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DECISION

STB Docket No. 42111

OKLAHOMA GAS & ELECTRIC COMPANY

v.

UNION PACIFIC RAILROAD COMPANY

Decided: July 23, 2009

The Board finds that the rates for the challenged movements all yield revenues that exceed 180% of the variable cost of providing the service for which the rate is charged. Based on a stipulation between the parties, the maximum reasonable rates are set at the level equal to a revenue-to-variable cost ratio of 180%. Rate relief is ordered through reparations (with interest) and a rate prescription, for a period of 10 years.

BY THE BOARD:

This case involves a challenge by Oklahoma Gas & Electric Company (OG&E) to the reasonableness of the rates charged by Union Pacific Railroad Company (UP) to transport coal from the Southern Powder River Basin (SPRB) in Wyoming to OG&E's Muskogee Generating Station (Muskogee Station) in Fort Gibson, OK. This type of rail rate case, involving regular unit-train movements of coal to a utility, would often be adjudicated under the Board's stand-alone cost methodology.¹ In this case, however, UP stipulated that the maximum lawful rates should be set at the statutory floor for regulatory relief set forth in 49 U.S.C. 10707: the level at which the revenue-to-variable-cost ratio (R/VC ratio) equals 180%.

In this decision, we find that the challenged rates exceed the regulatory floor and thus, per the parties' stipulation, prescribe the maximum lawful rates at that level through the end of 2018. UP is ordered to reimburse the shipper for amounts previously collected above that level, together with interest to be calculated in accordance with 49 CFR 1141. UP is also ordered to establish and maintain rates for movements of the issue traffic that do not exceed the maximum rate level prescribed by this decision. As shown in **Appendices B** and **C**, the amount of relief for movements in shipper-supplied railcars ranges from \$1.66 to \$1.91 per ton for the first

¹ See Coal Rate Guidelines, Nationwide, 1 I.C.C. 2d 520 (1985) (Guidelines), aff'd sub nom. Consolidated Rail Corp. v. United States, 812 F.2d 1444 (3rd Cir. 1987).

two quarters of 2009, depending on the particular mine origin. Assuming historical volumes of 6 million tons a year, the relief to OG&E from this order will therefore exceed \$10 million a year over a 10-year period (2009 through the end of 2018).

Following our standard practice, the parties are to calculate the total amount of reparations and interest due for the first quarter of 2009, in accordance with this decision. For all subsequent quarters during the 10-year prescription period, the parties should utilize the latest available Uniform Railroad Costing System (URCS) application with the actual operating characteristics of OG&E's traffic, and index those URCS data to the appropriate quarter. If they cannot agree, the parties should bring the dispute to our attention for prompt resolution.

BACKGROUND

By complaint filed on November 7, 2008, OG&E challenges the reasonableness of the rates charged by UP for transportation of coal from 12 mines in the SPRB to OG&E's Muskogee Station in Fort Gibson, OK.² OG&E provides electricity for over 750,000 customers in Oklahoma and Western Arkansas, and the Muskogee Station consumes roughly 6 million tons of coal per year. Since operations began in the 1970s, UP or its predecessors have provided rail service to the plant. UP carries the shipments from the 12 SPRB mines to Fort Gibson, OK (a distance ranging between 1,002 and 1,053 miles, depending upon the mine).

Prior to this dispute, SPRB coal that was transported to the Muskogee Station fell under two interdependent contracts that went into effect in 1994 and expired on December 31, 2008.³ Because the parties were not able to agree to a new contract, OG&E requested common carrier rates and service terms for the subject traffic for rail service to Muskogee Station commencing January 1, 2009. On December 28, 2008, UP issued Tariff UP- 4221, Item 5400-A, with rates and conditions for shipper-supplied railcars and for railroad-owned railcars. These rates are not subject to a fuel surcharge.

