

FOUNDATION ENERGY SALES, INC.

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July 3, 2007

The Honorable Vernon A. Williams
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: STB Ex Parte No. 672, Rail Transportation of Resources Critical to the Nation's
Energy Supply - Comments

Dear Secretary Williams,

Foundation Energy Sales, Inc. (FES) hereby submits their Comments for the above
referenced proceeding.

Questions regarding these Comments should be directed to Betsy Monseu at (410) 689-
7659.

Respectfully submitted,



Diana E. Walker
Senior Analyst, Transportation

BEFORE THE SURFACE TRANSPORTATION BOARD

Ex Parte No. 672

Rail Transportation of Resources Critical to the Nation's Energy Supply

Comments of Foundation Energy Sales, Inc.

Interest of Foundation Energy Sales, Inc.

Foundation Energy Sales, Inc. ("FES") is a wholly-owned subsidiary of Foundation Coal Holdings, Inc. ("FCL"), a publicly traded company whose operating subsidiaries own and operate a diverse group of thirteen mines located in Wyoming, Pennsylvania, and West Virginia. FES acts as FCL's sales agent and also provides its mine operating companies with contract administration and other services, including assistance with transportation and logistics. (FES, FCL, and their operating affiliates are hereinafter collectively and individually referred to as "Foundation Coal").

Foundation Coal is a major U.S. coal company. In calendar year 2006, we sold 73.9 million tons of coal, including 71.6 million tons produced at our operations. Our coal is primarily supplied to U.S. utilities for use in generating electricity, and we also sell coal to domestic steel producers and other industrial users. In 2006, well over three-fourths of our produced coal was transported from our mines to destination plants, terminals, and ports for our customers by rail, with the remainder shipped by barge and by truck. Thus, Foundation Coal has a keen interest in efficient, reliable, and cost-effective rail transportation service. Moreover, the ability of our customers to depend upon a reliable

supply chain is critical and in light of this proceeding, is particularly pertinent to our utility customers and to their core mission of providing electricity to U.S. consumers and industries.

COMMENTS

Coal companies rely heavily on railroads to transport coal from our mines to our markets. For the great majority of all coal moved by rail, there is no practical transportation alternative to rail due to the high volumes and long distances involved.

Coal producers, coal consumers, and railroads are partners in serving America's energy needs. The nation's electric generation infrastructure is largely coal-fired, and approximately 70% of coal deliveries to power plants are made by rail, according to the AAR. For electric generation, coal as a fuel source has consistently maintained a 49% to 53% market share during the past 10 years, principally because of its reliability, abundance, and relatively low cost compared to other fuels. Over the past quarter century, total annual coal consumption for all uses in the U.S. has nearly doubled to approximately 1.1 billion tons in 2006. The EIA expects total coal consumption to grow 1.2% to 1.8% annually for the period through 2025. According to the EIA, over 90% of total coal consumption is used for electrical generation.

Coal has long been the single largest commodity carried by the Class I railroads from a volume standpoint. According to the American Association of Railroads ("AAR"), the nation's railroads originated over 7.2 million carloads of coal in 2006, which accounted for over 40% of their total volume for the year. Railroads have seen sustained traffic growth for coal and other commodities during the 1990's and early 2000's, a trend that has accelerated strongly since the latter part of 2004. Coal carloads for 2006 increased by 4.7% on all Class I railroads in 2006 versus 2005, according to AAR statistics. Investments in future rail infrastructure and capacity for coal must be commensurate with the particular reliance of coal producers and consumers on the rail network and its importance as the core business commodity of the railroads.

As noted by the Congressional Budget Office (“CBO”) in its January, 2006 paper on freight rail transportation, the number of track miles of the Class I railroads decreased annually from 1980 until 2003 in conjunction with rail mergers, consolidation, and rationalization, but since has stabilized. Also according to the CBO, during the same period, the number of train miles is increasing, a trend that has accelerated in recent years. This has resulted in increasing congestion in some locations. Average train speed, a measure of railroad performance, has generally been declining over recent years. With the Class I railroads having operated at or near their thresholds of capacity for much of the past two years, when an unplanned event such as weather or a derailment occurs, or even when there is planned rail maintenance, it generally takes longer for rail networks to recover due to their more limited operational flexibility. Although railroads have added infrastructure, railcars, locomotive power, and crews to handle greater volumes, more will be required. According to the AAR, the U.S. Department of Transportation forecasts that by 2020, overall freight tonnage moved in this country will increase by 70% from 1998 levels.

The U.S. is one of the world’s largest producers of coal, having approximately 27% of the world’s coal reserves. Coal represents over 90% of the available fossil fuel reserves in the country. Thus, it is critical for the nation’s energy security that our coal continues to be utilized to meet the nation’s energy needs. Foundation Coal is the only U.S. producer with significant operations and major reserve blocks in both the Powder River Basin (“PRB”) and Northern Appalachia, two U.S. coal production regions for which future demand is expected to increase significantly. Coal delivered by rail from our PRB operations is transported by BNSF Railway and Union Pacific Railroad Company, while coal delivered by rail from our Northern Appalachian and other eastern operations is shipped by Norfolk Southern Railway Company and CSX Transportation. Thus, the rail infrastructure and capacity as well as other resources such as locomotive power, railcars, and train crew personnel of each of these railroads in the future is of utmost importance to Foundation Coal.

