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April 2, 2007

**By Electronic Filing**

Honorable Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

Re: STB Ex Parte No. 661 (Sub-No.1), *Rail Fuel  
Surcharges*

Dear Mr. Williams:

Pursuant to the Board's January 26, 2007 notice of proposed rulemaking in the above-entitled proceeding, Canadian National Railway Company ("CN") submits the enclosed comments.

Sincerely,

Theodore K. Kalick

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**EX PARTE NO. 661 (SUB-NO. 1)**

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**RAIL FUEL SURCHARGES**

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**COMMENTS OF  
CANADIAN NATIONAL RAILWAY COMPANY**

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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**EX PARTE NO. 661 (SUB-NO. 1)**

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CANADIAN NATIONAL RAILWAY COMPANY**

Complementary to its decision in Ex Parte No. 661, served January 26, 2007, the Surface Transportation Board (Board) has proposed for final adoption in this proceeding a regulation requiring Class 1 carriers to submit monthly fuel surcharge reports. The reporting requirement is an adjunct to the Board's principal directive in the Ex Parte No. 661 decision that carriers wishing to continue fuel surcharge programs for regulated traffic are to adjust, within 90 days, current percentage-of-base-rate fuel surcharges to surcharges more closely tied to fuel consumed on individual movements.

After its consideration of earlier comments, the Board determined that the fuel surcharge reports are to commence for the month beginning 90 days after publication of the final regulation, with reports to be filed thereafter within 20 days following the end of the reporting month. The Board also determined that the monthly reports are to contain the carrier's prior month's fuel cost, gallons consumed, increased or decreased cost of fuel over the previous month, and monthly fuel surcharge revenue. *See Ex Parte No. 661 (Sub-No.1) Decision*, at 1, 5-6, Appendices A and B.

Before adopting the regulation, however, the Board is requesting comments on requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and Office of Management and Budget regulations (5 C.F.R. 1320.8(d)(3)) concerning its collection of this information. Pursuant to those requirements, the Board has asked for comments, among other things, on the Board's necessity for the information, its practical utility, and burdens on reporting parties.

During this proceeding, CN has indicated its general support of reporting as a way to improve transparency and generate trust in carrier fuel surcharge practices, and that, once the Board determined its final reporting requirements, CN would of course provide requested information. *CN Comments*, Oct. 2, 2006, at 4, 5 n.5. Nonetheless, we would offer certain brief observations.

First, while the Board has determined that a surcharge conversion should be required only for regulated traffic – and not exempt or contract traffic – CN presumes that carrier reports are expected to provide fuel cost, consumption, and fuel surcharge revenue for all traffic.<sup>1</sup> As the Board should expect, in adjusting their fuel surcharge programs to conform to its prior decision, carriers are likely to provide varied programs that will combine different fuel surcharge mechanisms for different categories of traffic. On March 21, 2007, CN issued a new mileage-based fuel surcharge tariff, effective April 26, 2007, for regulated traffic and much, but not all, exempt traffic. Traffic moving by confidential contract would continue to apply other contract-referenced fuel surcharge programs until the contracts expire. *See* Tariff CN-7402, attached to these comments.

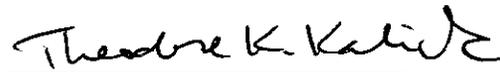
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<sup>1</sup> The decision and reporting form speaks of “total” fuel cost, “total” increase or decrease in fuel cost over the previous month, and “total” revenue collected from fuel surcharges. *Ex Parte No. 661 (Sub-No. 1)*, Decision, at 1, and Appendix B.

Other carriers will have different variations. Segregating fuel cost, gallons consumed, and fuel surcharge revenue just for mileage-surcharge traffic (or further, for only the regulated portion of that traffic) would be exceedingly burdensome at any time, let alone on a monthly basis, and we presume that the Board is not requesting this level of detail.<sup>2</sup>

Second, even if the Board is anticipating the collection of system fuel cost and surcharge revenue information, the Board may again wish to consider providing for quarterly, rather than monthly, reporting. Quarterly reporting would ease carrier burdens and reduce the risk of reading too much into the report of any particular month (and the related risk of premature STB intervention), while still affording the Board with sufficient information to enable it properly monitor industry fuel surcharge practices and carry out its required functions.

Respectfully submitted,



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Dated: April 2, 2007

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<sup>2</sup> The cost and revenue accounting associated with such segregation would necessarily reach the carload level and could not likely be completed until at least 30-60 days after the end of a reporting month.