DISCUSSION AND CONCLUSIONS

We may consider the reasonableness of a challenged rail rate only if the carrier has market dominance over the traffic involved. 49 U.S.C. 10707(b), (c). Market dominance is "an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies." 49 U.S.C. 10707(a). However, a carrier is not considered to have market dominance if the revenue produced by the rate is less than 180% of its

² For the 10-year time period covered by this decision, OG&E states that it has shipped, or may ship, coal from the following 12 mines located in the SPRB: Antelope, Belle Ayr, Black Thunder, Black Thunder South, Caballo, Caballo Rojo, Coal Creek, Cordero, Jacobs Ranch, North Antelope, Rochelle, and Thunder West.

³ The two interdependent rail transportation contracts between OG&E, UP, and UP's predecessors (Missouri Pacific Railroad and Western Railroad Properties, Inc.) were ICC-UP-C-7233 and ICC-WRPI-C-0151.

variable cost of providing the service. 49 U.S.C. 10707(d)(1)(A). That statutory 180% R/VC ratio level is also the floor for any rate relief. Burlington N.R.R. v. STB, 114 F.3d 206, 210 (D.C. Cir. 1997). Where a railroad has market dominance, its transportation rate must be reasonable. 49 U.S.C. 10701(d)(1), 10702. The Board's general standards for judging the reasonableness of rail freight rates are set forth in Guidelines, as modified in Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1) (STB served Oct. 30, 2006), aff'd sub nom. BNSF v. STB, 526 F.3d 770 (D.C. Cir. 2008) (Major Issues). If, after a full hearing, we find a challenged rate to be unreasonable, we will order the railroad to pay reparations to the complainant, 49 U.S.C. 11704(b), and may prescribe the maximum rate the carrier can charge, 49 U.S.C. 10704(a)(1).

In this case, the parties agree that there is not effective competition from other carriers or modes of transportation for the issue transportation, and that the challenged rates exceed the stand-alone cost constraint.⁴ Accordingly, the only disputed issues are whether the revenues produced by the challenged rate exceed 180% of the variable costs of providing that transportation, and if so, how to calculate the 180% R/VC ratio, which the parties stipulate should be the maximum reasonable rate in this case.⁵

We resolve the dispute over the 180% R/VC calculation in three parts. We first calculate the variable cost of each challenged movement, using the most recent (2007) unadjusted URCS. Then, we clarify how to index the variable cost calculations to the relevant quarters. As shown in **Appendices B and C**, we find that the revenues produced by the challenged rates exceed 180% of the variable cost of providing the transportation to the Muskogee Station. Finally, because we have been asked by the parties, we address how parties should calculate 180% of variable cost to determine the maximum lawful rate in future movements through the end of 2018.

A. Challenged Rates

Rates established by UP in Tariff UP-4221, Item 5400-A, which went into effect on January 1, 2009, are listed below in **Table 1**. The lowest rate for the first quarter of 2009 was \$18.75 for shipper-supplied railcars and \$21.11 for railroad-supplied cars from the Antelope mine. The highest rate for that quarter was \$19.70 for shipper-supplied railcars and \$22.17 for railroad-supplied freight cars from the Caballo mine.

⁴ Joint Stipulation and Report on the Parties' Conference at 1-2.

⁵ Id. at 2.

**Table 1
OG&E Challenged Rates**

	Rates in UP Tariff 4221 Item 5400-A	
Mine	Shipper-Supplied Railcars	Railroad-Supplied Railcars
Antelope	\$18.75	\$21.11
Belle Ayr	\$19.67	\$22.14
Black Thunder	\$19.17	\$21.58
Black Thunder South	\$19.05	\$21.45
Caballo	\$19.70	\$22.17
Caballo Rojo	\$19.64	\$22.12
Coal Creek	\$19.49	\$21.94
Cordero	\$19.53	\$21.99
Jacobs Ranch	\$19.17	\$21.58
North Antelope	\$18.81	\$21.18
Rochelle	\$18.81	\$21.18
Thunder West	\$19.23	\$21.65

B. Variable Costs

The URCS Phase III program is used to develop the variable costs for the movements at issue. URCS is the Board's general purpose costing system used to estimate variable and total unit costs for Class I railroads. URCS reflects the extent to which different types of costs incurred in the rail industry change in proportion to changes in output. Each year, the Board uses the costs and operating statistics obtained from each Class I carrier's annual report (STB Form R-1), carload waybill sample, annual report of cars loaded and terminated (STB Form CS-54), and report of freight commodity statistics (STB Form QCS) to determine the URCS system-average variable costs for that carrier.

