

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
AT ASHLAND**

CIVIL ACTION NO. 09-41-DLB

GATX CORPORATION

PLAINTIFF

vs.

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

APPALACHIAN FUELS, LLC, ET AL.

DEFENDANTS

This matter is before the Court on the Report and Recommendation (R&R) of United States Magistrate Judge Edward B. Atkins, wherein he recommends that Plaintiff GATX Corporation be awarded attorneys' fees in the amount of \$320,689.66. (Doc. # 108). No objections having been filed and the time to do so having now expired, the matter is ripe for review. Upon review of the R&R, and the Court being in agreement with the recommended disposition in all respects, and being otherwise sufficiently advised,

IT IS ORDERED as follows:

- (1) The Magistrate Judge's Report and Recommendation (Doc. # 108) is hereby **ADOPTED** as the findings of fact and conclusions of law of the Court;
- (2) Plaintiff GATX Corporation is hereby awarded attorneys' fees in the amount of **\$320,689.66**;
 - (a) Defendant Energy Coal Resource, Inc. is liable for the entire amount;
 - (b) Defendants Illinois Holding Company, Inc. and Illinois Fuel Company,

LLC are jointly and severally liable for only **fifteen percent (15%)** of that amount, or **\$48,103.45**; and

- (3) This matter is hereby dismissed and **STRICKEN** from the active docket of the Court.

This 26th day of July, 2011.



Signed By:

David L. Bunning *DB*

United States District Judge