well even with current UP traffic volumes.

As to YRB46's return north to the Rosebluff Yard after collecting traffic on the south end of the Rosebluff Lead, UP's train could either trail the BNSF train onto the Rosebluff Lead after the BNSF train has finished serving the LyondellBasell facility (Option 1), or the BNSF train could hold on the Montell Lead until after the YRB46 has cleared on its trip north (Option 2).

During the period BNSF proposes to switch the LyondellBasell facility, UP's YRB65 train performs switching work in Rosebluff Yard. YRB65 may need to temporarily cease movement as BNSF operates through the west end of Rosebluff Yard, but BNSF should be able to clear within 5-10 minutes to give the Rosebluff Yard back to YRB65 to continue switching. Moreover, with direct service shifting from UP to BNSF, operations of UP's YRB65 would generally expected to be significantly reduced.

The options described in Exhibit A would be available to the carriers every day. Other options would also be available depending on the particular circumstances on any given day. For instance, in certain circumstances BNSF could clear the Montell Lead for 15-30 minutes while BNSF serves the LyondellBasell facility if YRB66 is running off schedule, or YRB66 could delay for that period of time to allow BNSF to finish a particular aspect of its service to LyondellBasell. Similar minimal holds could also be used to address any conflicts between BNSF's trains and YRB46. The Board noted in Decision No. 3, slip op. at 17-18, n. 17, the Board expects such cooperation and flexibility among BNSF, UP and KCS. Such cooperation and flexibility are well-established practice industry-wide, and there is no reason that the same should not be expected here.

For example, UP and BNSF successfully operate in this fashion on the Baytown Branch and Sabine Lead, which are also located off of the 50/50 Line, and a similar joint operation would work on the Rosebluff Lead. Operations on the Baytown Branch and the Sabine Lead

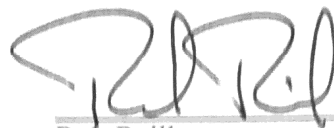
require daily coordination between railroads, just as BNSF's direct operations will require on the Rosebluff Lead. On the Baytown Branch, UP and BNSF have worked together for years after the UP/SP merger to optimize operations and provide consistent and efficient service to customers there in a very dynamic environment. BNSF direct service on the Rosebluff Lead will require the same level of coordination, and I do not see any obstacles to the parties working together to achieve a joint operation like those that exist on the Baytown Branch and the Sabine Lead. *See Bredenberg Rebuttal V.S. at 9.*

In his Rebuttal Verified Statement, Mr. Bredenberg also described why customers on the Rosebluff Lead, like LyondellBasell, deserve the direct BNSF service they were promised in the UP/SP merger. *See Bredenberg Rebuttal V.S. at 10-11.* It has been more than five years since BNSF was denied access by KCS to the Rosebluff Lead to directly serve a customer. In the intervening years, customers have continued to request direct service from BNSF, the rights to which they obtained in connection with the UP/SP merger and which the Board affirmed through Decision No. 3 in this proceeding. I see no insurmountable obstacles that would prevent BNSF from providing direct service to LyondellBasell via the operating plan described in this statement.

VERIFICATION

I, Rob Reilly, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on January 12, 2018.

A handwritten signature in black ink, appearing to be 'RR', is written over a horizontal line.

Rob Reilly

EXHIBIT A



LyondellBasell Operating Plan

Exhibit A to Reilly VS



Proposed Operating Plan to LYB (1/2)



Based on the understanding of UP's operations on the Rosebluff Lead presented in the STB proceedings, we recommend the following operating plan, but will continue to be flexible to work with UP on a local operating level as adjustments may be needed:

BNSF Job to operate 7 days a week coming on duty at BNSF's Lacassine Yard making a roundtrip move to serve the LyondellBasell facility. Typically, the train would handle 15-20 cars/day for the LyondellBasell facility.

- BNSF Job comes on duty at 0600 at BNSF's Lacassine Yard. BNSF proposes this time because BNSF has observed Track 1 and/or Track 4 in the Rosebluff Yard as clear when KCS closes their window and departs.
- BNSF job departs by 0730 from Lacassine Yard to LyondellBasell in West Lake Charles (est. 1.5-2 hours). BNSF Job will contact the Lake Charles Yardmaster, the other jobs working on the Rosebluff Lead, and the 50/50 Line dispatcher to request authority and identify a clear track to make the move through the Rosebluff Yard.
- Between approximately 0730 to approximately 0930, BNSF Job passes through the Rosebluff Yard, via whichever clear track is available in the Rosebluff Yard, and continues southbound to the connecting Montell Lead.
 - BNSF Job can either precede UP job YRB66 onto the Montell Lead, or BNSF Job could delay its departure from Rosebluff Yard to enable YRB66 to enter the Montell Lead before the BNSF Job.
 - BNSF expects this entire operation to take approximately thirty minutes to ninety minutes, depending on traffic.
- By approximately 0930, BNSF Job arrives at LyondellBasell facility on the Montell Lead. (*continued*)

Proposed Operating Plan to LYB (2/2)



- From approximately 0930 to approximately 1130, BNSF Job serves the LyondellBasell facility. BNSF expects this operation to take approximately one to two hours and would include the following:
 - BNSF engine arrives on Montell Lead track with inbound empty cars for LyondellBasell and engines on head-end (east).
 - BNSF engine cuts away from inbound empty cars, leaving them on the Montell Lead.
 - BNSF engine enters the LyondellBasell facility from the east switch.
 - BNSF engine gathers loaded outbound cars from various tracks inside the facility as necessary.
 - BNSF engine exits the LyondellBasell facility from the east switch, pulling the loaded outbound cars, and doubling the loaded outbound cars over to the inbound empty cars on the Montell Lead.
 - BNSF engine spots the inbound empty cars into the LyondellBasell facility using the east switch.
 - BNSF engine spots the outbound loaded cars onto the Montell Lead and cuts away the engine. BNSF engine runs around the outbound loaded cars by entering the LyondellBasell facility at the east switch, running through the facility, and exiting back out onto the Montell Lead using the west switch.
 - BNSF engine couples to the west end of the outbound loaded cars on the Montell Lead.
- BNSF Job performs air test on the train on the Montell Lead and prepares to depart by approximately 1300
- BNSF Job will contact the Lake Charles Yardmaster, the other jobs working on the Rosebluff Lead, and the 50/50 Line dispatcher to request authority to make the approximately 0.40-mile move from the Montell Lead onto the Rosebluff Lead, run through the Rosebluff Yard on whichever clear track is available, then onto the 50/50 Line to head east to Lacassine Yard.
 - BNSF Job can move from the Montell Lead to the Rosebluff Yard ahead of UP train YRB66 as UP completes its work at the east end of the Montell Lead, and ahead of UP train YRB46 as UP makes their train. Alternatively, BNSF Job can follow YRB46 up the Rosebluff Lead and use the same Rosebluff Yard track that UP clears in order to accommodate the movement of YRB46 through the Rosebluff Yard en route to the UP Lake Charles Yard.
 - If BNSF is unexpectedly delayed, BNSF will coordinate directly with KCS for operation through the Rosebluff Yard during KCS's operating window.