NEW ISSUE

## CANADIAN NATIONAL RAILWAY COMPANY

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### TARIFF CN 7402-A

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### APPLICATION OF FUEL SURCHARGE

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ISSUED: MARCH 21, 2007

EFFECTIVE: APRIL 26, 2007

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CANADIAN NATIONAL RAILWAY COMPANY is contracting in its own name and for and on behalf of GRAND TRUNK WESTERN RAILROAD INCORPORATED (GTW), DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY (DWP), ILLINOIS CENTRAL RAILROAD COMPANY (IC), CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY (CC), CEDAR RIVER RAILROAD COMPANY (CEDR), WISCONSIN CENTRAL LIMITED (WC), ALGOMA CENTRAL RAILROAD INC (AC), (SSAM), FOX VALLEY & WESTERN LTD (FVW) AND WISCONSIN CHICAGO LINK LTD (WCCL), DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY (DMIR), BESSEMER AND LAKE ERIE RAILROAD COMPANY (BLE), THE PITTSBURGH & CONNEAUT DOCK COMPANY, BC RAIL PARTNERSHIP AND BC RAIL LTD. (BCOL) and these companies do business under the name of and are collectively referred to as "CANADIAN NATIONAL" (CN).

Issued by Price Maintenance and Distribution, Automated Invoicing,  
Canadian National Railway Company, P.O. Box 8100, Montreal, P.Q. H3C 3N4

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(CN 7402-A)

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**CANADIAN NATIONAL RAILWAY COMPANY  
TARIFF CN 7402-A**

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**ITEM 100**

**FUEL SURCHARGE**

CN will apply a fuel surcharge to the linehaul freight charge(s) based on the monthly average price of U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon) On-Highway Diesel (OHD).

The source for the price of OHD is the U.S. Department of Energy's EIA Retail On-Highway Diesel Prices Report, whose monthly average price is available under "2-M Diesel Prices – All Types" at <http://tonto.eia.doe.gov/oog/ftparea/wogirs/xls/psw18vwall.xls>.

When the monthly average price of OHD equals or exceeds \$1.25 in the second calendar month prior to the month in which the fuel surcharge is applied, the fuel surcharge rate per mile as shown in the OHD Fuel Surcharge Table will be applied to the linehaul freight charge. For example, the surcharge amount in April will be calculated from the monthly average OHD price during February. Rail mileage is calculated using 3<sup>rd</sup> party software PC\*Miler | Rail Version 13 (ALK Technologies) on each linehaul movement. Where the rail miles are not available through PC\*Miler, CN will calculate and publish the mileage independently.

For example:

When the OHD rate is \$ 2.49, the fuel surcharge for a carload linehaul movement of 1,500 miles would be  $\$0.2688 \times 1,500 = \$403.20$ .

For customers who are invoiced in Canadian dollars, the U.S. On-Highway Diesel surcharge will be converted to Canadian currency. The exchange rate will be based on the Bank of Canada monthly average rate of exchange for U.S. funds. For example, the fuel surcharge in April will be calculated on the average OHD price for the month of February, and multiplied by the average rate of exchange for February. The monthly average surcharge is available at <http://www.bankofcanada.ca/en/rates/exchange-avg.html>.

The date of surcharge shall be applied as follows:

OHD Average Price and Bank of Canada Average Exchange Rate (for invoices in Canadian funds) During the Calendar Month	...is used to calculate the surcharge on:
January	March 1
February	April 1
March	May 1
April	June 1
May	July 1
June	August 1
July	September 1
August	October 1
September	November 1
October	December 1
November	January 1
December	February 1

**CANADIAN NATIONAL RAILWAY COMPANY  
TARIFF CN 7402-A**

OHD FUEL SURCHARGE TABLE:

