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October 2, 2006

VIA E-FILE

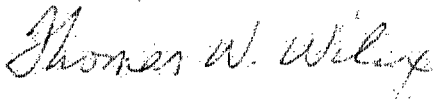
The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0111

Re: Supplemental Comments of The AES Corporation in response to *Rail Fuel*
Surcharges, Ex Parte No. 661

Dear Secretary Williams:

Enclosed for filing in the above-captioned matter are the Supplemental Comments of The AES Corporation.

Sincerely,



Thomas W. Wilcox
An attorney for The AES Corporation

TWW:bgh
Enclosure

cc: Marc Z. Michael, Esq.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Ex Parte No. 661

REVIEW OF RAIL FUEL SURCHARGES

SUPPLEMENTAL COMMENTS OF THE AES CORPORATION

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October 2, 2006

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Ex Parte No. 661

RAIL FUEL SURCHARGES

SUPPLEMENTAL COMMENTS OF THE AES CORPORATION

I.

INTRODUCTION

On March 14, 2006, the Surface Transportation Board ("Board" and "STB") issued a notice of public hearing on rail fuel surcharges to be held on May 11, 2006, and invited interested parties to submit comments on railroad fuel surcharges (hereinafter "Notice"). The AES Corporation ("AES") submitted written comments in response to the Notice on April 27, 2006 (hereinafter "AES Comments"). AES also appeared and testified at the May 11 hearing. AES's comments and testimony urged the STB to (1) confirm that the Board has jurisdiction to review the lawfulness of railroad fuel surcharges under 49 U.S.C. § 10702(2); (2) clarify that railroad fuel surcharges may only be used for the purpose of recovering or refunding actual costs of fuel expended for a particular rail movement, as opposed to a carrier's entire system; (3) take action to modify the current publicly published railroad fuel surcharges of certain Class I railroads; and (4) require each railroad to submit detailed data reflecting their actual cost of fuel

and the revenues associated with fuel cost recovery for the individual movements against which the fuel surcharge was assessed. Id. at 6.

On August 3, 2006 the Board served a Decision in this proceeding that AES was pleased to see favorably addressed the primary issues that had been raised by AES as well as other interested parties ("*Decision*"). More specifically, the Board made the following important rulings:

1. That the Board has jurisdiction under 49 U.S.C. §10702(2) to address the unreasonable practice "of applying what the railroads label a fuel surcharge in a manner that is not limited to recouping increased fuel costs that are not reflected in the base rate." *Decision* at 4.
2. That it is not a reasonable practice to compute fuel surcharges as a percentage of existing rates. Rather, a lawful surcharge must be "directly tied to and limited to the incremental changes in that particular cost for the movements to which the surcharge is applied. Id. At 4-5. Moreover, alternatives to tying a surcharge to an existing rate must "have a reasonable nexus to the fuel consumption of the movement involved." Id. At 5.
3. That it is not a reasonable practice to adjust a rail rate using the Rail Cost Adjustment Factor ("RCAF") and also assess a fuel surcharge. Id.
4. The Board also implicitly ruled that the price of West Texas Intermediate Crude Oil ("WTI Price") is not an appropriate index upon which to base a fuel surcharge formula. Id. At 6.

All of the Class I railroad tariff fuel surcharges contain the features the Board determined are unreasonable practices under 49 U.S.C. §10702(2). See, e.g. AES Comments at 17-23. In conjunction with the above findings, the Board sought public comments on several proposals "designed to preclude [the] unreasonable practice" of assessing what is labeled a fuel surcharge but that is not limited to recouping increased fuel costs not reflected in the base rate. *Decision* at 4. The AES Corporation hereby submits these Supplemental Comments in response to the Board's invitation. These Supplemental Comments are supported by the attached Verified

Statement of Roger C. Prescott, Economist and Executive Vice President of L.E. Peabody & Associates, Inc. ("Prescott V.S.").

II.

SUMMARY OF SUPPLEMENTAL COMMENTS

The Board is fully within its authority under 49 U.S.C. § 10702(2) to determine whether the railroads' establishment of fuel surcharges in their pricing circulars and other public documentation are an unreasonable practice. AES reiterates that a railroad fuel surcharge, to the extent one is permitted for a particular movement, must be verifiably and specifically related to the increases and decreases in an agreed upon or established price per gallon of diesel fuel at the time the rate for transportation went into effect, multiplied by the number of gallons consumed by the particular movement. *Id.* at 4. Accordingly AES supports the Board's determination that it is an unreasonable practice to assess a surcharge as a percentage of the base rate, and that there must be "a reasonable nexus to the fuel consumption for the movement involved." *Decision* at 5. A primary reason current tariff fuel surcharge formulas substantially over recover the fuel costs of a particular movement is their use of surcharge thresholds based on low fuel prices from prior years despite the fact that current rates reflect substantial increases which in part must be attributed to increases in the price the railroad pays for fuel. *See Id.* at 16-23. Because shippers are not currently told what fuel price or cost is embedded in the base rates, the Board should either (1) require the railroads to provide this data to their customers when a rate is offered; or (2) adopt a rebuttable presumption that the railroad's current cost of fuel, computed using the STB's URCS costing formula, is reflected in base transportation rates to which a surcharge would be applied.

AES also fully supports the Board's determination that when the RCAF or other index with a fuel component is used to adjust base rates the assessment of a fuel surcharge in addition to such adjustment is an unreasonable practice. However, AES reiterates its belief that the Board should not be so quick to encourage alternatives to RCAF as a fuel cost recovery mechanism. Finally, the correction of railroad practices regarding fuel surcharges in this proceeding is only a first step in reestablishing the balance of the respective interests of railroads and their customers. Standards governing fuel surcharges must be accompanied by improvements in the Board's rate setting processes and in the facilitation of railroad competition. Otherwise, the revenues generated by improper fuel surcharges will simply be shifted over to the base rates, thereby negating the intent of the STB in this proceeding to eliminate excessive costs associated with rail transportation.

III.

SUPPLEMENTAL COMMENTS

A. The STB Correctly Applied 49 U.S.C. § 10702(2)

A threshold issue facing the Board concerning the lawfulness of railroad surcharges was whether the STB has authority to regulate the fuel surcharge practices of the railroads. The Board's affirmance that it has such authority, and the basis for this conclusion, are both sound. See the discussion of the Board's authority to regulate surcharge practices under 49 U.S.C. §§ 10702 and 10704(a)(1) contained in AES's Comments at 6-9. AES also refers the Board to similar discussions contained in the comments submitted by other parties in this proceeding.¹

¹ See, e.g., Written Testimony Submitted by the National Industrial Transportation League, dated April 27, 2006 at 22-25; Comments of the Concerned Captive Coal Shippers, dated April 27, 2006 at 9 -11; Testimony of the Edison Electric Institute at 2-5; Comments of Ameren Energy fuel and Services Co., dated April 27, 2006 at 8-11.

B. Comments on Specific Findings and Proposals

1. Linkage of Surcharge to Actual Movement-Specific Fuel Costs

In the Decision the Board rightfully determined that it is an unreasonable practice under 49 U.S.C. § 10702(2) to compute fuel surcharges as a percentage of existing rates. *Decision* at 4. See AES Comments at 17-19. Rather, to the extent a surcharge for any particular cost component can be assessed, it must be “directly tied to and limited to the incremental changes in that particular cost for the movements to which the surcharge is applied.” *Decision* at 4. Under this standard virtually all of the current Class I railroad tariff “fuel surcharges” violate §10702(2) because they compute and assess fuel surcharges as percentage of the rate. Accordingly, in the Decision the Board admonished the railroads to “reexamine their method of calculating fuel surcharges.” *Id.* at 5. The Board indicated that a fuel surcharge could pass muster under §10702(2) if it was “tied not to the level of the base rate but to those attributes of the movement that directly affect the amount of fuel consumed: either mileage alone, or preferably weight and mileage. Railroads would have discretion to devise an alternative methodology, so long as it would have a reasonable nexus to the fuel consumption for the movement involved.” *Id.* In the Decision, the Board indicated a preference for a ton-mile approach.

Without specifically opining on the merits of the ton/mile approach favored by the Board, AES reiterates that, no matter what method is utilized, a fuel surcharge formula “must be based on a realistic and accurate unit price for fuel and be based on the volume of fuel used for a particular movement.” AES Comments at 12. AES adds that implementation of this standard requires three important factors: (1) the starting point, or base, of the unit fuel price in a surcharge formula must match the unit price for fuel embedded in the base rate; (2) the surcharge must be limited to permitting the railroad to recoup only those additional costs that are not

recovered by other means; and (3) the surcharge must not only require a shipper to pay fuel cost increases but also provide for credits to the shipper in the event that fuel prices decrease below the base unit price. Id. at 4.

As to the first point, a significant reason why the current fuel surcharge formulas utilized by the railroads are an unreasonable practice under §10702(2) is that they contain thresholds tied to lower fuel prices of several years ago. Id. at 20-22. To the extent that a purported fuel “surcharge” contains a threshold tied to a fuel cost level that is lower than the fuel cost embedded in the base rate, the formula will calculate “surcharge” revenues even if the fuel costs embedded in the base rate do not increase (or even if they decline if the threshold is low enough), thus providing the railroad with revenues in excess of actual fuel costs. As demonstrated in the attached Prescott V.S., the tariff fuel surcharge formulas of BNSF, CSX, NS and UP implicitly assume that the price for fuel embedded in the rates to which the surcharge would apply is the price these railroads paid for fuel in 2002, which is less than half of what they pay now. Prescott V.S. at 5-6. AES Comments at 21-22.