Time Study Results

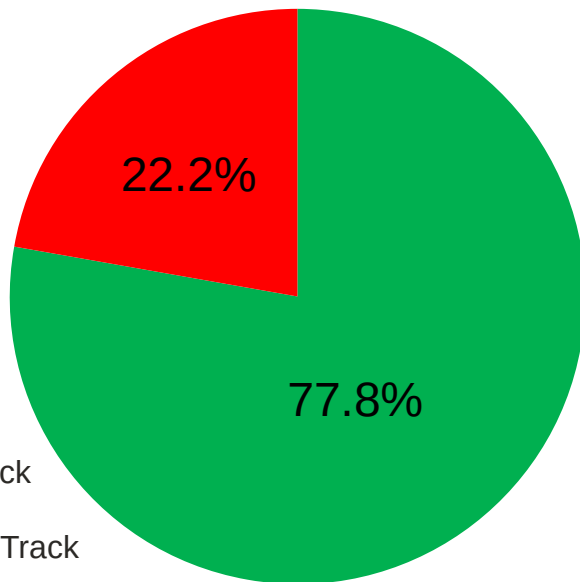


CLEAR ROUTE TO MONTELL LEAD

- 7 days of observations from 10/1/17 – 10/8/2017
- Focused on validation of/ interference to BNSF's proposed operating plan

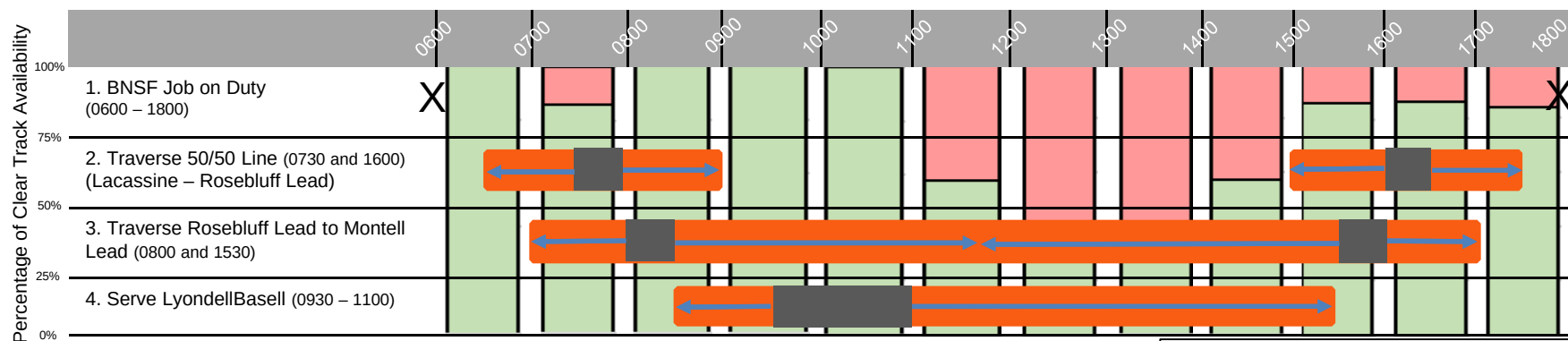
Results :

- Identified clear track through Rosebluff Yard a majority of the time (often two open tracks during UP's window)
- Identified consistent sequence of operations throughout the week
- Validated the functionality of BNSF's operating plan



- Available Track
- No Available Track

LyondellBasell – Operating Windows (1/2)



1. BNSF 12-Hour Job 0600 - 1800

2. 50/50 Line Operation

- West Switch @ Lacassine to Rosebluff Lead approx. 17.82 miles
- Average train speed 35 mph
- Average transit time 31 minutes
- Trains/Day Capacity 32 trains. Jan 1, 2017 – Oct 13, 2017 Avg. Trains/Day 17 trains
- Between 0600-0900 Avg. 2-4 trains, 1100-1800 average 4-8 trains

3. Rosebluff Lead

- Arrive Rosebluff Lead @ 0800; roughly 4 miles from Rosebluff Lead switch to Montell Lead
- Average train speed = 10 mph, no more than 30 minutes to traverse Rosebluff Lead
- Clear route through Rosebluff Yard noted roughly 75% of the day (as seen by above charts)
- Between the hours of 0600-0800, clear route observed almost 95% - 100% of the time
- Between the hours of 0800-1100, clear route observed 100% of the time
- As noted, additional careful coordination will be needed between 1200-1400 due to switching operations in the Rosebluff Yard, however, enough operational flexibility exists for adjustments in train time operation

4. LYB Service Plan

- Arrive LYB @ 0930; avg. 15-20 inbound/outbound cars per day; Estimated service time 1 – 2 hours*
- Set inbound cars between East & West switches into LYB on Montell Lead
 - Distance between East & West switch equal to roughly 2,200 ft. or less than 33 covered hoppers @ 65ft on avg
- Cut power from inbound cars leaving on Montell Lead
- Pull outbound cars, double over to couple into inbound cars then spot inbound cars into LYB
- Exit East end switch without outbound cars and spot between East & West end switch or Montell Lead
- Cut power from outbound cars and run power through facility to West end switch
- Couple in to outbound cars for departure to Rosebluff Lead

* Note: UP YRB76 performed same sequence for service to LYB on Monday, Oct. 2, switching time = 2030 to 2205 or 1 hr. 35 min. without air test

LyondellBasell – Operating Windows (2/2)



- The chart on the preceding slide shows operational flexibility (orange shaded area) that exists for BNSF trains to operate during UP's operating window of 0600 to 1800, as well as specific targeted times (dark grey shaded area) for various BNSF train movements required to directly serve LyondellBasell.
- The underlying green and red bars depict the percentage of time, during a specific one-hour period, that a clear route was available between the Rosebluff Lead, the Montell Lead, and the LyondellBasell facility.

