

**SLOVER & LOFTUS**  
ATTORNEYS AT LAW  
1224 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036-3008

WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
JOHN H. LEVIN  
KELVIN J. DOWD  
ROBERT D. ROSENBERG  
CHRISTOPHER A. MILBY  
FRANK J. PERGOLITZ  
ANDREW B. KOLFSAR III  
PETER A. POHL  
DANIEL M. JAFFE  
STEPHANIE M. FRANKLIN  
OF COUNSEL  
DONALD G. AVERY

April 2, 2007



**VIA HAND DELIVERY**

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
Case Control Unit  
1925 K Street, N.W.  
Washington, DC 20423

ENTERED  
Office of Proceedings  
APR 2 - 2007  
Part of  
Public Record

Re: Docket No. 41191 (Sub-No 1), AEP Texas North Company  
v. BNSF Railway Company

Dear Secretary Williams:

Enclosed for filing in the referenced proceeding are an original and sixteen (16) copies of the Rebuttal Third Supplemental Evidence of Complainant AEP Texas North Company. A CD containing the Narrative and Exhibits is included.

Also enclosed is a DVD which contains the electronic and other workpapers supporting the calculations summarized in the Narrative. These workpapers contain "highly confidential" information, and therefore the DVD is being filed **UNDER SEAL**, in accordance with the governing Protective Order.

Kindly acknowledge receipt and filing of these materials by date-stamping the extra copy of this filing and returning it to our messenger.

Sincerely,

Kelvin J. Dowd  
An Attorney  
for AEP Texas North Company

Enclosures

BEFORE THE  
SURFACE TRANSPORTATION BOARD

AEP TEXAS NORTH COMPANY

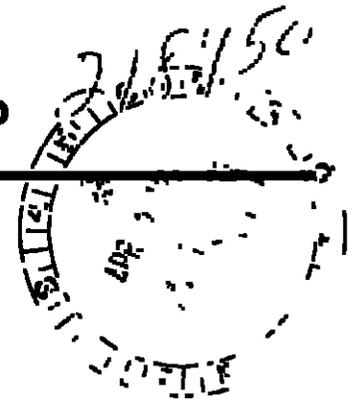
Complainant,

v.

BNSF RAILWAY COMPANY

Defendant.

Docket No. 41191 (Sub-No. 1)



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Public Record

REBUTTAL THIRD SUPPLEMENTAL EVIDENCE OF  
COMPLAINANT AEP TEXAS NORTH COMPANY

NARRATIVE AND EXHIBITS

AEP TEXAS NORTH  
COMPANY  
1 Riverside Plaza  
Columbus, Ohio 43215

David M. Cohen, Senior Counsel  
AEP Texas North Company  
155 West Nationwide Boulevard  
Suite 500  
Columbus, Ohio 43215

OF COUNSEL:

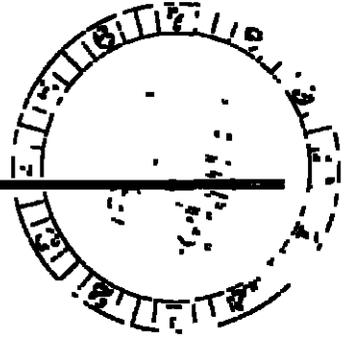
Slover & Loftus  
1224 Seventeenth St., N.W.  
Washington, D.C. 20036

William L. Slover  
Kelvin J. Dowd  
Christopher A. Mills  
Daniel M. Jaffe  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Dated: April 2, 2007

Attorneys and Practitioners

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



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**AEP TEXAS NORTH COMPANY**

**Complainant,**

**v.**

**BNSF RAILWAY COMPANY**

**Defendant.**

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**Docket No. 41191 (Sub-No.1)**

**REBUTTAL THIRD SUPPLEMENTAL EVIDENCE OF  
COMPLAINANT AEP TEXAS NORTH COMPANY**

Complainant, AEP Texas North Company ("AEP Texas"), hereby submits its Rebuttal Third Supplemental Evidence in compliance with the Board's Orders served November 8, 2006 ("*November 8 Order*") and November 22, 2006 ("*November 22 Order*"), and in response to the Reply Third Supplemental Evidence of BNSF Railway Company ("*BNSF Reply*") which was submitted on March 19, 2007.

## **INTRODUCTION**

In an effort to avoid undue repetition and over-burden an already extensive record, AEP Texas is limiting this presentation to a direct response to the specific points raised in the *BNSF Reply*. In so doing, however, AEP Texas re-affirms its previous submissions and arguments, and commends them to the Board's favorable consideration.

### **I. VARIABLE COSTS**

#### **A. Movement-Specific Variable Cost Should Be Used for Jurisdictional Threshold Purposes**

In its Opening Third Supplemental Evidence ("*AEP Opening*"), AEP Texas demonstrated why in this case the Board should continue to rely on movement-specific calculations of variable costs for jurisdictional threshold purposes, and why the reasons offered by the Board in *Ex Parte No 657 (Sub-No 1)*<sup>1</sup> for exclusive reliance on system average URCS Phase III costs in future cases were not applicable here. *AEP Opening* at 6-10. AEP Texas further showed how certain of the grounds cited by the Board could not be supported by precedent or logical analysis,<sup>2</sup> and how application of the new policy inherently biases the results of variable cost and jurisdictional threshold determinations in favor of market dominant railroads.<sup>3</sup>

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<sup>1</sup> *Ex Parte No. 657 (Sub-No 1). Major Issues in Rail Rate Cases*, Decision served October 30, 2006

<sup>2</sup> *AEP Opening* at 11-12.

<sup>3</sup> *Id* at 7, 13-14.

In reply, BNSF does not dispute that exclusive reliance on unadjusted system averages produces higher variable costs. BNSF simply argues that the points raised by AEP Texas were considered and rejected by the Board in *Ex Parte No 657 (Sub-No 1) BNSF Reply* at 2-4. However, the flaws in the Board's reasoning addressed by AEP Texas only became evident upon review of the Board's written opinion,<sup>4</sup> and the absence of support in the procedural record for the Board's conclusions could not have been argued before that record was assembled. *AEP Opening* at 10-11. Under these circumstances, AEP Texas is well within its rights to urge reconsideration of the Board's decision to apply its new system average approach to the completed record in this case.