The comments submitted by Class I railroads in this proceeding defending the low thresholds in their fuel surcharge formulas contain detailed discussions about how diesel fuel prices and fuel costs have risen significantly since 2002. However, their comments are notable because they uniformly avoid discussion of the extent to which new rates developed and offered to shippers since 2002 – in AES’s case such rates have been nearly 20% above prior rates – have been due to increased fuel prices, thereby eliminating the justification for an older, lower fuel price surcharge threshold for that shipper. Comments of CSX Transportation at 6; Comments of Union Pacific Railroad Company at 10-11; Written Statement of Norfolk Southern Railway at 4-8.

An important but unstated underlying assumption in the *Decision* is that the current price of fuel a railroad pays is accounted for in a base rate provided to a shipper. This assumption is reasonable and logical, since it would seem illogical and counter to good business practice for a base rate not to reflect the current price of all factors that made up the relevant service. Nevertheless, while the price a railroad pays for diesel fuel in a given year can be determined, AES is not aware of any instances where a railroad has supplied the customer with a breakdown of the fuel and non-fuel costs covered by the rate. Without this information the validity of a fuel surcharge cannot be determined and verified because (1) the starting point for purposes of establishing the necessary linkage between a surcharge and fuel cost embedded in the rate cannot be established; (2) the extent of "double-dipping cannot be calculated;" and (3) the appropriate industry index to be used in a surcharge formula cannot be accurately determined. To resolve this problem, AES suggests that the Board adopt one or both of two mechanisms. First, the Board could adopt rules that require a railroad, when it supplies a base rate, to supply and convincingly demonstrate the fuel cost that is included within that rate. Second, the Board could adopt a rebuttable presumption that the railroad's current fuel cost is represented in any base rate provided to a rail shipper. Such current costs can easily be determined using the STB's URCS costing methodology or the reporting requirements adopted in this proceeding. This rebuttable presumption would apply to both common carrier and proposed contract rates. Such a presumption is entirely appropriate, since it must be assumed that the railroad acted prudently and established rates at levels that cover all of the current operating costs of the movement. For this reason, the railroad's burden for overcoming the presumption should be high, and the railroad should be required to convincingly demonstrate that the price of fuel embedded in a given rate is not what the railroad pays for fuel at the time the rate is offered.

2. The "Double Dipping" Prohibition and Use of the RCAF Generally

The Decision also determined correctly that the assessment of a fuel surcharge in addition to adjusting the base rates using the RCAF is an unreasonable practice under §10702(2) because it charges the customer twice for the same fuel cost increases. The Board noted this occurs when the base rate is increased using the RCAF (or similar index with a fuel component) and then this increased rate is assessed a fuel surcharge. *Decision* at 5-6. AES and numerous other parties in the initial proceeding testified of the current widespread use of this practice by railroads in contract and common carrier rate movements. AES adds that the "double dipping" problem is also present even if less than 100% of the RCAF is used to adjust the base rates. For example, in some cases a railroad may insist on adjusting the rates using 90% of the RCAF, and then seek to impose a fuel surcharge in addition to that adjustment based on the rationale that the 10% increment sufficiently addresses the "double dipping" issue by purportedly eliminating the fuel component from the RCAF. In the first place, this method is nowhere near precise enough to meet the requirement that any surcharge be directly tied to fuel price increases that are not embedded in the base rate or recovered by the RCAF. Moreover, as demonstrated in the *Prescott V.S.*, use of 90% of the RCAF even if one assumes that the fuel index component equals 10% does not eliminate unlawful double dipping, since any rate adjustment based on the RCAF would reflect some changes in fuel prices. See *Prescott V.S.* at 11-13 (demonstrating how even if it is assumed that 10% of the RCAF reflects the fuel index component the use of the RCAF will reflect, to some degree, the change in the fuel component; and that application of a fuel surcharge on top of this adjustment results in "double dipping" on fuel costs). Use of a set percentage of the RCAF to attempt to comply with the "double dipping" prohibition is also flawed because the weighting of the fuel index component of the RCAF can change. For

example, on September 20, the Board issued a Decision in STB Ex Parte No. 290 (Sub – No. 5)(2006-04) *Quarterly Rail Cost Adjustment Factor*, that contains a fuel index component of 16.0%. Application of 90% of the RCAF utilizing this latest quarterly RCAF would result in additional “double dipping” of fuel cost from the affected shipper. Finally, using an index that eliminates the fuel component in combination with a fuel surcharge is still inequitable if the fuel surcharge formula does not permit the shipper to be credited when fuel prices fall below the base fuel price level. Prescott V.S. at 11.

a. Double Dipping Can Best be Eliminated by Favoring the Use of the RCAF to Recover Fuel Cost Increases

The Board has proposed to generally prohibit the use of a fuel surcharge to recover increases in fuel costs to the extent those same fuel cost increases are recovered through the application of the RCAF other rate adjustment mechanisms that take into account fuel cost increases. AES supports this proposal. As AES and others commented in their initial submissions in this proceeding, the RCAF was specifically designed and implemented by the Interstate Commerce Commission to recover fuel cost increases without the need for a separate fuel surcharge. See AES Comments at 9-10; citing Ex Parte No. 290 (Sub No. 2), *Railroad Cost Recovery Procedures*, 45 Fed. Reg. 81217 (Dec. 10, 1980) (“the procedures proposed in this notice will permit railroads to recover fuel cost increases along with other cost increases on a quarterly basis... We thus propose that our current *Ex Parte 311* fuel surcharge mechanism be discontinued.” See also, *id.*, citing Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*, 364 ICC 841, 852 (1981) (“adoption of [the RCAF] “permit[s] railroads to recover fuel cost increases along with other cost increases on a quarterly basis . . .” and “[m]aintaining a separate surcharge mechanism for fuel would, in our view, serve no useful purpose once these rules are in place, and would, in fact, only complicate the operation of the new system.”). No

railroad in this proceeding has disputed that all of the changes in a railroad's fuel costs for a particular movement would eventually be reflected under the RCAF with a fuel cost component. See Prescott V.S. at 9-10 (demonstrating that changes in the Class I railroad's fuel prices highly correlate with changes in the RCAF fuel index).

Notwithstanding the RCAF's eventual recovery of all fuel costs for a particular movement, the Board stated in the Decision that "[r]ailroads could continue to collect a fuel surcharge if they remove the fuel cost component from the RCAF (or other index) used to escalate the base rate. That approach would have the benefit of avoiding the longer time lag for recovery that is associated with the quarterly RCAF, in favor of a fuel surcharge that is adjusted more rapidly." Decision at 6. AES believes that the extent to which the RCAF lags behind actual increases to the detriment of railroads has been overstated.

First, the railroads have the ability to minimize potential lag time through accurate forecasting of diesel fuel prices. Specifically, the RCAF methodology is based on fuel price forecasts provided by the railroads themselves that take into account the fluctuation of railroad diesel prices caused by events in the world oil markets. AES Comments at 10-11, citing a filing made by the AAR on December 5, 2005 describing the damage done by hurricanes Katrina and Rita as largely responsible for the rise in the fuel component of the RCAF. Ex Parte No. 290 (Sub-No. 5) (2006-1), *Quarterly Rail Cost Adjustment Factor*, AAR forecast, Appendix B (page 1) (filed Dec. 5, 2005). The railroads have made no showing in this proceeding that fuel prices have exceeded their forecasts in the past several years to the point that an accelerated recovery of fuel costs is justified and necessary. Moreover, to the extent that the railroads believe the RCAF is not allowing them to recover their fuel costs in a timely fashion, they can seek appropriate relief from the Board. See AES Comments at 11.

Second, the “lags” under the RCAF flow both ways. Specifically, while the Decision focuses on the alleged inability of the RCAF to recoup fuel price increases fast enough, the STB must also take into account that to the extent the price a railroad pays for fuel rapidly decreases ahead of the operation of the RCAF, the railroad receives the benefit of the cost savings pending the quarterly adjustment to the RCAF. Railroads are receiving such a benefit at the present time since the fuel index for the RCAF was just increased while fuel prices have been falling. See Prescott V.S. at 9.

b. The Board’s Endorsement of Alternatives to the RCAF to Recover Fuel Costs Must be Tempered by Current Industry Conditions

The *Decision* endorses the relatively recent practice of purportedly recovering fuel costs by applying a rate adjustment mechanism without a fuel cost component and assessing a separate “fuel surcharge.” In AES’s experience with some of its facilities, this has meant using the AAR’s All Inclusive Index Less Fuel (“AAILF”) in combination with the railroad’s tariff fuel surcharge formula, usually in a rail transportation contract. As AES and others have commented previously in this proceeding, the AAILF is a creation of the AAR that has not been not formally approved by or subject to the approval of the STB. As such, unlike the RCAF, the AAILF index can be modified in any respect by the Class I railroads through the AAR without seeking the Board’s permission. Moreover, the use of the AAILF combined with a tariff fuel surcharges has invariably been presented on a “take it or leave it” basis, and it has clearly favored the railroad party because of the current structure of the fuel surcharge formulas. To date, the practice of combining the AAILF with current fuel surcharges has had little or no relationship to the speed at which the RCAF recovers fuel costs, but rather has been a means to enhance railroad revenues.

More significantly, the assessment of a fuel surcharge in this manner, *i.e.*, in combination with an index that does not have a fuel cost component, is really not a true “surcharge” at all.

Rather, the combined index and "surcharge" become a surrogate for the RCAF (or other adjustment mechanism) with the fuel component. AES submits that, rather than endorse the use of the AILF (or similar index) in combination with a fuel surcharge to be a surrogate for the RCAF with the fuel component, if the Board is concerned with the speed at which fuel costs are by the RCAF, then the better, more transparent, and more equitable means to address these concerns is within the RCAF context.

