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A Logistics Productivity Tool from FRN

September 19, 2006

Surface Transportation Board  
Attn: STB Ex Parte No. 661  
1925 K Street, N.W.  
Washington, DC 20423-0001

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**Subject** – Ex Parte No. 661. Comments of Michael R. Behe, President, Freight Resources Network, LLC, regarding proposals announced in the Board's August 3, 2006 Decision.

We commend the board for taking action in the matter of railroad fuel surcharges.

We agree with the Board's assessment that calculating railroad fuel surcharges as a percentage of the base freight rate is an unreasonable practice. As a unilaterally applied cost recovery mechanism they inevitably result in inequitable allocation of fuel cost increases across commodities, types of service, and shippers because incremental fuel expenses resulting from fuel price escalation correlates poorly with rail freight rates.

Though commendable, we believe that the Board's proposal to collect "company-wide" data from the railroads will be insufficient to achieve the Board's stated objective of better monitoring and it's implied objective of greater equity in the way increased fuel costs are spread across commodities, types of service, and affected shippers. One need only look at the testimony at the Board's May 11<sup>th</sup> hearing to see that opposite conclusions can be drawn from the same "company-wide" data.

We again would like to focus the Board's attention on Freight Resources Network, LLC's recommendation that the Board collect freight-bill-specific fuel surcharge revenues from the railroads and include this data in the Public Version of the 1% Waybill File as a separate and distinct data field. Since the fuel surcharge already appears on the freight bill, separate and distinct from other charges, we are confident that a requirement to supply these data along with the revenue data would pose no hardship on the railroads. We are confident that specific fuel surcharge data will help avoid the diametrically opposed conclusions that can emanate from less specific, "company-wide" data.

We once again would like to refer the Board to 1) our written testimony for the May 11, 2006 hearing on this matter (Attachment I) and 2) our written request for a Rule Making dated April 21, 2006 (Attachment II). This recommendation carries with it the support of those companies and organizations listed in Attachment III.

#### SUMMATION OF FRN's RECOMMENDATION:

To promote better monitoring of railroad fuel surcharge practices, FRN recommends that the Board adjust the reporting requirements associated with the '1% Waybill Sample' by requiring the railroads' to submit their fuel surcharge revenues for each sample freight bill. We also recommend that the Board include these significant revenues in the Public Waybill File as a separate and distinct data field, which is consistent with the way they appear on the freight bill.

In order to protect the confidentiality of any contracted base freight rates, we recommend the Board adopt the following reporting requirements:

- I. In situations where railroad(s) applies a percentage to the actual freight rate to determine the fuel surcharge amount:
  - (a) Where the base freight rate is in tariff or public price form - Fuel surcharge revenues would be captured and displayed exactly as they are billed.
  - (b) If the base freight rate is a confidential contract rate - Fuel surcharge revenues would be disguised using the same method as the corresponding base (contract) freight rate was disguised.
- II. When the railroad utilizes a mileage-based method for calculating the fuel surcharge (e.g. BNSF), or any other method(s) (that may be developed) that is not calculated from the base freight rate, the fuel surcharge revenues would be captured and displayed exactly as they appear on the freight bill.

#### WHY COLLECTING DEATAILED SURCHARGE DATA MAKES SENSE

1. The additional requirement to report fuel surcharge revenue is not a hardship for the railroads. The large proportion of 1% Waybill File data is computer-generated. Adding Fuel Surcharge to data already reported is a simple programming change to include information already captured in computer records.
2. We have been assured by those directly involved in the 1% Waybill File's preparation that there is, indeed, room in the current layout to accommodate this new data field.

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3. With fuel surcharge data included in the Non-Public File the Board will have sample freight bills linking actual fuel surcharge revenues with specific commodities, car types, types of service (carload, trainload, intermodal), routes, railroads, and more. This will allow the Board to generate actual surcharge revenues for virtually every conceivable situation, rather than relying on "guesstimates" based on "company-wide" statistics.
4. Information is key to a dynamic and well-functioning free market. Access to detailed fuel surcharge data in the Public File will allow shippers and other interested parties to assist the Board in its monitoring of the carriers' fuel surcharge practices by allowing vested interests to compare their surcharge payments with those associated with other traffic similar to their own, and to contrast and compare their fuel surcharge payments with dissimilar traffic flows as well.

As the Governor of Montana stated in his testimony to the Board on May 11th, "the devil is in the details". We strongly urge the Board to 'get the details'.

Freight Resources Network is most grateful to have had this opportunity to present our views to the Board.

Respectfully submitted,



Michael Behe  
President



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## ATTACHMENT I

April 18, 2006

Surface Transportation Board  
Attn: STB Ex Parte No. 661  
1925 K Street, N.W.  
Washington, DC 20423-0001

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**Subject** – Written testimony of Michael R. Behe,  
President, Freight Resources Network, LLC

Thank you for the privilege of speaking to you today. I promise to be brief.

For the past six years Freight Resources Network, LLC has been serving the information needs of rail shippers. Our customer list includes over 200 of the largest rail shippers in North America, many of whom are represented here today. One important source of information we access on their behalf is the Public Waybill File.

With the proliferation of fuel surcharges and their ever-growing impact on freight bills, we have received many requests from our customers to have the railroads' fuel surcharge revenues captured and reported in the 1% Waybill Sample.