There are three phases of the URCS program. In Phase I, the Board collects the data and performs special studies (variability study, switching study, etc.). In Phase II, the Board calculates the system-average variable unit costs for a carrier, based on the system data and cost relationships developed in Phase I. In Phase III, those system-average unit costs are applied to a specific movement, based on various operating characteristics of the movement, to determine the variable costs for that movement.

The URCS Phase III variable cost calculations require the input of nine operating characteristics: (1) the railroad that transported the movement; (2) loaded miles (including loop track miles); (3) shipment type (whether it is originated and terminated (local), originated and terminated, originated and delivered, received and delivered (bridge), or received and

terminated); (4) number of freight cars, (5) tons per car; (6) commodity; (7) type of movement (single-car, multiple-cars, or unit-train); (8) car provision (railroad or private (shipper)); and (9) type of freight car.

There is no dispute between the parties over these nine operating characteristics. The parties jointly submitted operating characteristics for the coal traffic moving from the 12 SPRB mines to Muskogee Station for the period November 1, 2007 to October 31, 2008.⁶ All of the issue traffic consists of movements transported in unit-train service on UP. Three of the dynamic operating characteristics that can vary by movement (loaded miles, cars, and tonnage) are listed in the following table. The other characteristic that can vary by movement is whether the service is provided in railroad- or shipper-supplied cars.

⁶ Because OG&E filed its complaint prior to the effective date of the issue rates, the parties had to make assumptions about operating characteristics for movements that had not yet taken place. They agreed to rely on operating characteristics for the OG&E traffic for the first full 12 months prior to the filing date of the complaint).

Table 2
Traffic and Operating Characteristics
 To Fort Gibson, OK (Muskogee Station) via UP
 in both Shipper- and Railroad-Supplied Cars
 (For November 2007 – October 2008)

Mine	Loaded Miles	Freight Cars Per Train	Tons Per Car
Antelope	1002.9	134.1	120.4
Belle Ayr	1051.2	134.4	118.5
Black Thunder	1026.9	134.8	120.2
Black Thunder South	1020.6	134.1	120.1
Caballo	1052.6	134.3	120.1
Caballo Rojo	1050.2	134.3	120.1
Coal Creek	1043.4	134.3	120.1
Cordero	1045.1	134.3	120.1
Jacobs Ranch	1033.7	135.1	121.0
North Antelope	1009.5	134.1	120.1
Rochelle	1009.7	134.3	120.1
Thunder West	1033.7	134.3	120.1

There is a minor difference in the parties' methods for calculating the variable costs in this case. The computer program "Surface Transportation Board's Railroad Cost Program" expeditiously calculates preliminary Phase III URCS costs. The program permits the entry of operating characteristics either by entering one movement at a time ("Railroad Cost Program") or by entering multiple movements at one time ("Batch Cost Program").⁷ UP utilized the

⁷ The Railroad Cost Program produces a finer granularity (19-page report for each movement) than does the Batch Cost Program (one page aggregate for all moves).

Railroad Cost Program to enter its data,⁸ and OG&E used the Batch Cost Program to enter its data,⁹ resulting in a minor discrepancy of approximately \$0.01 per ton in approximately one-fourth of the total costed movements (both railroad-supplied railcars and shipper-supplied railcars). This small difference arose from the Batch Cost Program's rounding-off mechanism for mileage input data, unlike the Railroad Cost Program that uses the exact user input in its calculations (to tenths of a mile). We will rely on the data produced by the Railroad Cost Program in this case because it is the more accurate approach. In the near future, we will issue a simple computer patch to resolve the minor inconsistency between the Railroad Cost Program and the Batch Cost Program.