In any event, to the extent the Board permits the AILF or other alternative indices to be used with a fuel surcharge to recover fuel costs, it should require the railroad to convincingly demonstrate that the fuel costs it seeks to recover via a surcharge are not embedded in the base rates or recovered by any other means.

3. Use of the U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon)

In the *Decision*, the Board has proposed to require all Class I railroads to use "a single, uniform index to measure increases in fuel costs." *Decision* at 6. Presumably, the Board intends for such index to be used when the RCAF with the fuel component is not being used to recover fuel costs. AES is not opposed to the use of a single index to be used in a fuel surcharge formula, as long as such index accomplishes the goal of producing a fuel surcharge that solely (1) compensates the railroads for fuel cost increases that are not recovered in the base rate or and adjustment formula, and (2) credits the shipper when the price of fuel declines below the base price level. That being said, AES submits that this goal might be best accomplished using actual railroad fuel price data. For example, there does not seem to be any impediments to using (1) the actual fuel cost data supplied to the Board on a per gallon basis by the railroads, or (2) the AAR fuel cost index, both of which are rail-based measurements as opposed to a retail highway-based index. See Prescott V.S. at 14.

The *Decision* proposes that railroads use the Energy Information Agency's "U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon)" ("HDF"). *Decision* at 6. While actual railroad fuel cost data would be preferable, the HDF index appears to be an acceptable alternative because changes in the index prices have highly correlated with railroad fuel prices. See Id. AES submits that the U.S. Gulf Coast No. 2 Diesel Low Sulfur Spot Price Index would also be an appropriate index. Id. However, whatever index the Board selects, the use of such an index must be subject to the previously discussed requirements that (1) the threshold for assessing a fuel surcharge must match the price of fuel embedded in the base rate; and (2) the fuel surcharge mechanism must be limited to permitting the railroad to recover actual and verifiable fuel costs above the base level, and crediting the shipper when fuel costs drop below the base level.

4. Reporting Requirements

AES commends the Board for proposing increased reporting requirements for fuel prices and costs, and for requiring the railroads to immediately comply with such requirements. AES respectfully submits that additional reporting requirements are necessary. These are discussed in more detail in the Prescott V.S., and summarized as follows:

- a. The Class I railroads should report cost statistics in their monthly report by major commodity group as reported in the railroad's financial reports, and separated between interchange and non-interchange traffic;
- b. The Class I railroads should report cost increases recovered through both fuel surcharge and non-surcharge price recovery mechanisms by each commodity group.

These additional reporting requirements would allow the STB and rail shippers to ascertain the extent to which railroad cost recovery mechanisms "double dip" fuel cost recovery in violation of the *Decision*, as well as the extent to which one type of traffic or traffic group is

disproportionately supplying a majority of a railroad's fuel price recovery. This additional information would also help provide the necessary transparency to the process of establishing valid fuel surcharges.

C. The Board's Standards for Fuel Surcharges is Only One Part of Re-Balancing the Interests of Railroads and Their Customers

The *Decision* reflects a recognition on the part of the Board that the tariff fuel surcharges implemented by the Class I railroads are designed to overcompensate them for the fuel costs they incur for a particular movement, and therefore the assessment of such surcharges is clearly an unreasonable practice under 49 U.S.C. §10702(2). Given the specific findings in the *Decision*, AES respectfully submits that the Board should have gone farther than "admonish[ing] the railroads to reexamine their method of calculating fuel surcharges." *Decision* at 5. AES would have preferred the Board order the railroads to immediately eliminate or modify their tariff "fuel surcharges" to be consistent with the *Decision*'s findings. The Board should make it clear in subsequent decisions in this proceeding that that railroad tariff fuel surcharges will be reduced as a result of the *Decision*.

It is imperative, however, for the STB to understand that the *Decision* must be accompanied by meaningful changes to the Board's rules and procedures for establishing reasonable rail rates, and by actions on the part of the Board to increase competition in the railroad industry. As AES and others stated in their opening comments, the Board's actions on fuel surcharges are being undertaken in an environment in which market power has been concentrated in a very few Class I railroads. Failing to fix the current rate setting rules and procedures and generally facilitating more competition in the industry will provide opportunities for the railroads to circumvent the standards and underlying purpose of the *Decision*. For example, certain railroads have already stated that in lieu of collecting the fuel surcharge

revenues that are unlawful under the standards set forth in the *Decision*, they will just collect those same revenues through rate increases. As one example, Norfolk Southern Corporation ("NS") in its April 27, 2006 Comments in this proceeding stated that the rebasing of its fuel surcharge for certain customers by raising the surcharge threshold level in its fuel surcharge formula (which results in a precipitous decrease in the fuel surcharge) will be accompanied by increases its base rates to make up the revenues it would have received under old surcharge formula. See NS Comments at ("a lower fuel surcharge will often mean a higher base transportation rate as we set our prices at the optimal market level"). Comments submitted by others in this proceeding demonstrate that NS has been implementing this plan.² As characterized by one commenter, "[t]his action by the Norfolk Southern firmly solidifies and guarantees their fuel surcharge amounts by rolling them into their already established rates, thus flying under the radar of any authority the STB may elect to exercise over the current method of railroad fuel surcharges."³ As part of this proceeding the STB should clarify that to the extent a railroad seeks to shift revenues from a fuel surcharge formula that would not pass muster under the standards of the *Decision* to a base transportation rate, whether in the form of an increase to a common carrier rate or whether in the context of a contract rate proposal, this action is itself an unreasonable practice under §10702(2). In any event, the Board must cognizant of the fact that failure to implement workable and balanced rate setting standards and procedures, and the failure

² NS's April 27 Comments were followed by a letter submitted in this proceeding by the DeGussa Corporation on June 29, 2006, expressing concern over an announcement by NS, consistent with its statements above, that it would upon rebasing its fuel surcharge roll its previous surcharge revenues into already established rates in the form of an equivalent rate increase. Specifically, Degussa stated "NS announced that as of July 1, 2006 NS's rates will automatically be increased by 18.8%, and a new fuel surcharge program will be implemented." Letter from Diane Elhakim of Degussa to the STB Board members, June 29, 2006 at 2. See also, Comments of Steel Manufacturers Association, filed September 26, 2006 at 2; Response of the Alliance of Automobile Manufacturers to the Surface Transportation Board's Request for Comments Regarding STB Ex Parte No. 661 "Rail Fuel Surcharges," filed September 22, 2006 at 2.

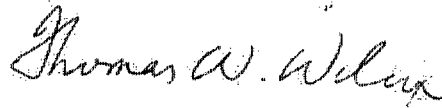
³ DeGussa Corporation June 29, 2006 letter at 2.

to actively promote competition in the railroad industry, could result in the salutary efforts of the Board in this proceeding being substantially negated, if not eliminated.

VI. Conclusion

In conclusion, AES applauds the Board for taking corrective action on the fuel surcharge issue. AES urges the Board to go further in response to these and other supplemental comments submitted in response to the Decision.

Respectfully submitted,



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October 2, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

Ex Parte No. 661

REVIEW OF RAIL FUEL SURCHARGES

VERIFIED STATEMENT OF ROGER C. PRESCOTT

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October 2, 2006

I. INTRODUCTION

My name is Roger C. Prescott. I am an economist and Executive Vice President of L. E. Peabody & Associates, Inc., an economic consulting firm that specializes in solving economic, transportation, marketing, and fuel supply problems. I have spent most of my consulting career of over twenty-eight (28) years evaluating fuel supply issues and railroad operations, including railroad costs, prices, financing, capacity and equipment planning issues. My assignments in these matters were commissioned by railroads, producers, and shippers of different commodities. I have also presented evidence on railroad prices, cost and operations in numerous proceedings before the Interstate Commerce Commission ("ICC") and its successor agency, the Surface Transportation Board ("STB"). A copy of my credentials is included as Exhibit No. 1 to this verified statement.

I have been requested by The AES Corporation ("AES") to address certain issues arising from the STB's decision in Ex Parte No. 661, Rail Fuel Surcharges, served August 3, 2006 ("Ex Parte 661"). Specifically, AES has requested that I address the following issues: (1) the inconsistent timing between embedded fuel prices in rail rates and the railroads' fuel surcharge mechanisms; (2) the STB's endorsement of surrogates for the STB-approved RCAF rate adjustment mechanism in order to speed fuel cost recovery; (3) the appropriateness of the "U.S. No. 2 Diesel Retail Sales By All Sellers" index ("HDF") as a basis for a railroad fuel surcharge mechanism; and (4) the STB's proposed railroad fuel surcharge reporting requirements.

II. THE DIFFERENCE BETWEEN "FUEL PRICE" AND "FUEL COST"

The STB instituted these Ex Parte 661 proceedings to investigate railroad industry practices intended to allow railroads to recoup "...their rapid increases in costs for fuel." As a threshold issue, I believe that the STB has incorrectly substituted the term "fuel cost" for the term "fuel price" through out its Ex Parte 661 decision. The distinction between the two terms, while incidental on the surface, has a key impact on how railroads may enact a fuel surcharge program.

The term "fuel price" reflects the amount of money a railroad pays per gallon of fuel, including the impact of transportation, taxes and hedging impacts. A railroad's fuel price depends on several factors both within and without its control. For example, a railroad cannot change the spot fuel price set by market, but may impact the price it pays through bulk purchase programs and hedging activities.

In contrast, the term "fuel cost" indicates how effectively a railroad utilizes the fuel it purchases. A railroad may not be able to change the price it pays for fuel, but can take measures to lower its fuel costs. For example, a railroad may lower trains speeds or use more fuel efficient locomotives on a movement to conserve fuel.

