

April 2, 2007

Surface Transportation Board
Attn: STB Ex Parte No. 661 (Sub. No. 1)
395 E. Street, S.W.
Washington, D.C. 20423-0001

Re: Ex Parte No. 661 (Sub. No. 1); FR Notice Vol 72, No. 21, Feb 1, 2007

The North Dakota Grain Dealers Association has been involved in the fuel surcharges matter for approximately three years and in this proceeding since the Board first announced it in March 2006. It is critical that after all this effort by so many that the Board make these information requirements adequate so that it and the rail customers can be assured that fuel surcharges are appropriate. We offer the following comments to the Board's February 1 request, in an attempt to help separate the wheat from the chaff.

Our testimony at the May 11, 2006 hearing in this proceeding referred to the "black box" into which railroads put the current cost of fuel at one end and somehow out the other end comes the fuel surcharge. The word "transparency" was used repeatedly by rail customer participants in this proceeding. We, and many other rail customer groups, want to know what goes on inside that black box. What calculations are made on that input to arrive at that output? Why is it, for example, that BNSF Railway calculations produce a per car mile fuel surcharge for grain that is 50% more than for coal? Just last week more mystery was added to the black box because the Canadian Pacific Railway came up with exactly the same per car mile fuel surcharge on grain and coal.

In its proposed rules of August 3, 2006 the Board proposed fuel surcharges be tied to "those attributes of a movement that directly affect the amount of fuel consumed." In its final rule of late January 2007 the STB said railroads must base their fuel surcharges on "attributes of a movement that directly affect the amount of fuel consumed". But the sketchy four-point requirement for railroad reporting contained in the February 1, 2007 Federal Register notice - Total Fuel Cost, Gallons of Fuel Consumed, Increase or Decrease in Cost of Fuel and Revenue from Fuel Surcharges - will not provide sufficient information to determine that.

To really get to the heart of the matter, which is whether fuel surcharges actually reflect the increased cost of fuel on the movement to which they are assessed, more information must be required. The Board will no doubt get many suggestions. To reduce that number by one we will simply concur with the recommendations of our National Grain and Feed Association that the following information also be required of railroads in their monthly report to the Board:

- First, add one additional row (a 5th row) of data to the table requiring a report of "Fuel Consumption per Mile, Ton-Mile, Car-Mile or other Incremental Unit of Surcharge Assessment Used by the Carrier."

- Secondly, for every separate non-exempt business line of the carrier (e.g., grain, coal, etc.) for which the carrier maintains a separate surcharge assessment formula, additional columns should be added that break out such business segments for individual reporting of the five data points (relating to the five rows in the table) each month.

This will help the Board and rail customers determine whether the fuel surcharges assessed are appropriate for the movement.

Thank you for considering these views

Sincerely,

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