C. Indexing

The objective here is to calculate variable costs for the first two quarters of 2009. However, the most recent URCS data available provide the variable costs for 2007. Once we use the operating characteristics of the movements together with the Railroad Cost Program to calculate the variable costs in 2007, we therefore need to index those variable cost estimates forward to the first two quarters of 2009. This mechanical procedure is typically noncontroversial.

Here, however, OG&E notes that UP made three errors in calculating the costs to which indexing should be applied. According to OG&E, UP overstated 2007 expenses for "Wage Supplements Less Unemployment Insurance," because it did not subtract out \$17,384,000 for Unemployment Insurance (R-1 Schedule 450 – Line 8). As a result, UP's Program for Non-Indexable expenses is understated by the same amount (\$17,384,000). Lastly, the UP "Other Indexable expenses" category is understated by \$1,238,509,000.¹⁰ Based on our review of the evidence, we agree with OG&E and accept its treatment of these expense categories as the best evidence of record.

Additionally, the parties disagree as to how to index the most recent URCS data to the current levels. Both parties relied on the most current available wage and price level indices put out by the Association of American Railroads (AAR) for the Western Region (where UP operates) and the appropriate Producer Price Index (PPI) calculated by the Bureau of Labor Statistics (BLS) to index variable costs through the fourth quarter of 2008. However, the differences between the two parties' index programs result from the fact that the necessary AAR indices and PPI values for the first quarter of 2009 were not yet available at the time evidence was submitted.

UP projected variable costs for the first quarter of 2009 predicated on taking the variable cost that would be calculated at the Fourth Quarter 2008 level. UP then divided that figure by

⁸ UP Open. WPs. "Threshold analysis private cars.xls" & "Threshold analysis rr cars.xls."

⁹ OG&E Open. WPs. "OGE Muskogee Phase III.xls" & "Exhs. II-A-1 and II-A-2.xls."

¹⁰ See OG&E Reply at II-A-4.

the Fourth Quarter 2008 RCAF-U (1.199) and multiplied that result by the First Quarter 2009 RCAF-U (1.022). Results from UP's projection of the First Quarter 2009 show variable costs ranging from \$8.84 to \$9.28 per ton and resulting R/VC ratios ranging from 211% to 213% for shipments transported in private cars. For shipments transported in cars provided by the railroad, variable costs ranged from \$9.94 to \$10.43 per ton and R/VC ratios ranged from 211% to 214%.

OG&E relied on URCS data from 2007, indexed by its own procedures, to estimate the AAR Railroad Cost indices and PPI for First Quarter 2009. OG&E forecasted expected AAR wage, wage supplements, materials and supplies, and fuel indices that would be used to develop the First Quarter 2009 index level. OG&E used the forecasted PPI for January, February, and March 2009 developed by the Department of Energy's Energy Information Administration and published in its January 13, 2009 Short-Term Energy Outlook. Results from OG&E's projection of First Quarter 2009 show variable costs ranging from \$9.40 to \$9.86 per ton and R/VC ratios ranging from 198.8% to 200.4% for shipments transported in private cars. For shipments transported in cars provided by the railroad, variable costs ranged from \$10.57 to \$11.09 per ton and R/VC ratios ranged from 199.1% to 200.9%.

The actual AAR indices and PPI are now available. Accordingly, we will use them to index 2007 URCS data to First and Second Quarter 2009. The result is a composite index of 0.98970132 for the first quarter, a value slightly greater than the composite index established by OG&E's procedures. The second quarter of 2009 data used by the Board are based on a composite index of 0.99030044.

D. Results

Using the indexing procedures outlined above, we find that the challenged rates exceed 180% of UP's variable costs of providing the issue coal transportation, as illustrated in **Appendix A** (for First and Second Quarter 2009). Based on the stipulation of the parties, we therefore set the maximum rates that can be charged for coal moving from the SPRB to the Muskogee Station at the 180% R/VC ratio level, as illustrated in **Appendix B** (for First Quarter 2009) and **Appendix C** (for Second Quarter 2009). For movements in subsequent quarters, the parties should calculate the 180% R/VC ratio in the same manner, as described below.

