



Comments submitted by Dairyland Power Cooperative of La Crosse, Wisconsin, for the Quadrennial Energy Review Public Stakeholder Meeting in Chicago, Illinois.

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Created in 1941, Dairyland Power Cooperative (“Dairyland”) is a generation and transmission cooperative headquartered in La Crosse, Wisconsin, that serves 25 distribution cooperatives and 17 municipalities located in Wisconsin, Minnesota, Iowa and Illinois. We serve almost 600,000 people and employ about 540.

Electricity in the Dairyland system is generated primarily at coal facilities but we have a diverse energy portfolio that also includes natural gas, hydro, wind, solar, biomass and biogas. Dairyland’s generation resources allow its members to supply over 14 percent of their consumers’ retail load from renewable sources.

Dairyland, like other electric cooperatives, operates as not-for-profit. Our directive from our member-owners is to provide affordable and reliable electric service—not profits to investors. It is our responsibility to ensure that energy is delivered reliably and at the lowest reasonable cost.

Rail Service

Low sulfur Powder River Basin (PRB) coal is the primary fuel source for our base-load generation facilities. These facilities are essential to our ability to provide reliable electric service year round and fuel delivery to our facilities is dependent upon reliable rail service. The Burlington Northern Santa Fe Railroad (BNSF) delivers coal for Dairyland to the John P. Madgett (JPM) facility in Alma, Wisconsin, on lines that are captive to the BNSF. BNSF also delivers coal to a Mississippi River terminal in southeast Iowa, which is then loaded on barges and delivered to Dairyland’s Genoa Station #3 facility (Genoa).

Reliable delivery service is necessary to ensure coal is available in sufficient quantities to produce power to meet demand. Coal delivery problems require Dairyland to use higher cost generation and/or purchase power on the open market, often at a premium, to meet our members’ energy needs.

Dairyland currently owns 250 rail cars and leases six. We lease a full train set (about 125 rail cars) for our shipments to the Mississippi River terminal in Iowa. The combined coal deliveries in any given year range from 2.0 – 2.4 million tons, or roughly 130 – 160 train loads.

JPM

Approximately 90 – 100 train loads are delivered to JPM annually. Average turnaround time (ATT) is defined as the time it takes for a train to make a round trip from the mine to the offload site and back again to the mine. Prior to this year, ATT averaged six to eight days, which

generally meets our fuel needs. The station can unload an average train set in about six hours and this provides three to four days of generation at the JPM plant. In preparation for supply disruptions, our goal is to have between 30 and 50 available days of operation on hand to sustain reliable generation.

Genoa

Annual deliveries range from 50 – 65 train loads to the Southeast Iowa Mississippi River terminal. One train fills nine to ten barges. ATT for shipments to this terminal prior to 2014 averaged five to seven days, fulfilling our shipping goals to meet our annual need for generation.

Two barges provide one day of generation. In order to meet our members' generation needs throughout the year it is critical we receive reliable transportation from our rail and barge carriers. To prepare for supply disruptions, Dairyland's goal is to have 165 – 195 available days of operation on hand prior to the end of October to provide generation for the winter. Since the Upper Mississippi River usually freezes, the typical barge delivery season is from March through October, roughly 30 to 35 weeks. Once winter is over and the river thaws, we can rebuild inventory at Genoa again for the next season.

2013 – 2014: Unsatisfactory Rail Performance

Through July of this year, the BNSF has failed to deliver 35% of our expected fuel needs.

Since August 2013, BNSF service to JPM has been inconsistent and failed to meet the six to eight day ATT we require. Year-to-date, the ATT has averaged nearly 12 days.

Since March 2014, BNSF ATT to the river terminal that serves our Genoa facility has been erratic and failed to meet the five to seven ATT we require. Year-to-date through July, the ATT has averaged about nine days.