AEP Texas demonstrated the clear bias inherent in the Board's new policy through a comparison of the variable costs for AEP Texas' own coal movement produced by the system average URCS Phase III approach to an updated (*i.e.*, 1Q07) calculation of the movement-specific costs for this same service as determined by the Board in 1996.<sup>5</sup> *AEP Opening* at 13. In response, BNSF argues that the fact that system average costs are higher than the actual costs determined by the Board does not imply that the system averages are less accurate.<sup>6</sup> *BNSF Reply* at 5. But that is precisely what the STB found in

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<sup>4</sup> For example, AEP Texas explained that the Board apparently had converted its rejection of arguments raised against the use of movement-specific unit costs with system average variability factors in its 2004 *Xcel* decision into a favorable "recognition" of those same arguments in *Ex Parte No 657 (Sub-No 1) AEP Opening* at 12.

<sup>5</sup> *West Texas Util Co v Burlington N R R Co*, 1 S.T.B. 638, 718 (1996), *aff'd sub nom.*, *Burlington N. R. R. Co v STB*, 114 F. 3d 206 (D.C. Cir. 1997).

<sup>6</sup> Notably, BNSF does not take issue with AEP Texas' demonstration of BNSF's

*West Texas Utilities*, regardless of whether it was BNSF or the Complainant arguing for the use of system averages. See 1 S.T.B. at 721 (“Because actual cost are always preferable to system average costs, we accept BN’s adjustment ) System average cost invariably was considered to be a less preferable default value See, e.g. 1 S T B at 722 (“although actual cost are preferable, we are unable to rely on the adjusted system-average cost evidence provided by either of the parties.”) Any cost or cost component based on system averages by definition will be less accurate than actual costs, unless the characteristics of the transportation in question are identical to those of the carrier’s “average” movement.

The Board should revisit and reverse its earlier determination to calculate variable costs for jurisdictional threshold purposes solely on the basis of the system average URCS Phase III formula and the minimum nine (9) inputs needed to run the formula.

#### **B. System Average Variable Costs**

In compliance with the Board’s directives, AEP Texas calculated variable costs for its Oklahoma movement on a system average basis, in strict accordance with the URCS Phase III program. Costs were calculated on an annual basis and indexed quarterly for each historic period through 2005, then indexed forward for each quarter from 1Q06

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significant productivity gains over the 1996-2006 time period, such that the updated *West Texas Utilities* costs themselves are probably inflated. *AEP Opening* at 14

through 1Q07. The index methodology employed was the standard Board procedure prescribed for system average calculations, *i.e.*, the 1E-80 approach.<sup>7</sup> *Id.* at 16.

BNSF accepts the cost inputs used by AEP Texas, and purports to generally accept AEP Texas' indexing procedures. *BNSF Reply* at 5-6. In a clear departure from the approach mandated by the Board in *Ex Parte No. 657 (Sub-No. 1)* and the *November 8 Order*, however, BNSF advocates the use of a special BNSF-specific fuel cost adjustment index, with the direct effect of inflating variable costs above the system average URCS Phase III level. *BNSF Reply* at 6-8.

BNSF justifies its use of a special fuel index on the ground that the parties stipulated to this index following a Board-directed technical conference held on March 29, 2004.<sup>8</sup> While this is accurate as an historical matter, it is irrelevant in the wake of *Ex Parte No. 657 (Sub-No. 1)*. BNSF and AEP Texas reached stipulations regarding a number of variable cost components following the March 29, 2004 conference, including certain traffic and operating characteristics, loss and damage expenses, and car handling costs, as well as indexing factors that extended beyond fuel.<sup>9</sup> However, these stipulations - and the technical conference itself - took place in the context of a longstanding costing

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<sup>7</sup> *Explanation of Rail Cost Update Procedures*, ICC Statement 1E-80 (April 1980), as supplemented in *Complaints Filed Under Section 229 of the Staggers Rail Act of 1980*, 365 I.C.C. 507 (1980). See also Docket No. 42051, *Wisconsin Power & Light Co. v. Union Pacific Railroad Co.*, Decision served September 13, 2001 at 59-60.

<sup>8</sup> *BNSF Reply* at 6, citing AEP Texas Reply Workpapers 021-022.

<sup>9</sup> See AEP Texas Reply Workpapers 015 through 024. Tellingly, the only stipulation that BNSF seeks to invoke is the one which would inflate variable costs.

regime that permitted (and indeed, encouraged) multiple movement and carrier-specific adjustments to system average data BNSF's special fuel index plainly is a carrier-specific adjustment to the system average indexing approach.<sup>10</sup>

The Board was unequivocal in *Ex Parte No 657 (Sub-No 1)* that variable costs for jurisdictional threshold purposes now are to be calculated on a system average URCS Phase III basis, without regard to any movement-specific or actual cost adjustments. While AEP Texas strongly disagrees with this policy shift, and is challenging it in the Court of Appeals, if it is to be the rule, it must be the rule for both parties. BNSF's special fuel index is an adjustment to the system average approach, and should be rejected.<sup>11</sup> In its Rebuttal calculations, AEP Texas continues to employ the 1E-80 system average indexing formula.

