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Re: STB Ex Parte No. 661
Rail Fuel Surcharges
Our File 961-103

216370

Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001
ATTENTION: STB EX PARTE NO. 661

FEDERAL EXPRESS



Gentlemen:

We enclose for filing with the Board the signed original and ten (10) copies of the Testimony of PPG Industries, Inc. in connection with the above proceeding.

We have not submitted a notice of intent to participate in the public hearing in behalf of PPG.

Will you please acknowledge receipt of the enclosed pleading on the copy of this letter and return it to us in the envelope provided for that purpose.

Sincerely yours,

VUONO & GRAY, LLC

John A. Vuono

CW/45699

Enclosures

cc: PPG Industries, Inc.

ENTERED
Office of Proceedings
APR 27 2006
Part of
Public Record

ORIGINAL

216370
**BEFORE THE
SURFACE TRANSPORTATION BOARD**



STB EX PARTE NO. 661

RAIL FUEL SURCHARGES

**TESTIMONY
IN BEHALF OF
PPG INDUSTRIES, INC.**

ENTERED
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Public Record

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Due Date: April 27, 2006

Attorneys for PPG Industries, Inc.

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VERIFICATION	

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB EX PARTE NO. 661

RAIL FUEL SURCHARGES

**TESTIMONY
IN BEHALF OF
PPG INDUSTRIES, INC.**

I. INTRODUCTORY STATEMENT

By Notice served on March 14, 2006, the Board announced that it would convene a public hearing on May 11, 2006 to provide a forum for the expression of views by rail shippers, railroads and other interested parties concerning the manner in which fuel surcharges are calculated and charged by the railroads. The Notice invites interested parties, whether or not they wish to participate in the public hearing, to submit written testimony by April 27, 2006.

The Notice recognizes that the Board has broad authority over the reasonableness of a railroad's practices pursuant to 49 U.S.C. §10702(2). Based on that authority, the Notice succinctly summarizes the scope of the proceeding as follows:

Thus, it is that aspect of the shippers' concerns - whether railroad fuel surcharges are being set in such a manner as to insure that they are used only to recover the increased cost of fuel for the particular movements to which the surcharge is applied - that will be the subject of this hearing. Railroads are asked to present (individual not collective) testimony on how they set fuel surcharges, and whether their fuel surcharges fairly reflect the increasing fuel costs of the particular movements to which they are applied. (Emphasis Added)

The proceeding also solicits from shippers and railroads comments on how the Board's reporting requirements should be adjusted to provide rail customers with better information on a carrier's fuel costs and revenues collected through fuel surcharges.

PPG Industries, Inc. ("PPG") will not participate in the public hearing. However, pursuant to the Board's invitation, PPG hereby offers its written testimony.

II. SUMMARY OF PPG'S POSITION

As a major user of rail transportation, PPG has serious concerns with respect to the manner in which the railroads have in the past and continue to apply their fuel surcharges.

PPG's position with respect to this important issue is summarized as follows:

- A. The Board clearly has jurisdiction under its "unreasonable practices" authority at 49 U.S.C. §10702(2) to monitor and regulate the railroads' fuel surcharge practices.
- B. Properly applied fuel surcharges are a sound method by which the railroads are permitted to recover unusual fluctuations in their fuel costs.
- C. Fuel surcharges must be directly related to the actual fuel costs incurred and based on the carrier's increased cost of fuel for specific movements.
- D. Fuel surcharges should not be based on a fixed percentage of the base transportation charge which results in the fuel surcharge being automatically increased when the base charge is increased for essentially the same transportation service.

- E. Fuel surcharges should not be a selective revenue enhancer for the railroads, *i.e.*, assessing higher fuel charges on certain movements (captive freight) to compensate for the inability of the railroads for competitive or other reasons to assess actual fuel charges on other movements.