**FUEL SURCHARGE MILEAGE RATE (US\$/Mile)**

OHD Range		U.S. Dollars		OHD Range		U.S. Dollars	
From	To	Bulk	Carload	From	To	Bulk	Carload
1.250	1.279	0.0061	0.0064	2.060	2.089	0.1708	0.1792
1.280	1.309	0.0122	0.0128	2.090	2.119	0.1769	0.1856
1.310	1.339	0.0183	0.0192	2.120	2.149	0.1830	0.1920
1.340	1.369	0.0244	0.0256	2.150	2.179	0.1891	0.1984
1.370	1.399	0.0305	0.0320	2.180	2.209	0.1952	0.2048
1.400	1.429	0.0366	0.0384	2.210	2.239	0.2013	0.2112
1.430	1.459	0.0427	0.0448	2.240	2.269	0.2074	0.2176
1.460	1.489	0.0488	0.0512	2.270	2.299	0.2135	0.2240
1.490	1.519	0.0549	0.0576	2.300	2.329	0.2196	0.2304
1.520	1.549	0.0610	0.0640	2.330	2.359	0.2257	0.2368
1.550	1.579	0.0671	0.0704	2.360	2.389	0.2318	0.2432
1.580	1.609	0.0732	0.0768	2.390	2.419	0.2379	0.2496
1.610	1.639	0.0793	0.0832	2.420	2.449	0.2440	0.2560
1.640	1.669	0.0854	0.0896	2.450	2.479	0.2501	0.2624
1.670	1.699	0.0915	0.0960	2.480	2.509	0.2562	0.2688
1.700	1.729	0.0976	0.1024	2.510	2.539	0.2623	0.2752
1.730	1.759	0.1037	0.1088	2.540	2.569	0.2684	0.2816
1.760	1.789	0.1098	0.1152	2.570	2.599	0.2745	0.2880
1.790	1.819	0.1159	0.1216	2.600	2.629	0.2806	0.2944
1.820	1.849	0.1220	0.1280	2.630	2.659	0.2867	0.3008
1.850	1.879	0.1281	0.1344	2.660	2.689	0.2928	0.3072
1.880	1.909	0.1342	0.1408	2.690	2.719	0.2989	0.3136
1.910	1.939	0.1403	0.1472	2.720	2.749	0.3050	0.3200
1.940	1.969	0.1464	0.1536	2.750	2.779	0.3111	0.3264
1.970	1.999	0.1525	0.1600	2.780	2.809	0.3172	0.3328
2.000	2.029	0.1586	0.1664	2.810	2.839	0.3233	0.3392
2.030	2.059	0.1647	0.1728	2.840	2.869	0.3294	0.3456

*For each \$0.03 per gallon increase thereafter apply an additional \$0.0061 per mile for Bulk commodities, and \$0.0064 per mile for all other Carload commodities.*

Notification of any fuel surcharge changes will be posted a minimum of 20 days prior to the beginning of each calendar month on the CN website at [www.cn.ca/fuelsurcharge](http://www.cn.ca/fuelsurcharge) and forms part of this tariff.

**ITEM 200**

**APPLICATION**

This fuel surcharge tariff, CN 7402, applies to all publications that directly reference the tariff, CN 7402.

All other contracts referencing fuel surcharges will continue to apply until they expire.

CANADIAN NATIONAL RAILWAY COMPANY  
TARIFF CN 7402-A

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**ITEM 300**

**COMMODITIES**

This fuel surcharge tariff, CN 7402, applies to the two following types of commodities moved:

- Bulk commodities: **coal, fertilizer, and grain**
- **All other carload commodities**

Bulk commodities are defined as:

<b>COAL:</b>	COAL METALLURGI COKE PETROLEUM COKE
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<b>FERTILIZER:</b>	ANHYDROUS AMMONIA DRY FERTILIZERS LIQUID FERTILIZERS PEAT MOSS PHOSPHATE ROCK POTASH UREA
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<b>GRAIN:</b>	AGRI PROD-NOS ALFALFA ANIMAL FAT BARLEY BEANS, PEAS, DRY BIRD/CANAR/SEED CANOLA CANOLA ML CANOLA OIL CEREAL,PREPARED CONSUMER GOODS CORN CORN MEAL COTTON DRIED DISTILLERS GRAINS ETHANOL FLAXSEED FLR,SPECIALS GRAIN SCR HAY MALT, NOS MILL PRODUCTS MUSTARD SEED OATS PEAS RICE RYE SEEDS, NOS SORGHUM GRAIN SOYABEAN MEAL SOYBEAN OIL SOYBEANS STARCHES SWEETENERS WHEAT
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Most notably, bulk commodities **exclude sulphur, iron ore, aggregates, cement, sand and limestone.**

Detailed descriptions of these bulk commodities by Standard Transportation Commodity Code (STCC) is available at [www.cn.ca/CN7402bulkstcc](http://www.cn.ca/CN7402bulkstcc).

The fuel surcharge tariff, CN 7402, applies to all other carload commodities, including automotive and Intermodal shipments moving as carload commodities. **CN 7402 does not apply to containers, trailers, finished vehicles, and AquaTrain.**