BNSF Operation to LYB- Tuesday, October 3, 2017



Option 1

- **0600:** BNSF LYB Crew on duty;
- **0805:** BNSF departs Lacassine Yard;
 - Train traverses 50/50 Line between UP train (Lead Loco: UP 3845) that ran EB at 0723 and UP train (Lead Loco: NS 2804) that ran WB at 0903.
- **0836:** BNSF arrives Rosebluff Lead and uses Trk 1 to move through Rosebluff Yard to Montell Lead;
 - Rosebluff Yard Trk 1 observed clear at 0834 thru 1217.
- **0900:** BNSF arrives Montell Lead to begin service to LYB;
- **1045:** KCS departed Rosebluff Yard;
- **1100:** BNSF service to LYB complete and departs Montell Lead;
 - YRB66 was ready to depart from Firestone Yard to service east end of Montell Lead at 1040 and YRB46 was ready to depart from Firestone Yard to Rosebluff Yard at 1045.
 - YRB46 would trail BNSF into Rosebluff Yard upon BNSF departure to 50/50 Line.
 - YRB66 would enter Montell Lead after BNSF departure.
- **1124:** BNSF arrives Rosebluff Yard for entry to 50/50 Line, stage BNSF in Trk 1 or North of Rosebluff Yard near entry to 50/50 line;
- **1145:** BNSF Departs Rosebluff Lead;
 - Train traverses 50/50 Line between UP train (UP Lead Loco: UP 4863) that ran WB at 1102. Next train across 50/50 Line didn't run until the BNSF 'LALHOU' ran WB at 1652.
- **1216:** BNSF arrives Lacassine Yard.

Option 2

- **0600:** BNSF LYB Crew on duty;
- **0805:** BNSF departs Lacassine Yard;
 - Train traverses 50/50 Line between UP train (Lead Loco: UP 3845) that ran EB at 0723 and UP train (Lead Loco: NS 2804) that ran WB at 0903.
- **0836:** BNSF arrives Rosebluff Lead and lands Trk 1 in Rosebluff Yard to hold for Montell Lead window behind YRB66;
 - Rosebluff Yard Trk 1 observed clear at 0834 thru 1217.
- **1030:** BNSF depart Rosebluff Yard Trk 1 towards Montell Lead to follow YRB66 onto Montell Lead to begin service to LYB;
- **1040:** YRB66 arrives Montell Lead and traverses to east end for service to Haliburton and Kronos;
- **1050:** BNSF arrives Montell Lead to begin service to LYB;
- **1100:** YRB46 departs Firestone Yard for movement to Rosebluff Yard;
 - YRB46 was ready to depart from Firestone Yard to Rosebluff Yard at 1045 by recorded event, so would slightly modify their plan to depart after BNSF arrives Montell Lead ahead of them.
- **1250:** BNSF service to LYB complete and departs Montell Lead;
 - BNSF train staged on Rosebluff Lead between Montell Lead and Rosebluff Yard waiting for YRB46 to clear Trk 1.
- **1434:** Trk 1 in Rosebluff Yard observed clear;
- **1445:** BNSF arrives Rosebluff Yard for entry to 50/50 Line and Departs Rosebluff Lead;
 - Train traverses 50/50 Line between UP train (UP Lead Loco: UP 4863) that ran WB at 1102. Next train across 50/50 Line didn't run until the BNSF 'LALHOU' ran WB at 1652.
- **1516:** BNSF arrives Lacassine Yard.

EXHIBIT B

Exhibit B consists of an animated visualization depicting BNSF's proposed operating plan and interaction with existing operations. BNSF has submitted this animation to the Board on disc, and it can also be accessed here:

<https://vimeo.com/bnsfrailway/review/249143235/8360c299f5>

REDACTED – TO BE PLACED ON PUBLIC FILE

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

**BNSF RAILWAY COMPANY
-- TERMINAL TRACKAGE RIGHTS --
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY**

VERIFIED STATEMENT OF

MICHAEL R. BARANOWSKI

JANUARY 12, 2018

I. INTRODUCTION

I am Michael R. Baranowski, a Senior Managing Director at FTI Consulting and the head of FTI's Network Industries Strategies group within the Economic Consulting division. I have over thirty years of experience in analyzing railroad traffic and revenue patterns, evaluating railroad operations, analyzing railroad data, calculating and projecting the costs of providing railroad service, analyzing contribution and profitability, analyzing damage claims and determining the reasonableness of railroad rates and charges. I have testified numerous times before the Surface Transportation Board, arbitration panels and other federal and state regulatory agencies regarding economic issues related to transportation. I submitted a Rebuttal Verified Statement in this proceeding on October 23, 2015 (Baranowski Rebuttal V.S.). A copy of my Curriculum Vitae is included as Attachment 1 to this verified statement.

In my Rebuttal V.S., I demonstrated based on data provided by UP and KCS that operating windows during which neither UP nor KCS trains occupy the Rosebluff Yard at West Lake Charles, Louisiana, occur daily. I also showed that much of the industry switching activity conducted by UP south of the Rosebluff Yard on the Rosebluff Lead occurred from late evening through early morning, leaving a window from {{ [REDACTED] }} on the Rosebluff Lead that is largely unencumbered by UP industry switching activity.

I have been asked by BNSF to refresh and expand my prior analysis of the UP and KCS data and to consider additional information from BNSF's more recent field observations to determine whether the operating plan proposed by BNSF to provide direct service to the LyondellBasell facility, located off of the Rosebluff Lead on the Montell Lead, conflicts with the operations depicted in the UP and KCS data. My analyses of the relevant data detailing train

operations on the Rosebluff Lead and cars moving into and out of the Rosebluff Yard show that capacity exists to accommodate BNSF's proposed operating plan for serving LyondellBasell.

II. PRIOR FINDINGS

In my Rebuttal V.S., I used data produced by KCS and UP in discovery in this proceeding to determine if operating windows sufficient to allow transit of BNSF trains exist routinely under current Rosebluff Yard and Lead track configuration and operating practices. I found based on those data that openings do routinely exist (although not at the same time every day) within the existing Rosebluff Yard and Rosebluff Lead track configuration, although much of the information produced by KCS and UP was not sufficiently detailed to identify the precise times and locations of trains operating in the Yard and on the Lead. With the minor exception of the UP reverse spreader train¹ now entering Rosebluff Yard slightly later in the day, I understand that existing operations on the Rosebluff Lead and its connecting spurs potentially relevant to BNSF's proposed operations have not changed significantly from operations during the time period covered by the data produced by UP and KCS in the discovery phase of this proceeding.

A. Rosebluff Yard Operating Windows

KCS produced data showing when UP and KCS trains enter and exit the Rosebluff Yard for a time period covering May 1, 2014 through June 16, 2014.² The data show, by reported KCS and UP train symbol, the time window when each train was within Rosebluff Yard each day.