Exhibit RTS-1 compares AEP Texas' movement-specific costs to BNSF's Phase III costs, excluding its inappropriate application of its special BNSF fuel index to AEP Texas' unadjusted URCS Phase III results

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<sup>10</sup> BNSF wrongly claims that after using the stipulated fuel index in earlier phases of this proceeding, AEP Texas "switched to the broader AAR index without even noting that it was abandoning the approach to which the parties stipulated...." *BNSF Reply* at 6. AEP Texas clearly stated that, consistent with the established Board procedures for indexing system average costs, AEP Texas was using the 1E-80 approach in this supplemental round *AEP Opening* at 15-16

<sup>11</sup> BNSF's citation to the use of its special fuel index in the *Arizona Electric Power Cooperative* proceeding also is irrelevant. *BNSF Reply* at 8 n 7. Like the prior evidentiary phases of this proceeding, the record in that case was assembled under the well-established rubric of a movement-specific approach to the calculation of variable costs in unit train coal rate disputes

## **II. REVENUE ALLOCATION ON CROSS-OVER TRAFFIC**

In compliance with the *November 8 Order*, AEP Texas recalculated the division of revenues earned on cross-over traffic between BNSF and the hypothetical Texas & Northern Railroad ("TNR") using the Average Total Cost methodology ("ATC") adopted in *Ex Parte No 657 (Sub-No 1) AEP Opening* at 17-25. BNSF has leveled four (4) criticisms against AEP Texas' ATC-based divisions evidence. They are addressed in turn, below.

### **A. The Use of Surrogate Routing and Density Data**

In its *November 8 Order*, the Board clearly directed that ATC calculations and the resulting percentage revenue splits between BNSF and the TNR be determined for the TNR's base year

BNSF should develop the revenue allocations using the base-year densities and URCS fixed and variable costs .. If a non-issue movement is not in the traffic group in the base year, but would be forecast to be carried by the SARR in future years, BNSF should still cost the movement using the URCS that corresponds to the base year.

*November 8 Order* at 3. There is no dispute that 2000 is the TNR's base year. However, through the supplemental discovery process it was revealed that BNSF did not have base year routing and density data for the relevant traffic group. BNSF instead produced routing and density data for 2004<sup>12</sup> for the TNR coal traffic, and for

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<sup>12</sup> As discussed *infra*, the BNSF data did not include densities for line segments not

2002 for non-coal traffic. The parties stipulated to the use of the 2002/2004 routing data for ATC purposes.

Because density is directly linked to the routing of traffic, it is essential that density and routing be based on the same year's data. Therefore, AEP Texas determined on-SARR and off-SARR densities for coal traffic based on BNSF's 2004 data, and for non-coal traffic on the 2002 data, using these as surrogates for the 2000 base year. Consistent with the Board's directive, AEP Texas then used BNSF's base year 2000 URCS fixed and variable costs to calculate the BNSF and TNR revenue divisions under ATC. *AEP Opening* at 20-21.

BNSF agrees with AEP Texas' matching of calendar year data for cross-over traffic routings and route densities. *BNSF Reply* at 11. However, BNSF argues that the use of these surrogates with base year 2000 URCS costs "would create a meaningless ratio,"<sup>13</sup> and advocates calculating ATC divisions using 2004 URCS data. *Id.* at 11-12. BNSF's argument is without merit.

First, BNSF's approach defies the Board's mandate that ATC divisions be determined using base year (*i.e.*, 2000) URCS costs. As noted, the unavailability of routing and density data for calendar year 2000 led AEP Texas to rely on 2002 and 2004 data as surrogates. However, these data were surrogates for *calendar year 2000*, the base

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owned by BNSF, over which BNSF operated via trackage rights.

<sup>13</sup> *BNSF Reply* at 10

year on which the BNSF/TNR revenue divisions were to be determined. Under BNSF's approach, the tail wags the dog.

Second, BNSF's "meaningless ratio" argument is predicated on its assumption that 2002/2004 density and routings for the TNR traffic group and its off-SARR counterparts were meaningfully different from the base year. However, no evidence is offered in support of this assumption.<sup>14</sup> It is more likely that any changes in on-SARR densities, for example, were matched by comparable changes in off-SARR densities, such that the relative relationship between the two (the relevant factor for ATC purposes) was basically the same in both years.<sup>15</sup>

Third, BNSF's own counter-calculations violate the premises that it claims should govern. While accepting the use of 2002 non-coal routing data as a surrogate for 2000, BNSF proceeded to rely on 2004 density data for this same traffic.<sup>16</sup> Likewise, BNSF applied its new 2004 ATC ratios to shipments occurring over the 2000-2003 time

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<sup>14</sup> As noted, the limitations of BNSF's routing and density data archive necessitated reliance on surrogate years in the first place. BNSF should not be permitted to profit from this circumstance by defining what the missing data would have showed.

<sup>15</sup> BNSF is wrong in its assertion that the use of allegedly lower calendar year 2000 fixed costs instead of 2004 costs distorts the on-SARR/off-SARR revenue allocation. *BNSF Reply* at 11 n 10. The Board's *November 8 Order* directed the parties to use 2000 URCS costs for ATC purposes. *Id.* at 3. There is nothing to "distort" when the parties are both directed to use the same, single reference point. 2000 URCS costs are available, and therefore should be used. Base year *density* data is not available, but as explained, it is reasonable to assume that the relative on-SARR/off-SARR densities were comparable between the base year and the 2004 surrogate year.

<sup>16</sup> See BNSF Reply Third Supplemental electronic workpaper "TNR\_2002\_Density\_NonCoal\_OD\_Routing\_BNSF Rev.xls"

period, despite its previous assertion that changes in densities and costs between 2000 and 2004 would render any calculations that did not match route/density and cost years “meaningless”.<sup>17</sup>

AEP Texas’ approach is more consistent with the Board’s directive in the *November 8 Order*, taking into account the unavailability of base year routing and density data. AEP Texas continues to rely on this approach in this Rebuttal Evidence.

### **B. Interchange Costs**

BNSF next asserts that the interchange costs assigned by the URCS Phase III program to the hypothetical BNSF/TNR interline movements should be excluded from the ATC calculation, on grounds that the “real world” BNSF does not incur such costs.

*BNSF Reply* at 12 This adjustment should be rejected as well

First, the assignment of interchange costs is an automatic function of the URCS Phase III program when the “shipment type” is identified as interline or overhead traffic. In *Ex Parte No 657 (Sub-No 1)* and the *November 8 Order*, the Board directed that variable costs for ATC purposes should be determined using system average URCS Phase III, without adjustments. Under ATC, the on-SARR and off-SARR segment costs are based on the incumbent’s costs for the respective portions of its system,<sup>18</sup> but the

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<sup>17</sup> See BNSF Reply Third Supplemental electronic workpaper “TNR Coal Traf and Rev 0100-0603 Rcb\_ATC\_021607\_BNSF Rev xls”.

