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October 3, 2006

Vernon A. Williams
Secretary
Surface Transportation Board
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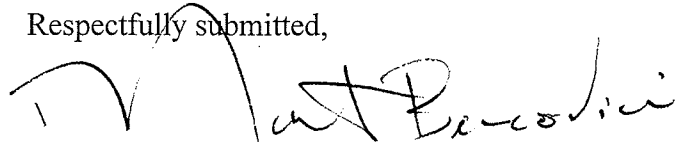
Re: Rail Fuel Surcharges, STB Ex Parte No. 661

Dear Secretary Williams:

Enclosed, please find the Comments of Arkansas Electric Cooperative Corporation submitted in response to the Board's Decision served August 3, 2006 in the above-captioned proceeding.

The Board is respectfully requested to accept these Comments one day after the October 2 due date. Due to the Yom Kippur holiday falling on October 2, final coordination and filing on that date was not possible. The one day delay in filing will not be prejudicial to any other party, particularly considering that the Board's August 3 Decision did not make provision for reply comments.

Respectfully submitted,



Martin W. Bercovici

Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC 20423**

In the Matter of:

RAIL FUEL SURCHARGES

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) **STB Ex Parte No. 661**
)
)

**COMMENTS OF
ARKANSAS ELECTRIC COOPERATIVE CORPORATION**

Arkansas Electric Cooperative Corporation ("AECC") respectfully submits its comments in response to the proposals advanced by this Board regarding freight railroad fuel surcharge practices.¹ AECC concurs with the Board's general finding that surcharge practices must be improved, and is grateful for this opportunity to comment on the proposed new fuel surcharge standards and reporting requirements.

I. STATEMENT OF INTEREST

AECC is a membership-based generation and transmission cooperative that provides wholesale electric power to electric cooperatives, which in turn serve approximately 400,000 customers located in each of the 75 counties in Arkansas. In order to serve its member distribution cooperatives, AECC has entered into arrangements with other utilities within the state to share generation and transmission facilities. The largest of AECC's generation assets are its ownership interests in the White Bluff plant at Redfield, AR and the Independence plant at Newark, AR, each of which typically burns in excess of 6 million tons of Powder River Basin (PRB) coal annually. AECC holds a

¹ 71 Fed. Reg. 45900 (Aug. 10, 2006).

35 percent interest in each of these plants (for which Entergy is the operator and majority owner). In addition, AECC holds a 50 percent interest (with AEP) in the Flint Creek plant, which is located in Gentry, AR. This plant normally burns in excess of 2 million tons of PRB coal annually.

As a result of the large volume of PRB coal used by these plants and the essential role of rail transportation for these movements, AECC has a direct interest in issues that may affect its rail pricing and service options. Fuel surcharge practices and levels are of particular interest, as they largely determine the way delivered fuel costs vary in response to the volatility of petroleum prices.

II. COMMENTS

The Board's August 3 Decision properly recognizes the need for railroads to be able to adjust their prices to compensate for uncontrollable and often unpredictable fluctuations in the cost of diesel fuel. At the same time, the Decision recognizes the need to limit such price changes to those which recoup the actual cost change for the service received by the customer.

Comments regarding the four specific proposals advanced by the Board are presented below.

A. Linkage Requirement

The Board correctly concludes that the infirmities of fuel surcharges based on a percentage of the rate make such a practice unacceptable. This conclusion is consistent

with and fully supported by AECC's previous observations regarding the inequity for captive shippers that results from use of the "percentage" method.²

The Board specifically proposes "...to require that fuel surcharges be tied not to the level of the base rate but to those attributes of a 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."

AECC supports without reservation the Board's apparent intent to ensure a close correspondence between fuel surcharges and actual fuel use on the movements to which they are applied. AECC also recognizes that for some types of traffic, the type of methodology contemplated by the Board will represent a quantum improvement in current practices, for which the Board is to be commended. However, AECC has concerns regarding the degree to which the Board's proposal will achieve a close correspondence between fuel surcharges and actual fuel use for the types of unit coal train movements in which AECC is involved.

