

## Quarterly Status Report of Rate Complaint Cases Before the STB - 1ST QUARTER 2019\*

<b>Docket No:</b>	NOR 42142
<b>Case Name:</b>	Consumers Energy Co. v. CSX Transportation, Inc.
<b>Commodities:</b>	Coal

<b>Rate Review Type (SAC, SSAC, 3-Benchmark or Other):</b>	SAC and Revenue Adequacy
<b>Origin(s):</b>	Interchange with BNSF in the vicinity of Chicago, IL
<b>Destination(s):</b>	Campbell Generating Station near West Olive, MI

<b>Procedural Schedule:</b>	
<b>Date on Which Proceeding Began:</b>	January 13, 2015
<b>**Discovery Completed:</b>	July 1, 2015
<b>Opening Evidence:</b>	November 2, 2015 / January 23, 2017 (supplemental)
<b>Reply Evidence:</b>	March 7, 2016 / March 6, 2017 (supplemental)
<b>Rebuttal Evidence:</b>	May 20, 2016 / April 13, 2017 (supplemental)
<b>Closing Briefs:</b>	June 24, 2016

<b>Merits Decision:</b>	January 11, 2018
<b>Petitions for Reconsideration or Reopening / Petitions for Technical Corrections</b>	February 20, 2018
<b>Replies to Petitions for Reconsideration or Reopening</b>	March 12, 2018
<b>Decision on Reconsideration and Technical Corrections</b>	August 2, 2018
<b>Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint, and Discontinue the Proceeding</b>	January 28, 2019
<b>Decision Granting Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint, and Discontinue the Proceeding</b>	February 7, 2019

<b>Brief Description of the Final Decisions:</b>	
	The merits decision found that (1) CSXT has market dominance over the issue traffic; (2) the rate was shown to be unreasonably high under the SAC constraint; and (3) CSXT was not shown to be revenue adequate under the revenue adequacy constraint. Rate relief was prescribed under the SAC constraint. In a subsequent decision, the Board (1) confirmed its finding that the rate challenged was shown to be unreasonably high under the SAC constraint; (2) confirmed its finding that the complaining shipper did not show that the defendant railroad is revenue adequate under the revenue adequacy constraint; and (3) modified the maximum reasonable rates prescribed in the underlying decision to account for changes made to resolve petitions for technical corrections and petitions for reconsideration. Following a complete and final commercial settlement between the parties, the Board granted a joint petition to vacate the rate prescription, dismiss the complaint with prejudice, and discontinue the proceeding.

\* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this report includes updates from January 26, 2019, through the first quarter 2019.

\*\* Parties often set the schedule for discovery and do not necessarily inform the Board. This date is based on the information in the Board's possession, but may have changed.

**CONSUMERS ENERGY CO. v. CSX TRANSPORTATION, Docket No. NOR 42142**

Complete Timeline (Significant Filings and Decisions Only)