<sup>18</sup> That is the clear import of the phrase from the Notice of Proposed Rulemaking preceding *Ex Parte No 657 (Sub-No 1)* that is cited by BNSF (*BNSF Reply* at 12). It is also noteworthy that the Board characterizes the average variable cost calculation under ATC as being consistent with the first step of the Density Adjusted Revenue Allocation

transportation service to which these costs are assigned in the world of stand-alone costs is *interline service*. As an interchange takes place in the stand-alone world, the URCS variable costs for ATC purposes should reflect it.

Second, the construction and operating cost components of the stand-alone cost evidence submitted by both parties to this case include facilities for the interchange of traffic between BNSF and TNR, and the resources needed to operate them.<sup>19</sup> It is obviously improper to require the SARR to bear the costs associated with interchanges with the incumbent, but determine revenue allocations as if those interchanges did not exist.

Finally, while BNSF argues for the elimination of interchange costs from the URCS Phase III program, it does not advocate exclusion of the fixed portion of interchange costs, and it would continue to include system average variable costs for other transportation elements that URCS assumes, but do not actually exist, in unit train service (*e.g.*, origin and destination terminal costs for movements that continuously cycle)

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(“DARA”) methodology advocated by BNSF for use in this proceeding. In its earlier evidentiary submissions based on the DARA formula, BNSF included interchange costs in the variable cost analysis. See BNSF Supplemental Reply electronic worksheet “AFP Coal Cost by Train 6-15-06 Reply.xls”.

<sup>19</sup> See, *e.g.*, Opening Evidence of Complainant, March 1, 2004, Narrative at III-D-54, III-F-62-64, Reply Evidence of Defendant, May 24, 2004, Narrative at III C-14, III F-22-23, III F-85.

BNSF's "interchange cost adjustment" is an attempt to improperly manipulate the URCS Phase III costing program to its benefit, and should be rejected

**C. Fixed Costs for Trackage Rights Segments**

Upon further review of its ATC calculations in preparation for this Rebuttal, AEP Texas concurs in BNSF's observation that the calculations in *AEP Opening* did not appropriately allocate fixed costs to line segments over which BNSF operates via trackage rights. *BNSF Reply* at 13 The omission is traceable to a lack of available data respecting traffic densities on those line segments However, neither of BNSF's suggested "fixes" should be adopted. *Id* at 13-14 It would be wrong to exclude trackage rights miles altogether, since they obviously are a part of the BNSF system; and BNSF's "above the rail/below the wheel" approach unnecessarily adds yet another layer to an already complex analytical procedure<sup>20</sup> and would exacerbate discovery burdens in future SAC cases

The workpapers accompanying the *BNSF Reply* include density data for joint facility segments which were missing from the 2002/2004 density information discussed *supra*<sup>21</sup> Using this data,<sup>22</sup> AEP Texas has recalculated the BNSF system

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<sup>20</sup> For example, if fixed costs are to be separated between owned route miles and joint facility route miles, logically there would be no reason not to also recognize separate fixed costs for yard facilities, specific car types, locomotives, etc.

<sup>21</sup> See BNSF Reply Third Supplemental electronic workpaper "BNSF 2004 Density AEPTX BNSF Rev xls".

<sup>22</sup> For purposes of its Rebuttal calculations, AEP Texas utilized the densities developed by BNSF in its Reply. AEP Texas used the 2004 densities calculated by BNSF for coal

average fixed costs assignable to *all* route segments based upon density, and ensured that all miles used in computing the fixed cost per mile bear the appropriate share of total fixed costs <sup>23</sup>

#### **D BNSF's Treatment of Density Segments**

The stated purpose of the ATC methodology is to apply a system average formula that estimates the average costs that the incumbent railroad incurs to provide service over a particular part of its system, in order to guide the division of revenue from traffic that moves over those lines between that railroad and the hypothetical SARR that replicates a portion of those lines <sup>24</sup> In describing the approach to the calculation of average fixed costs contemplated by the methodology, the Board directed parties to focus on the "on-SARR" and "off-SARR" portions of each relevant traffic routing

Assume there is a movement for which the railroad charges \$10 per ton to haul the traffic 1,000 miles. Assume further that the SARR designed by the complainant would only carry that traffic 500 miles to a fictional interchange point with the residual railroad. To allocate the

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shipments, and its 2002 densities for non-coal It should be noted, however, that several questionable assumptions are included in the BNSF calculations For example, BNSF used a 2002 density map based on gross tons, then developed a system mark-up ratio based on changes from 2002 to 2004 and applied it to the 2002 map densities to produce what it represented as 2004 densities. Additionally, BNSF calculated net tons per segment simply by dividing 2004 gross tons by 1.5. While AEP Texas accepts these calculations for purposes of this proceeding, it does not stipulate to their accuracy.

<sup>23</sup> See "TNR 2002 Density NonCoal OD\_Routing 040207.xls" and "BNSF 2004 Density AEPTX 040207.xls".

<sup>24</sup> *Ex Parte No 657(Sub-No 1)*, at 26

revenue from that cross-over movement, the parties would have to estimate the average total cost (ATC) incurred by the railroad to haul that traffic over the 500-mile segment replicated by the SARR, and over the 500-mile segment of the residual railroad. First, the railroad's average variable cost (AVC) per ton to haul the traffic over each segment would be estimated using unadjusted URCS (as was the first step with DARA). The parties would then need to calculate the average fixed cost (AFC) per ton of traffic using the various segments. They would do so by calculating the railroad's system-average fixed cost per route mile, using URCS to determine the railroad's total fixed costs and dividing this figure by the total route miles of track operated by the railroad. This system-average fixed cost per route mile could then be combined with the route miles and the traffic density of any particular segment of the railroad's network to estimate an AFC per ton associated with that segment. The ATC for any particular segment would be the sum of AVC and AFC for that segment.