Figure 1 below, which is a reproduction of Figure 2 from my Rebuttal V.S., charts the reported

¹ UP's reply evidence submitted in this proceeding on August 24, 2015 ("UP Reply") identified YRB86 as the reverse spreader train which travels northbound moving cars up the Rosebluff Lead into Rosebluff Yard in the morning. See UP Reply Evidence, Counsel's Map Exhibit D. I understand based on BNSF's recent observational study of Rosebluff Yard and Rosebluff Lead operations that this train, while serving the same purpose, may now be identified as the YRB46. See BNSF Petition, Exhibit 1 at 3.

² KCS also produced data for the January and February 2015 period, but this data was incomplete as it did not include actual times when UP's YRB 65 entered the Rosebluff Yard.

train yard occupancy times by train symbol and day between May 1, 2014 and June 15, 2014.³

This figure is shown in higher resolution in Appendix A.

Figure 1
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}

*Source: Baranowski Workpaper “Operating Data Analysis.xlsx” tab “Yard Occupancy”
See also KCS-C-0319-0320*

Gaps between vertical bars in Figure 1 indicate times when no active trains or locomotives working switching jobs are reported by KCS as occupying the Rosebluff Yard and show that the times and duration of potential windows vary. I note that the KCS data does not include information on UP train YAK63, which I understand works in the Rosebluff Yard in the late afternoon. The typical duration of the gaps for the trains that are reported by KCS occurring during UP’s 12-hour operating period between 6 a.m. and 6 p.m. each day average { [REDACTED] [REDACTED] }.

³ A full-size version of this figure and supporting details are included in my work papers. See Baranowski RVC Workpaper “Operating Data Analysis.xlsx” tab “Yard Occupancy.”

KCS also produced a study based on April 2014 data that concludes that the Rosebluff Yard was occupied {{[REDACTED]}} of the time by either UP or KCS, and that an average day had about {{[REDACTED]}} hour long windows with no trains in the yard. Figure 2 below is a replication of the study result produced by KCS.

Figure 2
{{[REDACTED]}}

}}

Source: KCS-HC-0034

For my Rebuttal V.S., I also looked at a combination of KCS-produced data and UP event data that report when certain UP trains exit and enter the Rosebluff Yard – on both the north end of the Rosebluff Yard for trains en route to and from UP’s North Yard⁴ on the 50/50 Line and the south end for trains moving on the Rosebluff Lead – to determine the presence of any potential operating windows. Figure 3, which is a reproduction of Figure 4 from my Rebuttal V.S., depicts with green bars, for the same time period for which KCS produced data depicted in Figure 1 above – May 1, 2014 through June 15, 2014 – the amount of time that the Rosebluff

⁴ UP’s North Yard is also referred to as UP’s Lake Charles Yard

Yard is clear of trains in the morning between when UP's reverse spreader train YRB46 (formerly designated as YRB86 as discussed above in footnote 1) exits the Rosebluff Yard en route to North Yard and UP's spreader train YRB65 enters, and in the afternoon between when UP train YRB65 departs the Rosebluff Yard to travel down the Rosebluff Lead and when UP train YAK63 arrives from North Yard.

Figure 3

{{

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Source: Baranowski Workpaper "Operating Data Analysis.xlsx" tab "Openings"

See also KCS-C-0319-0320 and UP-WLC-0000920

Figure 3 shows that large windows during which no trains operate in Rosebluff Yard occur regularly during both the morning and afternoon of UP's 12-hour operating period.

B. Rosebluff Lead Operating Windows

In my Rebuttal V.S., I was also able to identify from the customer switching event data provided by UP, the relative time of day that UP switches the individual customers it serves along the Rosebluff Lead. Table 1 below is a reproduction of Table 8 from my Rebuttal V.S. and

identifies the relative percentage of industry switching that UP performs during each of eight three-hour time blocks during each day from January 2, 2014 to July 31, 2015.

Table 1: UP Customer Switching by Time Block

Customer - 1/	Switch Train Designated by UP (UP-WLC-398)	Percent of Industry Switching Performed by Time of Day							
		12am to 3am	3am to 6am	6am to 9am	9am to 12pm	12pm to 3pm	3pm to 6pm	6pm to 9pm	9pm to 12am
Halliburton	YRB66								
Kronos	YRB66								
Equistar	YRB74								
Westlake Poly.	YRB74								
Grace Davison	YRB75								
Southern Ionics	YRB75								
Phillips 66	YRB75								
Rain CII Carbon	YRB75								
Westlake Styrene	YRB75								
CITGO Lube	YRB76								
Westlake Petro.	YRB76								
Firestone	YRB76								
1/ - Exclude CITGO Petroleum because UP-produced data only includes a handful of switching records for this customer									

Source: Baranowski Workpaper “Operating Data Analysis.xlsx” tab “Switching Times” See also UP-WLC-0000398(R) and UP-WLC-0000919

Table 1 shows that that vast majority of UP customer switching occurs outside of the {{ [REDACTED] }} time blocks, suggesting that the Rosebluff Lead is unlikely to be blocked by industry switching efforts during that time each day.⁵

⁵ Table 1 shows that only {{ [REDACTED] }} switching performed between 9am and 6pm. UP’s V.S. of Jamal Chappell and Michael Matya states that “most of YRB66’s work is performed on spur tracks off the [lead]...but YRB 66 fouls (i.e. obstructs) the Lead while switching cars for customer facilities located closer to the lead.” (page 12). Maps produced by

III. UPDATE OF POTENTIAL OPERATING WINDOW ANALYSES FOR BNSF LYONDELLBASELL PROPOSED OPERATIONS

When I analyzed UP and KCS data for my Rebuttal V.S., BNSF was contemplating providing direct service to CITGO, which is located on a spur off of the Rosebluff Lead. *See* UP-WLC-0000398(R). BNSF had not yet elected to serve, or submitted a detailed operating plan to serve, LyondellBasell (formerly Equistar), which is located on a different spur (the Montell Lead) off of the Rosebluff Lead. The Montell Lead is owned by the Port of Lake Charles. I understand that UP currently operates over the Montell Lead under operating rights granted by the Port of Lake Charles.

For this statement, I have updated and refined the analysis from my Rebuttal V.S. to focus specifically on the feasibility of BNSF proposed operating plan for providing direct service to LyondellBasell. Similar to the CITGO analysis, my evaluation of the UP and KCS data relative to BNSF's proposed operating plan for service LyondellBasell found that adequate capacity exists to accommodate the proposed BNSF operations under the existing Rosebluff Yard and Rosebluff Lead track configurations.