It is anticipated that certain of the shipper organizations of which PPG is a member will comment and proffer recommendations as to how the railroads reporting requirements should be amended to provide rail customers with more accessible and more accurate information regarding a rail carrier's fuel costs and the revenues collected through fuel surcharges. It is PPG's position that the current reporting requirements must be revised to require the railroads to submit periodic verified reports in sufficient detail to disclose the railroads' actual fuel costs and revenues collected through fuel charges. The information should be made available to the public and be in such form as to permit shippers to meaningfully monitor and assess the impact of the railroads' fuel charges on specific rail movements.

PPG's testimony will concentrate on the inequities and disparities in the railroads' current fuel surcharge practices as they relate to PPG and the financial consequences to PPG as a result of those practices.

III. TESTIMONY OF PPG

1. Qualifications.

My name is Donna L. Magill. I am the Director, Logistics & Supply Chain Development for PPG, One PPG Place, Pittsburgh, PA 15272.

I have been employed by PPG for over thirty-five years in various capacities. During the most recent eight years and at the present time, I have direct responsibility for all PPG rail transportation in North America.

I am authorized to make this statement in behalf of PPG.

2. Overview of PPG's Business.

PPG is a diversified manufacturer of chemicals, protective coatings, glass and fiberglass. It is a multi-national business and a multi-plant company with manufacturing facilities and other interests throughout much of the free world. In 2005 worldwide sales were in excess of \$10 billion, of which approximately 6.5 billion was generated in the United States.

In 2005, PPG had approximately 30,800 employees worldwide. It has approximately 23,000 employees in the United States where it operates more than fifty major facilities in twenty-three states.

PPG owns and leases 2,412 rail cars to transport approximately one million tons of industrial and specialty chemicals each year to North American customers. This includes substantial quantities of chlorine, vinyl chloride and caustic soda which are primarily rail dependent.

3. The Urgent Need for the Board to Provide PPG and Other Rail Shippers With Fuel Surcharge Relief.

The current rail surcharge programs established by the Class I railroads and the impact of the practices flowing from those programs are one of the key rail transportation issues facing PPG and rail shippers generally today. Fuel surcharges, as currently assessed, have become a significant expense for PPG that is threatening our continued competitiveness and our sustainability as a major U.S. supplier. PPG's annual direct transportation costs with the Class I railroads is approximately \$46,000,000. It is anticipated that this amount will increase dramatically in 2006 as a result of proposed substantial rate increases on PPG's commodities. Based on PPG's fuel surcharge payments during the first quarter of 2006, it is anticipated that the total fuel surcharge costs for PPG for calendar year 2006, if there are no changes in present railroad practices, will be in excess of \$7,000,000.

As shown in more detail below, the manner in which fuel surcharges are currently applied by the railroads is seriously flawed and results in unfair and indefensible cost disparities. PPG has repeatedly raised this issue with the Class I railroads. Specifically, PPG has offered alternative solutions for a more equitable and fair fuel cost recovery system. Unfortunately, these requests have not been addressed and PPG remains without a resolution to this critical issue.

The inequities and unfairness in the railroads' fuel surcharge practices and the adverse consequences to PPG are demonstrated in the following Section.

4. The Adverse Consequences to PPG Resulting from Present Railroad Surcharge Practices.

The railroads generally calculate the fuel surcharges by applying a fixed percentage to the base transportation charges for each movement. To the extent that the base charge is different, the fuel surcharge is affected since the surcharge percentage remains the same. However, base freight rates vary from commodity to commodity and for other competitive reasons even though the freight may have the same transportation characteristics and the rail cars travel the same distances and use the same amount of fuel. In effect, if two different commodities with different base rates are each moved the same number of miles, the fuel surcharge will fluctuate solely by virtue of the difference in the base freight rates. As a result, there is no logical correlation between the fuel surcharges being assessed and the increased cost of fuel for the specific movement involved.

This is an unfair, inequitable and indefensible application of the fuel surcharge process. Base freight rates vary due to a myriad of competitive factors generated by the marketplace. For example, PPG is subject to higher rates from origins where it is captive to one railroad. A percentage-based surcharge obviously has a higher impact on those shipments than on identical shipments where the base rate is lower because of the existence of competition or for other reasons.