*EX Parte No. 657 (Sub-No 1), Decision served*

February 27, 2006 at 19-20

Consistent with the foregoing, AEP Texas developed the weighted-average traffic densities for the on-SARR and off-SARR portion of each TNR shipper's routing, and combined those densities with BNSF's system average fixed cost per mile to determine the average fixed cost per ton associated with each segment. *AEP Opening at 20-21* The resulting average fixed costs per ton were combined with their average

variable cost counterparts for the same segments to develop the appropriate on-SARR and off-SARR revenue divisions percentages for each movement.

In reply, BNSF argues that the on-SARR and off-SARR segments should be divided into thousands of sub-segments, with fixed costs allocated separately to each sub-segment (however short) where density differs to any degree from adjoining sub-segments. *BNSF Reply* at 14-16 BNSF claims that this procedure is necessary to avoid an over-allocation of revenue to the SARR. *Id.* at 16 <sup>25</sup> BNSF's new approach is neither meritorious nor necessary, and should not be adopted

First, BNSF's sub-segment methodology is at odds with the Board's directive in *Ex Parte No. 657 (Sub-No. 1)* that fixed costs per ton for ATC purposes should be calculated on an *average* basis for the two components of the incumbent's system between which revenues are being divided the portion replicated by the SARR, and the portion deemed to be operated by the residual incumbent *Id.*, Decision served February 27, 2006 at 20.

Second, BNSF's approach would move the matter of dividing revenues on cross-over traffic between the SARR and the residual incumbent even farther away from the reality of how those revenues are set in the first place. As the Concerned Captive Coal Shippers pointed out in *Ex Parte No. 657 (Sub-No. 1)*, any attempt to "allocate" systemwide fixed costs to particular lines is inherently arbitrary, and in fact plays no role

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<sup>25</sup> BNSF does not question the fact that the methodology used by AEP Texas fully covers BNSF's system average fixed costs.

in the way the railroad rates that produce the cross-over revenues are set in the real world.

.See Opening Comments of Concerned Captive Coal Shippers, May 1, 2006 at 48-53.

While AEP Texas believes that ATC is flawed for this reason, among others, a weighted average approach at least reflects the fluidity of traffic over the relevant line segments

BNSF's suggested methodology, in contrast, is granular in its attempt to assign

fundamentally un-assignable costs to particular increments of service

Lastly, the BNSF approach is not needed to, and would not ensure against any under or over-allocation of revenues to the on-SARR portion of a cross-over

movement. Given that the assignment of fixed costs is inherently arbitrary, any "cost

based" approach to revenue divisions, including BNSF's, runs the risk of mis-allocation,

depending upon the composition of the line segments and the traffic in question.

AEP Texas continues to rely on a weighted average approach to the calculation of average fixed costs for ATC purposes.<sup>26</sup> The results of AEP Texas'

Rebuttal calculations of TNR revenues using the ATC formula, including the adjustment

to account for debit joint facilities discussed *supra*, are shown on Exhibit RTS-2

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<sup>26</sup> In its earlier submissions based on the DARA formula, BNSF calculated the weighted average density divisor the same way that AEP Texas calculates it for ATC purposes. See BNSF June 15, 2006 electronic workpaper "Residual BNSF Densities 02 6-15-06 Reply.xls".

### **III. MAXIMUM MARKUP METHODOLOGY**

The parties are in agreement that the same methodology used to calculate variable costs for ATC purposes should be used for purposes of application of the Maximum Markup Methodology

### **CONCLUSION**

Subject to the trackage rights adjustment to the ATC calculations described herein, no changes to AEP Texas' Opening Third Supplemental Evidence are warranted by BNSF's claims on reply. For the reasons set forth in *AEP Opening* and in the comments filed by AEP Texas and the Concerned Captive Coal Shippers in *Ex Parte No 657 (Sub-No 1)*, however, variable costs and the revenue allocations for cross-over traffic in this case should be determined based on the standards and precedents in place prior to that proceeding, and the evidentiary record assembled in reliance thereon.

Respectfully submitted,

**AEP TEXAS NORTH COMPANY**  
1 Riverside Plaza  
Columbus, OH 43215

By. **David M. Cohen**  
**Senior Counsel**  
155 West Nationwide Boulevard  
Suite 300  
Columbus, OH 43215

**William L. Slover**  
**Kelvin J. Dowd**  
**Christopher A. Mills**  
**Daniel M. Jaffe**  
**Slover & Loftus**  
1224 Seventeenth Street N.W.  
Washington, D C 20036  
(202) 347-7170



**OF COUNSEL:**

**Slover & Loftus**  
1224 Seventeenth Street, N.W.  
Washington, D C 20036

**Dated: April 2, 2007**

**Attorneys & Practitioners**

# **EXHIBITS**

**COMPARISON OF  
BNSF VARIABLE COST FOR SHIPMENTS TO OKLAUNION**  
(Movement Specific and Phase III - 2Q00 through 1Q07)

Period (1)	BNSF Variable Cost Per Ton		
	Movement Specific Variable Cost 1/	Phase III Variable Cost	
		BNSF Reply Third Supplemental 2/	AEP Texas Rebuttal Third Supplemental 3/
(2)	(3)	(4)	
<b>A. Buckskin Mine Originations</b>			
1	2Q00	\$6 53	\$8 40
2	3Q00	\$6 55	\$8 77
3	4Q00	\$6 77	\$9 02
4	1Q01	\$6 96	\$9 29
5	2Q01	\$6 98	\$9 18
6	3Q01	\$7 03	\$9 16
7	4Q01	\$6 92	\$9 02
8	2Q03	\$7 43	\$9 53
9	4Q03	\$7 23	\$9 45
10	1Q05	\$7 25	\$9 85
11	2Q05	\$7 78	\$10 24
12	3Q05	\$7 92	\$10 54
13	4Q05	\$8 71	\$10 79
14	1Q06	\$8 02	\$10 69
15	2Q06	\$8 52	\$11 08
16	3Q06	\$8 73	\$11 39
17	4Q06	\$8 15	\$11 07
18	1Q07	\$7 81	\$11 00
<b>B. Rawhide Mine Originations</b>			
19	1Q02	\$6 64	\$9 04
20	2Q02	\$6 95	\$9 24
21	3Q02	\$7 27	\$9 40
22	4Q02	\$7 24	\$9 43
23	1Q03	\$7 32	\$9 64
24	2Q03	\$7 34	\$9 63