First, a methodology will not always be acceptably accurate simply because it is based on miles and/or ton-miles. As shown in the study of fuel use AECC previously submitted to the Board in this proceeding, the BNSF mileage-based surcharge may in some circumstances cause over-recovery comparable to that associated with the percentage of revenue method.³ While AECC certainly welcomes the Board's rejection

² STB Ex Parte No. 661, Comments of Arkansas Electric Cooperative Corporation at 3-4 (April 27, 2006) (hereafter, "AECC Comments").

³ See Rail Fuel Use and Surcharges for White Bluff and Independence Plants, prepared for AECC by Michael A. Nelson (May 15, 2006), STB Document ID 216548, at 12 (hereafter, "AECC Study").

of the percentage method, the alternatives must also be examined carefully with respect to their consistency with actual fuel use.

At least under the extreme operating requirements associated with movement of unit coal trains, a rigid surcharge methodology based on car-miles or ton-miles may leave open significant opportunities for the types of surcharge inaccuracies that the Board is properly seeking to minimize. This is because such measures do not always reflect the attributes of these movements that ultimately determine actual fuel use.

The potential problem is illustrated by the fuel use estimates developed in the AECC Study for loaded unit train movements of PRB coal on the rail segments:

- From the Black Thunder mine to Shawnee Junction;
- From Shawnee Junction to the Kansas City gateway via UP; and,
- From Shawnee Junction to the Kansas City gateway via BNSF.

Assuming that all of these movements take place in 132-car trains carrying 120 net tons per car, Table 1 develops estimates of fuel use per car-mile and per ton-mile for these movements based on the information presented in the AECC Study:

Table 1

Fuel Use Estimates on Sample Segments

Segment	Gallons Per Loaded Train-Mile ⁴	Gallons Per Loaded Car-Mile	Gallons Per Net Ton-Mile
Black Thunder-Shawnee Junction	30.0	0.22727	0.00189
Shawnee Junction-Kansas City (UP)	9.1	0.06894	0.00057
Shawnee Junction-Kansas City (BNSF)	9.1	0.06894	0.00057

As shown in this table, fuel use for unit coal trains is not uniform on a car-mile or ton-mile basis, and may be quite sensitive to the characteristics of the traversed route. In this illustration, fuel use (per car-mile or per ton-mile) on the comparatively arduous movement north of Shawnee Junction is more than 3 times the corresponding figure for the entire remainder of the route to Kansas City via either UP or BNSF.

Across other portions of the rail network, the variations in actual fuel use that occur on different segments may be even wider. For example, it is estimated that ascent of the 27-mile helper grade on the UP/BNSF line south of Denver (between Sedalia and Palmer Lake) by a train the size of a PRB coal train consumes about 2100 gallons of diesel fuel.⁵ Descending the same distance on a smooth downgrade consumes about 176 gallons of diesel fuel.⁶ Such segment-to-segment, direction-specific variations in fuel use make it difficult, if not impossible, for the contemplated mileage or ton-mile measures to accurately reflect fuel use for different coal movements under all circumstances.

⁴ Source: Drawn or calculated from data presented in AECC Study at 11 (Table 2).

⁵ AECC Study at 6-7.

⁶ Calculated as 27 miles x 6.5 gallons/train-mile (see AECC Study at 7).

Of course, if most movements (hypothetically) traversed comparable mixes of “difficult” and “easy” terrain, the variations described above would not necessarily undermine use of the contemplated mileage or ton-mile measures. However, this is not the case. For example, a loaded 132-car train moving on BNSF from the PRB via Alliance across Nebraska to Kansas City would consume on average about 11.2 gallons/train-mile.⁷ However, the data underlying the AECC Study indicate that an otherwise identical train moving southward over BNSF’s line through Colorado would consume an average of about 22.2 gallons per train-mile over the entire distance from the PRB to Pueblo. Put another way, even within the same railroad, fuel use for loaded trains moving in one corridor vs. another can differ by a factor of (approximately) 2.

The lack of uniformity in fuel use likely becomes even more of an issue when the geographic and commodity scope is broadened. Types of traffic that would appear to entail particularly high fuel use include:

- Premium traffic that relies on high operating speeds to achieve low transit times;
- Traffic for which factors such as low commodity density cause a high “gross-to-net” tonnage ratio; and,
- Traffic that experiences a significant “rise” or positive elevation change, including traffic that traverses the Continental Divide.

