BEFORE THE

SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 661

RAIL FUEL SURCHARGES

COMMENTS OF THE

U.S. DEPARTMENT OF AGRICULTURE

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U.S. Department of Agriculture
Washington, D.C. 20250

Date: April 27, 2006

AUTHORITY AND INTEREST

The Secretary of Agriculture is charged with the responsibility under the Agricultural Adjustment Act of 1938 and the Agricultural Marketing Act of 1946 to represent the interests of agricultural producers and shippers in improving transportation services and facilities by, among other things, initiating and participating in Surface Transportation Board (Board) proceedings involving rates, charges, tariffs, practices, and services.

The Department of Agriculture (USDA) represents U.S. farmers and agricultural shippers, and the vitality of their livelihood is our primary interest. Our interest is in preserving an efficient and competitive transportation sector that serves U.S. agriculture effectively.

USDA commends the Board for soliciting rail shipper, railroad, and public views regarding railroad fuel surcharges. USDA encourages the Board to use its broad authority over railroads' business practices to require that fuel surcharges closely approximate the actual additional fuel cost of individual shipments. Such rules should also ensure that individual shippers would not pay for fuel costs generated by other shippers.

BACKGROUND

Recovery of unanticipated fuel expenses by railroads is legitimate, but it should more closely match the additional cost of fuel used by each shipment. Since 2000, railroads have used fuel surcharges to recover unexpected fuel costs from tariff shippers and usually have used the Rail Cost Adjustment Factor to adjust contract rates. Due to

convenience and ease, railroads chose to levy rail fuel surcharges based upon a percentage of tariff rates. The fuel surcharge varies according to the price of a benchmark fuel, which typically includes the price of West Texas intermediate crude oil or the price of on-highway diesel fuel.

Tariff-based fuel surcharges do not correlate closely with the additional fuel costs of shipments because of the wide-spread use of differential pricing. With differential pricing, the tariff rate is based on the value of service rather than on the actual cost of handling a shipment. While fuel surcharges remained less than 5 percent, the adverse effects of imprecise allocations of increased fuel costs was relatively unimportant; fuel surcharges were only a minor portion of the cost of rail transportation.

Since mid-2004, railroad fuel surcharges have become a significant portion of the total cost of rail transportation. In addition, these fuel surcharges are likely to remain high in the foreseeable future. The weighted average railroad fuel surcharge for May 2006 is 13.2 percent compared with a record 16.3 percent in December 2005 and only 1.1 percent in January 2003 (Attachment 1). Since crude oil prices have reached record highs in April 2006, it is likely that railroad fuel surcharges will again exceed 16 percent by June.

As railroad fuel surcharges began to exceed 5 percent, shippers have increasingly voiced concerns to the Board that railroad fuel surcharges recover amounts over and above increased fuel costs. In addition, shippers have voiced concerns that the fuel surcharge formulas used by railroads are not closely correlated with the actual fuel cost of specific shipments. Furthermore, because all shippers are not assessed railroad fuel

surcharges in the same manner, shippers have concerns that they may be paying for fuel costs generated by other shippers.

COMMENTS

The availability of rail transportation at a fair price is critically important to agricultural shippers. Agricultural shippers depend on rail in many markets because of the long distances agricultural products are transported. Since agricultural producers are "price-takers," higher transportation costs result in producers receiving lower prices for agricultural commodities, which result in reduced producer income. Lower producer income affects the ability of producers to borrow funds and impacts the economic prosperity of rural regions.

With fuel surcharges comprising a significant portion of the cost of rail transportation, it is important that railroads assess these surcharges accurately and fairly among the users of the rail system. Inaccurate fuel surcharge assessments can significantly distort shipper economic choices and unfairly exclude shippers from markets.

USDA asserts that the current system of assessing rail fuel surcharges based upon rail tariff rates is seriously flawed because it can result in railroads collecting surcharges exceeding actual increased fuel costs and that it unfairly apportions costs among users. The major concerns of USDA are discussed below.

Fuel surcharges should approximate actual added fuel costs.

May 2006 railroad fuel surcharges for grain range from 9.46 percent to 16 percent of tariff. Even though each railroad has unique characteristics that affect its fuel usage, it is unlikely that one railroad would need nearly twice the fuel surcharge as another. Thus, it would appear that at least some railroads must be profiting from fuel surcharges.

USDA asserts that railroad fuel surcharges should closely approximate the actual added fuel costs caused by increased fuel prices; they should not be allowed to become a profit center or a means of hiding increases in tariff rates. Formulas used in the calculation of fuel surcharges should be reviewed periodically to ensure that they fairly reflect cost increases due to fuel prices.

Should railroads hedge their fuel costs, both the gains and losses from hedging should accrue to the railroad. If railroads are allowed to keep hedging gains, they should not be allowed to recoup hedging losses from shippers.

USDA supports the use of on-highway diesel fuel prices in the calculation of fuel surcharges rather than the use of West Texas intermediate crude oil prices. On-highway diesel fuel prices are more closely related to the actual change in railroad fuel costs due to increasing fuel prices.

Fuel surcharges should reflect additional fuel costs of individual shipments.