**COMPARISON OF  
BNSF VARIABLE COST FOR SHIPMENTS TO OKLAUNION**  
(Movement Specific and Phase III - 2Q00 through 1Q07)

Period (1)	Movement Specific Variable Cost 1/	BNSF Variable Cost Per Ton		
		1/	Phase III Variable Cost	
			BNSF Reply Third Supplemental 2/	AEP Texas Rebuttal Third Supplemental 3/
(1)	(2)	(3)	(4)	
<b>C. Eagle Butte Mine Originations</b>				
25	1Q03	\$7 31	\$9 45	\$9 41
26	2Q03	\$6 94	\$9 20	\$9 20
27	2Q03	\$6 88	\$9 20	\$9 20
28	3Q03	\$7 08	\$9 33	\$9 33
29	4Q03	\$7 08	\$9 28	\$9 32
30	1Q04	\$7 16	\$9 50	\$9 45
31	2Q04	xxx	\$9 66	\$9 61
32	3Q04	xxx	\$9 88	\$9 86
33	4Q04	xxx	\$10 18	\$10 33
34	1Q05	\$7 40	\$10 11	\$10 00
35	2Q05	\$7 70	\$10 06	\$10 07
36	3Q05	\$8 25	\$10 85	\$10 76
37	4Q05	\$9 07	\$11 12	\$11 30
38	1Q06	\$8 35	\$11 01	\$10 85
39	2Q06	\$8 77	\$11 37	\$11 15
40	3Q06	\$9 07	\$11 75	\$11 38
41	4Q06	\$8 47	\$11 41	\$10 95
42	1Q07	\$8 11	\$11 34	\$10 73
<b>D. Jacobs Ranch Mine Originations</b>				
43	2Q00	\$5 97	\$8 07	\$7 80
44	3Q00	\$6 31	\$8 56	\$8 57
45	1Q01	\$6 80	\$9 14	\$9 19
46	2Q01	\$6 80	\$9 05	\$9 06
47	3Q01	\$6 66	\$8 81	\$8 78
48	4Q01	\$6 73	\$8 86	\$8 84
49	1Q02	\$6 39	\$8 74	\$8 67
50	3Q02	\$6 78	\$8 96	\$8 95
51	4Q02	\$7 28	\$9 29	\$9 39
52	2Q03	\$7 53	\$9 51	\$9 50
53	1Q05	\$8 02	\$10 58	\$10 46
54	2Q05	\$8 61	\$10 88	\$10 89
55	3Q05	\$8 76	\$11 19	\$11 09
56	4Q05	\$9 62	\$11 47	\$11 65
57	1Q06	\$8 86	\$11 36	\$11 18
58	2Q06	\$9 30	\$11 73	\$11 50
59	3Q06	\$9 62	\$12 11	\$11 73
60	4Q06	\$8 99	\$11 77	\$11 30
61	1Q07	\$8 61	\$11 70	\$11 07

**COMPARISON OF  
BNSF VARIABLE COST FOR SHIPMENTS TO OKLAUNION**  
(Movement Specific and Phase III - 2Q00 through 1Q07)

Period (1)	Movement Specific Variable Cost 1/ (2)	BNSF Variable Cost Per Ton	
		Phase III Variable Cost	
		BNSF Reply Third Supplemental 2/ (3)	AEP Texas Rebuttal Third Supplemental 3/ (4)
<b>E. Black Thunder Mine Originations</b>			
62	1Q01	\$6 47	\$8 61
63	3Q01	\$7 01	\$8 95
64	4Q01	\$6 54	\$8 66
65	2Q02	\$6 77	\$8 94
66	3Q02	\$6 82	\$8 98
67	4Q02	\$7 29	\$9 24
68	2Q03	\$7 26	\$9 38
69	4Q03	\$7 12	\$9 23
70	1Q04	\$7 24	\$9 49
71	2Q04	xxx	\$9 54
72	3Q04	xxx	\$9 73
73	4Q04	xxx	\$9 99
74	1Q05	\$7 66	\$10 28
75	2Q05	\$8 23	\$10 57
76	3Q05	\$8 37	\$10 88
77	4Q05	\$9 20	\$11 14
78	1Q06	\$8 47	\$11 03
79	2Q06	\$8 89	\$11 40
80	3Q06	\$9 20	\$11 77
81	4Q06	\$8 59	\$11 43
82	1Q07	\$8 23	\$11 36
<b>F. Caballo Rojo Mine Originations</b>			
83	2Q00	\$6 44	\$8 66
84	3Q00	\$6 43	\$8 65
85	4Q00	\$6 65	\$8 85
86	1Q01	\$6 85	\$9 07
87	2Q01	\$6 69	\$8 91
88	3Q01	\$6 99	\$9 15
89	4Q01	\$7 00	\$8 84
90	2Q03	\$7 75	\$9 63
91	1Q05	\$8 24	\$10 72
92	2Q05	\$8 85	\$11 03
93	3Q05	\$9 01	\$11 35
94	4Q05	\$9 91	\$11 62
95	1Q06	\$9 12	\$11 51
96	2Q06	\$9 57	\$11 89
97	3Q06	\$9 91	\$12 28
98	4Q06	\$9 25	\$11 93
99	1Q07	\$8 86	\$11 65

**COMPARISON OF  
BNSF VARIABLE COST FOR SHIPMENTS TO OKLAUNION**  
(Movement Specific and Phase III - 2Q00 through 1Q07)