America today is on the verge of potentially significant coal sourcing shifts by the utility sector, as implementation of additional air quality regulations occurs for emissions from electric generating plants, primarily affecting those utilities located east of the Mississippi River. This could cause significant changes with respect to both the utilization of existing rail infrastructure and the need for new rail infrastructure. Utilities have announced plans to add technology to reduce sulfur dioxide emissions on 89,000 megawatts of coal-fired generation by 2010. This technology will largely consist of the use of scrubbers, which will require the transportation of additional raw materials such as lime and limestone into the plants, and waste products such as gypsum out. In the post-2015 period, additional scrubbers may be built.

With respect to coal shipments, railroads are attempting to plan for the future while some utilities build scrubbers as well as new coal-fired plants and evaluate their options for future coal sourcing. Most railroads have indicated a lead time of one to three years for needed infrastructure and resource additions to adjust to significant coal sourcing shifts. The use of scrubbers at earmarked facilities will allow utilities the flexibility to take some different quality coals than they have in the past and this is likely to cause some sourcing shifts among coal-producing regions. Overall, as indicated earlier, both coal requirements and scrubber-related requirements in terms of rail transportation services will increase. The Northern Appalachian region, and the Illinois Basin to a lesser extent, are forecast to grow due to these changes, and the routes of haul to the scrubbed facilities may be different. The PRB region is also forecast to have major growth with increased generation at existing plants consuming PRB coal, additional conversions from other coal sources at other plants, and the addition of some planned new coal-fired facilities. By 2012, our internal forecast shows that total PRB coal production could increase by 100 million tons annually or 20 percent above the 2006 production level of 472 million tons. Nearly all of the PRB production will move by rail. Our internal forecast also shows that Pittsburgh Seam coal production from the Northern Appalachian region could increase by 20 million tons annually, or 24 percent above the 2006 production level of 82 million tons. We estimate that two-thirds of the 2012 Pittsburgh Seam production will move by rail, with the remainder by barge. From a utility demand standpoint, EIA's Annual

Energy Outlook 2007 forecasts coal demand for power plant plants east of the Mississippi River increasing by 39% from 2005 to 2030, and coal demand for power plants west of the Mississippi increasing by 79% during that period. The combination of the current lack of meaningful excess capacity on the rails combined with sourcing changes and additional demand including new coal plant additions without adequate lead time for rail infrastructure changes increases the likelihood that rail efficiency and timeliness of service will be negatively impacted.

Thus, Foundation Coal is concerned about the future availability of adequate rail transportation. Rail tracks and yards, coal mines, and electric generating plants are all long-lived investments. Just as the railroads have fixed or sunk cost in the tracks that they lay, we have sunk investments in mining operations at fixed locations. We cannot move those operations, and in some cases we are reliant on a single railroad to ship our coal to our customers. Therefore, we are also concerned with competitive transportation pricing. Transportation costs represent a significant portion of the total cost of coal for our customers, and in many instances the cost of transportation exceeds the cost of the coal. As a result, the cost of transportation is a critical factor in a customer's purchasing decision. Major increases in transportation costs could make coal a less competitive source of energy, or could make our coal less competitive than coal produced from other sources - especially so in situations where either our mine or a customer's plant or both are captive to a single railroad. Additionally, in more and more instances over time, shippers are supplying railcars to move their coal - even without the assurance of service performance by the railroads. Fundamentally, the value a shipper receives for rail transportation service must equitably reflect both the cost paid for such service and the actual performance rendered by the railroad in providing that service.

The U.S. Class I railroads have shown that they have the ability and the financial wherewithal to expend capital to add infrastructure. Although they have been spending record amounts of capital, they have also been generating record profits. And, according to the CBO, the stock prices of the four major Class I's have outperformed the S&P 500 index for the past five years. The infrastructure and capacity questions and concerns for

the future have to do with the locations where infrastructure will be needed, how much will be needed, and the amount and timing of such investments. With respect to coal as a fuel source for America's energy needs, railroads need to have a good understanding of likely future coal sourcing and consumption patterns, but this is easier said than done due to the myriad environmental and regulatory issues facing the coal and utility industries. Nonetheless, it is imperative that coal mining companies, railroads, and utilities work together in a very deliberate way to address these issues, and time is of the essence. The Board may be helpful in addressing such, as it could play a role in the planning and information requirements individually and collectively of these constituencies, and this role could extend to policy makers as well.

The path to success in adding rail infrastructure and capacity has had some good groundwork already laid, with the development of several successful public-private partnerships. More public and private coordination will be needed, and the Board could play a role in the oversight and accountability aspects of the railroads to insure that shippers receive sufficient service performance as an outcome of the railroads' participation in these types of arrangements. Additionally, legislative efforts to provide an investment tax credit for rail infrastructure investments to expand rail capacity on the part of railroads and other business including industry, shippers, and ports has been supported the National Mining Association, the trade association representing Foundation Coal and others in the mining industry. Further innovation and open-mindedness with respect to ways to achieve added infrastructure and capacity needs for America's transportation network will be required. And finally, policy makers must coordinate transportation policy and energy policy efforts.

Respectfully submitted,

Betsy B. Monseu
Vice President Transportation
Foundation Energy Sales, Inc.