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BEFORE THE
SURFACE TRANSPORTATION BOARD

Ex Parte No. 665

RAIL TRANSPORTATION OF GRAIN

Comments of
BUNGE NORTH AMERICA, INC.

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Dated: October 30, 2006

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I am Darrell R. Wallace, vice president for transportation at Bunge North America, Inc. (Bunge). I have served in this position for over 8 years. Prior to joining Bunge I was employed by several other agricultural firms and have over 35 years of total experience in transportation management positions working with railroads, including four years as chief transportation officer for a large Canadian grain cooperative. I am a member of the National Grain and Feed Association's Rail Shipper / Rail Receiver committee. I am also President of North America Freight Car Association which represents the interests of owners, lessors and lessees of over 500,000 private railcars. In addition, I am currently serving as Vice Chairman of the Surface Transportation Board's National Grain Car Council.

I am here today representing Bunge. All of the comments that I will be making are on behalf of Bunge and no other organization. Bunge North America is the North American operating arm of Bunge, Limited, which is a global agribusiness and food company employing over 22,000 persons in 32 countries. In North America, Bunge

operates over 125 facilities including dry corn mills, soybean and canola crushing and edible oil refining plants and bulk grain handling operations. In my position I am responsible for all of Bunge's rail and truck transportation issues in North America.

While this proceeding is not an inquiry into the pros and cons of rail regulation, Bunge nevertheless wants to make it clear that we are not a proponent of re-regulation. We believe that the marketplace is better served when allowed to operate in a deregulated environment. Deregulation has been mostly positive for railroads and shippers alike and we believe that movement back toward over-regulation will cause a cessation of investment that is desperately needed today.

We support a healthy and prosperous railroad industry and want the railroads to be capable of meeting the nation's transportation needs. Healthy railroads are vital to the economy of the US and agricultural shippers depend heavily on the railroads to move their products. Nevertheless, there needs to be a greater balance between the goals of the railroad industry and the needs of its customers for dependable transportation at reasonable rates. One of the reasons why Bunge is participating in this proceeding is due to our concern that steep increases in rail rates to the agricultural sector will both weaken the U.S. farm economy and weaken the ability of the United States to compete as effectively as it should in world markets. As rail rates increase, the money to pay those rates must come from someone else's pocket. Sometimes it is the farmer, sometimes it is the grain elevator or grain processor, and sometimes it is the end purchaser if that purchaser does not have competitive sources of supply. In world

markets, there frequently are competitive sources of supply, and increases in the cost of delivering a commodity into that world market from U.S. origins will result in a reduction of those markets for U.S. originations.

The Board's notice raises several issues; namely, (1) what market conditions have led to grain traffic receiving comparatively high markups over variable costs between 1985 and 2004, (2) the interplay between the American and Canadian wheat markets, (3) how the Canadian regulatory system differs from the American system, and (4) what impact those differences might have on grain production in the United States. I don't know that I am in a position to answer all of those questions, but I will offer some observations. My comments will be directed at grain and grain products inasmuch as neither the Board nor GAO defines the term "grain."

A. Grain Rates Are Rising Sharply

First, we agree with GAO that grain rates have been rising sharply and have continued to rise sharply after 2004. To illustrate we have done an analysis of some of our typical freight rates between multiple randomly selected origin/destination pairs. During the period from January 1, 2001 through September 30, 2006 Bunge's rates have increased as indicated in the chart below.

**Shipments within the United States
Jan. 1, 2001 thru Sept. 30, 2006**

	<u>Percentage Increase</u>
Soybeans	27% to 120%

Soybean Meal	16%	to	46%
Vegetable Oil	13%	to	80%

**Shipments within Canada
Jan. 1, 2001 thru Sept. 30, 2006**

	<u>Percentage Increase</u>		
Canola Meal	12%	to	15%
Vegetable Oil	4%	to	16%

None of these increases take into consideration the fuel surcharges that now apply to our shipments. Fuel surcharges on the major rail carriers range today from a low of 3% to a high of 20.4% and apply on top of the increased freight rates. The lowest fuel surcharge of 3% is only at that level because the carrier publishing that surcharge took a 16.4% increase in its base freight rates to compensate and then lowered its fuel surcharge.

I am unable to say why grain rates have, according to GAO, risen more dramatically in comparison to other products moving by rail, but I can address some of the reasons why we think rates for grain have risen so sharply.

Several reasons are, in our opinion, responsible for the recent rapid increases in grain rates. Among these are the current railroad capacity constraint, the poor quality of railroad service which not only detracts from railroad operating efficiency but has secondary impacts such as requiring the infusion of more cars into the system to handle traffic that could be handled with fewer cars in a more efficient setting, and the phase-

out of contracts by the carriers, leading to more frequent rate increases because of the absence of fixed term contract rates.

The marketplace is allowing rate increases of great magnitude today because of the capacity constraint we face today with our current railroad infrastructure. When capacity is tight a premium can be extracted from those who are utilizing the capacity. When there is an excess of capacity, rates will tend to decline for the same reason. This current capacity constraint has placed the carriers in a position they have never before enjoyed. In fact, conditions on several Class I railroads today are leading them to use price as a tool to thin out their unwanted, even though profitable, traffic. We have had carriers remark to us that they are confused because they keep raising rates and cannot always drive certain agricultural business away, as they had hoped to do on a selective basis. Sometimes, of course, railroads do price certain movements so high that Bunge is forced to forego the use of rail service for those movements and lose those markets. This causes me to observe that the GAO report apparently does not reflect the highest railroad rates of all, which are those that drive traffic away and therefore do not generate waybills that show up in the waybill study used by GAO and others to measure railroad rates.