A. BNSF Proposed Operating Plan For LyondellBasell

BNSF has proposed a plan for providing service to the LyondellBasell facility seven days per week. Under the plan, described more fully in the Verified Statement of Rob Reilly submitted concurrently with this statement ("Reilly V.S."), a crew will come on duty at BNSF's Lacassine Yard with the sole purpose of making a roundtrip move to serve the LyondellBasell facility, typically with approximately 15 to 20 cars each day. *See* Reilly V.S. at 6-8 for additional details. It is my understanding that the operating plan was developed by BNSF in order to minimize interference with UP trains.

UP indicate that {{ [REDACTED] }} are located at the end of the Montell Lead (*See* UP-WLC-0000398(R)).

Under the BNSF plan, the BNSF train will traverse the Rosebluff Lead from its connection with the 50/50 Line, through the Rosebluff Yard and to the turnout for the Montell Lead. LyondellBasell is located on the Montell Lead, which is owned by the Port of Lake Charles and is currently accessed by UP under an operating agreement with the Port. The BNSF plan assumes that BNSF will obtain comparable rights from the Port to operate over the Montell Lead. I understand that the Port has indicated to BNSF that it does not have objections to BNSF operating on the Montell Lead.

B. Update and Refinement of Rebuttal Analysis Based on BNSF Proposed LyondellBasell Plan

To assess the feasibility of BNSF's proposed plan for service to LyondellBasell, I updated my Rebuttal V.S. analysis to assess capacity in the Rosebluff Yard and occupancy on the portion of the lead south of Rosebluff Yard. My update reevaluates the data produced by UP and KCS in light of the key steps identified in the BNSF operating plan, taking into consideration the narrative explanations in UP's Reply and more recently observed operations by BNSF, as summarized in the Reilly V.S.⁶ My update identified the existing UP trains operations that could interact with BNSF's proposed operating plan. Generally, these trains are as follows:

1. UP's reverse spreader train YRB46 (formerly designated as YRB86 as discussed above in footnote 1), which travels northbound up the Rosebluff Lead in the morning picking up cars along the way, enters the Rosebluff Yard where it may perform switching activities while holding for clearance to the 50/50 line, and then continues onto the 50/50 Line toward UP's North Yard.

⁶ See UP Reply Evidence, Counsel's Map Exhibit D; BNSF Petition, Exhibit 1 at 3; Reilly V.S. at 10-11.

2. UP spreader train YRB65 performs switching during the morning and/or early afternoon in the Rosebluff Yard and then moves blocks of cars from the Rosebluff Yard down the Rosebluff Lead setting them out along the way at various locations in the afternoon.
3. UP's YRB66 job performs switching in the Firestone Yard, located off the Rosebluff Lead just south of the connection between the Rosebluff Lead and the Montell Lead, and at industries on the east end of the Montell Lead during the morning and/or early afternoon.⁷

I understand that the Reilly V.S. addresses how BNSF will coordinate with the YRB66 job when both are potentially operating in the same area. *See Reilly V.S.* at 10-11. To evaluate the risk of the remaining UP train activities interfering with BNSF's proposed LyondellBasell service, I developed the theoretically available capacity in the Rosebluff Yard from data produced by KCS in discovery for the month of April 2014, and identified time blocks when existing operations were occupying the Rosebluff Lead south of the Rosebluff Yard. As detailed below, I determined from the KCS discovery data that existing operations leave ample capacity for the BNSF train to pass through the Rosebluff Yard down the Rosebluff Lead and back up the Lead and through the Yard.

1. Analysis of Occupancy of Rosebluff Yard

The April 2014 study KCS produced, summarized in Figure 1 above, includes detailed yard event data between April 1, 2014 and May 2, 2014 that allowed me to determine how many cars were in the Rosebluff Yard at any given point. *See KCS-HC-34.* Specifically, the KCS yard event data is captured at two "AEI Reader Sites," identified in the data as { { [REDACTED]

⁷ An inbound train from UP's North Yard arrives at Rosebluff Yard later in the afternoon, but I understand this occurs after when the BNSF train would have returned to Lacassine Yard. *See BNSF Petition, Exhibit 1 at 3.*

■}}, that are respectively located at the northeast and southwest ends of the Rosebluff Yard.⁸

The data captures the time when a car passes the reader, along with other information including the train it was traveling on and the direction of the train. Consistent with how the KCS study defined yard arrival and departure events, I identified a car arriving at the Rosebluff Yard when it travelled north past the reader on the southwest end of the Yard, or south past the reader on the northeast end of the Yard, and I identified a car departing the Yard in the reverse cases. Based on observed sequences of yard arrival and departure events for a given car, I was able to identify the intervals when the car was in the Rosebluff Yard. Details of these calculations are contained in my workpapers.

Based on these intervals, I was able to calculate from the data the number of cars in the Rosebluff Yard between 7 a.m. and 3 p.m. each day. This time range covers the entire period relevant to BNSF’s proposed operating plan, during which a BNSF train would pass through the Rosebluff Yard once in the southern direction going to the Montell Lead and once returning in the northern direction from the Montell Lead.⁹ Because the data for the beginning and end of the covered time period likely included incomplete cycles with many reader event reportings occurring before or after the covered period, April 1 to May 2, I focused on the calculated car counts for eighteen days in the middle of the month – from April 8 through April 25.

KCS also produced information regarding the approximate capacity of Rosebluff Yard as set forth in Table 2 below.¹⁰

⁸ KCS-HC-34. “(KCS-HC-0034) Rosebluff AEI for % of day blocked working 5.5.14.xlsx”, tab “Time Calc”, columns H-I.

⁹ See Baranowski Workpaper “Cars in Rosebluff Yard Analysis Technical Description.docx”.

¹⁰ KCS-HC-0020.

Table 2
Rosebluff Yard Track Lengths {{

}}

I used the reported capacity of Rosebluff Yard to determine the maximum number of cars that could occupy the Yard while still leaving one track completely clear for passage of a BNSF train and determined that the Rosebluff Yard could theoretically hold {{ [REDACTED] [REDACTED] }} and still clear a track completely. Table 3 shows the results of my calculations of the number of cars in Rosebluff Yard at the top of each hour between 7:00AM and 3:00PM from April 8, 2014 through April 25, 2014 and calculates the theoretical number of achievable clear tracks based on a reported total capacity of {{ [REDACTED] }} and an average capacity per track of {{ [REDACTED] }} cars.