Tariff-based fuel surcharges do not correlate closely with the additional fuel costs attributable to individual shipments because of the wide-spread use of differential pricing. With differential pricing, the tariff rate is based upon the value of service rather than upon the actual cost of handling a shipment.

As a result of differential pricing and the use of tariff-based fuel surcharges, those most dependent upon rail service not only pay higher tariff rates but also pay higher fuel surcharges. USDA contends that those shippers in regions most reliant on rail service should not be expected to bear more than their fair share of fuel surcharges.

In addition, tariff-based fuel surcharges result in different surcharges, based upon the commodity shipped. The table in Attachment 2 shows that the fuel surcharge for a shuttle train originating in Minneapolis, Minnesota, and terminating in Portland, Oregon ranges from $375 to $467, a $92 difference. USDA contends that it takes no more fuel to ship wheat to Portland than it does to ship corn.

Furthermore, some railroads charge a higher tariff rate if the shipper uses a railroad-owned railcar than if the shipper uses a shipper-owned railcar. USDA contends that a fuel surcharge should not vary based upon who owns the railcar.

Only BNSF has been responsive to shipper concerns regarding the use of tariff-based fuel surcharges. Beginning in January 2006, BNSF began using a mileage-based fuel surcharge for grain and coal, a practice more closely related to the costs of individual rail shipments.

USDA supports the use of mileage-based rather than tariff-based fuel surcharges because the mileage-based fuel surcharge is more likely to be fair and appropriate for individual movements.

Fuel surcharges should be equitable among shippers.

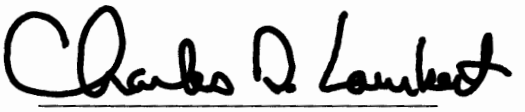
Due to the lack of readily available information, shippers are concerned that they are paying fuel surcharges that are not fair in relation to that paid by other shippers. This

is particularly true in the case of contract rates that may increase at a slower rate or have no provision for the railroad to recover unexpected costs. Fuel surcharges should be equitable for all classes of shippers, and shippers should not be charged excessive fuel surcharges due to the railroad undercharging other customers.

CONCLUSIONS

USDA encourages the Board to use its broad authority over railroads' business practices to require that fuel surcharges closely approximate the actual additional fuel cost of individual shipments. Such rules should also ensure that individual shippers would not pay for fuel costs generated by other shippers.

Respectfully submitted,



Chuck Lambert
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CERTIFICATE OF SERVICE

I, Barbara Robinson, certify that on this 27th day of April, 2006, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, on all parties of record in STB Ex Parte No. 661.

Barbara Robinson
Deputy Administrator
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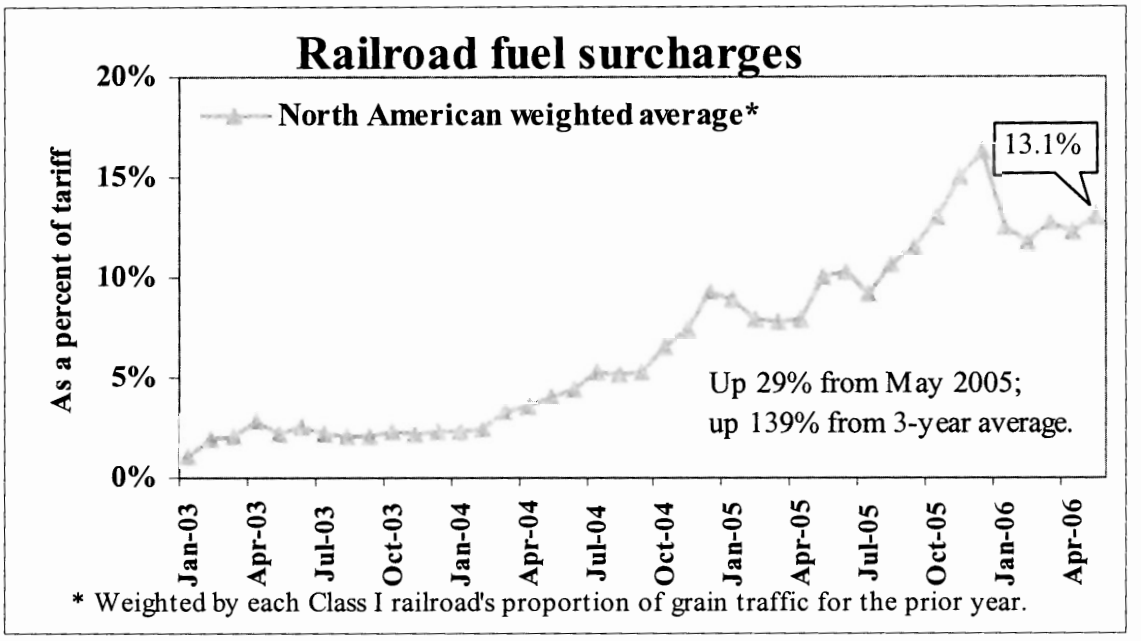
ATTACHMENT 1



ATTACHMENT 2

April Tariff Rail Rates from Minneapolis, Minnesota to Portland, Oregon

Crop	Tariff rate	Fuel surcharge at 12.4%
Wheat	$3,763	$467
Corn	$3,024	$375
Soybeans	$3,170	$393