We award reparations to OG&E for that portion of the transportation charges collected by UP—after the rates for First Quarter 2009 went into effect—that exceed the 180% R/VC ratio level, together with interest to be calculated under our rules in 49 CFR 1141. As described in the next section, UP is also directed to establish and maintain common carrier rates for the movements of coal from the 12 SPRB mine origins to the Muskogee Station that do not yield revenues in excess of the 180% R/VC ratio limit set forth through the end of 2018.

E. Calculation of the Maximum R/VC Ratio in Future Periods

In past cases where the Board has prescribed rates at an R/VC ratio of 180%, we have directed the defendant railroad “to establish and maintain common carrier rates for the

movements of coal . . . that do not yield revenues in excess of the 180% R/VC limit set here”¹¹ Here, the parties dispute the appropriate methodology to calculate that limit. The underlying source of this dispute is how best to address regulatory lag in our costing model. As described above, the most current URCS data available at this time correspond with 2007 data. When called upon to provide a more current cost estimate, we ordinarily use publicly available indices to index these 2007 variable cost estimates to the current time period, until we can release more current URCS data.

Here, however, both OG&E and UP urge us to establish a “true-up” process to account for the lag between the time when the movements will occur and when URCS costs for that specific time period become available. Generally, their proposed “true-up” processes would involve two steps. First, an interim or temporary rate would be established in some fashion. Second, as much as 2 years later, when more recent URCS data become available, the parties would calculate the difference between the interim rates and the rates that more accurately reflect 180% of UP’s variable costs of moving that traffic. UP would then refund any net overpayment (with interest) to OG&E, or OG&E would pay any net underpayment (with interest) to UP.

However, the parties have not agreed to a particular interim rate or true-up mechanism. To establish the interim rate, OG&E proposes that the maximum reasonable rates for First Quarter 2009, known as the “Annual Effective Rate,” remain in effect through First Quarter 2010, with a true-up at the end of the year. At the end of 2009, for example, the URCS variable costs would be calculated for each quarter using 2008 URCS and indices from AAR and BLS. Any net underpayments for the year would be made by OG&E to UP, or UP would refund to OG&E any net overpayments for the prior year. The rate for Fourth Quarter 2009 would be the new Annual Effective Rate for 2010, and the reconciliation process would begin again in First Quarter 2011. This process would be repeated for each year of the prescription period.

UP advocates a different mechanism that would wait even longer before the true-up takes place, in order to use the URCS data that correspond with the period in which the traffic moved. First, like OG&E, UP would create an interim rate.¹² But unlike OG&E’s proposal, the true-up process for 2009 movements would wait until 2009 URCS costs are available. (OG&E would perform the true-up at the end of the 2009 calendar year using 2008 URCS). The difference between the interim rates and the prescribed rates would then be calculated, and the net

¹¹ See Kansas City Power & Light Company v. Union Pacific Railroad Company, STB Docket No. 42095, slip op. at 9-10 (STB served May 19, 2008) (KCPL).

¹² Under UP’s proposal, the railroad could establish any interim rate of its choosing, subject to the eventual true-up process. Alternatively, the Board could prescribe an approach that would permit the parties to calculate the interim rate each year on January 1. UP recommends calculating the interim rates in 2009 by indexing 2007 URCS to Third Quarter 2008 levels, using the same AAR and BLS indexes the Board uses when indexing URCS on a quarterly basis. The result would be the interim rate for First Quarter 2009, and the process would repeat each year. UP Reply at 7-9.

difference and interest would be paid by UP if there was an overpayment or would be paid by OG&E if there was an underpayment.¹³

In sum, while the parties differ over how to establish the interim rate, the crux of their dispute is over how long to wait until a true-up process takes place.