III. FUEL SURCHARGES MUST LINK SURCHARGE AND RATE TIME PERIODS

The STB's Ex Parte 661 proceeding stemmed from the fact that, beginning around 2000 the major coal hauling U.S. railroads, including the Norfolk Southern Railway Company ("NS"), CSX Transportation Inc. ("CSXT"), the BNSF Railway Company ("BNSF") and the Union Pacific Railroad Company ("UP"), imposed fuel surcharge programs to purportedly recover financial losses due to rising fuel prices. Because these four railroads have not significantly changed the formulas used in their fuel surcharge programs since their implementation,¹ they all currently are based on the same underlying premise that the implicit cost of fuel embedded in every rail rate that has gone into effect in the past four years is substantially lower than each railroad's current price of fuel.

I believe that the current fuel surcharge programs have many theoretical and practical flaws that lead to the railroads over recovering increases in fuel costs. As discussed in more detail below, the primary flaw is the railroads' failure to link their threshold price of fuel included in the fuel surcharges to the cost of fuel implicitly embedded in each rail rate subject to the surcharge. Simply stated, under the present formulas a railroad may impose a fuel surcharge on a rail rate even though the railroad may have recently raised the rate to account for increases in

^{1/} In July of this year, NS rebased its fuel surcharge to 2006 fuel price levels, for rates issued in mid-year 2006. Under the revised NS fuel surcharge, the threshold WTI price level increased to \$64.00 per barrel, meaning that at existing WTI price levels, customers covered under the revised NS fuel surcharge mechanism would face no fuel surcharge. However, NS still imposes its older fuel surcharge program on rates issued before mid-year 2006.

diesel fuel prices. The failures to link fuel surcharge and rail rate fuel cost levels necessarily lead to over recovery of fuel costs. I believe that the burden should lie with the railroad to prove that the changes in a particular rail rate does not recover the increased price of fuel for a specific movement, and only then should the STB allow a railroad to impose a fuel surcharge. I discuss the flaws with the current railroad fuel surcharges below.

The fuel costs embedded in the railroads' current rail rates do not reflect the price levels of the railroads' fuel surcharges. For example, 2006 quoted rail rates will reflect the railroads' 2006 fuel costs. If a fuel surcharge is applied to that rate and the fuel surcharge reflects changes in fuel prices from a 2002 fuel price (base period), an obvious over recovery occurs. This discontinuity between a railroad's fuel costs when the rate is implemented and the fuel price based on when the fuel surcharge threshold was implemented leads to a windfall gain for the railroad because it is recovering more than the current price of fuel on the movement.

However, even though the railroads have assessed fuel surcharges in addition to rates provided to customers from 2002 to the present, an analysis of the railroads' fuel costs and historic HDF and West Texas Intermediate Crude ("WTI")² prices demonstrates that the railroads have implicitly assumed that the embedded cost of fuel in all rail rates are from the 2002 timeframe, when fuel prices were much lower.

^{2/} The western coal hauling railroads, the UP and the BNSF, have based their fuel surcharge programs on changes in the EIA's HDF fuel index. The eastern coal railroads, the NS and the CSXT, have based their fuel surcharge programs on changes in WTI prices.

To estimate the eastern and western railroads' price of fuel at the threshold level price of each carrier's fuel surcharge program, I developed regression analyses that regressed each railroad's quarterly price of fuel against the appropriate fuel surcharge price index. I then used the resulting regression equations to develop each railroad's price of fuel on a dollars per gallon basis at the threshold fuel price indicated in the respective carrier's fuel surcharges. The time periods referenced represent the latest time periods in which the railroads' respective price per fuel were at the HDF or WTI threshold price levels. The results of the analysis are displayed in Table 1 below.

Table 1
**Implicit Base Price Fuel Period
In Railroad Fuel Surcharge Programs**

	<u>Railroad</u> (1)	<u>Latest Period When Railroad Average Fuel Price Approximated Fuel Surcharge Price Threshold</u> (2)
1.	BNSF	1Q2002
2.	UP	4Q2002
3.	NS	1Q2002
4.	CSXT	2Q2002

Source: Exhibit No. 2.

As Table 1 shows, all four of the major coal hauling railroads implicitly assume that the price paid for fuel embedded in each rate equals the price of fuel at various times in 2002. Overall, the railroads paid anywhere from \$0.61 to \$0.84 per gallon for fuel during this time period.

Generally, as the price of production inputs increase, holding all else constant, the railroads will adjust their rates to reflect their higher costs of operations.³ Therefore, a rail rate established in 2006 would have embedded in it a cost of fuel based to the railroads' 2006 price of fuel, which ranges from \$1.61 to \$2.15 per gallon.⁴ However, despite the fact that the more current rate already takes into consideration the increased cost of fuel, under the UP's, BNSF's and CSXT's current fuel surcharge programs and NS's fuel surcharge program prior to July, 2006, whether a revenue-based or mileage-based approach, a shipper with a rate established in 2Q06 would pay the same fuel surcharge as a rate established in 2002. This practice does not link the fuel surcharge's thresholds to the fuel costs reflected in the base rate.

There is no reason why the railroads cannot develop time-specific fuel surcharge price thresholds. As the STB explained in its Ex Parte 661 decision, the railroads' information management capabilities have expanded greatly in the last 20 years, and adjusting revenue programs to account for rebasing price levels is not a great burden.⁵ The railroads already retain the time period in which they established the underlying rail rate as part of their revenue management systems. Moreover, railroads routinely track fuel prices as part of their normal management function, and the STB has proposed in this proceeding to require the railroads to report their monthly fuel prices. Therefore, a railroad can easily assign, both retroactively and prospectively, a base quarterly fuel price to a rate.

^{3/} It is well established that the railroads do not base their rates entirely on costs, and can and do engage in demand-based differential pricing. See Ex Parte 661 at 4. With that being said, as the ICC stated in its Coal Rate Guidelines decision, it is not economically rational for a railroad to price below its directly variable costs, which would include its cost of fuel. Therefore, as the price of fuel increases, one would rationally expect railroads to increase their rates, holding all production economies constant.

^{4/} As reported in the railroads First and Second Quarter 2006 Investor Guides and Earnings Statements.

^{5/} See Ex Parte 661 at 5.

In sum, the railroads must link the base time period in the fuel surcharge threshold price level to the base period in the rail rates to equitably apply any fuel surcharge. If the railroad issues a rate in 1Q06, then the base time period for the fuel surcharge must equal the railroad's 1Q06 time period for setting the rate. Not linking the two periods and continuing to use a 2002 railroad fuel price level with a 2006 base rate is unreasonable.

IV. THE REPLACEMENT OF THE RCAF

In the Ex Parte 661 decision, the STB determined that the practice of adjusting rates using the Rail Cost Adjustment Factor ("RCAF"),⁶ as currently approved by the STB, and also assessing a fuel surcharge is an unreasonable practice.⁷ The STB referred to this practice as a "Double Dipping" recovery of changes in fuel prices since it allowed carriers to recover fuel price changes through both the RCAF and the fuel surcharge. To eliminate this practice, the STB has proposed "to prohibit the use of a fuel surcharge to recover increases in fuel costs to the extent those same increased costs are also recovered through the application of an escalator to the base rate that incorporates changes in fuel costs."⁸

The STB has implicitly assumed two alternatives by which railroads may recoup fuel price changes above the fuel costs embedded in the base rates: the railroads may (1) continue to apply the RCAF as currently calculated which includes a fuel adjustment component; or (2), apply a combination of RCAF (or other index) if the fuel component is removed and a fuel surcharge. The STB asserts that the second approach would be advantageous to the railroads because it

^{6/} The RCAF, Unadjusted for Productivity is known as the "RCAF-U" and the RCAF, Adjusted for Productivity is known as the "RCAF-A".

^{7/} See Ex Parte 661 at 5.

^{8/} Id.

would avoid the presumably longer lag time for recovery that is associated with the quarterly RCAF.⁹

I believe there are several flaws in the STB's proposed approach for eliminating the double recovery issue. First, I disagree with the STB's proposition that eliminating the fuel component of the RCAF will benefit the railroads by eliminating a "lag" in fuel price recovery. Second, eliminating the use of the RCAF may lead to biases in railroad cost recovery. I explain both issues below.

**A. THERE IS NO
SIGNIFICANT LAG IN THE RCAF**

The presumption that the railroads would be better served by using a fuel surcharge mechanism that does not lag the recovery of changes in fuel prices incorrectly presumes that rates will always increase and never decrease. During times of rapidly increasing fuel prices, a railroad's cost recovery through application of the RCAF or other index may lag. However, during times of declining fuel prices, which we are currently experiencing, railroads over recover changes in fuel costs for the same reason. For example, in its recent decision in Ex Parte 290 (Sub-No. 5) (2006-4), Quarterly Rail Cost Adjustment Factor, Served September 20, 2006, the STB forecasts the fuel component of the RCAF to increase by 8.2%.¹⁰ At the same time, fuel prices have been falling and are expected to fall through at least the first quarter 2007.¹¹ Application of the RCAF will raise shipper's prices while the railroads pay less for their fuel.

^{9/} See Ex Parte 661, at 5.

^{10/} [287.0 divided by 265.2] - 1

^{11/} The EIA projects diesel fuel prices to fall by approximately 6% through 1Q07. (EIA Short-Term Energy Outlook, September 12, 2006.)