The sensitivity of actual fuel use to so many considerations underscores the need to ensure that the fuel surcharge methodology can be adjusted as needed to be accurate in different situations. For fuel surcharge parameters based on miles or ton-miles, the Board should not expect that one size will fit all traffic movements equally well.

⁷ Calculated from data presented in AECC Study at 11 (Table 2).

The Board appears to have contemplated this general possibility, which would be addressed in part by the portion of the Board's proposal that provides railroads with the "... discretion to devise an alternative methodology, so long as it would have a reasonable nexus to the fuel consumption for the movement involved." However, given the variations in fuel use that occur across traffic types, the railroads would seemingly have the ability and economic incentive to apply the Board's methodology to movements with low fuel consumption, while devising "an alternative methodology" for movements that have high actual fuel use. Any methodology adopted by the Board should address "de-averaging" of this type and/or provide a symmetrical opportunity for shippers to propose an "alternative methodology" if the Board's methodology overstates the actual fuel use.

AECC's specific recommendations include the following:

1. The Board should augment any aggregate traffic and fuel use data it gathers with information regarding the fuel intensity of different types of traffic. This will help the Board to ensure a reasonable degree of correspondence between fuel surcharges and actual fuel use in different market segments.
2. The Board should anticipate that there will be segments of traffic for which any surcharge methodology based on miles or ton-miles will not produce an acceptable relationship with actual fuel use. It should therefore provide an appropriate procedure to facilitate dispute resolution and encourage agreements between railroads and shippers for specific movements where the broader surcharge mechanism is not sufficiently accurate. At least within major corridors of unit train movements, resolution of this issue between one shipper and its serving rail carrier should set a precedent for other movements

occurring in the corridor. Such resolutions/agreements could also provide information that is useful to the Board in assessing fuel use differences in different market segments.

3. To support (1) and (2), the Board should consider establishing a technical conference or other suitable forum for the presentation and exchange of information regarding fuel use associated with different rail traffic types.

4. The Board should ensure that any methodology it adopts is even-handed with respect to the opportunities it provides for carriers or shippers to propose “alternative” methodologies or otherwise address deviations between computed fuel surcharges and actual fuel use on the movements to which they are applied.

With these refinements, the Board’s proposal will produce a major improvement in rail fuel surcharge practices.

B. Double Dipping Prohibition

AECC fully supports the Board’s proposal to prohibit fuel surcharges that would reimburse carriers for fuel price increases already recovered through other means.

C. Appropriate Index of Fuel Cost Increases

Under the Board’s proposal, fuel surcharge levels would be determined by an index of “No. 2 Diesel Retail Sales by All Sellers” published by DOE/EIA. AECC recognizes DOE/EIA as an authoritative source, and has no concerns regarding the veracity of this index. Moreover, the numerical values of the proposed index are identical to the numerical values of the “On-Highway Diesel Fuel” (HDF) index already used by UP and BNSF in their surcharge programs. AECC accepts that changes in this index have historically correlated reasonably well with changes in rail fuel price levels.⁸

⁸ AECC Study at 5.

Nevertheless, AECC is concerned that future applications of this index may not produce the accuracy suggested by past correlations.

The basic problem is that the index reflects a market in which the railroads generally do not participate. Railroads do not buy their fuel at truck stops and filling stations. Rather, they function as large industrial customers. As a result, the price level paid by railroads historically has deviated widely from the price shown by the retail index. Table 2 shows how railroads consistently have been able to achieve fuel price levels below the average of industrial customers, and far below the average of retail customers:

Table 2

Diesel Price Levels by Use and Index (current year cents per gallon)

Year	On-Highway ⁹	Diesel Retail – All Sellers ¹⁰	Industrial ¹¹	Railroad ¹²	Sales for Resale ¹³	Sales for Resale – Low Sulfur ¹⁴
1999	112.1	112.1	64.5	55.5	55.2	55.7
2000	149.1	149.1	99.0	87.5	90.4	90.9
2001	140.1	140.1	90.7	85.5	79.1	79.4
2002	131.9	131.9	82.6	73.3	73.5	73.8
2003	150.9	150.9	100.4	89.3	89.1	89.5
2004	181.0	181.0	131.9	[107.0] ¹⁵	119.1	119.7
2005	240.2	240.2	186.0	U	175.4	176.1

U - Unavailable

Railroads are able to achieve such low fuel prices because they are high-volume customers who distribute fuel efficiently for their own use. They do not bear the costs of a ubiquitous network of retail outlets, and are not always affected by considerations that influence retail costs. For example, upcoming requirements related to distribution of

⁹ See http://tonto.eia.doe.gov/dnav/pet/pet_pri_gnd_a_epd2d_pte_cpgal_a.htm.