We conclude that no true-up process is appropriate for three reasons. First, the issue of whether or not to do a true-up is not limited to cases where the parties stipulate that the maximum lawful rate should be 180% of variable cost. As the maximum lawful rate in any rate case is now described as an R/VC ratio, whatever approach we adopt here would need to apply in all rate cases. For example, in those large rate disputes that use our Stand-Alone Cost (SAC) methodology, we use a new approach called the Maximum Markup Methodology to prescribe the maximum lawful rate in terms of an R/VC ratio.¹⁴ The same approach will be used in Simplified-SAC cases, where the maximum lawful rates will also be expressed as an R/VC ratio, so that the maximum lawful rate will be a function of the variable cost of the issue movement. Similarly, in disputes resolved under our Three-Benchmark approach, the prescribed rate will again be described as an R/VC ratio.¹⁵ As such, a decision to adopt any kind of true-up provision would apply to all our rail rate cases.

Second, a proper true-up process would need to wait until the corresponding URCS data become available (as proposed here by UP), but this would introduce delay of up to 18 months. Such a lengthy delay is unacceptable. Convolutioned interim rates and true-ups subject shippers to a great deal of risks and uncertainty as to the actual transportation rate that will ultimately be imposed on a given shipment. For example, assume a captive shipper has prevailed before the Board and received a rate prescription that stated the maximum R/VC ratio the railroad could charge in terms of a percentage above variable cost. But the actual costing data for a given year would not be available for quite some time. If we imposed a true-up process, this would force the shipper to ship under rates that would be always subject to later revision.

Finally, estimating variable costs by indexing the best available URCS data is a simple and unbiased approach. The actual variable costs will inevitably be shown to be higher or lower. But there is no reason to conclude that the simple approach described below will systematically skew the variable cost estimate in favor of either the shipper or the railroad. It thus provides a suitable mechanism for establishing the maximum lawful rate that the carrier can charge when the maximum rate is expressed as an R/VC ratio. Thus, this mechanism will

¹³ UP also filed a petition for leave to file a reply to OG&E's reply (which OG&E opposed) and that reply. UP seeks to clarify the parties' arrangement to calculate rates in conformance with the Board's decision in KCPL. As that clarification is not necessary for the purposes of this proceeding, UP's petition will be denied.

¹⁴ See, e.g., Western Fuels Association, Inc. and Basin Electric Power Coop. v. BNSF Ry. Co., STB Docket No. 42088 (STB served Feb. 18, 2009).

¹⁵ See E.I. Dupont de Nemours & Co. v. CSX Transp., STB Docket No. 42100 (STB served June 30, 2008), reopened (STB served Nov. 21, 2008).

provide certainty to the parties, avoid the expense of hiring consultants to perform an annual true-up, minimize ancillary disputes, and, in our judgment, strikes the proper balance between the desire for accuracy and the time, expense, and burden of waiting for more accurate costing data to become available.

Therefore, to determine the maximum lawful rates it may charge under this decision, UP must calculate variable costs in a given quarter by using the most recent URCS data indexed to that quarter by using the most recent AAR indices and PPI. UP should then combine those data with the actual operating characteristics to estimate a given movement's variable cost. This is the best estimate of variable cost that will be available at the beginning of a quarter. UP should then multiply the stipulated maximum lawful R/VC ratio by the variable costs to calculate the rate to be charged in that quarter. UP is directed to update the maximum lawful rate quarterly in order to reflect the most recent URCS data and indices. (For instance, when the Third Quarter PPI becomes available by November 1, 2009, UP will update the maximum lawful rate to reflect these data.) Thereafter, through the end of 2018, UP shall update the maximum lawful rate quarterly to reflect the most current URCS data and indices available.¹⁶

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

It is ordered:

1. Defendant shall, within 60 days, establish and maintain rates for the issue traffic that do not exceed the maximum reasonable rates prescribed by this decision until the end of 2018.
2. Defendant shall pay reparations and interest in accordance with this decision, for all shipments moving after the expiration of the contract between the parties and prior to the establishment of reasonable rates pursuant to paragraph 1.
3. UP's petition for leave to file a reply to OG&E's reply is denied.
4. This decision is effective on its date of service.