In any event, Table 2 demonstrates that changes in the UP's, BNSF's, NS', CSXT's and KCS' fuel prices highly correlate with changes in the RCAF fuel index.¹²

Table 2
**Correlation Between Changes In Railroad
Fuel Prices and the RCAF Fuel Component**

	<u>Railroad</u> (1)	<u>Correlation Coefficient Between Railroad Fuel Price And RCAF Fuel Index</u> (2)
1.	BNSF	0.973
2.	UP	0.969
3.	NS	0.971
4.	CSXT	0.952
5.	KCS	0.977

Source: Exhibit No. 3

On average, the RCAF's fuel component moves in almost perfect lock-step with the railroads' fuel prices. This indicates that any rate adjustment mechanism that relies upon 100 percent of the change in the RCAF, or the RCAF fuel component, will recover, on average, the costs associated with changes in railroad fuel prices.¹³

^{12/} See Ex Parte 661 at 6. For comparison purposes I have included the Kansas City Southern Railway Company ("KCS") in Table 2 and Table 3 below even though the KCS does not have a fuel surcharge program for coal.

^{13/} Correlation analysis indicates the strength of linear association between two variables. A correlation coefficient of "1" indicates perfect positive correlation between the two variables, while correlation coefficient of "-1" indicates perfect negative correlation. A correlation coefficient of "0" indicates no correlation between the variables.

**B. THE STB SHOULD
NOT REPLACE THE RCAF**

The ICC approved the development and the construction of the RCAF after extensive research and analysis, and the RCAF has become a keystone of railroad contract rate adjustment. The STB, however, now proposes as part of its Ex Parte 661 decision, to potentially eliminate the RCAF as a means to adjust rail rates for some movements, and instead replace it with fuel surcharges and indexes that exclude a fuel price component. I believe the STB's proposal contains several flaws. First, excluding fuel from the RCAF calculation and subsequently applying a fuel surcharge defeats the primary basis for calculating the RCAF which was to produce an all encompassing index of rail prices.

Second, the RCAF represents the best, unbiased recovery tool for changes in railroad prices. The RCAF is "unbiased" because it incorporates both increases and decreases in price levels of railroad inputs. In contrast, a fuel surcharge program that does not credit to shippers declines in railroad input prices is inherently biased because it transfers the fuel price risk to the shippers without a commensurate sharing in the benefits of declines in fuel prices. The replacement of the RCAF with a fuel surcharge and an index which excludes a fuel component would lead to biases in railroad cost recovery and rail rates by forcing the fuel component of rail rates in an never ending upwards progression. This ratcheting effect would never allow the fuel portion of rail rates to fall below a certain level, biasing the interplay between rail rates and cost inputs.

Also, in some cases railroads have attempted to combine a fuel surcharge with use of 90% of the RCAF to adjust rates, on the basis that using 90% of the RCAF factors out the fuel component, thereby providing justification for a separate surcharge. However, any rate

adjustment based on the RCAF (either RCAF-U or RCAF-A) would reflect the changes in fuel prices. For example, assume that 10% of the RCAF reflects the fuel component and that between 1Q and 2Q, the fuel component increases 20% while the remaining components remain the same. In this example, the quarterly change in the RCAF-U would be 2% based on the following:

$$[(20\% \times .1) + (0\% \times .9)] = 2\%$$

If the rate adjustment equals 90% of the RCAF, then the quarterly adjustment for this example would be 1.8% based on the following:

$$[(20\% \times .1) + (0\% \times .9)] \times 90\% = 2\% \times 90\% = 1.8\%$$

The percentage applied to the RCAF (whether it's 90% or some other percentage) is irrelevant. The use of the RCAF will reflect, to some degree, the change in the fuel component.

Now add the following additional assumption to the above. Assume that the rate also is subject to a fuel surcharge and assume the 1Q fuel surcharge equals 14%. With the increase in 2Q fuel prices, the fuel surcharge increases to 17%. A shipper paying 90% of the change in the RCAF, with the fuel surcharge would get "double-dipped" because his rates would increase 1.8% because of the increase in fuel price in the RCAF, PLUS an increase in a surcharge from 14% to 17% because of the fuel surcharge mechanism.¹⁴

^{14/} Actually, the shipper would get "triple-dipped" because the increase in the fuel surcharge is applied after the RCAF increase is applied, so that the 17% would be applied to a rate that has already been increased to account for fuel. In other words, "dip 1" equals the application of 1.8% to the prior rate; "dip 2" equals the application of the 17% to the prior rate; and, "dip 3", equals the application of the 17% to the 1.8% increase.

For all of the above reasons, it would be improper and short-sighted to replace rate adjustments based on the RCAF with a combination of fuel surcharges and an index excluding a fuel component.

V. THE APPROPRIATENESS OF THE HDF INDEX

The STB proposes to require as part of its Ex Parte 661 decision that all Class I railroads use the HDF index to measure changes in fuel prices.¹⁵

There is no real need to utilize a third-party fuel price index to account for changes in railroad fuel prices due to the ability of the railroads to utilize their actual change in fuel prices in any fuel surcharge mechanism developed. It is a simple process to utilize the railroad's fuel price information on a one-month lagged basis in any fuel surcharge application. Even if the STB desired not to use actual changes in railroad prices, it could use the AAR's fuel price index as a method to address changes in railroad fuel prices, since the index shows an almost perfect correlation with railroad prices and is not impacted adversely by any reporting lag. Therefore, I believe the STB has no real reason for not using a railroad base fuel price index.

If the STB still chooses to reject using actual changes in fuel prices in a fuel surcharge approach, the HDF is a suitable substitute. In addition, I also believe that the U.S. Gulf Coast No. 2 Diesel Low-Sulfur Spot Price index ("Gulf Coast Diesel Prices") is also an appropriate index. One advantage the latter index may have is it is reported on a weekly basis, and would not suffer even the one-month lag of the HDF index. Table 3 below confirms the appropriateness of these indices as surrogates for actual railroad fuel prices.

^{15/} Whether the RCAF index used is adjusted or not adjusted for productivity is irrelevant since both the RCAF-U and the RCAF-A both incorporate the change in the RCAF fuel index component. The latter index, the RCAF-A, also adjusts for changes in railroad productivity that are unrelated to changes in railroad fuel prices.

Table 3
**Correlation Between Railroad Fuel Prices
and the HDF and Gulf Coast Diesel Price Indices**

<u>Railroad</u> (1)	<u>Correlation Coefficient Between Changes In Rail Fuel Prices and the HDF Index</u> (2)	<u>Coefficient Between Changes In Railroad Fuel Prices and Gulf Coast Diesel Prices</u> (3)
1. BNSF	0.984	0.977
2. UP	0.993	0.989
3. NS	0.962	0.958
4. CSXT	0.956	0.951
5. KCS	0.996	0.991

Source: Exhibit No. 4

Even though the HDF or Gulf Coast Diesel Prices could substitute for real changes in railroad fuel prices, I have one caveat. Whatever fuel price index the STB eventually chooses, whether it its actual fuel prices, the HDF, or Gulf Coast Diesel Prices, the STB must require that the railroads link the base period of the fuel surcharge to the base period of the underlying rail rate. Not linking the fuel surcharge base period to the base period of the rate may lead to a windfall gains by the railroads, and violate the STB's requirement that surcharges levels must be linked to actual operations and costs.

VI. RAILROAD REPORTING REQUIREMENTS

The STB Ex Parte 661 decision proposes that, at a minimum, the railroads should report the following information on a monthly basis:

1. Total fuel expense;
2. Total fuel consumed;
3. Increase or decreases in price of fuel;
4. Revenue from fuel surcharges;
5. Revenue from fuel surcharges collected on joint shipments with Class II and III railroads;
6. Fuel surcharge revenues shared with the Class II and III carriers;
7. The ton-miles on which the fuel surcharge was applied; and
8. Total ton-miles.

The STB's proposed operating and financial metrics would be helpful in judging the impact and effects of the railroad's fuel cost recovery programs. However, the proposed reporting requirements have several shortcomings. First, many of the reporting statistics are reported on inconsistent bases. For example, the STB's proposal requires the railroads to report the first three reporting statistics -- total fuel expense, total fuel consumed and increases or decreases in fuel prices -- on a system-wide basis. However, the STB's proposal would have the railroads report the next three statistics -- revenue from fuel surcharges, revenues from fuel surcharges revenues collected on joint shipments with Class II and Class III carriers, and fuel surcharge revenues shared with the Class II and Class III carriers -- for only a subset of the railroads' total traffic.

Effective management of the railroads' fuel surcharge programs would require the railroads to report all statistics on a common basis.

Second, the above reporting requirements do not allow shippers, or the STB, to determine, if, or by how much, railroads would continue to "double dip" recovery of changes in fuel cost. In other words, the proposed reporting requirements do not reflect the recovery of changes in fuel cost from other rate mechanisms such as through the application of the RCAF which includes changes in railroad fuel prices.

Third, the proposed traffic categories are too narrow and would not allow the STB and shippers to adequately determine if one type of traffic or traffic group is disproportionately supplying a majority of the railroads fuel price recovery.

To eliminate the above shortcomings in the STB's proposed reporting requirements, STB should expand the breadth and depth of the statistics reported by the railroads. Specifically, the STB should require the railroads to report each statistic in their monthly report by major commodity group as reported in the railroad's financial reports, and separated between interchange and non-interchange traffic. Such reporting metrics, along with total revenue, ton-miles, car-miles and train-miles by commodity and interchange category, would provide some clarity in the railroads' reporting of their fuel surcharge programs, and bring some of the

reporting transparency sought by shipper groups.¹⁶

In addition, the STB should require the Class I railroads to report the amount of funds recovered through both fuel surcharge and non-surcharge fuel price recovery mechanisms by each commodity and interchange group. Having the railroads report revenues associated with surcharge and non-surcharge based fuel price recovery methods would show whether the railroads are truly not recovering costs associated with increased fuel prices, and provide the transparency to substantiate their claims.

^{16/} See Ex Parte 661 at 2.

