

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

In the Matter of:

**ESTABLISHMENT OF THE
RAIL ENERGY TRANSPORTATION
ADVISORY COMMITTEE**

STB Ex Parte No. 670

**COMMENTS OF
ARKANSAS ELECTRIC COOPERATIVE CORPORATION**

Arkansas Electric Cooperative Corporation ("AECC") respectfully submits these comments in response to the notice served by the Board on March 9, 2006 regarding the prospective establishment of a Rail Energy Transportation Advisory Committee. AECC supports the concept of such a committee, and is grateful for this opportunity to address the issues raised in the Board's notice.

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 460,000 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

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 the reliability of rail transportation of coal. This interest has been heightened by AECC's repeated experiences with rail delivery shortfalls and the resulting imposition of coal burn restrictions at our plants.

II. COMMENTS

The Board's notice requests comments in the following specific areas:

- the potential utility of the contemplated advisory committee;
- the appropriate scope of the committee's mandate; and,
- committee size and membership.

Comments in each of these areas are presented below.

A. Potential Utility

As suggested in the Board's notice, the committee would be useful both for the "independent, candid policy advice" it could provide to the Board, and for "fostering open, effective communication among the affected interests on issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources." Based on AECC's experiences, the importance of improved communication and coordination should not be taken lightly. Getting railroads and even other coal shippers to the table to

talk is often difficult or impossible, even when the subject matter is relevant and supportive of their interests. While the committee certainly should not be expected to work like a Swiss watch, it would provide an important forum for identifying and discussing progressive ideas. As a participant in numerous initiatives that have attempted to improve rail service characteristics and performance, AECC believes that the committee could help advance consideration of such initiatives.

In doing so, the committee also would be likely to produce a number of ancillary benefits. First, improved communication and coordination can reasonably be expected to improve the timeliness and effectiveness of actions taken in response to reliability problems. When the major PRB Joint Line problems occurred in 2005, the railroads developed plans for restoring the infrastructure and customers scrambled for substitute coals and other fuels. However, there was no forum for discussion of ways that cooperative efforts between railroads and shippers might be able to use idled rolling stock and available rail capacity to keep the lights on for the utilities and their customers while affording time for the railroads to effectuate an orderly recovery. The proposed committee could provide such a forum. Also, improvements in communication and coordination may reduce the need for parties to engage in litigation to address reliability issues.

For AECC, the prospect of such benefits far outweighs the inconvenience and effort that would be associated with committee participation.

B. Scope of Committee Mandate

As a coal user, AECC's interest is to ensure that the commodity scope of the committee's mandate encompasses coal and any substitute fuels that could be burned in

the event of rail reliability problems. In light of past rail performance problems, AECC would not want unnecessarily to exclude consideration of lignite, imported coals, municipal solid waste (MSW), refuse-derived fuel (RDF), wood chips, tires or any other alternative to PRB coal that potentially could keep its plants in operation.

The committee's mandate also should be defined broadly with respect to the definition of "reliability", and should encompass the full spectrum of issues related to the ability of the rail network to meet energy transportation needs. Mergers, management decisions, traffic fluctuations, natural disasters and terrorist acts are but a few of the events/circumstances that may affect the reliability performance of the rail network. To the greatest extent possible, the Board should not unduly limit or prejudge the scope of subject matter that may be considered by the committee.

Administratively, the committee should:

- operate under an appropriate anti-trust admonition to avoid activities that would constitute price-fixing, market division or other restraint of trade;
- respond to requests from the Board, as well initiatives advanced by its members;
- report regularly to the Board regarding its activities and the status of its responses to individual requests and initiatives, with such reports including minority and dissenting opinions as well as consensus opinions that it may reach in its attempts to develop advice and policy recommendations.

There also is the important issue of the extent to which the activities of the committee should be conducted in public. It certainly would not be proper (or necessary) for the committee to communicate with the Board outside of the public view. At a

minimum, the Board should publish any input it receives from the committee as it would publish a filing in a Board proceeding, and any committee activity at which a Board member or staff is present should be conducted in public, with advance notice of committee meetings and agendas and the opportunity for the public to observe the committee's meetings.

C. Committee Size and Membership

The committee should be large enough to encompass the principal stakeholders for a full range of potential energy transportation reliability issues. Ideally, it would include at least the Class I railroads, plus a representative sample (by geography and commodity) of shippers and users of energy commodities moved by rail.

A separate category of committee membership should be considered for parties whose interests are indirect, including equipment suppliers, governmental agencies, rail labor, regional railroads and shortlines, etc.. Such parties should be kept closely informed and periodically may need to be consulted or invited to participate actively in the committee's activities. To help ensure the efficient use of all participants' time, subcommittees made up of affected parties should be formed to handle specific issues.

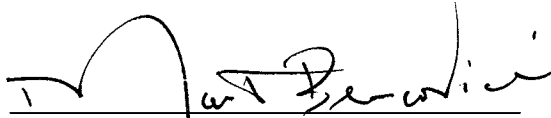
AECC appreciates this opportunity to respond to the Board's notice and urges the Board to proceed with this important effort to improve the reliability of rail energy transportation.

Respectfully submitted,

Arkansas Electric Cooperative Corporation

Michael A. Nelson
131 North Street
Dalton, MA 01226
413-684-2044
mnelso6@berkshire.rr.com

Transportation Consultant



Martin W. Bercovici
Keller and Heckman LLP
1001 G Street, N.W., Suite 500W
Washington, DC 20001
202-434-4144
bercovici@khlaw.com

Attorney for Arkansas Electric Cooperative Corporation

April 16, 2007