A further adverse consequence of the railroads' fuel surcharge practices is the impact on freight rate increases. Since the fuel surcharges were implemented by the railroads in 2002, PPG's base freight rates have escalated dramatically. Since the fuel

surcharges are based on a percentage of the base rate, PPG's fuel costs have increased substantially without any relationship to the actual costs of fuel incurred by the railroads.

In order to demonstrate the unfairness involved in the process and the adverse consequences to PPG, we have prepared Exhibits I through IV, attached hereto. Those Exhibits analyze a number of randomly selected movements of PPG rail traffic impacted by the railroads' fuel surcharge practices. For confidentiality reasons, the Exhibits do not reveal the points of origin and destination, the commodities involved and the names of the railroads.

A. Illustration No. I (Exhibit I).

Exhibit I depicts eight randomly selected movements from the same PPG plant (Col. 1) to eight different destinations (Col. 2). The movements to each destination are identical, *i.e.*, the car weights and transportation characteristics are the same and the same amount of fuel should be required in the movement of both shipments. However, the base carload freight rate for Commodity Y (Col. 4) is substantially higher than the base freight rate for Commodity X (Col. 3). As a result, when the fuel surcharge of 17.2% is applied to the difference in the base rates (Col. 5), there is a substantial premium added to the Commodity Y freight charges which is completely unrelated to fuel consumption and constitutes a windfall to the railroad. These increases in fuel surcharge costs range from \$73.10 to \$362.23 for the eight shipments shown on Exhibit I (Col. 7), or an average premium payment to PPG to the railroad for each shipment of \$195. In sum, the differences in fuel surcharges assessed on the eight shipments are based on the differences in the base freight rates, not the amount of fuel used to move the commodity.

Obviously, there is clearly no correlation between the fuel surcharges and the actual cost of fuel consumed.

B. Illustration No. II (Exhibit II).

The purpose of Exhibit II is to demonstrate the increased fuel costs per mile to PPG resulting from the railroads' flawed application of the fuel surcharges. This Exhibit analyzes the same eight PPG movements set forth on Exhibit I. In addition to the information shown in Columns 1 through 4 and 6 which is the same information as shown on Exhibit I, Exhibit II shows the operating miles from the PPG origin plant to each destination (Col. 3). The Exhibit demonstrates that the fuel surcharge per mile cost to PPG for Commodity Y (Col. 8) is substantially higher than the fuel surcharge per mile cost for Commodity X (Col. 7) solely because of the differences in the base rates for the movement of the two commodities. With respect to certain of the movements, the discrepancy is dramatic, *i.e.*, the movement to location D where the fuel surcharge is \$2.06 per mile for Commodity X and \$4.48 for Commodity Y which is more than double for essentially the same transportation. To further illustrate the point, the average per mile charge for the eight movements of Commodity X is \$1.47 and for Commodity Y is \$2.19. Thus PPG is paying to the railroad an average per mile premium for moving Commodity Y of \$.72. Based on an average of 352 miles from origin to destination for the eight shipments (Col. 3), PPG is paying to the railroad an additional premium for each movement of \$254 (352 average miles x \$.72).

C. Illustration No. III (Exhibit III).

Exhibit III illustrates the unfairness and adverse consequences to PPG resulting from the railroads' use of the fuel surcharge as a mechanism to increase revenue beyond its fuel recovery costs. Since the fuel surcharge was implemented by the railroads in 2002, PPG's rail rates have escalated dramatically. Because the fuel surcharge formulas are predicated on a percentage of the base rate, the surcharge effectively is creating additional revenue for the railroads on that portion of the revenue resulting from the increased rate.

