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January 4, 2010

BY E-FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

226234

Re: Docket No. 42110, Seminole Electric
Cooperative, Inc. v. CSX Transportation Inc.

Dear Ms. Brown:

By Complaint filed and served in the referenced docket on October 3, 2008, as supplemented by letter to then-Acting Secretary Anne K. Quinlan dated and filed November 18, 2008, Seminole Electric Cooperative, Inc. ("SECI") challenged the reasonableness of common carrier rates established by Defendant CSX Transportation, Inc. ("CSXT") for the transportation of coal and petroleum coke in unit train/trainload service from various origins to the Seminole Generating Station ("SGS") near Bostwick, FL. The challenged rates and associated service terms were set forth in Tariff CSXT-32531 (*see* Attachment A to the November 18, 2008 letter from counsel for SECI to Anne K. Quinlan).

By its terms, Tariff CSXT-32531 applied during the time period January 1 through December 31, 2009. On or about December 2, 2009, CSXT established and provided SECI with Supplement 1 to Tariff CSXT-32531, a copy of which is appended to this letter as Attachment A. Supplement 1 establishes rates and service terms for shipments from the same origins as were included in the base tariff to SGS, applicable for the time period January 1 through December 31, 2010, and took effect on January 1, 2010. Like the base tariff, Supplement 1 includes rates applicable to shipments both in CSXT-supplied railcars and in private railcars supplied by SECI.

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Paragraph 19 of SECI's Complaint in this proceeding provides as follows:

"This Complaint shall be deemed to apply to and likewise challenge any changes to the provisions of Tariff CSXT-8200 or Publication 8661-B, or any tariffs, circulars or publications referenced therein, as well as to any new tariffs, circulars, rates or charges that might be established by CSXT and applied to coal transportation service to SGS."

The purpose of this letter is to confirm that all rates and terms of Supplement 1 to Tariff CSXT-32531 should be deemed subject to SECI's Complaint, and that evidence demonstrating that such rates and terms are unreasonable and unlawful under the governing statutes likewise will be submitted by SECI in this proceeding.

Additionally, Supplement 1 includes terms under the heading "Unloading" which differ from these in the base tariff, and which effectively expropriate SECI's private property at SGS for use by CSXT as an instrumentality of transportation, without the payment of an allowance or any other consideration therefor. SECI is attempting to resolve the issues raised by these terms through direct discussions with CSXT. Should SECI be unable to secure acceptable modifications through these efforts, however, SECI intends to file a petition seeking interim and permanent relief from the impact of this unreasonable rule, under the provisions of 49 U.S.C. §§ 10702 and 10745.

SECI requests that this letter and Attachment A be accepted for inclusion in the record of this proceeding.

Respectfully submitted,



Kelvin J. Dowd
An Attorney for Seminole Electric
Cooperative, Inc.

Enclosure

KJD:lad

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cc: G. Paul Moates, Esq. (w/enc.)
Paul A. Hemmersbaugh, Esq. (w/enc.)
Matthew J. Warren, Esq. (w/enc.)
Robert Mora, Esq. (w/enc.)

CSX TRANSPORTATION
CSXT-32531
Supplement 1
Common Carrier Rates on Coal
For Seminole Electric Cooperative

Effective Date: January 1, 2009 Supplement 1 Effective: January 1, 2010
Termination Date: December 31, 2010

1. Transportation Particulars: (Rates per net ton)

Destination: Bostwick, FL

Route: CSXT Direct EVWR-Evansville-CSXT

CSXT Origin Mines
(As defined in CSXT 8200)

Dotiki, KY	\$41.68
Cardinal 9, KY	\$41.68
Cimarron, KY	\$41.68
Gibcoal, IN	\$44.93
Consol 95, WV	\$49.71
Bailey Mine, PA	\$51.66