¹⁰ See <http://tonto.eia.doe.gov/dnav/pet/hist/ddr001A.htm>.

¹¹ See U.S. Department of Energy, "Petroleum Marketing Monthly", Table 16 – U.S. No. 2 Diesel Fuel Prices by Sales Type at http://www.eia.doe.gov/pub/oil_gas/petroleum/data_publications/petroleum_marketing_monthly/current/txt/tables16.txt.

¹² Source: U.S. Department of Transportation, Bureau of Transportation Statistics, "National Transportation Statistics 2006", Table 3.8 - Sales Price of Transportation Fuel to End Users, citing Association of American Railroads, *Railroad Facts* (annual issues). See http://www.bts.gov/publications/national_transportation_statistics/2006/html/table_03_08.html.

¹³ See footnote 11.

¹⁴ See <http://tonto.eia.doe.gov/dnav/pet/hist/d230700002A.htm>.

¹⁵ This value appears to be extraordinarily low, and may reflect fuel hedging activities undertaken by railroads that affected 2004 fuel costs. See, for example, STB Ex Parte No. 661, Testimony of Edison Electric Institute at Exhibit A (April 27, 2006).

ultra-low sulfur diesel fuel initially will affect costs (and presumably prices) for retail outlets, but not railroads.¹⁶

To fulfill its stated intent, the Board should utilize an index that more closely reflects diesel fuel pricing for fuel users like railroads. As shown in Table 2, DOE/EIA maintains and publishes indices of wholesale diesel prices, differentiated by sulfur content, that historically have corresponded very closely to actual rail fuel prices. Indeed, for the period from 1999-2003, the wholesale low-sulfur diesel price index differed from the reported rail fuel cost each year by an average of less than 0.4 cents per gallon. By comparison, the HDF index differed from the reported rail fuel cost each year by an average of 58.6 cents per gallon. Because of its closer correspondence with actual rail fuel costs, an index reflecting wholesale, rather than retail, diesel prices should be specified by the Board.

Use of wholesale diesel prices may also provide an opportunity to mitigate delay problems that may affect other indices. DOE/EIA's Short Term Energy Outlook model develops short-term forecasts that project current actual (and near-term future) wholesale diesel price levels, differentiated by sulfur content.¹⁷ Such forecast values could be used in the index to ensure a very close correspondence with current actual rail fuel prices.

Of course, if the Board does decide to utilize a forecast measure in the index, it should also adopt a reconciliation/"true-up" procedure to ensure eventual correspondence between fuel surcharge payments and the actual fuel cost changes they are intended to

¹⁶ AECC Comments at 4-5.

¹⁷ See, for example, http://tonto.eia.doe.gov/steo_query/app/paresult.asp.

reflect.¹⁸ This consideration also would apply if the Board chooses to utilize an index that reflects retail prices.

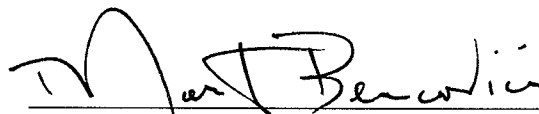
D. Reporting

AECC agrees with the considerations cited by the Board that necessitate the imposition of reporting requirements. AECC urges the Board to consider carefully issues related to the specification of the mileage information to be used in the reporting of ton-mile information. To minimizing administrative burden and eliminate the possibility that the surcharge mechanism would influence routing decisions, it may be appropriate to utilize a consistent measure (such as short-line miles) in lieu of actual miles.

AECC appreciates this opportunity to respond to the Board's proposals. With the refinements suggested herein, the Board should proceed with this important effort to establish order and transparency in rail fuel surcharge practices.

Respectfully submitted,

Arkansas Electric Cooperative Corporation



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October 2, 2006

¹⁸ This would be analogous to the procedure employed by the Board in the development of the RCAF indices.