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SERVICE DATE JULY 17, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 670

ESTABLISHMENT OF A RAIL ENERGY TRANSPORTATION ADVISORY  
COMMITTEE

AGENCY: Surface Transportation Board.

ACTION: Notice of Establishment of Federal Advisory Committee.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App., the Surface Transportation Board (Board), hereby gives notice that, following consultation with the General Services Administration, the Board is creating a Rail Energy Transportation Advisory Committee (RETAC). RETAC will provide advice and guidance to the Board, and serve as a forum for discussion of emerging issues, regarding the transportation by rail of energy resources, particularly, but not necessarily limited to, coal, ethanol and other biofuels. The Board is also requesting suggestions for candidates for membership on RETAC.

DATES: Suggestions of candidates for membership on RETAC are due August 9, 2007.

ADDRESSES: Suggestions may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's website, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: STB Ex Parte No. 670, 395 E Street, S.W., Washington, DC 20423-0001.

FOR FURTHER INFORMATION, CONTACT: Scott M. Zimmerman at 202-245-0202. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: The Board, created by Congress in 1996 to take over many of the functions previously performed by the Interstate Commerce Commission, exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701-10747, 11101-11124), as well as the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901-10907) and railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323-11327).

The Board 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 supply chain. The Board is establishing RETAC as an advisory committee consisting of a balanced cross-section of energy and rail industry stakeholders to provide independent, candid policy advice to the Board and to foster 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. RETAC shall function solely as an advisory body, and will comply with the provisions of FACA and its implementing regulations.

On March 9, 2007, the Board issued a decision announcing its proposal to establish a rail energy transportation advisory committee and soliciting public comment on the advisability of establishing such a committee, the size and composition of the committee, and the scope of its mandate. In response, comments were received from more than two dozen parties, including rail carriers, energy producers, trade associations, and others. Based on its review of those comments and consultation with the General Services Administration, the Board has decided to establish RETAC and has developed a charter to govern its operation.

RETAC will be balanced and representative of interested and affected parties, and will consist of not less than: 5 representatives from the Class I railroads, 3 representatives from Class II and III railroads, 3 representatives from coal producers, 5 representatives from electric utilities (including at least one rural electric cooperative and one state- or municipally-owned utility), 4 representatives from biofuel refiners, processors, or distributors, or biofuel feedstock growers or providers, and 2 representatives from private car owners, car lessors, or car manufacturers. RETAC may also include up to 3 members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors. The Chairman of the Board may invite representatives from the U.S. Departments of Agriculture, Energy and Transportation and the Federal Energy Regulatory Commission to serve on RETAC in advisory capacities as *ex officio* (non-voting) members, and the three members of the Board shall serve as *ex officio* members of the Committee as well.

RETAC will meet at least two times per year; the Board anticipates that RETAC will meet in the fall of 2007. No honoraria, salaries, travel or per diem are available to members of the RETAC; however, reimbursement for travel expenses may be sought from the Board in cases of hardship.

Chairman Nottingham has appointed Scott M. Zimmerman, Acting Director of the Board's Office of Congressional and Public Services, to serve as the Designated Federal Official—the agency's liaison to RETAC. Suggestions for members of RETAC should be submitted in letter form, identifying the name of the candidate; evidence of the interests the candidate will represent; and a representation that the candidate is willing to

serve a two-year term as a member of the RETAC. Suggestions for candidates for membership on the RETAC should be submitted to the Board by August 9, 2007.

A copy of the RETAC charter is attached as an Appendix to this decision. Copies of the charter will also be available from the Board's contractor, ASAP Document Solutions (mailing address: Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address: [asapdc@verizon.net](mailto:asapdc@verizon.net); telephone number: 202-306-4004). The charter will also be available for viewing and self-copying in the Board's Public Docket Room, Room 131, and will be posted to the Board's website at <http://www.stb.dot.gov>.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: July 13, 2007.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams  
Secretary

APPENDIX

**SURFACE TRANSPORTATION BOARD**

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

**A. Official Designation.**

The Committee shall be known as the Rail Energy Transportation Advisory Committee (hereafter referred to as the Committee).

**B. Objectives, Scope of Activity, and Duties.**

1. The Surface Transportation Board (the Board) is the federal agency to which the Committee shall report.
2. The Committee shall provide advice and guidance to the Board, and provide a forum for the discussion of emerging issues and concerns regarding the transportation by rail of energy resources, particularly, but not necessarily limited to coal, ethanol and other biofuels.
3. The Committee shall, on request by the Board, or may, on request by the public, suggest to the Board appropriate policies or regulations with regard to the efficiency and reliability of the transportation of energy resources by rail.
4. The Committee shall function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act (FACA) and its implementing regulations.

**C. Membership.**

1. The Committee shall consist of not more than 25 voting members, excluding the governmental representatives identified in paragraphs C.2 and C.6. There shall be a balanced representation of individuals experienced in issues affecting the transportation of energy resources, including not less than: 5 representatives from the Class I railroads; 3 representatives from Class II and III railroads; 3 representatives from coal producers; 5 representatives from electric utilities (including at least one rural electric cooperative and one state- or municipally-owned utility); 4 representatives from biofuel feedstock growers or providers, and biofuel refiners, processors and distributors; and 2 representatives from private car owners, car lessors, or car manufacturers. The Committee may include up to

3 members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors.

