

BEFORE THE
SURFACE TRANSPORTATION BOARD

Ex Parte No. 661
RAIL FUEL SURCHARGES

COMMENTS
submitted by
CARGILL INCORPORATED

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By Its Attorney

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Dated: October 2, 2006

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Cargill is an international provider of food, agricultural and risk management products and services. Rail transportation is a critical component of Cargill's food and agriculture businesses and rail costs have a significant impact on their operations. Cargill receives service from all of the Class I railroads and many Class II and III railroads. In 2005, Cargill paid over \$50 million in fuel surcharges to the railroad industry. Cargill wholeheartedly supports the STB on its August 3 decision ("Decision"). The Decision reached several conclusions.

- 1. Railroads must develop fuel surcharge computations that are more closely linked to their increased fuel costs for specific rail movements.**

Cargill agrees with the Board that it is an unreasonable practice for rail carriers to compute fuel surcharges as a percentage of the rate. Cargill recommends that the STB adopt a fuel surcharge on a "cents per car-mile" basis. This methodology would require less administrative effort than a "cents per ton-mile" basis without a significant reduction in accuracy.

Cargill asks the Board to clarify, however, that mileage-based fuel surcharges should be based on the shortest route over a carrier's system rather than the actual route. On many occasions, railroads have hauled Cargill traffic over longer routes for their operating convenience. Shippers such as Cargill should not be required to pay more in fuel surcharges in those situations.

Cargill objects to the rail carriers' desire to utilize system-wide fuel cost versus movement-specific fuel cost recovery as a means to determine the fuel surcharge methodology. Since rail carriers during the contract process make business decisions to fully or partially recover their fuel costs, we do not believe it to be a fair practice to allow fuel cost recovery through cross-subsidization.

Cargill agrees that railroads should only apply fuel surcharges to recover "those fuel costs that are not reflected in the base rate". Railroads must be able to quantify the fuel cost component of a base rate and develop a surcharge mechanism that applies to the fuel cost component only.

Since there appears to be agreement that a rail carrier should be allowed to recover those incremental fuel costs that are not reflected in the base rate, Cargill respectfully believes the new methodology should also include a fuel credit when fuel costs drop below the base rate for fuel.

Finally, as a regular participant in the commodities markets, Cargill has developed skills for managing cost/price volatility. Cargill employs those skills to hedge against the

changes in fuel costs that it pays to carriers through fuel surcharges. The ability to hedge successfully, however, is contingent on a strong correlation between the fuel surcharge and the actual fuel consumed. Furthermore, changes in the fuel surcharge mechanism must be within narrow increments in order to facilitate hedging by shippers. (e.g. $1\text{¢}\Delta_{\text{base}}=0.00125\text{cents per car-mile surcharge}$). Wider incremental changes, such as 5¢ or more, make hedging much more difficult for the shipper. When considering the incremental fuel cost recovery methodology, therefore, Cargill respectfully asks the STB consider the shipper's need to manage this risk and develop a methodology that has narrow increments of movement up and down.

2. Computation of Fuel Surcharges As a Percentage of Existing Rates.

Since Cargill is requesting a reciprocal (cost and credit) fuel surcharge methodology, we respectfully recommend that the STB establish a base fuel price for this methodology which closely represents the fuel price the railroads are incorporating in their base freight rates. Upon the final STB ruling on Ex Parte No 661, Cargill would suggest a base fuel price that utilizes the price series recommended by Cargill in point 3, below, and is a six month average of that price series.

Each railroad should be allowed to set their fuel surcharge increments based upon their actual fuel cost relative to the base fuel price established above. The fuel surcharge would be based on the railroad's average fuel cost to haul a car one mile. The formula to calculate the fuel surcharge would be as follows:

Average gallons burned to haul a loaded car one mile x (actual fuel cost - base fuel price above) x number of miles moved between origin and destination = Fuel surcharge for the given move.

Railroads should be required to calculate and publish their fuel surcharges for two months out just as they do today.

3. Assessment of fuel surcharges on traffic that is also subject to escalation by an index that includes fuel escalators.

Cargill agrees that railroads should not be able to apply fuel surcharges on traffic that is subject to escalation by RCAF or a similar index, which includes fuel costs. Another option would be to develop or adopt cost escalation indices that exclude fuel. That would allow railroads to apply the non-fuel cost indices along with a fuel surcharge.

4. Use of a single, uniform index to measure fuel-cost increases.

Although Cargill agrees that the STB needs to establish a single, uniform index to measure fuel cost increases, it does not believe that "U.S. No. 2 Diesel, Retail Sales by All Sellers (cents per gallon)" is the correct index. This index is not appropriate because it represents a different grade of fuel, Ultra Low Sulfur vs. Low Sulfur, than is used by the railroads and secondly it includes all taxes, which the railroads are not subject to.

Cargill trades petroleum and distillates worldwide and respectfully request the STB consider a pricing series that is more closely aligned to the railroad's fuel grade purchases as well as their tax base. We would respectfully suggest the STB consider using a 3rd

party such as Argus Media Group (www.argusmediagroup.com) that tracks and reports on the daily purchases of the applicable grade of fuel purchased by the railroads.

5. Reporting Requirements for Carriers

Cargill agrees that railroads need to furnish the STB with information regarding its fuel surcharges to ensure transparency and to police the fuel surcharges. Specifically, the railroads need to offer monthly tracking data on both contract and tariff fuel expenditures, fuel gallons consumed, and actual revenue collected from surcharges. The STB needs to take steps to ensure that railroads only use surcharges to recover increased fuel costs on specific tariff movements. Tariff customers should not be forced to bear the burden of increased fuel costs borne by railroads on contract shipments or other tariff movements. With respect to contract shipments, railroads knowingly and willingly entered into such contracts and they alone should bear the risks of increased fuel charges on such moves that they are unable to recover.

Respectfully submitted,

CARGILL INCORPORATED

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Dated: October 2, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have on this 2nd day of October, 2006, served a copy of the foregoing Comments on all parties of record, by first-class mail, postage prepaid.

A handwritten signature in black ink, appearing to read 'Aimee DePew', written over a horizontal line.

Aimee DePew