VERIFICATION

COMMONWEALTH OF VIRGINIA)
)
CITY OF ALEXANDRIA)

I, ROGER C. PRESCOTT, verify under penalty of perjury that I have read the foregoing Verified Statement of Roger C. Prescott, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

Roger C. Treasott

Roger C. Prescott

Sworn to and subscribed
before me this day of September 29, 2006.

А. В. Гоголь

Anthony V. Evanshaw III
Notary Public for the State of Virginia

My Commission expires: September 30, 2007

STATEMENT OF QUALIFICATIONS

My name is Roger C. Prescott. I am Executive Vice President and an economist with the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314 and 5901 N. Cicero Avenue, Suite 504, Chicago, Illinois, 60646.

I am a graduate of the University of Maine from which I obtained a Bachelor's degree in Economics. Since June 1978 I have been employed by L. E. Peabody & Associates, Inc.

The firm of L. E. Peabody & Associates, Inc., specializes in solving economic, marketing and transportation problems. As an economic consultant, I have participated in the direction and organization of economic studies and prepared reports for railroads, shippers, for shipper associations and for state governments and other public bodies dealing with transportation and related economic problems. Examples of studies which I have participated in organizing and directing include traffic, operational and cost analyses in connection with the transcontinental movement of major commodity groups. I have also been involved with analyzing multiple car movements, unit train operations, divisions of through rail rates and switching operations throughout the United States. The nature of these studies enabled me to become familiar with the operating and accounting procedures utilized by railroads in the normal course of business.

In the course of my work, I have become familiar with the various formulas employed by the Surface Transportation Board ("STB"), which was formerly known as Interstate Commerce Commission ("ICC"), in the development of variable costs for common carriers with particular emphasis on the basis and use of Rail Form A and its successor, the Uniform Railroad Costing

System ("URCS"). In addition, I have participated in the development and analysis of costs for various short-line railroads.

Over the course of the past twenty-eight (28) years, I have participated in the development of cost of service analyses for the movement of coal over the major eastern, southern and western coal-hauling railroads. I have conducted on-site studies of switching, detention and line-haul activities relating to the handling of coal. I developed the carrier's variable cost of handling various commodities, including coal, in numerous proceedings before the ICC/STB. As part of the variable cost evidence I have developed and presented to the ICC/STB, I have calculated line specific maintenance of way costs based on the Speed Factored Gross Ton ("SFGT") formula.

I have developed and presented evidence to the ICC/STB related to maximum rates, and "Long-Cannon" factors in several proceedings. I have also submitted evidence on numerous occasions in Ex Parte No. 290 (Sub-No. 2), Railroad Cost Recovery Procedures related to the proper determination of the Rail Cost Adjustment Factor.

In the two Western rail mergers, Finance Docket No. 32549, Burlington Northern, et al. -- Control and Merger -- Santa Fe Pacific Corporation, et al. and Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation et al., I reviewed the railroads' applications including their supporting traffic, cost and operating data and provided detailed evidence supporting requests for conditions designed to maintain the competitive rail environment that existed before the proposed mergers.

I have previously participated in various Postal Rate Commission ("PRC") proceedings. My testimony at the PRC has involved the analysis of the rate structure for Third Class Bulk Rate Regular ("TCBRR") mailers, the development of rates for Standard (A) mail, the development of

costs savings related to proposed discounts, the relationship of the changes in costs with changes in weight and the differential in costs associated with the specific shape of mail.

Estimate of BNSF and UP Fuel Surcharge Price Thresholds

	Time Period	Quarterly Average HDF Fuel Prices (Cents/Gallons) 1/	BNSF Quarterly Fuel Price (Cents/Gallon) 2/	UP Quarterly Fuel Price (Cents/Gallon) 3/
	(1)	(2)	(3)	(4)
1.	1Q 1997	126.67	72.8	75.0
2.	2Q 1997	119.36	69.2	71.0
3.	3Q 1997	115.84	64.8	67.0
4.	4Q 1997	118.00	66.9	70.0
5.	1Q 1998	108.89	63.3	64.0
6.	2Q 1998	105.89	63.5	63.0
7.	3Q 1998	102.01	62.4	60.0
8.	4Q 1998	101.12	61.4	60.0
9.	1Q 1999	97.41	56.3	50.0
10.	2Q 1999	107.56	58.5	56.0
11.	3Q 1999	116.94	57.6	56.0
12.	4Q 1999	126.11	63.2	60.0
13.	1Q 2000	143.19	72.3	81.0
14.	2Q 2000	142.09	76.6	84.0
15.	3Q 2000	151.23	78.8	92.0
16.	4Q 2000	160.77	89.7	103.0
17.	1Q 2001	147.17	86.5	92.0
18.	2Q 2001	146.66	84.0	92.0
19.	3Q 2001	141.98	82.5	86.0
20.	4Q 2001	125.79	77.7	81.0
21.	1Q 2002	117.83	65.0	61.0
22.	2Q 2002	129.99	73.1	72.0
23.	3Q 2002	134.58	73.9	75.0
24.	4Q 2002	143.67	77.7	81.0
25.	1Q 2003	161.67	93.8	100.0
26.	2Q 2003	146.93	88.6	88.0
27.	3Q 2003	146.27	88.0	90.0
28.	4Q 2003	148.44	85.4	89.0
29.	1Q 2004	158.75	86.7	102.0
30.	2Q 2004	171.66	96.7	116.0
31.	3Q 2004	182.94	98.8	125.0
32.	4Q 2004	209.67	114.1	146.0
33.	1Q 2005	206.64	113.3	145.0
34.	2Q 2005	226.01	132.5	167.0
35.	3Q 2005	256.38	143.0	188.0
36.	4Q 2005	270.36	169.1	208.0
37.	1Q 2006	250.04	155.8	187.0
38.	2Q 2006	284.07	183.0	215.0
39.	Regression Intercept 4/	---	-8.581	-40.048
40.	Regression Slope 5/	---	0.628	0.896
41.	Estimated Railroad Fuel Price (Cents/Gallon) 6/	---	69.8	80.8
42.	Latest Period When Less Than Threshold Price 7/	---	1Q 2002	4Q 2002

- 1/ Source: EIA File "PSW18VWALL.xls" available on the EIA website at "http://tonto.eia.doe.gov/oog/ftp/parca/wogirs/xls/psw18vwall.xls"
- 2/ Source: BNSF Quarterly Investor Reports and Quarterly Earnings Releases
- 3/ Source: UP Annual Analysts Fact Books and Quarterly Earnings Releases
- 4/ Regression intercept based on an Ordinary Least Squares analysis.
- 5/ Regression slope based on an Ordinary Least Squares analysis. The slope represents the expected change in railroad fuel price for each one-unit change in the HDF index.
- 6/ For BNSF, Column (3), Line 39, + [Column (3), Line 40 x 124.9 per gallon threshold HDF fuel price]. For UP, Column (4), Line 39, + [Column (4), Line 40 x 134.9 per gallon threshold HDF fuel price].
- 7/ Represents the latest time in which the railroads' fuel prices approximated the estimated fuel surcharge fuel price threshold levels.

Estimate of NS and CSX Fuel Surcharge Price Thresholds

	Time Period	Quarterly Average WTI Crude Prices (Dollar/Barrel) 1/	NS Quarterly Fuel Price (Cents/Gallon) 2/	CSX Quarterly Fuel Price (Cents/Gallon) 3/
	(1)	(2)	(3)	(4)
1.	1Q 1999	13.17	40.3	45.0
2.	2Q 1999	17.65	49.2	54.0
3.	3Q 1999	21.72	60.2	64.0
4.	4Q 1999	24.60	71.8	73.9
5.	1Q 2000	28.90	85.3	86.0
6.	2Q 2000	28.92	83.3	90.0
7.	3Q 2000	31.63	94.2	97.0
8.	4Q 2000	32.06	106.5	109.5
9.	1Q 2001	28.76	91.6	98.9
10.	2Q 2001	27.92	87.8	91.7
11.	3Q 2001	26.70	86.8	89.7
12.	4Q 2001	20.50	78.3	80.7
13.	1Q 2002	21.64	67.1	71.6
14.	2Q 2002	26.27	70.3	77.6
15.	3Q 2002	28.32	72.7	80.2
16.	4Q 2002	28.30	80.1	84.2
17.	1Q 2003	34.04	85.9	106.2
18.	2Q 2003	28.98	80.1	93.8
19.	3Q 2003	30.22	77.4	90.9
20.	4Q 2003	31.17	78.9	91.7
21.	1Q 2004	35.34	83.1	101.7
22.	2Q 2004	38.32	85.9	104.1
23.	3Q 2004	43.89	87.9	113.7
24.	4Q 2004	50.09	106.8	118.5
25.	1Q 2005	49.90	112.2	114.0
26.	2Q 2005	53.11	127.7	119.1
27.	3Q 2005	63.31	151.8	133.5
28.	4Q 2005	60.03	176.1	159.6
29.	1Q 2006	63.27	168.0	160.8
30.	2Q 2006	70.46	201.4	195.2
31.	Regression Intercept 4/	—	12.705	28.465
32.	Regression Slope 5/	—	2.329	2.023
33.	Estimated Railroad Fuel Price (Cents/Gallon) 6/	—	66.27	75.00
34.	Latest Period When Less Than Threshold Price 7/	—	1Q 2002	2Q 2002

1/ Source: EIA File "pet_pri_spt_sl_d.xls" available on the EIA website at "http://tonto.eia.doe.gov/dnav/pet/pet_pri_spt_sl_d.htm"

2/ Source: NS Quarterly Financial Reviews

3/ Source: CSX Flash Quarterly Financial Reports

4/ Regression intercept based on an Ordinary Least Squares analysis.