By the Board, Acting Chairman Mulvey and Vice Chairman Nottingham.

Anne K. Quinlan
Acting Secretary

¹⁶ We are ordering UP to update the maximum lawful rate calculation four times a year. At the end of the quarter, UP is instructed to wait until the AAR and PPI indices become available, normally two weeks. UP then has ten days to recalculate the maximum lawful rate it may charge and to change its rates, as needed, to conform. If events change thereafter, such as the release of a new year of URCS data, UP is to wait until the next scheduled update to incorporate those changes.

APPENDIX A
Comparative R/VC Percentages for
Traffic Moving to Muskogee Station
(First and Second Quarters - 2009)

Shipper-Provided Cars:	OG&E	UP	STB	STB
Mine Origin	1Q09	1Q09	1Q09	2Q09
Antelope Mine	199.5%	212%	198.35%	198.23%
Belle Ayr Mine	199.5%	212%	198.28%	198.16%
Black Thunder Mine	199.3%	212%	197.99%	197.87%
Black Thunder South Mine	199.3%	212%	198.07%	197.95%
Caballo Mine	200.4%	213%	199.36%	199.24%
Caballo Rojo Mine	200.4%	213%	199.17%	199.05%
Coal Creek Mine	200.1%	213%	198.84%	198.72%
Cordero Mine	200.1%	213%	198.95%	198.83%
Jacobs Ranch Mine	198.9%	211%	197.79%	197.67%
North Antelope Mine	198.8%	211%	197.56%	197.44%
Rochelle Mine	199.0%	211%	197.82%	197.70%
Thunder West Mine	199.1%	212%	197.90%	197.78%
Railroad-Provided Cars:	OG&E	UP	STB	STB
Mine Origin	1Q09	1Q09	1Q09	2Q09
Antelope Mine	199.7%	212%	198.61%	198.49%
Belle Ayr Mine	199.6%	212%	198.51%	198.39%
Black Thunder Mine	199.4%	212%	198.29%	198.17%
Black Thunder South Mine	199.5%	212%	198.40%	198.28%
Caballo Mine	200.8%	214%	199.73%	199.61%
Caballo Rojo Mine	200.9%	214%	199.69%	199.57%
Coal Creek Mine	200.5%	213%	199.23%	199.11%
Cordero Mine	200.6%	213%	199.39%	199.27%
Jacobs Ranch Mine	199.4%	212%	198.20%	198.08%
North Antelope Mine	199.1%	211%	197.85%	197.73%
Rochelle Mine	199.1%	212%	198.11%	197.99%
Thunder West Mine	199.4%	212%	198.26%	198.14%

APPENDIX B
Results
(First Quarter 2009)

Shipper-Provided Cars:					
Mine Origin	Rate	Variable Cost per Ton	R/VC Ratio	Jurisdictional Threshold	Rate Reduction
Antelope Mine	\$18.75	\$9.45	198.35%	\$17.02	\$1.73
Belle Ayr Mine	\$19.67	\$9.92	198.28%	\$17.86	\$1.81
Black Thunder Mine	\$19.17	\$9.68	197.99%	\$17.43	\$1.74
Black Thunder South	\$19.05	\$9.62	198.07%	\$17.31	\$1.74
Caballo Mine	\$19.70	\$9.88	199.36%	\$17.79	\$1.91
Caballo Rojo Mine	\$19.64	\$9.86	199.17%	\$17.75	\$1.89
Coal Creek Mine	\$19.49	\$9.80	198.84%	\$17.64	\$1.85
Cordero Mine	\$19.53	\$9.82	198.95%	\$17.67	\$1.86
Jacobs Ranch Mine	\$19.17	\$9.69	197.79%	\$17.45	\$1.72
North Antelope Mine	\$18.81	\$9.52	197.56%	\$17.14	\$1.67
Rochelle Mine	\$18.81	\$9.51	197.82%	\$17.12	\$1.69
Thunder West Mine.	\$19.23	\$9.72	197.90%	\$17.49	\$1.74
Railroad-Provided Cars:					
Mine Origin	Rate	Variable Cost	R/VC Ratio	Jurisdictional Threshold	Rate Reduction
Antelope Mine	\$21.11	\$10.63	198.61%	\$19.13	\$1.98
Belle Ayr Mine	\$22.14	\$11.15	198.51%	\$20.08	\$2.06
Black Thunder Mine	\$21.58	\$10.88	198.29%	\$19.59	\$1.99
Black Thunder South	\$21.45	\$10.81	198.40%	\$19.46	\$1.99
Caballo Mine	\$22.17	\$11.10	199.73%	\$19.98	\$2.19
Caballo Rojo Mine	\$22.12	\$11.08	199.69%	\$19.94	\$2.18
Coal Creek Mine	\$21.94	\$11.01	199.23%	\$19.82	\$2.12
Cordero Mine	\$21.99	\$11.03	199.39%	\$19.85	\$2.14
Jacobs Ranch Mine	\$21.58	\$10.89	198.20%	\$19.60	\$1.98
North Antelope Mine	\$21.18	\$10.71	197.85%	\$19.27	\$1.91
Rochelle Mine	\$21.18	\$10.69	198.11%	\$19.24	\$1.94
Thunder West Mine	\$21.65	\$10.92	198.26%	\$19.66	\$1.99