Trucking PRB coal from Wyoming to either location is not a viable alternative. To equal one train set of coal, 630 truckloads would need to be delivered, equating to 87,000 – 104,500 truckloads to deliver our annual supply. This is logistically and financially unworkable with a nonprofit electric cooperative's mission to provide affordable service to its members and would cause a tremendous burden on the already overtaxed interstate, state and local highway systems.

Dairyland continues to work with the railroad in an attempt to resolve these issues. We value our relationship with BNSF since they play a very important role in helping us provide reliable and reasonably priced electricity to the region. However, as of the end of July, the BNSF had not offered any alternatives to help us with the inventory concern for JPM or the river terminal serving Genoa. Continued poor service could pose a significant risk to the reliability of the electric grid in the Midwestern region, as well as increase the likelihood of much higher electric rates for our members.

2014: Poor Rail Performance Impacts Dairyland's Operations

JPM

Since January 1, our monthly average coal inventory on hand ranged from 12 – 33 days, and dipped to as low as nine days—well below the Dairyland target of 30 – 50 available days of operation on hand. Dairyland was forced to find solutions to ensure we had enough coal on the ground to meet generation for our member load and reliable electric service for the Midcontinent Independent System Operator (MISO), but those solutions have added significant cost to our members.

Genoa

Rail shipments to the Mississippi River in Southeast Iowa terminal since March have not built inventory at a rate to keep pace with barge shipments to Genoa needed to meet power generation. If this trend continues, Dairyland's Genoa power plant will run out of coal and will be unable to generate power after January 2015.

In previous years, we were able to shift our train sets for several deliveries to the Mississippi River terminal rather than JPM since inventory at JPM was in a range to meet our generation demand. This year, Dairyland was not able to do this because JPM's inventory is also low and we do not want to risk the inventory going even lower—leaving Dairyland with two plants with insufficient coal supplies.

Other Cooperatives Also At Risk: Sunflower and Arkansas Electric's Stories

Sunflower Electric Cooperative (Sunflower) is located in Holcomb, Kansas, and is a consumer-owned, nonprofit corporation operated cooperatively by six rural electric distribution cooperatives that serve people located in 32 central and western Kansas counties. Sunflower provides wholesale power to its members generated by six power plants including the only base load coal-fired electric generating unit (EGU) in the area, the Holcomb EGU.

Holcomb EGU is captive to BNSF for its coal supply deliveries; there are no other reasonable options to transport coal from the PRB except rail service through BNSF. Since September of 2013, Sunflower has seen ATT for its coal deliveries rise dramatically, sometimes over 11 days. Considering one train load provides Holcomb with only three-to-four days of coal, Sunflower's inventory pile is continuously decreasing.

Sunflower's Board policy and Risk Management strategy is to have a 30 day minimum inventory of coal. To maintain these best practices, Sunflower curtailed generation from March 14, 2014, through June 17, 2014 to save inventory for the summer peak period. As of mid-July, Sunflower had approximately only 20 days of inventory.

If rail service for the remainder of the year does not improve, Sunflower could be required to limit generation again this fall and its coal inventory will still reach zero days by the end of December, creating a potential reliability issue for the Southwest Power Pool (SPP), of which Sunflower is a member. Without substantial improvement, this delivery service problem will affect electric generation reliability well into 2015.

Arkansas Electric (AECC) is a membership-based generation and transmission cooperative that provides wholesale electric power to electric cooperatives, which in turn serve over 500,000 customers, or members, located in each of the 75 counties in Arkansas and in surrounding states. In order to serve its 17 member distribution cooperatives, AECC has entered into arrangements with other utilities within the state of Arkansas to share generation and transmission facilities. For example, AECC holds ownership interests in the White Bluff plant at Redfield and the Independence plant at Newark, each of which typically uses in excess of 6 million tons of PRB coal each year. In addition, AECC holds ownership interests in the Flint Creek plant at Gentry and the Turk plant at Fulton, each of which typically uses about 2 million tons of PRB coal each year. Because of the large volume of coal consumed by these plants, the need for long-distance rail transportation to move this coal, and the rail captivity of three of these plants, AECC and its members are very dependent on reliable and economical rail service in order to provide reliable and economical electrical service.

