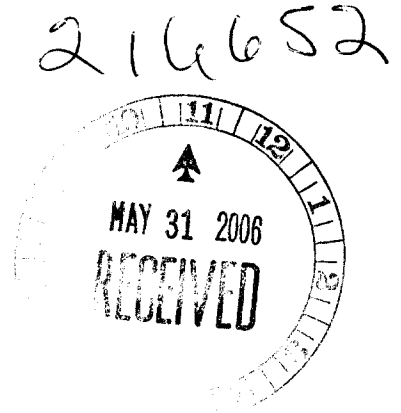


ORIGINAL

Before the
SURFACE TRANSPORTATION BOARD



Ex Parte No. 657 (Sub-No. 1)
MAJOR ISSUES IN RAIL RATE CASES

REPLY COMMENTS

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Washington DC 20036

Attorney for John D. Fitzgerald

Due Date: May 31, 2006

Before the
SURFACE TRANSPORTATION BOARD

Ex Parte No. 657 (Sub-No. 1)
MAJOR ISSUES IN RAIL RATE CASES

REPLY COMMENTS

John D. Fitzgerald,^{1/} for and on behalf of United Transportation Union-General Committee of Adjustment (UTU/GO-386), submits these reply comments, which are directed to the comments, filed May 1, 2006, by BP Amoco Chemical Company (BP Amoco).^{2/}

Rail carrier employees do not generally participate in disputes between carriers and shippers; however, exception to this practice regularly occurs in rail abandonments. Other situations may involve small shippers, where the smaller rail customer may be needy and deserving of support from whatever expertise the employee may possess, and where rail traffic might benefit thereby. Examples of proceedings where employees participated in rail rate cases were mentioned by UTU/GO-386 in Ex Parte No. 646, Rate Challenges in Small Cases.^{3/}

^{1/} General Chairman for United Transportation Union, on lines of BNSF Railway Company, with offices at 400 E. Evergreen Blvd., Vancouver WA 98660.

^{2/} UTU/GO-386 filed its notice of intent on March 20, 2006; however, UTU/GO-386) did not file initial comments.

^{3/} Statement of John D. Fitzgerald, dated April 22, 2003.

The Board should reexamine its preliminary ruling of April 14, 2006 in this proceeding, which indicated a policy of movement-specific adjustments to variable costs would apply to the 180% jurisdictional floor in all rate reasonableness cases, whether brought under Guidelines^{4/} or Simplified Guidelines.^{5/}

There has yet to be a "small rate case" under Simplified Guidelines, UTU/GO-386 considering Docket No. 42093 to have been a farce in this regard.^{6/} The question of how to compute or adjust jurisdictional costs for small rate cases should remain an open policy. To adopt a firm rule or policy at this point may serve to create a real injustice when and if a genuine small rate case should be considered for presentation.

Respectfully submitted,



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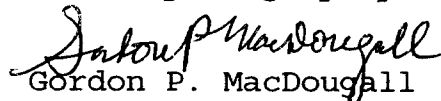
May 31, 2006

Attorney for John D. Fitzgerald

Certificate of Service

I hereby certify I have served a copy of the foregoing upon all parties of record by first class mail postage-prepaid.

Washington DC



Gordon P. MacDougall

4/ Coal Rate Guidelines, Nationwide, 1 I.C.C.2d 520 (1985).

5/ Rate Guidelines--Non-Coal Proceedings, 1 S.T.B. 1004 (1996).

6/ BP Amoco Chemical Co. v. Norfolk S. Ry. (served June 6, 2005).