Table 3
Calculation of Theoretically Clear Tracks Based on Calculated Yard Occupancy {{

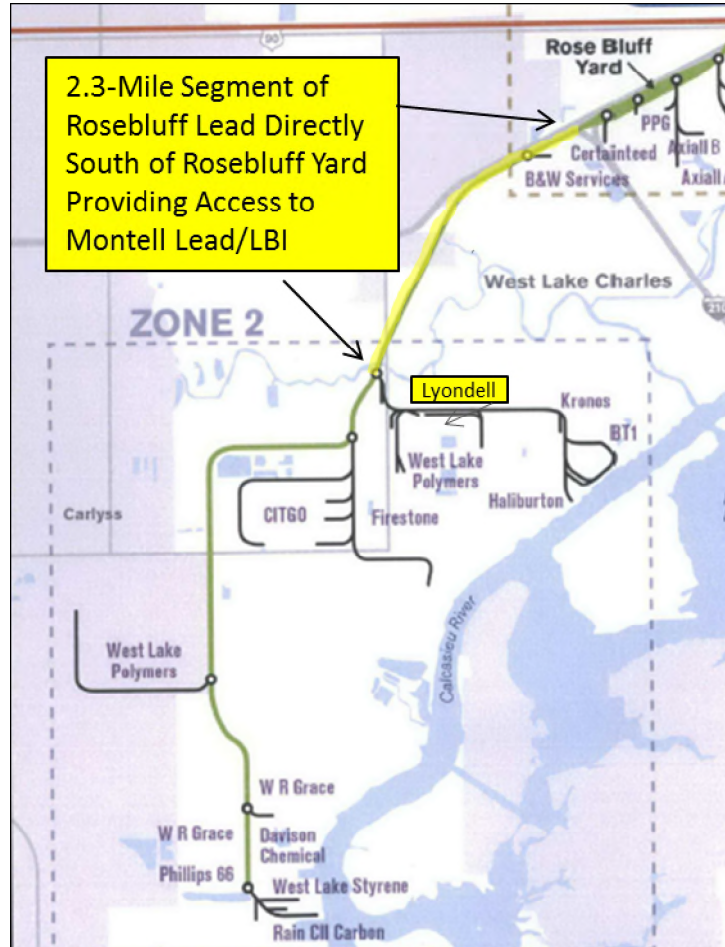
}}

Table 3 shows that over the 18-day study period an average of {{█}} tracks were theoretically available on average between 7 a.m. and 3 p.m. and on the days when the highest number of cars were occupying the yard during a given hour there were on average {{█}} tracks theoretically available over the studied window, which represents adequate capacity to accommodate the proposed BNSF operations.

2. Analysis of Occupancy of Rosebluff Lead Between Rosebluff Yard and Montell Lead Turnoff

The switch to the Montell Lead from the Rosebluff Lead is a relatively short 2.3-mile distance south of the southern end of Rosebluff Yard, as depicted below in Figure 5. Under BNSF's proposed operating plan, BNSF requires two time slots of approximately 30 minutes duration to traverse this Rosebluff Lead segment, one in the southern direction going to the Montell Lead and a second returning in the northern direction from the Montell Lead.

Figure 5
Map of Segment of Rosebluff Lead South of Rosebluff Yard to Montell Lead Turnoff



Using data from the KCS April 2014 Study, I determined when train movement and other locomotive activity was reported on the portion of the Rosebluff Lead directly south of the Rosebluff Yard. Specifically, the KCS data includes events captured by the AEI reader {{ [REDACTED] [REDACTED] }} reporting the time when a specific car or locomotive arrives or departs at the south end of the Rosebluff Yard to or from the Rosebluff Lead. The data consistently reports cuts of cars along with a locomotive consist arriving or departing at the same time, indicating they are all part of the same train movement. I identified all unique times reported in the data for April 2014 representing distinct movements and separated the movements between trains moving up or down the Rosebluff Lead from the Rosebluff Yard and other locomotive activity, including the

repositioning of locomotives before or after performing switching jobs at industries down the Lead, switching activity within the Yard during which the switching locomotives utilize a portion of the Lead when pulling from or shoving into the Yard tracks, or other light engine movements.¹¹ The below Figure 6 depicts all movement activity that was reported on the Rosebluff Lead south of the Rosebluff Yard for each hour block of each day in April 2014.

Figure 6
Occupancy of Portion of Lead South of Rosebluff Yard Based on KCS April 2014 Data {{

}}

The above Figure 6 shows that for the majority of the time during which BNSF proposes to use the Rosebluff Lead for access to and egress from the Montell Lead there was no activity reported on the Rosebluff Lead south of the Rosebluff Yard. Further, for those time blocks in which some activity is reported, it is likely this would not pose an obstruction to the 2.3-mile segment for the entire hour. For example, a 1.2-mile long train, which represents 100-cars averaging 65-feet in length, would clear the 2.3-mile Rosebluff Lead segment in 29-minues

¹¹ Of the {{█}} unique movements identified in April 2014, I treated the {{█}} movements with cuts of 25 or more cars as train movements, which had an average of {{█}} cars. The remaining {{█}} movements had an average of {{█}} cars, with many containing locomotives only.

traveling at 10 mph.¹² Further, a locomotive-only consist would require less than half this time to clear the 2.3-mile Rosebluff Lead segment under the same circumstances.

The above results in Figure 6 are consistent with UP's description of operations discussed above where the YRB46 reverse spreader train comes up the Rosebluff Lead into Rosebluff Yard each morning and the YRB65 spreader train goes down the Lead from the Yard later in the afternoon. I understand that, based on the BNSF observation study conducted on October 3, 2017, *see* Reilly V.S., Exhibit A at 7, UP's YRB46 reverse spreader train comes up the Rosebluff Lead around 11 a.m. I modified the above Figure 6 to depict this 11 a.m. time, as shown in Figure 7 below.¹³

Figure 7
Occupancy of Portion of Lead South of Rosebluff Yard Adjusted to Reflect Reported
Current Operations{{

}}

¹² (1.2-mile train clear of Rosebluff Yard + 1.2-mile train clear of Montell Lead turnoff + 2.3 miles lead segment) = 4.9 miles clear length / 10 mph x 60 minutes = 29.2 minutes).

¹³ The occasional train movements shown on Figure 7 occurring between 1 p.m. to 3 p.m. represent the YRB65 spreader train departing the Rosebluff Yard southbound down the Rosebluff Lead, which UP's reply evidence indicated may occur as early as 2 p.m., but we understand generally occur later in the afternoon. *See* UP Reply, Counsel's Map Exhibit D.

