

BEFORE THE
SURFACE TRANSPORTATION BOARD



Ex Parte No. 661

RAIL FUEL SURCHARGES

217614

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Comments

Submitted by

ROSBORO, LLC

My name is Dennis Williams, and I am the General Traffic Manager for Rosboro, LLC, located at 1925 Main Street in Springfield, Oregon, 97477. My career in transportation management has spanned more than 38 years, 34 of which have been in management-level positions of companies who shipped and received products by rail. Rosboro is a manufacturer and shipper of lumber, plywood, and glue-laminated beams and is vitally dependent upon rail service to deliver its products to its customers and to receive inbound materials. Rosboro's primary manufacturing facility is located in Springfield, Oregon and is captive to Union Pacific. Rosboro owns and operates a glue-laminated beam plant in Vaughn, Oregon that is served by the Central Oregon & Pacific, a Class III railroad that is also captive to Union Pacific. During the period of July 2005 through June 2006, Rosboro shipped or received nearly 2000 carloads, all of which were subject to railroad fuel surcharge.

The Surface Transportation Board (Board) has requested public comment to its August 3, 2006 decision in Ex Parte No. 661, Railroad Fuel Surcharges, and these comments are in response to the Board's request.

The Board properly found that railroads are entitled to recover their increased costs that result from the rising price of fuel. That said, we concur with other shippers in taking issue with the method by which railroads are imposing their fuel surcharges, and we support all of the proposed measures set forth in the Board's decision toward making railroad fuel surcharge practices reasonable in their formulation and application.

In particular, we very strongly support the Board's decision as it relates to the common sense principle of closely linking the increases in the portion of fuel costs to the movement to which the fuel surcharge is applied. The legal principles that underlie the railroads' authorization to impose a fuel surcharge are focused on cost recognition and recovery, emerging in the X-282 series of proceedings before the Interstate Commerce Commission. As the Board correctly noted in its August 3 decision in the instant proceeding, these principles were refined with specificity in Expedited Procedures for the Recovery of Fuel Costs, 350 I.C.C. 563 (1975) to recognize extraordinary (that is, rapid, unexpected, and substantial) changes in fuel cost as a separate and distinct cost

that may be specifically treated, or recouped, through fuel surcharge. It logically follows that the remedy must be specific and distinct.

We concur in the Board's finding that applying a ton/mile system would not be as burdensome on railroads today as it would have been in 1975. We support the adoption of a ton/mile basis as the mechanism behind any railroad's fuel surcharge, as fuel consumption varies directly with weight hauled and miles traveled. Furthermore, use of ton/miles would also avoid forcing artificial economic obsolescence of smaller railcars, such as 50' and 52' boxcars used in the forest products industry, which would be unavoidably caused by a straight mileage scheme that would favor large railcars. We support using highway miles as the distance factor in ton/mile calculation as this method, while less specific to the movement, would protect a railroad, whose line is more circuitous than its direct competitor, from being competitively disadvantaged by its surcharge.

A second compelling factor that supports linking fuel surcharge to the specific movement is that railroads presently do not recover extraordinary fuel cost increases, in whatever form, from all of its traffic. Credible representatives from different railroads have, on a number of occasions, advised me personally of this fact. Indeed, the percentage of their traffic that they note as not being subject to extraordinary fuel cost recovery is substantial and, frankly, astonishing. While current regulations allow railroads to use differential pricing to establish rates that discriminate against captive customers and to establish preferential

rates for non-captive customers, fuel surcharges by their cost-based definition and regulatory history do not fall within the category of "rates" to which differential pricing may be applied. The National Industrial Transportation League, on pages 5 and 6, paragraphs F and G of its filing in this proceeding, thoroughly addressed this issue, and we concur in its discussion. We rely heavily on the Board's words that a railroad "should not identify a surcharge as a cost-recovery mechanism for a discrete portion of its costs unless the surcharge is directly tied to and limited to the incremental changes in that particular cost for the movements to which the surcharge is applied" to indicate that cross-subsidization of non-surcharged traffic by surcharged traffic that presently exists under current fuel surcharge practices are improper. We support the Board's proposal "to require that fuel surcharges be tied not to the level of the base rate but to those attributes of a movement that directly affect the amount of fuel consumed."

We are also concerned with the distribution of fuel surcharge revenues between Class I railroads and their short line connections and ask the Board to take all steps needed to ensure that such distribution is reasonable. Rosboro has a glue-laminated beam manufacturing plant located in Vaughn, Oregon on the Central Oregon & Pacific Railroad (CORP), a Class III railroad whose contractual relationship with Union Pacific limits CORP to receiving a switching charge for handling our shipments. I am aware of this relationship because I was directly involved in the negotiation for sale of this line by Southern Pacific Lines to Central Oregon & Pacific. Logic suggests that the function of gathering and

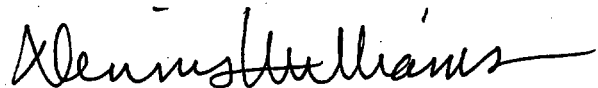
distributing carload traffic at movement terminals, functions performed substantially by CORP, is more fuel intensive than linehaul movement by the Class I railroad, in this case, Union Pacific. Rosboro's concern in this matter is for the continuing financial health of CORP that directly affects its ability to provide reliable switching service for our shipments, without which our plant would be economically unviable.

We thank the Board for this opportunity to present our views.

Respectfully submitted, /

Rosboro, LLC
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By Its General Traffic Manager



Dennis Williams
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I, Dennis Williams, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this pleading. Executed on September 19, 2006.

