

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Ex Parte No. 661

**REVIEW OF RAIL FUEL SURCHARGES
COMMENTS OF ESCALATION CONSULTANTS, INC.**

Escalation Consultants, Inc. (Escalation Consultants) is pleased to submit its comments in response to the Decision served August 3, 2006 by the Surface Transportation Board (“Board”) concerning the fuel surcharge programs administered by freight railroads.

Escalation Consultants commends the Board for its new standards concerning fuel surcharges. Escalation Consultants’ analyses shows that railroads impose fuel surcharges in a manner which does not simply recover the unanticipated increase in the cost of fuel, but rather materially over-recovers the carriers’ increased costs. This has enabled fuel surcharges to become a revenue enhancement device for railroads.

Escalation Consultants agrees with the Board’s findings that the current fuel surcharge practices of railroads are not reasonable for all the reasons set forth in the Board’s decision. As many people testified at the fuel surcharge hearing, the key to fairness in a fuel surcharge program is transparency. To foster this transparency, the Board has proposed to require the Class I railroads to report certain information on a monthly basis. Such reporting is critical. A major weakness with the reporting requirements contained in the Board’s decision that still prevents transparency is that

the Board is not proposing that railroads be required to submit information on their increased fuel costs retroactively. Escalation Consultants believes that this lack of retroactivity will likely present a major problem.

Railroad fuel surcharge programs currently escalate fuel costs from the 2001/2002 time frame. The Board has not proposed that railroads make their surcharges reflect changes in fuel costs on a more current basis. If railroads continue to escalate fuel costs from 2001, the proposed railroad reporting requirements will do little to help verify the accuracy of railroads' fuel surcharge programs because they will not be required to submit information on fuel costs in prior years or the base year. If fuel surcharges continue to be based on fuel cost increases from 2001, railroads need to be required to provide retroactive reporting to insure the accuracy of their fuel surcharge programs.

Some railroads will likely follow a different path and start calculating fuel surcharges from current fuel costs and also increase their rates by the amount of their old surcharge. This also presents a problem. Without retroactive reporting requirements it will be very difficult for shippers to question the accuracy of rate increases associated with fuel cost increases. Under this scenario substantial rate increases will occur in 2006 and 2007 due to fuel cost increases since 2001. Retroactive reporting is needed to ensure that the proper amount for past fuel cost increases is added to present day rates.

Retroactivity in railroad fuel reporting requirements is necessary to ensure that railroads charges for fuel more accurately reflect their increased cost of fuel. Railroads will of course not be interested in compiling the information, required by the Board's ruling, each month over the last five years.

However, railroads past fuel surcharge practices make retroactive reporting a necessity if accuracy is to be insured.

Quite simply, the change in fuel costs can not be accurately measured without establishing a starting point for railroad reporting that coincides with the railroads current fuel surcharge programs.

Escalation Consultants appreciates the opportunity to share our views with the Board, and we respectfully urge the Board to adopt the rules proposed in the Decision dated August 3, 2006, with the further refinements of requiring railroads to report this information retroactively back to the fourth quarter of 2001.

Respectfully submitted,

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