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April 27, 2006

VIA E-FILING

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Ex Parte No. 661
Rail Fuel Surcharges

Dear Secretary Williams:

Enclosed is a copy of the Written Statement Of The Kansas City Southern Railway Company ("KCSR") to be filed in the above captioned matter. As previously noted, KCSR is participating in this proceeding as a party of record but will not be presenting oral testimony at the Board's May 11, 2006 hearing. If there are any questions concerning this filing, please contact me by telephone at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,



William A. Mullins

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE NO. 661

RAIL FUEL SURCHARGES

**WRITTEN STATEMENT OF
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

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**Attorney for The Kansas City
Southern Railway Company**

Dated: April 27, 2006

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**WRITTEN STATEMENT OF
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

On March 14, 2006, the Surface Transportation Board ("STB" or "Board") issued notice that it would hold a public hearing on May 11, 2006 to provide interested parties with an opportunity to express their views on the subject of fuel surcharges collected by railroads. Specifically, the Board is interested in the manner in which fuel surcharges are calculated and charged by railroads and whether the collection of this fuel surcharge fairly reflects the increasing fuel costs of the particular movements to which it is applied. The Board is also interested in whether or not the Board's current reporting requirements should be adjusted to provide better information on a carrier's fuel costs and the revenues collected by the carriers for such fuel surcharges. The Kansas City Southern Railway Company ("KCSR") is pleased to respond to the Board's inquiry and submits this written statement for the record.

As the Board is aware, notwithstanding its numerous acquisitions over the past decade, including its acquisition of The Texas Mexican Railway Company and TFM (now known KCS de Mexico), KCSR still remains the smallest of the Class I railroads. As the smallest, KCSR simply does not have the same pricing power or market reach that the other Class I carriers enjoy. In fact, a substantial amount of KCSR's revenues are a

result of KCSR interchanges with other carriers. This lack of pricing power and market reach means that KCSR is more of a follower of industry practice rather than a leader.

The same principle applies with respect to KCSR's fuel surcharge program. KCSR's fuel surcharge tariff has been basically the same for several years and was originally formulated pursuant to the then existing industry practice using public tariffs and programs put in place by other carriers. While the program has remained basically unchanged since its implementation, the program has been slightly modified in the past year or so in order to be responsive to customers' concerns.

Throughout the existence of the fuel surcharge program, KCSR has always made the program and any changes to it transparent to the public and its customers. Indeed, the manner and methodology by which KCSR calculates its fuel surcharges has always been publicly available and remains so today via KCSR's website. In addition, KCSR also occasionally sends bulletins to its shippers regarding any changes to the fuel surcharge program.

In essence, KCSR's fuel surcharge program is based upon the average monthly price of West Texas Intermediate ("WTI") Crude Oil as published daily in The Wall Street Journal. Line haul freight charges are adjusted 0.4% for every \$1 exceeding \$23 per barrel in the second calendar month prior to the month the fuel surcharge is applied, so for example, the WTI average price for March will be applied May 1. The average WTI price for March 2006 was \$62.90 so that the fuel surcharge beginning May 1 will be 16% of the line haul charge. This program is contained within KCSR's general rules tariff KCS-9011-G, which was effective April 11, 2006.

This methodology is similar to that used by other carriers with slight differences to reflect the unique characteristics of KCSR. This fuel surcharge applies across the Board to all commodities and to all shippers, unless there is a specific provision in a customer's contract that provides for an alternative method of calculating fuel surcharges.

KCSR cautions that in this time of fuel price volatility, the Board should not adopt any policy that would limit the railroads' ability to recover their fuel costs; nor should the Board adopt a "one policy fits all" process or methodology for rail fuel surcharges. Each railroad's situation is unique due to differences in operating practices, types of locomotives, length of haul, and market power and reach. A policy that may be appropriate for larger carriers is likely not going to be appropriate for carriers of smaller size and geographic reach. KCSR believes that over the long run, its methodology fairly and transparently allows it to recover its fuel cost increases without imposing unfair or supracompensatory charges on shippers.

The Board has also asked shippers and railroads to comment on whether or not the Board's "reporting requirements should be adjusted to provide rail customers with better information on a carrier's fuel costs and the revenues collected through fuel surcharges" and suggests making fuel surcharge information publicly available as a way to provide better information to shippers. KCS does not believe the Board needs to adopt any further reporting for notice requirements. KCSR's fuel surcharge methodology is already completely transparent. It is publicly available through KCSR's website and shippers are oftentimes notified through special service bulletins of changes in the program. Fuel surcharge revenues are reflected in reports filed with the Securities Exchange Commission and in reports to financial analysts. As such, any party desiring to

understand the KCSR fuel surcharge program has the ability to do so and there is no need for the Board to add an additional reporting requirement.

In conclusion, KCSR appreciates the opportunity to provide its views on its fuel surcharge program. There will be many different viewpoints expressed at the Board's hearing and in the numerous written statements that will be presented for the record. Some of them may urge reregulation or other regulatory remedies for the alleged problems associated with fuel surcharge programs. KCSR is hopeful that the Board, while doing what it can to foster dialogue and understanding between the railroads and their customers, will not seek to impose new regulations and reporting requirements on the rail industry. KCSR is committed to working with its customers in the context of the marketplace and will continue to listen to their concerns, and when or if necessary, it will make appropriate voluntary changes to its fuel surcharge program to accommodate those concerns. Such changes, however, should be the result of mutual discussions and not government imposed mandates.

Respectfully submitted



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Dated: April 27, 2006