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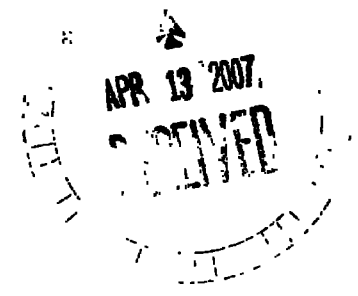
April 13, 2007

Vernon A. Williams
Secretary
Surface Transportation Board
Washington DC 20423

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Re: Ex Parte No. 670, Establishment of the
Rail Energy Transportation Advisory Committee

Dear Mr. Williams:

These comments are submitted on behalf of John D. Fitzgerald, and have been reviewed by him. The comments are responsive to the Notice dated and served March 9, 2007, published at 72 Fed. Reg. 12260 (Mar. 15, 2007).

Mr. Fitzgerald serves as General Chairman for United Transportation Union (UTU/GO-386), on BNSF Railway Company (BNSF) lines, with offices at 400 E. Evergreen Boulevard, Vancouver, WA. He is an elected UTU official, in a full-time position, since 1993.

The establishment of an energy transportation advisory committee (ETAC) would be undesirable.

1. The proposal for a STB-based ETAC was made January 23, 2007, by STB Chairman Charles D. Nottingham, during a luncheon meeting of the Transportation Research Forum (TRF), Washington Chapter, conducted at a Connecticut Avenue restaurant. The ETAC proposal was made in an off-hand manner, without any details. Unfortunately, the agency Chairman did not post his remarks on the STB website for examination by the public. (Although other present and prior STB members post their speeches or remarks on the STB website, the incumbent Chairman has yet to do so for any speeches or remarks).

2. The Executive Branch has suffered considerable criticism over an energy "advisory" committee headed by the U.S. Vice-President, with conferences held in secret and not subject to public review. It is considered somewhat outrageous that the STB, a regulatory agency established as an arm of the Congress, would now follow the Vice President's example for an energy advisory committee. There should be no secret committees set up by the STB.

3. The termination of the former Interstate Commerce Commission through legislation in 1995 (ICCTA), did establish, by statute, a Railroad-Shipper Transportation Advisory Council (RSTAC), codified at 49 U.S.C. 726. RSTAC, with its confidential and closed-door practices, has not proven satisfactory. RSTAC in its policy statement, deems itself an "advocate" for the rail

industry. Moreover, RSTAC appears to have evolved into a rotating membership legislative committee, for example, endorsing the Rail Investment Tax Credit proposals, among other matters.

4. Prior to establishing an ETAC, it is suggested the STB should propose a specific amendment to its rules of practice and procedure, and publish the proposal for notice and comment, preferably to be accompanied by a public hearing. In its present form, the ETAC is an embarrassment, as well as an invitation to collusion and improprieties. It would not be in keeping with an open and responsible regulatory agency.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John D. Fitzgerald".

Attorney for John D. Fitzgerald