Consumers Complaint	January 13, 2015
CSXT Answer	February 2, 2015
CSXT Motion to Dismiss Revenue Adequacy Claim	March 24, 2015
Consumers Reply to CSXT Motion to Dismiss	April 13, 2015
Discovery Conference	April 21, 2015
STB Decision Denying CSXT Motion to Dismiss Rev. Adeq. Claim	June 15, 2015
Technical Conference	June 23, 2015
Close of Discovery*	July 1, 2015
STB Decision Adopting Procedures for Formatting of Evidence	July 15, 2015
Discovery Conference	July 20, 2015
Consumers Opening Evidence	November 2, 2015
CSXT Reply Evidence	March 7, 2016
CSXT Reply	March 7, 2016
CSXT Workpapers	March 7, 2016
CSXT Errata Sheet	March 8, 2016
CSXT Errata Sheet	March 8, 2016
Consumers Petition for Technical Conference	March 14, 2016
STB Decision Directing CSXT to File Response to Technical Conference	March 16, 2016
CSXT Reply to Consumers Technical Conference	March 21, 2016
STB Decision Denying Request for Technical Conference	April 6, 2016
CSXT Reply and Submission of Workpapers in Response to STB Decision	April 8, 2016
Consumers Motion to Modify Procedural Schedule	April 13, 2016
CSXT Reply to Consumers Motion to Modify Procedural Schedule	April 15, 2016
STB Decision Granting in Part Consumers Motion to Modify Procedural Schedule	April 20, 2016
Consumers Workpapers	May 20, 2016
Consumers Rebuttal	May 20, 2016
Consumers Rebuttal	May 20, 2016
CSXT Confidential Errata to Reply Evidence	May 26, 2016
CSXT Errata Sheet	May 26, 2016
Consumers Reply to CSXT Errata Evidence	May 27, 2016
CSXT Letter Requesting the Board Accept Its Errata Sheet	June 1, 2016
STB Decision Directing Parties to Prepare Closing Briefs	June 3, 2016
Consumers Errata Sheet	June 3, 2016
Consumers Errata Sheet	June 3, 2016
CSXT Motion to Strike	June 24, 2016
CSXT Motion to Strike	June 24, 2016
CSXT Final Brief	June 24, 2016
CSXT Final Brief	June 24, 2016
Consumers Final Brief	June 24, 2016
Consumers Final Brief	June 24, 2016
Consumers Motion to Remove CSXT Motion to Strike	June 27, 2016
Consumers Reply to CSXT Motion to Strike	July 14, 2016
Consumers Petition for Leave to Supplement Record	July 14, 2016
CSXT Reply to Consumers Petition for Leave to Supplement Record	July 26, 2016
STB Decision Ruling on Consumers Petition for Leave to Supplement Record and CSXT Motion to Strike, and Directing Parties to File Supplemental Evidence	December 9, 2016
Consumers Supplemental Opening Evidence	January 23, 2017
CSXT Supplemental Reply Evidence	March 6, 2017
Consumers Supplemental Rebuttal Evidence	April 13, 2017
CSXT Motion to Strike	May 3, 2017
Consumers Reply to CSXT Motion to Strike	May 23, 2017
STB Decision on the Merits	January 11, 2018
CSXT Motion for an Extension of Time	January 18, 2018
STB Decision Granting CSXT Motion for an Extension of Time	January 19, 2018
Joint Petition for Technical Changes	February 20, 2018
Consumers Petition for Technical Changes	February 20, 2018
Consumers Petition for Reconsideration	February 20, 2018
CSXT Petition for Reconsideration	February 20, 2018
CSXT Reply to Consumers Petition for Technical Changes	March 12, 2018
CSXT Reply to Consumers Petition for Reconsideration	March 12, 2018
Consumers Reply to CSXT Petition for Reconsideration	March 12, 2018
STB Updated Merits Decision to Include Public Version of Market Dominance Appendix	March 14, 2018
CSXT Letter	March 19, 2018
Consumers Response to CSXT Letter	March 20, 2018
STB Decision on Reconsideration and Technical Corrections	August 2, 2018
Notice of Court Action (Consumers)	September 24, 2018
Notice of Court Action (CSXT)	September 27, 2018
U.S. Court of Appeals Order Granting Unopposed Joint Motion for Abeyance to Pursue Settlement	December 18, 2018
U.S. Court of Appeals Order Granting Unopposed Joint Motion for Voluntary Dismissal of the Petitions for Review	January 5, 2019
Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint with Prejudice, and Discontinue the Proceeding	January 28, 2019
STB Decision Granting Joint Petition to Vacate the Rate Prescription, Dismiss the Complaint with Prejudice, and Discontinue the Proceeding	February 7, 2019

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## Rail Rate Cases at the STB