A related issue that has contributed to higher grain rates is that most if not all Carriers today are replacing contracts with tariff rates. Contracts were for fixed terms, generally not less than a year. The main reason for the shift away from contracts and to tariff is that it allows the carriers to increase rates much more frequently. When rates

are put under a contract those rates are generally locked in for the length of the contract which prevents the carriers from adjusting rates except upon contract renewals. When rates are put into a tariff the carrier can legally raise rates on a minimum of 20 days notice.

In the past we generally saw tariff freight rate increases no more frequently than once per year. Today we see tariff rate increases take place much more often. In one recent case a carrier notified shippers in September of an increase of \$200 per car effective October 1, 2006 and then before the middle of October it announced an additional increase of \$200 per car to become effective November 1, 2006. We find it extremely difficult to plan for the rational use of our facilities when rates are adjusted so frequently. Our industry is one that often fixes trade for a year ahead. Frequent railroad rate changes add a great deal of risk to our marketplace, and that is yet another hidden transportation cost that does not show up in the GAO data.

B. Poor Service Adds to the Problem

A second issue in our opinion is that the capacity problem is complicated and exacerbated due to the poor and inconsistent service that many grain customers are receiving today. While rates have increased quite sharply, service to rail customers has diminished. The following examples illustrate the point.

Unit grain trains commonly are held up by carriers awaiting power. Bunge has had unit grain trains wait for power as long as 18 days after they are loaded and billed. We have been told by carriers that capacity constraints lessen as dwell time decreases and as velocity increases, yet they allow loaded or empty trains sit causing service problems to manifest in greater proportion. As a shipper we need consistent service and fully believe that more consistent service would relieve many of the capacity constraints and issues that we have today. For example, agricultural shippers supply 100% of the tank cars necessary to move liquid products and probably about half of all covered hopper cars. Poor and undependable service means that private fleets have to be sized at greater levels than would be necessary with better service. The additional cars place more strains on carrier capacity, providing further justification for capacity-rationing rate increases and higher costs for all concerned.

We also have carriers today that are restricting the number of shipments we can give them. They want to charge us a penalty if we ship more than a certain number of cars annually. We have one carrier that wants to limit the number of shipments we can make on its system. Bunge has facilities captive to that carrier and by trying to impose such limits the carrier is trying to control how much product we can sell and how we run our operations. Carriers are telling us we have to limit the number of trains we operate and reduce the total number of private cars we operate, yet they will not guarantee service in their own equipment.

GAO Figures Understate Rail Rates

That leads to my next point, which is that the data cited in the GAO report seems to us to be a significant understatement of increases in transportation costs that have taken place for agricultural rail customers. Grain shippers move a very significant portion of their total traffic in private cars. That fact has many ramifications, one of which is that, when shippers have private equipment, they are more "locked in" to shipping by rail and thus more vulnerable to rate increases. A tank car now costs over \$90,000 and new covered hopper cars cost around \$70,000. Bunge both owns and leases these types of cars. And the leases are not normally available for short terms, so private car investments for Bunge are both substantial and long-term.

Since 1980 the carriers have been pushing their grain customers to get their own private equipment. Carriers have advised that they will not invest as much in grain equipment as they have in the past and shippers were encouraged to acquire their own cars. Certainly there are some exceptions to this rule as some of the Western carriers have spent substantial amounts of money over the last number of years on new grain equipment for shuttle service.

Unfortunately, however, Bunge is not fully compensated by the railroads for the costs of furnishing private equipment. Shippers are entitled to an allowance when furnishing private cars to replace carrier equipment. The allowance traditionally takes the form of either an amount paid by the carrier per loaded private car mile or a discernibly lower freight rate applicable to private cars. In those instances where the

carrier chooses to make private car compensation through freight rate differentials, it should publish two rates, one applicable in railroad equipment and the other in private equipment, with the difference representing the allowance to the shipper for furnishing the private cars.

Lately, these forms of allowances are disappearing even though shippers are still called upon to furnish private cars or forego railroad transportation. Some railroads now apply rates that apply only in private equipment and pay no mileage allowance whatsoever. Other carriers pay mileage allowances that flatly fail to reflect the market value of the cars furnished by shippers. In either case, the shifting of car supply costs from railroad to shipper in effect raises the freight rates paid by shippers beyond the levels reported in the waybill sample and reflected in the GAO report.

Canadian vs. U.S. Markets

Bunge does not ship a lot of wheat so I do not feel qualified to make statements about current Canadian wheat rates and movements. Prior to joining Bunge, however, I worked for a large Canadian grain company and lived in Winnipeg between 1994 and 1998. During that time I was responsible for that company's rail transportation of wheat and other grains in Western Canada and became familiar with Canadian grain movements and rail operations. I am also familiar with current non-wheat agricultural movements in Canada, as Bunge does participate in those markets. As was just

mentioned, rates on Bunge's products that are moved between points in Canada have not increased as rapidly as have rates on products moved between points in the U.S.

It was my understanding that, in Canada, the Government places a cap on what the carriers can earn from grain movements each year. There is a formula in place that determines what the cap will be. My recollection is that the cap includes a 10% return for the Canadian carriers. This cap only applies on grain. If the Canadian railroads collect more than is allowed under the formula, e.g., if they exceed the cap, then they must refund the excess and they are charged a penalty. The payment is turned over to the Western Grain Research Foundation. This grain rate cap has kept Canadian grain rates from increasing at the same pace as have grain rates in the US.

We commend the Board for looking into grain rates and thank it for this opportunity to express our views.

Respectfully submitted,

A handwritten signature in cursive script, reading "Darrell R. Wallace".

Darrell R. Wallace