Last year and well into the severe winter weather of 2013-2014, the major freight rail service problems seemed to be somewhat confined to the upper Midwestern portion of the United States. BNSF and Canadian Pacific (CP) seemed to be most affected. Certainly Arkansas did not see coal shipments affected yet at that point. However, as this year began to unfold AECC started seeing slower ATT and lower throughput of coal to its power plants. AECC experienced ATT increase as much as 30 percent and coal inventories drop by up to 50 percent. At one point an AECC plant had only 16 days of coal inventory.

Future Rail Challenges

A little over 30 years after the Staggers Act deregulated rail service, consolidation of the major railroads and some unfortunate decisions by the Surface Transportation Board (STB) and its predecessor, market competition is almost totally lacking for rail customers who must ship by rail – a group called *rail dependent shippers*. In 1980, there were over 40 railroad carriers. Today, there are just four major railroads with de facto regional monopolies. Recent analysis of the 28,000 rail stations in the United States – places where a major railroad picks up or delivers freight – shows that 78 percent of these locations are served only by a single major railroad. No state has more than 50 percent of its rail stations served by more than a single major railroad.

Thus, while the Staggers Act is designed for a competitive rail market, that market does not exist in the United States today for rail dependent shippers. The Staggers Act relies on the assumption of a competitive rail service market but the government protections for shippers are weak, administered by a small agency (the STB) with very limited jurisdiction. In reality, railroads are free to charge rail dependent shippers almost anything they choose in the form of a take-it-or-leave-it rate with extremely one-sided terms and conditions. To obtain any rate relief through the STB, a shipper generally must be within a certain category of rail customers and must initiate and win a lengthy, complicated and expensive proceeding at the STB, while continuing to pay the unreasonable rate that is being charged by the railroad. The shipper bears all the burdens of proof and the cost of a rate case itself can exceed \$7 million. Most rail dependent shippers view these STB “protections” as inaccessible and useless.

PROPOSED CONCEPTS FOR FREIGHT RAIL REFORM LEGISLATION

Guarantee Competition for All Rail Customers

Competitive transportation systems are the national policy of the United States. Prospective legislation should direct the STB to ensure competitive rail service for all rail dependent shippers.

Railroads Must Negotiate In Good Faith with Rail Dependent Customers

In 2011, the STB conducted a series of hearings on competition in the national freight rail system. The record created contains extensive examples of the major freight railroads refusing to negotiate in good faith with their rail dependent shippers. In addition, there are a number of examples of situations in which two major railroads serve a customer but one of the railroads always refuses to compete for freight generated by the customer.

The second provision in this “guarantee of competition” legislation will be a directive that major freight railroads must negotiate in good faith with their customers. Failure to negotiate in good faith would be an “unreasonable rail practice” that could be the basis of a complaint by the rail customer to the STB. If proven, the STB could fine the railroad heavily or take other appropriate action.

The Staggers Rail Act of 1980, as amended by the ICC Termination Act of 1995, is the law of the land regarding the economic regulation of the nation’s freight railroads. The Act presumes a competitive market for rail transportation for rail dependent shippers. That market doesn’t exist. We believe the legislation described above, if enacted, will result in a competitive marketplace that will ensure good service and reasonable rates for rail dependent shippers and help control costs for end use consumers.

What we want from the federal government

Lack of recourse leaves the railroads with little accountability for poor performance like that outlined above. Policy changes are needed to increase accountability for railroads to their customers and ultimately to consumers.

- Reform the Surface Transportation Board to grant it greater oversight of railroads and empower it to end certain monopolistic railroad practices;
- Advance legislation to repeal the railroads’ exemption from certain existing antitrust laws.