(1996 to Present) - Last Updated 3/31/2019

Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
41191	West Texas v. BNSF	Coal	SAC	5/3/1996	Rates Unreasonable
37809	McCarty Farms v. BN	Grain	SAC	8/20/1997	Rates Reasonable
41185	APS v. ATSF	Coal	SAC	4/17/1998	Rates Unreasonable
41989	Pepco v. CSX	Coal	SAC	6/18/1998	Settlement
42012	Sierra Pacific v. UP	Coal	SAC	7/17/1998	Settlement
41670	Shell Chemical v. NS	Chemical	Simplified	3/12/1999	Settlement
41295	PPL v. Conrail	Coal	SAC	5/13/1999	Settlement
42034	PSI Energy v. Soo	Coal	SAC	5/13/1999	Settlement
42022	FMC v. UP	Minerals	SAC	5/12/2000	Rates Unreasonable
42038	MN Power v. DMIR	Coal	Stipulated R/VC	1/5/2001	Settlement
42051	WPL v. UP	Coal	SAC	5/14/2002	Rates Unreasonable
42054	PPL v. BNSF	Coal	SAC	8/20/2002	Rates Reasonable
42059	Northern States v. UP	Coal	Stipulated R/VC	8/7/2003	Settlement
42077	APS v. BNSF	Coal	SAC	12/31/2003	Withdrawn
42056	TMPA v. BNSF	Coal	SAC	9/27/2004	Rates Unreasonable
42069	Duke v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42070	Duke v. CSXT	Coal	SAC	10/20/2004	Rates Reasonable
42072	Carolina Power v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42057	Xcel v. BNSF	Coal	SAC	12/14/2004	Rates Unreasonable
42058	AEP v. BNSF	Coal	SAC	3/15/2005	Rates Reasonable
42093	BP Amoco v. NS	Chemical	Simplified	6/28/2005	Settlement
42071	Otter Tail v. BNSF	Coal	SAC	1/27/2006	Rates Reasonable
42091	APS v. BNSF	Coal	SAC	2/10/2006	Settlement
42097	Albemarle v. LNW	Chemical	SAC	11/14/2006	Settlement
42098	Williams Olefins v. GTC	Chemical	Simplified	2/15/2007	Settlement
42095	KCPL v. UP	Coal	Stipulated R/VC	5/19/2008	Rates Unreasonable
42088	Western Fuels v. BNSF	Coal	SAC	2/18/2009	Rates Unreasonable
42112	E.I. Dupont v. CSX	Chemical	SAC	5/11/2009	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC	5/15/2009	Rates Reasonable
42111	Oklahoma Gas v. UP	Coal	Stipulated R/VC	7/24/2009	Rates Unreasonable
42099	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42100	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42101	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42114	U.S. Magnesium v. UP	Chemical	Three-Benchmark	1/28/2010	Rates Unreasonable
42115	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42116	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42122	NRG v. CSXT	Coal	SAC	7/8/2010	Settlement
42110	Seminole Electric v. CSXT	Coal	SAC	9/27/2010	Settlement
42113 (S1)	AEP v. UP	Coal	SAC	4/15/2011	Settlement
42128	SMEPA v. NS	Coal	SAC	8/31/2011	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC-Remand	10/26/2011	Settlement
42113	AEP v. BNSF & UP	Coal	SAC	11/22/2011	Rates Unreasonable
42132	Canexus v. BNSF	Chemical	Three-Benchmark	7/20/2012	Settlement
42127	IPA v. UP	Coal	SAC	11/2/2012	Withdrawn
42123	M&G Polymers v. CSXT	Chemical	SAC	1/7/2013	Settlement
42125	DuPont v. NS	Chemical	SAC	3/24/2014	Rates Reasonable
42130	SunBelt v. NS	Chemical	SAC	6/20/2014	Rates Reasonable
42136	IPA v. UP	Coal	SAC	10/8/2014	Settlement
42088	Western Fuels v. BNSF	Coal	SAC	6/15/2015	Settlement
42121	TPI v. CSXT	Chemical	SAC	9/14/2016	Rates Reasonable
42142	Consumers v. CSXT	Coal	SAC & Revenue Adequacy	2/7/2019	Settlement
<b>Pending before the STB</b>					
Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
NA					

**Notes to Table:**

1. SAC = Stand-Alone Cost Methodology Applied for a Hypothetical Railroad.
2. Simplified = Using a Simplified, Rather than Full-SAC, Methodology for Determining the Reasonableness of Rates as Set Forth in Coal Rate Guidelines, Nationwide, 1 I.C.C.2d 520 (1985) ([Guidelines](#)).
3. Stipulated R/VC = Parties Agreed to Use Revenue to Variable Cost (R/VC) Ratios @ 180% Level, in Lieu of Using SAC.
4. Three-Benchmark Methodology = Methodology of Seeking Relief Pursuant to the Revised Simplified Procedures as Set Forth in Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007) and any additional Sub-No. decisions.
5. Revenue Adequacy = Revenue Adequacy Constraint, as Described in [Guidelines](#).