5/ Regression slope based on an Ordinary Least Squares analysis. The slope represents the expected change in railroad fuel price for each one-unit change in the WTI Crude price.

6/ For NS, Column (3), Line 31 + [Column (3), Line 32 x \$23 per barrel threshold WTI Crude price]. For CSX, Column (4), Line 31 + [Column (4), Line 32 x \$23 per barrel threshold WTI Crude price].

7/ Represents the latest time in which the railroads' fuel prices approximated the estimated fuel surcharge fuel price threshold levels.

Quarterly Adjusted Rail Cost Adjustment Factor Fuel Index

Time Period (1)	RCAF Fuel Index 1/ (2)	Forecast Error 1/ Error 1/ (3)	Adjusted Forecast Error 2/ Error 2/ (4)	Previous Quarter's Weighted Average Index 1/ (6)	Previous Quarter's Linked Index 1/ (7)	Linking Factor 3/ Forecast Error 4/ Index Value 5/ (8)	Linked Adjusted Forecast Error 4/ Index Value 5/ (9)	Adjusted RCAF Fuel Index Value 5/ (10)
1. 1Q 1997	96.5	0.003	0.003	174.4	170.4	1.0235	0.307	96.52
2. 2Q 1997	78.8	0.008	0.008	178.8	174.7	1.0235	0.819	78.86
3. 3Q 1997	83.1	-0.001	-0.001	177.8	173.7	1.0236	-0.102	83.09
4. 4Q 1997	80.7	0.000	0.000	178.4	174.6	1.0218	0.000	80.70
5. 1Q 1998	81.3	-0.001	-0.001	177.0	173.2	1.0219	-0.113	81.29
6. 2Q 1998	70.3	0.006	0.007	176.5	172.7	1.0220	0.677	70.36
7. 3Q 1998	71.3	-0.003	-0.003	175.3	171.5	1.0222	-0.339	71.27
8. 4Q 1998	68.3	0.002	0.002	178.6	173.4	1.0300	0.227	68.32
9. 1Q 1999	63.1	-0.003	-0.003	178.5	173.3	1.0300	-0.341	63.07
10. 2Q 1999	55.2	-0.001	-0.001	178.2	173.0	1.0301	-0.114	55.19
11. 3Q 1999	66.3	-0.004	-0.004	177.3	172.1	1.0302	-0.455	66.26
12. 4Q 1999	75.9	0.006	0.007	179.5	174.2	1.0304	0.683	75.95
13. 1Q 2000	90.1	0.007	0.008	179.4	174.1	1.0304	0.796	90.16
14. 2Q 2000	102.6	0.009	0.010	184.9	179.4	1.0307	1.024	102.67
15. 3Q 2000	98.7	0.002	0.002	185.8	180.3	1.0305	0.228	98.72
16. 4Q 2000	123.4	0.003	0.003	186.9	181.6	1.0292	0.341	123.42
17. 1Q 2001	129.7	0.006	0.007	188.1	182.9	1.0284	0.681	129.75
18. 2Q 2001	102.7	0.004	0.004	192.2	186.9	1.0284	0.454	102.73
19. 3Q 2001	108.3	0.000	0.000	190.9	185.6	1.0286	0.000	108.30
20. 4Q 2001	108.5	0.004	0.004	187.7	186.9	1.0043	0.443	108.55
21. 1Q 2002	87.4	0.000	0.000	186.9	186.1	1.0043	0.000	87.40
22. 2Q 2002	82.5	-0.002	-0.002	187.2	186.4	1.0043	-0.222	82.48
23. 3Q 2002	94.4	-0.010	-0.011	185.0	184.2	1.0043	-1.109	94.28
24. 4Q 2002	103.5	0.012	0.015	188.1	185.6	1.0135	1.488	103.66
25. 1Q 2003	100.7	0.004	0.005	192.5	189.9	1.0137	0.496	100.75
26. 2Q 2003	130.4	0.009	0.011	193.2	190.6	1.0136	1.116	130.52
27. 3Q 2003	106.3	0.014	0.017	196.9	194.3	1.0134	1.735	106.48
28. 4Q 2003	113.3	-0.003	-0.004	197.0	193.3	1.0191	-0.374	113.27
29. 1Q 2004	110.8	0.007	0.009	199.6	195.9	1.0189	0.872	110.88
30. 2Q 2004	120.8	0.007	0.009	199.3	195.6	1.0189	0.872	120.88
31. 3Q 2004	137.7	0.016	0.020	200.8	197.1	1.0188	1.994	137.88
32. 4Q 2004	148.3	0.022	0.027	205.7	202.6	1.0153	2.732	148.59

Time Period (1)	RCAF Fuel Index 1/ (2)	Forecast Error 1/ (3)	Adjusted Forecast Error 2/ (4)	Fuel Weight 1/ (5)	Previous Quarter's Weighted Average Index 1/ (6)	Previous Quarter's Linked Index 1/ (7)	Linking Factor 3/ (8)	Linked Adjusted Forecast Error 4/ (9)	Adjusted RCAF Fuel Index Value 5/ (10)
33. 1Q 2005	171.5	0.010	0.012	10.6	209.7	206.5	1.0155	1.242	171.63
34. 2Q 2005	186.9	0.030	0.037	10.6	214.0	210.7	1.0157	3.727	187.30
35. 3Q 2005	193.6	0.006	0.007	10.6	218.3	214.9	1.0158	0.746	193.68
36. 4Q 2005	276.2	0.012	0.015	12.1	219.1	217.0	1.0097	1.482	276.38
37. 1Q 2006	226.4	0.011	0.013	12.1	227.5	225.3	1.0098	1.359	226.56
38. 2Q 2006	227.9	0.013	0.016	12.1	226.1	223.9	1.0098	1.606	228.09

- 1/ Source: STB Decisions in Ex Parte No. 290 (Sub-No.5), Quarterly Rail Cost Adjustment Factor
2/ Adjusted to reflect the rebasing of the RCAF-U in 4Q 1997 and 4Q 2002.
3/ Column (6) + Column (7). Linking is necessitated by annual changes in weighting factors.
4/ Column (4) x Column (8) x 100
5/ Column (2) + [(Column (5) + 100) x Column 9]. To allocate the forecast error to the fuel component of the RCAF

Correlation Between The RCAF Fuel Index And Class I Railroad Fuel Prices

	Time Period	Adjusted RCAF Fuel Index Value 1/	BNSF Quarterly Fuel Price (Cents/Gallon) 2/	UP Quarterly Fuel Price (Cents/Gallon) 3/	NS Quarterly Fuel Price (Cents/Gallon) 4/	CSX Quarterly Fuel Price (Cents/Gallon) 5/	KCS Quarterly Fuel Price (Cents/Gallon) 6/
		(1)	(2)	(3)	(4)	(5)	(6)
1.	1Q 1997	96.52	72.8	75.0	71	71	71
2.	2Q 1997	78.86	69.2	71.0	71	71	71
3.	3Q 1997	83.09	64.8	67.0	71	71	71
4.	4Q 1997	80.70	66.9	70.0	71	71	71
5.	1Q 1998	81.29	63.3	64.0	71	71	71
6.	2Q 1998	70.36	63.5	63.0	71	71	71
7.	3Q 1998	71.27	62.4	60.0	71	71	71
8.	4Q 1998	68.32	61.4	60.0	71	71	71
9.	1Q 1999	63.07	56.3	50.0	40.3	45.0	71
10.	2Q 1999	55.19	58.5	56.0	49.2	54.0	71
11.	3Q 1999	66.26	57.6	56.0	60.2	64.0	71
12.	4Q 1999	75.95	63.2	60.0	71.8	73.9	71
13.	1Q 2000	90.16	72.3	81.0	85.3	86.0	71
14.	2Q 2000	102.67	76.6	84.0	83.3	90.0	71
15.	3Q 2000	98.72	78.8	92.0	94.2	97.0	71
16.	4Q 2000	123.42	89.7	103.0	106.5	109.5	71
17.	1Q 2001	129.75	86.5	92.0	91.6	98.9	71
18.	2Q 2001	102.73	84.0	92.0	87.8	91.7	71
19.	3Q 2001	108.30	82.5	86.0	86.8	89.7	71
20.	4Q 2001	108.55	77.7	81.0	78.3	80.7	71
21.	1Q 2002	87.40	65.0	61.0	67.1	71.6	71
22.	2Q 2002	82.48	73.1	72.0	70.3	77.6	71
23.	3Q 2002	94.28	73.9	75.0	72.7	80.2	71
24.	4Q 2002	103.66	77.7	81.0	80.1	84.2	71
25.	1Q 2003	100.75	93.8	100.0	85.9	106.2	71
26.	2Q 2003	130.52	88.6	88.0	80.1	93.8	71
27.	3Q 2003	106.48	88.0	90.0	77.4	90.9	87.0
28.	4Q 2003	113.27	85.4	89.0	78.9	91.7	86.0
29.	1Q 2004	110.88	86.7	102.0	83.1	101.7	102.0
30.	2Q 2004	120.88	96.7	116.0	85.9	104.1	102.0
31.	3Q 2004	137.88	98.8	125.0	87.9	113.7	114.0
32.	4Q 2004	148.59	114.1	146.0	106.8	118.5	140.0
33.	1Q 2005	171.63	113.3	145.0	112.2	114.0	140.0
34.	2Q 2005	187.30	132.5	167.0	127.7	119.1	157.0
35.	3Q 2005	193.68	143.0	188.0	151.8	133.5	176.0
36.	4Q 2005	276.38	169.1	208.0	176.1	159.6	195.0
37.	1Q 2006	226.56	155.8	187.0	168.0	160.8	174.0
38.	2Q 2006	228.09	183.0	215.0	201.4	195.2	212.0
39.	Correlation 8/	—	0.973	0.969	0.971	0.952	0.977