Period (1)	Movement Specific Variable Cost 1'	BNSF Variable Cost Per Ton	
		Phase III Variable Cost	
		BNSI Reply Third Supplemental 2'	AEP Texas Rebuttal Third Supplemental 3'
(1)	(2)	(3)	(4)
<b>G. North Antelope Mine Originations</b>			
100	2Q03	\$7 05	\$9 05
101	1Q03	\$7 01	\$9 08
102	1Q05	\$6 81	\$9 25
103	2Q05	\$7 31	\$9 63
104	3Q05	\$7 44	\$9 81
105	4Q05	\$8 18	\$10 31
106	1Q06	\$7 53	\$9 89
107	2Q06	\$7 90	\$10 17
108	3Q06	\$8 18	\$10 38
109	4Q06	\$7 64	\$9 99
110	1Q07	\$7 32	\$9 79
<b>H. Caballo Mine Originations</b>			
111	2Q02	\$7 27	\$9 27
112	3Q02	\$6 67	\$8 96
113	4Q02	\$7 58	\$9 55
114	2Q03	\$7 28	\$9 27
115	1Q05	\$7 72	\$10 23
116	2Q05	\$6 29	\$10 65
117	3Q05	\$6 43	\$10 85
118	4Q05	\$9 27	\$11 39
119	1Q06	\$8 54	\$10 93
120	2Q06	\$8 96	\$11 25
121	3Q06	\$9 27	\$11 47
122	4Q06	\$8 66	\$11 04
123	1Q07	\$8 30	\$10 82
<b>I. Cordero Mine Originations</b>			
124	2Q03	\$6 87	\$9 12
125	1Q05	\$7 29	\$10 19
126	2Q05	\$7 82	\$10 49
127	3Q05	\$7 96	\$10 78
128	4Q05	\$8 73	\$11 22
129	1Q06	\$8 05	\$10 94
130	2Q06	\$8 45	\$11 30
131	3Q06	\$8 74	\$11 66
132	4Q06	\$8 17	\$10 88
133	1Q07	\$7 83	\$10 26

**COMPARISON OF  
BNSF VARIABLE COST FOR SHIPMENTS TO OKLAHOMA  
(Movement Specific and Phase III - 2Q00 through 1Q07)**

Period (1)	BNSF Variable Cost Per Ton			
	Movement Specific Variable Cost 1'	Phase III Variable Cost		
		BNSF Reply Third Supplemental 2'	AEP Texas Rebuttal Third Supplemental 3'	
(1)	(2)	(3)	(4)	
<b>J. North Rochelle Mine Originations</b>				
134	3Q02	\$7 33	\$9 13	\$9 11
135	2Q03	\$7 09	\$9 12	\$9 12
136	4Q03	\$6 72	\$8 99	\$9 03
137	4Q04	xxx	\$9 51	\$9 64
138	1Q05	\$7 03	\$9 80	\$9 69
139	2Q05	\$7 53	\$10 07	\$10 08
140	3Q05	\$7 67	\$10 36	\$10 27
141	4Q05	\$8 41	\$10 62	\$10 79
142	1Q06	\$7 76	\$10 51	\$10 35
143	2Q06	\$8 13	\$10 86	\$10 65
144	3Q06	\$8 41	\$11 21	\$10 86
145	4Q06	\$7 87	\$10 90	\$10 46
146	1Q07	\$7 54	\$10 83	\$10 25
<b>K. Antelope Mine Originations</b>				
147	2Q03	\$6 89	\$8 89	\$8 89
148	4Q03	\$5 97	\$8 17	\$8 20
149	1Q04	\$7 06	\$9 14	\$9 10
150	1Q05	\$7 51	\$9 94	\$9 83
151	2Q05	\$8 06	\$10 22	\$10 23
152	3Q05	\$8 20	\$10 51	\$10 42
153	4Q05	\$9 01	\$10 77	\$10 94
154	1Q06	\$8 30	\$10 67	\$10 50
155	2Q06	\$8 71	\$11 02	\$10 80
156	3Q06	\$9 01	\$11 38	\$11 02
157	4Q06	\$8 42	\$11 05	\$10 61
158	1Q07	\$8 07	\$10 98	\$10 39
<b>L. Belle Air Mine Originations</b>				
159	2Q03	\$7 52	\$9 58	\$9 58
<b>M. Dry Fork Mine Originations</b>				
160	2Q03	\$7 41	\$9 67	\$9 66
<b>N. Fort Union Mine Originations</b>				
161	2Q03	\$7 41	\$9 61	\$9 61

**COMPARISON OF  
BNSF VARIABLE COST FOR SHIPMENTS TO OKLAHOMA  
(Movement Specific and Phase III - 2Q00 through 1Q07)**

Period (1)	Movement Specific Variable Cost 1/	BNSF Variable Cost Per Ton	
		Phase III Variable Cost	
		BNSF Reply Third Supplemental 2/	AEP Texas Rebuttal Third Supplemental 3/
(1)	(2)	(3)	(4)
<b>O. Clovis Point Mine Originations</b>			
162	2Q03	\$7.41	\$9.62
<b>P. Coal Creek Mine Originations</b>			
163	2Q03	\$7.53	\$9.59
<b>Q. Rochelle Mine Originations</b>			
164	2Q03	\$7.50	\$9.49

- 1/ Historical shipments from 2Q00-4Q04 from Table III-H-4 of AEP Texas Rebuttal evidence dated July 27, 2004 and shipments from 1Q05-1Q07 from AEP Texas Opening Third Supplemental evidence dated July 14, 2006 electronic workpaper "VC AEPTX 2005 ALL
- 2/ Historical shipments from 2Q00-4Q04 from BNSF Reply Third Supplemental electronic workpaper "AEPTX Phase III weighted car type BNSF Rev.xls" and shipments from 1Q05-1Q07 from BNSF Reply Third Supplemental electronic workpaper "AEPTX Phase III 2005 ALL BNSF Rev.xls"
- 3/ Historical shipments from 2Q00-4Q04 from AEP Texas Opening Third Supplemental electronic workpaper "AEPTX Phase III weighted car type.xls" and shipments from 1Q05-1Q07 from AEP Texas Opening Third Supplemental electronic workpaper "AEPTX Phase III 2005 ALL.xls"