2. The three members of the Board shall serve as *ex officio* (non-voting) members of the Committee.

3. The Chairman of the Board will solicit nominations for the Committee from interested parties and the general public.

4. Members of the Committee shall be selected by the Chairman of the Board, with the concurrence of a majority of the Board.

5. Members of the Committee will be invited to serve for a term of two (2) years. Members of the Committee may be reappointed by the Chairman of the Board to serve one additional term.

6. The Chairman of the Board may invite representatives from the U.S. Departments of Agriculture, Energy and Transportation and the Federal Energy Regulatory Commission to serve on the Committee in advisory capacities as *ex officio* (non-voting) members.

**D. Officers.**

1. The officers of the Committee shall consist of two Co-Chairmen and such other officers as deemed necessary by the Committee. One Co-Chairmanship shall be held by a railroad member of the Committee, the other by a shipper member. As used in this section D., “shipper member” means a representative of an electric utility, coal producer, biofuel feedstock grower or provider, or biofuel refiner, processor or distributor.

2. The Co-Chairs of the Committee will be elected by a majority vote of those members present at a meeting of the Committee at which such election is part of the agenda, and serve a term of two (2) years. If a vacancy in either of these offices occurs, notice shall be provided that the vacancy shall be filled by election at the next regular or special meeting of the Committee.

3. The Co-Chairs of the Committee shall be responsible for the management of the Committee. In the event that a Co-Chair is unable to participate in a particular Committee activity or meeting, he or she shall designate a member of the Committee of the same broad category (*i.e.*, either a railroad member or shipper member, as the case may be) to serve as acting Co-Chair for such meeting or activity. Such acting Co-Chair shall exercise all the duties and powers granted to the Co-Chairs.

**E. Compensation and Reimbursement.**

Members of the Committee shall serve without compensation and without reimbursement of travel expenses unless reimbursement of such expenses is authorized in advance by the Director of Administration of the Board. The Director shall have the discretion to consider the financial hardship travel would impose on a particular participant, as well as the availability of funds in the Board's budget, in deciding whether to reimburse that participant for travel expenses.

**F. Meetings.**

1. Meetings shall be held no less than two (2) times per year, at the call of the Board's Designated Federal Official (DFO) for the Committee, in consultation with the Co-Chairs of the Committee and the Chairman of the Board..
2. Meetings shall be held at the Board's headquarters in Washington, D.C., unless another location is deemed necessary by the Co-Chairs of the Committee and approved by the Chairman of the Board in consultation with the DFO.
3. Meetings shall be open to the public, except that all or part of a meeting may be closed to the public as permitted by law.
4. The Designated Federal Official shall approve the agenda of all Committee meetings in advance of the meeting.
5. At all meetings of the Committee, a majority of the membership shall be necessary and sufficient to constitute a quorum for the transaction of business.

**G. Subcommittees.**

1. The Committee may establish such subcommittees of its members as may be necessary or desirable, subject to the provisions of the Federal Advisory Committee Act.
2. Subcommittees may be established to prepare reports for the consideration of the Committee that pertain to important issues affecting the transportation of energy resources as identified by its members. The members of the subcommittees shall be selected from the Committee membership on the basis of their training, experience, and general qualifications to deal with the matters assigned.
3. The date, time, place, and agenda of all meetings of a subcommittee shall be set by its Chairman and approved by the DFO. A quorum of a subcommittee shall

consist of a majority of its members. The meetings of all subcommittees shall be open to the public, except that all or part of a meeting may be closed to the public as permitted by law.

4. All reports of subcommittees presented to the Committee for its consideration shall be made in writing and made available to all Committee members in advance of the Committee meeting at which the report will be considered.

5. Subcommittees shall terminate when they have completed their responsibilities.

**H. Records and Reports.**

The Committee will report to the Chairman of the Board annually, not later than March 1 of each year. The report shall contain at a minimum a list of the members and their business and E-mail addresses, the dates and places of the meetings held during the preceding calendar year, a summary of the Committee's activities and recommendations made during the preceding calendar year, and the sources and disposition of funds. If any subcommittees or study groups have been created, a report for each subcommittee or study group shall be included in the annual report. A copy of the report shall be provided to the Board's Committee Management Officer, who is responsible for supervising, and maintaining the records of, the Board's advisory committees.

**I. Agency Support and Estimated Annual Cost to Operate.**

1. The Board is the federal agency responsible for providing the necessary support for the Committee.

2. The estimated annual cost to the Government for operating the Committee is \$1,122 and less than one person-year.

**J. Termination Date.**

Unless renewed by appropriate action prior to its expiration, the Committee will terminate two (2) years from the date this charter is approved.

**K. Charter Filing Date.**

This Charter is filed \_\_\_\_\_, 2007.