The adjusted scenario depicted above in Figure 7 likewise shows ample time when there is little or no movement activity on the Rosebluff Lead south of Rosebluff Yard. The data confirms that there is ample opportunity for BNSF to traverse the Rosebluff Lead from the south end of Rosebluff Yard to the Montell Lead as proposed in BNSF's operating plan for providing service to LyondellBasell.

VERIFICATION

I, Michael R. Baranowski, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.


Michael R. Baranowski

Executed: January 12, 2018

Michael R. Baranowski

Senior Managing Director – Economic Consulting

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EDUCATION

B.S. in Accounting, Fairfield University
Supplemental Finance Studies, Kean College

Mike Baranowski heads FTI's Network Industries Strategies practice and provides strategic, financial and economic consulting services to the telecommunications and railroad and pipeline transportation industries. He has special expertise in analyzing and developing complex costing and cash flow models, conducting detailed operations analysis, and transportation engineering. Much of his work involves providing oral and written expert testimony before courts, arbitration panels and regulatory bodies.

He is a recognized expert in railroad regulatory economics and has assisted FTI's railroad clients in a broad range of litigation and regulatory engagements involving pricing of services, contract disputes, damage calculations and analyses of the specific effects of pending or proposed changes in policy or regulation.

Some of Mr. Baranowski's representative experience includes:

- Development of strategic litigation approach for large railroad rate proceedings based on the theory of Constrained Market Pricing and the Stand-Alone cost test. Theory assumes the existence of a hypothetical, efficient competitor and involves detailed analysis of railroad operations, expenses, capital expenditures and revenues.
- Development of a suite of modeling tools to assess the regulatory risk of railroad rates for a mix of commodities based on key cost drivers and forecasts.
- Design and development of modeling tools designed to simulate the cost of competitive entry into local telecommunications markets and directing the efforts of a nationwide team of testifying experts presenting the cost model results in multiple proceedings across the country.
- Detailed analysis, critique and restatement of complex cost models developed for the railroad, telecommunications, pipeline and trucking industries.
- Designing modeling tools for use in calculating the costs of competitive entry into railroad, telecommunications and pipeline markets.
- Conducting detailed analyses of railroad operations and developing the associated capital requirements and operating expenses attributable to specific movements and the incremental capital and operating expense requirements attributable to major changes in anticipated traffic levels.

Mr. Baranowski holds a B.S. in Accounting from Fairfield University in Fairfield, Connecticut and has pursued supplemental finance studies at Kean College in Union, New Jersey.

SELECT RAILROAD TESTIMONY

Surface Transportation Board

February 4, 2008	Docket No. 42099 E.I. DuPont De Nemours and Company v. CSX Transportation, Inc., Opening Evidence of CSX Transportation, Inc.
February 4, 2008	Docket No. 42100 E.I. DuPont De Nemours and Company v. CSX Transportation, Inc., Opening Evidence of CSX Transportation, Inc.
February 4, 2008	Docket No. 42101 E.I. DuPont De Nemours and Company v. CSX Transportation, Inc., Opening Evidence of CSX Transportation, Inc.
May 1, 2008	Docket No. Ex Parte 679 Petition of the AAR to Institute a Rulemaking Proceeding to Adopt a Replacement Cost Methodology to Determine Railroad Revenue Adequacy, Verified Statement of Michael R. Baranowski
July 14, 2008	Docket No. 42088 Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Company, Third Supplemental Reply Evidence of BNSF Railway Company
July 14, 2008	Docket No. AB-515 (Sub-No. 2) Central Oregon & Pacific Railroad, Inc. -- Abandonment and Discontinuance of Service -- in Coos, Douglas, and Lane Counties, Oregon (Coos Bay Rail Line)
August 8, 2008	Docket No. 41191 (Sub-No. 1) AEP Texas North Company v. BNSF Railway Company, Fourth Supplemental Evidence of BNSF Railway Company
August 11, 2008	Docket No. 42104 Entergy Arkansas, Inc. and Entergy Services, Inc. v Union Pacific Railroad Company and Missouri & Northern Arkansas Railroad Company, Inc.; Finance Docket No. 32187 Missouri & Northern Arkansas Railroad Company, Inc. -- Lease, Acquisition and Operations Exemption -- Missouri Pacific Railroad Company and Burlington Northern Railroad Company, Reply Evidence and Argument of Union Pacific
September 5, 2008	Docket No. 41191 (Sub-No. 1) AEP Texas North Company v. BNSF Railway Company, Fourth Supplemental Reply Evidence of BNSF Railway Company
September 12, 2008	Docket No. AB-515 (Sub-No. 2) Central Oregon & Pacific Railroad, Inc. -- Abandonment and Discontinuance of Service -- in Coos, Douglas, and Lane Counties, Oregon (Coos Bay Rail Line); Rebuttal to Protests
August 24, 2009	Docket No. 42114 US Magnesium, L.L.C. v. Union Pacific Railroad Company, Opening Evidence of Union Pacific Railroad Company
October 22, 2009	Docket No. 42114 US Magnesium, L.L.C. v. Union Pacific Railroad Company, Rebuttal Evidence of Union Pacific Railroad Company
January 19, 2010	Docket No. 42110 Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc., Reply Evidence of CSX Transportation, Inc.
May 7, 2010	Docket No. 42113 Arizona Electric Power Cooperative, Inc. v. BNSF Railway Company and Union Pacific Railroad Company, Joint Reply Evidence of BNSF Railway Company and Union Pacific Railroad Company
November 22, 2010	Docket No. 42088 Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Company, BNSF Comments on Remand, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher