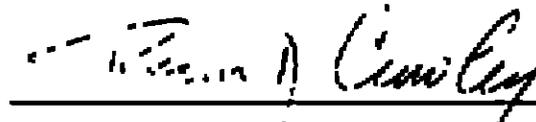
SUMMARY OF TNR REVENUE DIFFERENCES BETWEEN  
BNSF REPLY THIRD SUPPLEMENTAL EVIDENCE (3/19/2007)  
AND AEP TEXAS REBUTAL THIRD SUPPLEMENTAL EVIDENCE (4/02/2007)

Period	BNSF Reply Third Supplemental (3/19/2007) 1			AEP's Rebuttal Third Supplemental (4/02/2007)			Difference Total Revenues 2 (8)
	Coal Revenues (2)	Non-Coal Revenues (3)	Total Revenues 2 (4)	Coal Revenues 2 (5)	Non-Coal Revenues 2 (6)	Total Revenues 2 (7)	
1 2000	\$346,051,284	\$19,498,823	\$365,550,107	\$362,217,679	\$25,198,247	\$387,415,926	\$21,866,920
2 2001	\$643,506,326	\$30,698,514	\$674,204,840	\$670,876,066	\$40,111,747	\$710,987,813	\$43,104,974
3 2002	\$661,510,759	\$21,997,189	\$683,507,948	\$695,675,343	\$39,066,421	\$734,741,764	\$41,233,815
4 2003	\$636,459,631	\$22,615,706	\$659,075,337	\$669,689,722	\$29,881,246	\$699,570,969	\$40,495,632
5 2004	\$668,834,151	\$23,210,777	\$692,044,928	\$697,112,247	\$19,667,744	\$716,780,000	\$15,954,333
6 2005	\$666,901,501	\$23,893,510	\$690,795,011	\$701,262,121	\$31,569,280	\$732,831,401	\$42,036,390
7 2006	\$689,355,180	\$24,527,476	\$713,882,656	\$726,804,392	\$32,406,865	\$759,211,257	\$45,326,601
8 2007	\$705,071,095	\$25,056,079	\$730,127,174	\$731,072,463	\$33,105,119	\$764,177,582	\$34,050,608
9 2008	\$719,250,799	\$25,571,038	\$744,821,837	\$758,470,020	\$33,786,055	\$792,256,075	\$47,434,244
10 2009	\$736,816,480	\$26,070,776	\$762,887,256	\$782,728,840	\$34,469,936	\$817,198,776	\$54,265,520
11 2010	\$718,141,389	\$26,559,656	\$744,701,045	\$794,247,534	\$35,093,615	\$829,341,149	\$84,640,104
12 2011	\$742,975,393	\$27,040,632	\$770,016,024	\$819,714,474	\$35,729,991	\$855,444,464	\$85,427,440
13 2012	\$782,762,430	\$27,520,682	\$810,283,112	\$859,062,382	\$36,365,458	\$895,427,840	\$85,144,728
14 2013	\$797,963,474	\$27,992,363	\$825,955,837	\$882,479,850	\$36,989,965	\$919,469,815	\$93,513,975
15 2014	\$817,062,713	\$28,461,171	\$845,523,884	\$901,715,838	\$37,610,702	\$939,326,539	\$93,802,655
16 2015	\$827,016,051	\$28,916,192	\$855,932,243	\$913,376,522	\$38,211,120	\$951,587,642	\$95,657,399
17 2016	\$830,208,609	\$29,352,295	\$859,560,904	\$938,225,567	\$38,790,302	\$977,015,869	\$97,454,965
18 2017	\$877,453,631	\$29,764,546	\$907,218,177	\$969,748,811	\$39,335,682	\$1,009,084,493	\$1,01,866,16
19 2018	\$905,664,020	\$30,159,485	\$935,823,504	\$1,001,700,017	\$39,857,960	\$1,041,557,977	\$105,734,493
20 2019	\$935,166,657	\$30,541,894	\$965,708,549	\$1,024,667,145	\$40,363,522	\$1,065,030,667	\$110,342,122
21 2020	\$978,125,086	\$30,916,702	\$1,009,041,788	\$1,083,638,443	\$40,858,946	\$1,124,497,389	\$115,455,679
22 Total	\$15,706,496,802	\$560,165,509	\$16,266,662,311	\$17,020,724,681	\$739,770,445	\$17,760,495,126	\$1,493,632,815

1- BNSF Reply Third Supplemental electronic worksheet "BNSF Exhibit RT-2 TNR revenue comparison.xls"  
 2- Column (2) - Column (3)  
 3- AEP Texas Rebuttal Third Supplemental electronic worksheet "TNR Coal Revenue Forecast 4-02-2007\_ATC\_albergBNSFTN.xls"  
 4- AEP Texas Rebuttal Third Supplemental electronic worksheet "GF\_Forecast\_ATC\_TrainType\_040207.xls"  
 5- Column (5) + Column (6)  
 6- Column (7) - Column (4)  
 7- Period from June 16, 2000 through December 31, 2000

**VERIFICATION**

I, THOMAS D CROWLEY, verify under penalty of perjury that I am the same Thomas D Crowley whose Statement of Qualifications appears in Part V of the Narrative portion of the Opening Evidence of Complainant AEP Texas North Company ("AEP Texas") filed in this proceeding on March 1, 2004, that I am responsible of the portions of the foregoing Rebuttal Third Supplemental Evidence of AEP Texas as set forth in Parts I and II, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

  
\_\_\_\_\_  
Thomas D Crowley

Executed on April 2, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2 day of April 2007, I caused a copy of the foregoing Rebuttal Opening Third Supplemental Evidence of Complainant AEP Texas North Company to be served by hand delivery on counsel for BNSF, as follows:

Samuel M. Sipe, Jr  
Anthony J. LaRocca  
Linda S. Stein  
Steptoe & Johnson, L L P  
1330 Connecticut Avenue, N W  
Washington, D C 20036-1795



Kelvin J Dowd