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April 16, 2007

BY E-FILING

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Attn: STB Ex Parte No. 670
395 E Street, S.W.
Washington, D.C. 20423-0001

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

Dear Secretary Williams:

Enclosed for filing in the referenced docket please find the Comments of
the Lower Colorado River Authority.

Thank you for your attention to this matter.

Sincerely,



C. Michael Loftus
An Attorney for the Lower Colorado River
Authority

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ESTABLISHMENT OF THE RAIL
ENERGY TRANSPORTATION
ADVISORY COMMITTEE

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Ex Parte No. 670

**COMMENTS OF
THE LOWER COLORADO RIVER AUTHORITY**

The Lower Colorado River Authority
3700 Lake Austin Blvd.
Austin, Texas 78703

Of Counsel:

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Dated: April 16, 2007

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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ESTABLISHMENT OF THE RAIL	)	
ENERGY TRANSPORTATION	)	Ex Parte No. 670
ADVISORY COMMITTEE	)	
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**COMMENTS OF
THE LOWER COLORADO RIVER AUTHORITY**

The Lower Colorado River Authority (“LCRA”) hereby provides these Comments in response to the Board’s Notice served March 9, 2007 (“Notice”), in which the Board requests public comments on the desirability of establishing a Rail Energy Transportation Advisory Committee to provide independent advise and policy suggestion to the Board on issues related to the reliability of rail transportation of resources critical to the nation’s energy supply. LCRA strongly supports this proposal.

IDENTITY AND INTEREST

LCRA is a conservation and reclamation district of the State of Texas. As part of its mission, LCRA operates a not-for-profit electric system that exists to serve the wholesale electric needs of its Texas consumers. LCRA supplies wholesale electric service to 43 municipalities and electric cooperatives, providing electricity for more than 1 million people in 53 counties in Central Texas.

LCRA and Austin Energy¹ are joint owners of the 1,605 megawatt Fayette Power Project (“FPP”), near La Grange, Texas, which is LCRA’s largest electric generating facility. FPP consumes approximately 6.5-7.0 million tons per year of low-sulfur coal from the Powder River Basin (“PRB”) of Wyoming, which is transported in unit train service to Texas in over 1,500 shipper-provided railcars. FPP, which normally receives approximately two trains per day of coal, is dually served by the Union Pacific Railroad Company (“UP”) and the BNSF Railway Company (“BNSF”). Given this two carrier service at destination, LCRA nominally has the benefit of “competitive” railroad service for its PRB coal deliveries. As discussed below, questions exist in the industry as to whether coal shippers in LCRA’s situation actually are benefiting from this competition.

LCRA has an obligation to conduct its business in a manner that minimizes its costs while maintaining system reliability. Any increases in the FPP’s costs, including its transportation costs that constitute a significant portion of its total generation costs, are passed through to the end-use customer. Thus, the maintenance of a competitive and reliable coal transportation market by rail is an essential and vital component of LCRA’s ability to meet its electric service obligations.

COMMENTS

In its Notice, the Board states that it views the reliability of the nation’s energy supply as “crucial to this nation’s economic and national security, and the transportation by rail of coal and other energy resources as a vital link in the energy

¹ Austin Energy (“Austin”) is a community-owned electric utility and a department of the City of Austin, Texas.

supply chain.” Notice at 2. The Board adds that “an advisory committee consisting of a balanced cross-section of energy and rail industry stakeholders could serve as an important resource for providing independent, candid policy advice to the Board and fostering open, effective communication” amongst the interested parties. Id. As such, the Board proposes in its Notice to establish a Rail Energy Transportation Advisory Committee (“Advisory Committee”) to address issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources.” Id.

LCRA strongly supports the Board’s proposal. There is ample reason to conclude that the transportation of energy resources has a substantial impact on the nation’s economic and national security. A reliable and cost-effective electric generating and transmission network is critical to the entire national economy. That electric system is only as reliable as the supply of its fuel, however, and railroad transportation is an essential element for a tremendous share of the coal used in electric-generating facilities in the country. Moreover, as the Board observes in its Notice, the availability of a secure energy system is of profound importance to insulate the nation from security concerns associated with dependence upon foreign energy resources.

Given the importance of reliable energy supply to the nation as a whole, the Board is well-advised to obtain the policy advice of interested stakeholders. A committee of the type envisioned by the Board in its Notice would allow the Board to have the benefit of knowledgeable, interested parties whose day-to-day involvement in the various aspects of the energy industry can provide a valuable resource to the Board as it

administers its responsibilities under Title 49. As such, the creation of such a committee would be entirely consistent with the purpose and terms of the Federal Advisory Committee Act. 5 U.S.C. App. §§ 1 et seq.

In its Notice, the Board requests comments regarding the appropriate scope of the Advisory Committee's mandate. Notice at 2 (“[S]hould it be limited to issues involving transportation of coal and ethanol, or constituted more broadly to include, for example, the biofuel industry and/or others?”). In turn, the Board asks how the scope of the committee's mandate would affect its utility. Id. LCRA respectfully submits that the Board is correct to anticipate that a broadened scope of the Committee would have an adverse impact upon its utility. As such, LCRA believes that the more limited scope of the Committee, as proposed by the Board, would increase the value of the endeavor. Specifically, a Committee that is directed to addressing policy issues related to coal transportation would offer better prospects for meaningful assistance to the Board than a committee that is constituted as a group of representatives from disparate segments of the energy industry (e.g., biofuel representatives) facing substantially different issues and concerns. Moreover, given the predominant role of coal amongst the fuels consumed by the energy industry (particularly amongst fuels transported by rail), there is ample justification to conclude that the Committee can be of greatest value to the Board and the nation in turn if it focuses principally upon coal transportation matters.

While a precise number of members is difficult to suggest, LCRA submits that the optimum size of such a Committee would be large enough to include representatives of each industry segment, yet not so large as to become logistically

burdensome. To that end, LCRA anticipates that an optimal size of the Committee would be on the order of ten to fifteen members.

As to the membership allocation issue, LCRA submits that the Committee should include representatives of the coal-hauling railroad industry (with eastern and western Class I representation), the coal mining industry (with Powder River Basin, Colorado, and eastern representation), and the electric utility industry (with investor-owned, public power, and electric cooperative representation). There are, of course, different interests and difficulties faced by the various types of entities that burn coal to generate electricity. A large investor-owned electric utility with multiple generating facilities will face different pressures, and can have a different perspective on the rail transportation of coal than a small public power supplier with a single generating facility, for example. Similarly, a large public power generator serving a metropolitan area can have a different perspective on coal transportation than an electric cooperative providing service to a group of rural communities. As such, representatives of these different interests can help to provide a balanced cross-section of those affected, interested, and qualified in the subject of coal transportation. See Notice at 2 (citing 41 C.F.R. § 102-3.60(b)(3)).

In addition, LCRA submits that it will be important for the Board to ensure that the Committee's electric generating members reflect the different interests associated with those with only one-carrier service at destination and those who have multiple railroad options for delivery service. While the Board does not hold rate regulation jurisdiction in situations in which "effective competition" serves to constrain rates

charged by rail carriers, there are significant questions currently being faced in the energy industry as to whether the presence of two carrier service at destination necessarily ensures that a coal shipper will benefit from "effective" competition. In light of these significant questions, the Board's Advisory Committee would benefit from the presence of one or more shippers with nominal railroad competition at destination to help the Board to keep apprised of issues related to rail carriers' use of undue market power over coal shippers despite the appearance of competitive rail service options.

Respectfully submitted,

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