1/ Source: Pages 1 and 2, Column (10)

2/ Source: BNSF Quarterly Investor Reports and Quarterly Earnings Releases

3/ Source: UP Annual Analysts Fact Books and Quarterly Earnings Releases

4/ Source: NS Quarterly Financial Reviews

5/ Source: CSX Flash Quarterly Financial Reports

6/ Source: KCS Historical Analyst Data Report

7/ Quarterly fuel price data unavailable

8/ Correlation between Adjusted RCAF Fuel Index (Column (2)) and railroad fuel prices (Columns (3) to (7))

Correlation Between The HDF Index And Class I Railroad Fuel Prices

Time Period	Quarterly Average HDF Fuel Prices	BNSF Quarterly Fuel Price	UP Quarterly Fuel Price	NS Quarterly Fuel Price	CSX Quarterly Fuel Price	KCS Quarterly Fuel Price
	(Cents/Gallons) 1/	(Cents/Gallon) 2/	(Cents/Gallon) 3/	(Cents/Gallon) 4/	(Cents/Gallon) 5/	(Cents/Gallon) 6/
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. 1Q 1997	126.67	72.8	75.0	7/	7/	7/
2. 2Q 1997	119.36	69.2	71.0	7/	7/	7/
3. 3Q 1997	115.84	64.8	67.0	7/	7/	7/
4. 4Q 1997	118.00	66.9	70.0	7/	7/	7/
5. 1Q 1998	108.89	63.3	64.0	7/	7/	7/
6. 2Q 1998	105.89	63.5	63.0	7/	7/	7/
7. 3Q 1998	102.01	62.4	60.0	7/	7/	7/
8. 4Q 1998	101.12	61.4	60.0	7/	7/	7/
9. 1Q 1999	97.41	56.3	50.0	40.3	45.0	7/
10. 2Q 1999	107.56	58.5	56.0	49.2	54.0	7/
11. 3Q 1999	116.94	57.6	56.0	60.2	64.0	7/
12. 4Q 1999	126.11	63.2	60.0	71.8	73.9	7/
13. 1Q 2000	143.19	72.3	81.0	85.3	86.0	7/
14. 2Q 2000	142.09	76.6	84.0	83.3	90.0	7/
15. 3Q 2000	151.23	78.8	92.0	94.2	97.0	7/
16. 4Q 2000	160.77	89.7	103.0	106.5	109.5	7/
17. 1Q 2001	147.17	86.5	92.0	91.6	98.9	7/
18. 2Q 2001	146.66	84.0	92.0	87.8	91.7	7/
19. 3Q 2001	141.98	82.5	86.0	86.8	89.7	7/
20. 4Q 2001	125.79	77.7	81.0	78.3	80.7	7/
21. 1Q 2002	117.83	65.0	61.0	67.1	71.6	7/
22. 2Q 2002	129.99	73.1	72.0	70.3	77.6	7/
23. 3Q 2002	134.58	73.9	75.0	72.7	80.2	7/
24. 4Q 2002	143.67	77.7	81.0	80.1	84.2	7/
25. 1Q 2003	161.67	93.8	100.0	85.9	106.2	7/
26. 2Q 2003	146.93	88.6	88.0	80.1	93.8	7/
27. 3Q 2003	146.27	88.0	90.0	77.4	90.9	87.0
28. 4Q 2003	148.44	85.4	89.0	78.9	91.7	86.0
29. 1Q 2004	158.75	86.7	102.0	83.1	101.7	102.0
30. 2Q 2004	171.66	96.7	116.0	85.9	104.1	102.0
31. 3Q 2004	182.94	98.8	125.0	87.9	113.7	114.0
32. 4Q 2004	209.67	114.1	146.0	106.8	118.5	140.0
33. 1Q 2005	206.64	113.3	145.0	112.2	114.0	140.0
34. 2Q 2005	226.01	132.5	167.0	127.7	119.1	157.0
35. 3Q 2005	256.38	143.0	188.0	151.8	133.5	176.0
36. 4Q 2005	270.36	169.1	208.0	176.1	159.6	195.0
37. 1Q 2006	250.04	155.8	187.0	168.0	160.8	174.0
38. 2Q 2006	284.07	183.0	215.0	201.4	195.2	212.0
39. Correlation 8/	—	0.984	0.993	0.962	0.956	0.996

- 1/ Source: EIA File "PSW18VWALL.xls" available on the EIA website at "http://tonto.eia.doe.gov/oog/ftp/arcia/wogirs/xls/psw18vwall.xls"
- 2/ Source: BNSF Quarterly Investor Reports and Quarterly Earnings Releases
- 3/ Source: UP Annual Analysts Fact Books and Quarterly Earnings Releases
- 4/ Source: NS Quarterly Financial Reviews
- 5/ Source: CSX Flash Quarterly Financial Reports
- 6/ Source: KCS Historical Analyst Data Report
- 7/ Quarterly fuel price data unavailable
- 8/ Correlation between HDF Index (Column (2)) and railroad fuel prices (Columns (3) to (7))

Correlation Between The Gulf Cost Diesel Index And Class I Railroad Fuel Prices

<u>Time Period</u>	<u>Quarterly Average Gulf Cost Diesel Price (Cents/Gallons) 1/</u>	<u>BNSF Quarterly Fuel Price (Cents/Gallon) 2/</u>	<u>UP Quarterly Fuel Price (Cents/Gallon) 3/</u>	<u>NS Quarterly Fuel Price (Cents/Gallon) 4/</u>	<u>CSX Quarterly Fuel Price (Cents/Gallon) 5/</u>	<u>KCS Quarterly Fuel Price (Cents/Gallon) 6/</u>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. 1Q 1997	60.73	72.8	75.0	7/	7/	7/
2. 2Q 1997	52.80	69.2	71.0	7/	7/	7/
3. 3Q 1997	52.37	64.8	67.0	7/	7/	7/
4. 4Q 1997	53.68	66.9	70.0	7/	7/	7/
5. 1Q 1998	43.53	63.3	64.0	7/	7/	7/
6. 2Q 1998	40.77	63.5	63.0	7/	7/	7/
7. 3Q 1998	38.14	62.4	60.0	7/	7/	7/
8. 4Q 1998	35.20	61.4	60.0	7/	7/	7/
9. 1Q 1999	33.95	56.3	50.0	40.3	45.0	7/
10. 2Q 1999	42.63	58.5	56.0	49.2	54.0	7/
11. 3Q 1999	55.97	57.6	56.0	60.2	64.0	7/
12. 4Q 1999	63.07	63.2	60.0	71.8	73.9	7/
13. 1Q 2000	73.97	72.3	81.0	85.3	86.0	7/
14. 2Q 2000	75.34	76.6	84.0	83.3	90.0	7/
15. 3Q 2000	88.08	78.8	92.0	94.2	97.0	7/
16. 4Q 2000	91.56	89.7	103.0	106.5	109.5	7/
17. 1Q 2001	79.32	86.5	92.0	91.6	98.9	7/
18. 2Q 2001	76.79	84.0	92.0	87.8	91.7	7/
19. 3Q 2001	72.02	82.5	86.0	86.8	89.7	7/
20. 4Q 2001	55.73	77.7	81.0	78.3	80.7	7/
21. 1Q 2002	55.86	65.0	61.0	67.1	71.6	7/
22. 2Q 2002	65.11	73.1	72.0	70.3	77.6	7/
23. 3Q 2002	72.05	73.9	75.0	72.7	80.2	7/
24. 4Q 2002	77.12	77.7	81.0	80.1	84.2	7/
25. 1Q 2003	94.38	93.8	100.0	85.9	106.2	7/
26. 2Q 2003	73.55	88.6	88.0	80.1	93.8	7/
27. 3Q 2003	77.87	88.0	90.0	77.4	90.9	87.0
28. 4Q 2003	82.57	85.4	89.0	78.9	91.7	86.0
29. 1Q 2004	93.80	86.7	102.0	83.1	101.7	102.0
30. 2Q 2004	98.70	96.7	116.0	85.9	104.1	102.0
31. 3Q 2004	119.42	98.8	125.0	87.9	113.7	114.0
32. 4Q 2004	134.45	114.1	146.0	106.8	118.5	140.0
33. 1Q 2005	138.56	113.3	145.0	112.2	114.0	140.0
34. 2Q 2005	155.78	132.5	167.0	127.7	119.1	157.0
35. 3Q 2005	189.78	143.0	188.0	151.8	133.5	176.0
36. 4Q 2005	189.45	169.1	208.0	176.1	159.6	195.0
37. 1Q 2006	181.23	155.8	187.0	168.0	160.8	174.0
38. 2Q 2006	211.93	183.0	215.0	201.4	195.2	212.0
39. Correlation 8/	—	0.977	0.989	0.958	0.951	0.991

1/ Source: EIA File "pet_pri_spt_sl_d.xls" available on the EIA website at "http://tonto.eia.doe.gov/dnav/pet/pet_pri_spt_sl_d.htm"

2/ Source: BNSF Quarterly Investor Reports and Quarterly Earnings Releases

3/ Source: UP Annual Analysts Fact Books and Quarterly Earnings Releases

4/ Source: NS Quarterly Financial Reviews

5/ Source: CSX Flash Quarterly Financial Reports

6/ Source: KCS Historical Analyst Data Report

7/ Quarterly fuel price data unavailable

8/ Correlation between Gulf Coast Diesel Index (Column (2)) and railroad fuel prices (Columns (3) to (7))