APPENDIX C
Results
(Second Quarter 2009)

Shipper-Provided Cars:					
Mine Origin	Rate	Variable Cost per Ton	R/VC Ratio	Jurisdictional Threshold	Rate Reduction
Antelope Mine	\$18.75	\$9.46	198.23%	\$17.03	\$1.72
Belle Ayr Mine	\$19.67	\$9.93	198.16%	\$17.87	\$1.80
Black Thunder Mine	\$19.17	\$9.69	197.87%	\$17.44	\$1.73
Black Thunder South	\$19.05	\$9.62	197.95%	\$17.32	\$1.73
Caballo Mine	\$19.70	\$9.89	199.24%	\$17.80	\$1.90
Caballo Rojo Mine	\$19.64	\$9.87	199.05%	\$17.76	\$1.88
Coal Creek Mine	\$19.49	\$9.81	198.72%	\$17.65	\$1.84
Cordero Mine	\$19.53	\$9.82	198.83%	\$17.68	\$1.85
Jacobs Ranch Mine	\$19.17	\$9.70	197.67%	\$17.46	\$1.71
North Antelope Mine	\$18.81	\$9.53	197.44%	\$17.15	\$1.66
Rochelle Mine	\$18.81	\$9.51	197.70%	\$17.13	\$1.68
Thunder West Mine.	\$19.23	\$9.72	197.78%	\$17.50	\$1.73
Railroad-Provided Cars:					
Mine Origin	Rate	Variable Cost	R/VC Ratio	Jurisdictional Threshold	Rate Reduction
Antelope Mine	\$21.11	\$10.64	198.49%	\$19.14	\$1.97
Belle Ayr Mine	\$22.14	\$11.16	198.39%	\$20.09	\$2.05
Black Thunder Mine	\$21.58	\$10.89	198.17%	\$19.60	\$1.98
Black Thunder South	\$21.45	\$10.82	198.28%	\$19.47	\$1.98
Caballo Mine	\$22.17	\$11.11	199.61%	\$19.99	\$2.18
Caballo Rojo Mine	\$22.12	\$11.08	199.57%	\$19.95	\$2.17
Coal Creek Mine	\$21.94	\$11.02	199.11%	\$19.83	\$2.11
Cordero Mine	\$21.99	\$11.04	199.27%	\$19.86	\$2.13
Jacobs Ranch Mine	\$21.58	\$10.89	198.08%	\$19.61	\$1.97
North Antelope Mine	\$21.18	\$10.71	197.73%	\$19.28	\$1.90
Rochelle Mine	\$21.18	\$10.70	197.99%	\$19.26	\$1.92
Thunder West Mine	\$21.65	\$10.93	198.14%	\$19.67	\$1.98