Michael Baranowski

January 6, 2011	Docket No. 42056 Texas Municipal Power Agency v. BNSF Railway Company, BNSF Reply to TMPA Petition for Enforcement of Decision, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
October 28, 2011	Docket No. FD 35506 Western Coal Traffic League - Petition for Declaratory Order, Opening Evidence of BNSF Railway Company, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
November 10, 2011	Docket No. 42127 Intermountain Power Agency v. Union Pacific Railroad Company, Reply Evidence of Union Pacific Railroad Company
November 28, 2011	Docket No. FD 35506 Western Coal Traffic League - Petition for Declaratory Order, Reply Evidence of BNSF Railway Company, Joint Reply Verified Statement of Michael R. Baranowski and Benton V. Fisher
May 10, 2012	Docket No. 42056 Texas Municipal Power Agency v. BNSF Railway Company, BNSF Reply to TMPA Petition to Reopen and Modify Rate Prescription, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
November 30, 2012	Docket No. 42125 E.I. DuPont De Nemours & Company v. Norfolk Southern Railway Company, Reply Evidence of Norfolk Southern Railway Company
December 7, 2012	Docket No. Ex Parte 715, Rate Regulation Reforms, Reply Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski
January 7, 2013	Docket No. 42130 SunBelt Chlor Alkali Partnership v. Norfolk Southern Railway Company, Reply Evidence of Norfolk Southern Railway Company
March 1, 2013	Ex Parte No. 711 Petition for Rulemaking to Adopt Revised Competitive Switching Rules, Opening Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Richard W. Brown
April 12, 2013	Docket No. 42136 Intermountain Power Agency v. Union Pacific Railroad Company, Reply Evidence of Union Pacific Railroad Company
April 30, 2013	Ex Parte No. 711 Petition for Rulemaking to Adopt Revised Competitive Switching Rules, Reply Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Richard W. Brown
June 20, 2013	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Comments of the Association of American Railroads, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
September 5, 2013	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Reply Comments of the Association of American Railroads, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
July 21, 2014	Docket No. 42121 Total Petrochemicals & Refining USA, Inc. v. CSX Transportation, Inc., Reply Evidence of CSX Transportation, Inc.
September 5, 2014	Ex Parte No. 722 Railroad Revenue Adequacy, Opening Comments of Norfolk Southern Railway Company, Verified Statement of Michael R. Baranowski
November 4, 2014	Ex Parte No. 722 Railroad Revenue Adequacy, Reply Comments of Norfolk Southern Railway Company, Verified Statement of Michael R. Baranowski

Michael Baranowski

September 4, 2015	Docket No. FD 35743 Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308(a) - Canadian National Railway Company, Opening Evidence of Illinois Central Railroad Company and Grand Trunk Western Railroad, Joint Verified Statement of Michael Baranowski and Benton Fisher
October 7, 2015	Docket No. 42121 Total Petrochemicals & Refining USA, Inc. v. CSX Transportation, Inc., Supplemental and Compliance Evidence of CSX Transportation, Inc.
October 23, 2015	Docket No. FD 33760 (Sub-No. 46) BNSF Railway Company - Terminal Trackage Rights -- Kansas City Southern Railway Company and Union Pacific Railroad Company, BNSF Rebuttal Statement, Verified Statement of Michael R. Baranowski
November 20, 2015	Docket No. 42121 Total Petrochemicals & Refining USA, Inc. v. CSX Transportation, Inc., Reply to Supplemental and Compliance Evidence
March 7, 2016	Docket No. 42142 Consumers Energy Company v. CSX Transportation, Inc., Reply Evidence of CSX Transportation, Inc.
July 18, 2016	Docket No. FD 35842 New England Central Railroad, Inc. -- Trackage Rights Order -- Pan Am Southern LLC, Pan Am Southern Reply Evidence, Verified Statement of Michael R. Baranowski
July 26, 2016	Ex Parte No. 704 (Sub-No. 1) Review of Commodity, Boxcar, and TOFC/COFC Exemptions, Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher
August 26, 2016	Ex Parte No. 704 (Sub-No. 1) Review of Commodity, Boxcar, and TOFC/COFC Exemptions, Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher
October 11, 2016	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Comment of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher
October 26, 2016	Ex Parte No. 711 (Sub-No. 1) Reciprocal Switching, Opening Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski
November 7, 2016	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Reply Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher
March 6, 2017	Docket No. 42142 Consumers Energy Company v. CSX Transportation, Inc., Supplemental Reply Evidence of CSX Transportation, Inc.

Circuit Court of Pulaski County, Arkansas

August 17, 2007	Case No. CV 2006-2711, Union Pacific Railroad v. Entergy Arkansas, Inc. and Entergy Services, Inc., Expert Witness Report of Michael R. Baranowski
December 14, 2007	Case No. CV 2006-2711, Union Pacific Railroad v. Entergy Arkansas, Inc. and Entergy Services, Inc., Reply Expert Witness Report of Michael R. Baranowski

U.S. District Court for the Eastern District of Wisconsin

February 15, 2008	Case No. 06-C-0515, Wisconsin Electric Power Company v. Union Pacific Railroad Company, Expert Reply Report of Michael R. Baranowski
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U.S. District Court for the Northern District of Texas, Fort Worth Division

- November 7, 2017 Civil Action No. 4:16-cv-1061-O, BNSF Railway Company v. Panhandle Northern Railroad LLC, Expert Report of Michael R. Baranowski
- November 22, 2017 Civil Action No. 4:16-cv-1061-O, BNSF Railway Company v. Panhandle Northern Railroad LLC, Reply Expert Report of Michael R. Baranowski

Arbitrations and Mediations

- February 12, 2009 In the Matter of the Arbitration between Wisconsin Public Service Corporation and Union Pacific Railroad Company, Rebuttal Expert Report of Michael R. Baranowski on behalf of Union Pacific Railroad Company
- October 16, 2009 In the Matter of Arbitration Between Norfolk Southern Railway Company and Drummond Coal Sales, Inc., Expert Report of Michael R. Baranowski on behalf of Norfolk Southern Railway Company
- July 25, 2011 American Arbitration Association Case No. 58 147 Y 0031809, BNSF Railway Company and Kansas City Southern Railway Company, Expert Report of Michael R. Baranowski on behalf of BNSF Railway Company
- April 25, 2013 JAMS REF #1340009009, Union Pacific Railroad vs. Canadian Pacific and Dakota, Minnesota & Eastern Railroad Arbitration, Expert Report of Michael R. Baranowski on behalf of Union Pacific Railroad Company
- September 6, 2013 IN JAMS ARBITRATION, Case No. 1220044715, Union Pacific Railroad Company v. BNSF Railway Company, Expert Report of Michael R. Baranowski
- October 25, 2013 IN JAMS ARBITRATION, Case No. 1220044715, Union Pacific Railroad Company v. BNSF Railway Company, Expert Reply Report of Michael R. Baranowski
- January 1, 2014 IN JAMS ARBITRATION, Case No. 1220044715, Union Pacific Railroad Company v. BNSF Railway Company, BNSF Post-Argument Submission, Affidavit of Michael R. Baranowski
- April 14, 2017 American Arbitration Association Case No. 01-15-0004-4830 and 01-15-0004-4931, Arbitration Between FirstEnergy Generation LLC and CSX Transportation, Inc. & BNSF Railway Company, Expert Report of Michael R. Baranowski
- November 22, 2017 American Arbitration Association Case No. No. 01-16-0003-6208, CSXT Transportation, Inc. v. JEA and Florida Power & Light Co., Expert Report of Michael R. Baranowski