CSXT Origin Port
Charleston, SC ⁽¹⁾ \$28.48

Other Railroad Origins

Epworth, IL \$44.18*

Commodity: Coal (STCC NO. 11-212)
Equipment: Railroad owned cars or Private 286,000 pound GWR capacity, rotary dump cars
Train Size: 100-Car unit train minimum from Origins defined above
Unloading: The unloading operation does not include the use of CSXT crews or locomotives to assist Seminole in unloading. The rate applies for a "Drop and Swap" operation. Any requests for additional CSXT services to complete unloading are subject to applicable CSXT accessorial charges.
Loading: As governed by Tariff CSXT 8200 when on CSXT or Coal Tariff EVWR 4000 when on the EVWR. Twenty-four hours will apply at Charleston, SC
Demurrage: Six (6) hour unloading at destination for 100 car trains. Subject to the provisions of Tariff CSXT 8200 or EVWR 4000
Fuel Surcharge: The provisions of Tariff CSXT 8200 will not apply

*CSXT will pay a revenue factor/division of revenue up to a maximum of \$1.80 per ton (subject to quarterly rate adjustment) to the EVWR under this joint line rate. CSXT will not be responsible for any accessorial charges, surcharges or any other charges assessed by the EVWR, or for any revenue

requirements above \$1.80 per ton for transportation services provided pursuant to this joint line rate that may be assessed by the EVWR.

(1) the origin of Charleston, SC includes the Commodity of Petcoke (STCC NO. 29-913)

2. Incorporation of Tariffs, Rules, ETC:

This Price Sheet incorporates both CSXT and EVWR tariffs (i.e. Common Carrier Rates, including CSXT 8200-series and other service terms), statues and regulations that would apply if this Price Sheet did not exist, as of the date of shipment tender. The provisions of this Price Sheet control in case of any direct and express conflict.

3. Payment:

Subject to the provisions of Section 13, published in Tariff CSXT-8200. All shipments made under this publication will be "Collect".

4. Bill of Lading:

The provisions of the Uniform Straight Bill of Lading (Bill of Lading) are incorporated herein reference. Industry will add the following to each Bill of Lading:

"Subject to CSXT-32531"

5. Damage Claims:

Any claims for loss, damage or delay to Commodity shipments shall be governed by 49 USC 11707 and 49 CFR 1005.

6. Reservation System – Trainload/Unit Train Service:

The reservation system for trainload/unit train service as detailed in the CSXT-8200 series publication will apply.

7. Quarterly Rate Adjustments:

All rates are subject to quarterly increase or decrease based upon 100% of the Rail Cost Adjustment Factor – Unadjusted. Rate adjustments will commence April 1, 2009. Rates will not be adjusted below the base rates as detailed above.

8. Car Supply and Private Car Compensation

Industry may supply private equipment but must notify CSXT of intent to do so at least thirty (30) days prior to January 1, 2010. Industry must indicate the number of cars it intends to supply by car initial and number and must represent that it is entitled to receive mileage allowance payments for CSXT use of the cars. All cars are subject to OT-5 rules and regulations any changes to Seminole's private car fleet requires updating of the list and OT-5 approval. Industry must also indicate its tonnage forecast by origin-destination pair. Carrier will pay a private car mileage allowance of \$0.19 per loaded mile based upon the mileage set out in Attachment 1. (Example: Dotiki-Bostwick allowance is \$0.19 multiplied by 812 miles without regard to actual loaded miles for any particular movement.) Industry may file for the mileage allowance within 15 days of the end of each month, using the attached Mileage Claim Form detailing the waybill date and number. CSXT has 45 days to pay the allowance to Industry. The mileage allowance will not escalate. The only eligible private car compensation will be under this provision and cars will not be subject to mileage or per diem payments under any other mechanism. This provision for private car compensation excludes any other form of payment. Private car compensation will be based of the mileages set out in Attachment 1 regardless of actual miles. AAR Car Hire Rate Master File must reflect a zero rate while in service on CSXT or EVWR.

9. Common Carriage Application:

The rates , terms and conditions as published herein (CSXT-32531) are established for the use and benefit of the Seminole Electric Cooperative in the production of electricity from the coal transported and subsequently burned as pulverized coal purchased by Seminole Electric Cooperative and may not be used by any other entity, transferred to any other entity or used in combination with any movement, including without limitation subsequent transportation by rail or truck from any of the stated destinations.

The rates and conditions set out in this publication are only applicable to the origins specifically listed in this publication. Intermediate applications of origins not listed in CSXT-32531 will not apply. CSXT will add rates, terms, and conditions from other specific origins to this publication on specific request by Seminole Electric Cooperative.

The rates, terms, and conditions herein may be modified from time to time on statutory notice.