We will confine our very brief remarks to addressing the following request made in the Board's Notice announcing this public hearing:

**"We (the STB) are holding this hearing based on the Board's authority to inquire into the management of railroads and to obtain information that is needed to carry out the statute that the Board administers. 49 U.S.C. 721(b). To carry out its various statutory responsibilities, the Board requires railroads to collect and submit to the Board extensive cost and revenue information. 49 CFR parts 1200-1280. In this hearing, shippers and railroads are asked to comment on whether and how those 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. Making this information publicly available should enable shippers to better identify and protect against inappropriate surcharges and to more reliably forecast their future transportation costs."**

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FRN shares our customers' belief that fuel surcharges are more than a temporary cost recovery measure; that they are here for the long term. This pricing mechanism needs to be closely monitored by the Board and the shipping public.

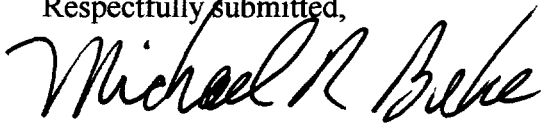
To promote better monitoring of this practice, FRN recommends that the Board adjust the reporting requirements associated with the (so-called) '1% Waybill Sample' by requiring the railroads' to submit their fuel surcharge revenues for each sample freight bill. We also recommend that the Board include these significant revenues in the Public Waybill File as a separate and distinct data field.

In order to protect the confidentiality of any contracted base freight rates, we recommend the Board adopt the following reporting requirements:

- I. In situations where railroad(s) applies a percentage to the actual freight rate to determine the fuel surcharge amount:
  - (a) Where the base freight rate is in tariff or public price form - Fuel surcharge revenues would be captured and displayed exactly as they are billed.
  - (b) If the base freight rate is a confidential contract rate - Fuel surcharge revenues would be disguised using the same method as the corresponding base (contract) freight rate was disguised.
- II. When the railroad utilizes a mileage-based method for calculating the fuel surcharge (e.g. BNSF), or any other method(s) (that may be developed) that is not calculated from the base freight rate, the fuel surcharge revenues would be captured and displayed exactly as they appear on the freight bill.

Freight Resources Network is most grateful to have had this opportunity to present our views to the Board.

Respectfully submitted,



Michael Behe  
President

## ATTACHMENT II

April 21, 2006

Mr. Leland Gardner  
Director-Office of Economics,  
Environmental Analysis, and Admin.  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423

Writer's direct phone – 610-783-1352  
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**Subject** – Request Rule Making to modify the '1% Waybill File, Public Version'

Dear Mr. Gardner:

For the past six years FRN, LLC has been serving the information needs of rail shippers. One important source of information we tap into on their behalf is the Public Waybill File. With the proliferation of fuel surcharges and their ever-growing impact on freight bills, we are hearing frequent requests from our customers to have the railroads' fuel surcharge revenues captured and reported in the public version of the 1% Waybill Sample.

FRN shares our customers' belief that fuel surcharges are more than a temporary cost recovery measure; that they are here for the long term. We also believe that by basing their fuel surcharges on a percentage of the base freight rate the railroads have created a highly inefficient pricing mechanism. The percent-of-freight-rate mechanism can result in a misallocation of a significant variable cost and thus it can lead to sub-optimal allocation of economic resources. This pricing mechanism needs to be closely monitored by The Board and the shipping public.

On behalf of FRN's customers and other interested parties (including those listed in Attachment A), we request that the Board rule on the following proposal; that the Board require the railroads' to submit their fuel surcharge revenues for each sample freight bill and that the Board include these significant revenues in the Public Waybill File as a separate and distinct data field.

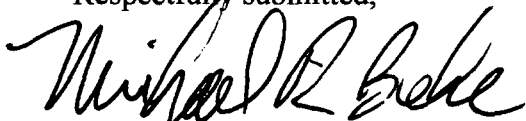
Mr. Leland Gardner, April 21, 2006

In order to continue to protect the confidentiality of any contracted base freight rates, we recommend the Board adopt the following reporting requirements:

- I. In situations where railroad(s) applies a percentage to the actual freight rate to determine the fuel surcharge amount:
  - (a) Where the base freight rate is in tariff or public price form - Fuel surcharge revenues would be captured and displayed exactly as they are billed.
  - (b) If the base freight rate is a confidential contract rate - Fuel surcharge revenues would be disguised using the same method as the corresponding base (contract) freight rate was disguised.
- II. When the railroad utilizes a mileage-based method for calculating the fuel surcharge (e.g. BNSF), or any other method(s) (that may be developed) that is not calculated from the base freight rate, the fuel surcharge revenues would be captured and displayed exactly as they appear on the freight bill.

We are available at any time to discuss this important matter with you or your staff.

Respectfully submitted,



Michael Behe  
VP-Marketing

ATTACHMENT

**ATTACHMENT III**  
of supporting companies and organizations

Alliance for Rail Competition

Aventine Renewable Energy, Inc.

BlueLinx Incorporated

Corn Products International, Inc.

DeGussa Corporation

E. I. du Pont de Nemours and Company

Essroc

Ethanol Products, LLC

Global Energy Decisions, Inc.

Marston & Marston

MFA, Inc.

Nucor Steel Corporation

NYK Lines North America, Inc.

Saint-Gobain Containers, Inc.

UPM-Kymmene, Inc.