Exhibit III shows the freight rates from three PPG plant origins (Col. 1) to ten randomly selected customer destinations (Col. 2). The base freight rates in 2002 and 2006 for the involved movements are shown in Columns 3 and 4. The increases in the freight rates (2006 over 2002) are shown in Column 5. Based on the fuel surcharge percentage of 17.2%, Column 7 shows the actual increase in fuel surcharge resulting solely from the increase in the base freight rate. Specifically, the carload freight rate on the first movement shown on Exhibit III increased from \$2,535 (Col. 3) in 2002 to \$2,872 (Col. 4) in 2006 for an increase of \$337 (Col. 5). That increase in freight rates resulted in an additional fuel surcharge of \$57.96 (Col. 7). The average increases in fuel surcharges for each of the ten shipments shown on Exhibit III resulting solely from the increase in the base freight rate was \$59. Exhibit III clearly supports a finding that the fuel surcharge process is being used by the railroads' to generate additional revenues completely unrelated to their fuel costs.

D. Illustration No. IV (Exhibit IV).

PPG has been advised that certain of its traffic will be subject to substantial freight rate increases during the remainder of 2006. Exhibit IV shows eight movements from the same PPG plant (Col. 1) as shown on Exhibits I and II to the same eight customer destinations shown on those Exhibits (Col. 2) of the same commodity. Exhibit IV shows the current 2006 freight rates (Col. 3) and the proposed 2006 increased freight rates (Col. 4) for each of the shipments. The increases in the freight rates for the shipments range from \$810 to \$2,617 or an average of \$1,592.50 for each shipment (Col. 5). Applying the fuel surcharge percentage of 17.2%, the freight rate increase alone will result in increased fuel surcharges ranging from \$139.32 to \$450.12 (Col. 7) or an average of \$274 for each shipment. This increased cost to PPG is solely the result of the increase in the freight rates proposed for 2006. The increase is unrelated to the actual fuel costs involved in the movements, is not required by the railroads' to recapture any additional fuel costs for which they have not been compensated and clearly results in a revenue windfall to the railroads.

These four illustrations abundantly support the conclusion that the railroads' are not using the fuel surcharges solely for the stated purpose of recovering increases in fuel costs, but also as a mechanism for generating additional revenues in excess of the revenues earned by virtue of their prevailing freight rates.

IV. BOARD JURISDICTION

The Board is advised that the underlying rates that serve as the basis for Exhibits I through IV herein are based on transportation contracts with certain railroads. PPG

recognizes that the Board does not have jurisdiction over rates governed by rail transportation contracts. However, with respect to fuel surcharges, the PPG contracts generally incorporate by reference the railroads' fuel surcharge tariffs. It is the proper application of those tariffs that is directly in issue in this proceeding and over which the Commission has jurisdiction.

Moreover, the Board's Notice expresses the scope of this proceeding broadly in terms of providing "a forum for the expression of views by rail shippers, railroads and other interested persons, on the manner in which fuel surcharges are calculated and charged by railroads". It is submitted that the testimony presented by PPG is clearly within the parameters of the proceeding established by the Board and conceptually will be of benefit to the Board in its review and resolution of the issues presented.

V. CONCLUSION AND REQUEST FOR FINDINGS

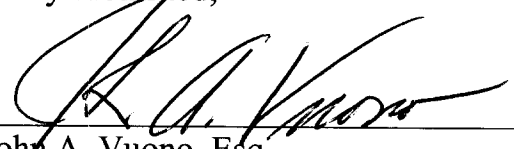
PPG respectfully requests that after completion of the public hearing and consideration of the testimony of the participants that the Board find:

1. Fuel surcharges can be a proper means by which the railroads' are permitted to recover unusual fluctuations in their fuel costs;
2. Fuel surcharges must be directly related to the actual fuel costs incurred by the railroads' and be based on the railroads' increased cost of fuel for specific movements;
3. Fuel surcharges may not be assessed on some movements at a level designed to compensate the railroads' for the lack of fuel surcharges on other movements; and

4. The railroads' current reporting requirements be revised to require the railroads' to submit periodic verified reports in sufficient detail to disclose the railroads' actual fuel costs and the revenues derived from the fuel charges and that such information be made available to the public.

Respectfully submitted,

By:



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Exhibit I

FSC¹ Inequity - Different Commodities Moved in Identical Lanes

(1)	(2)	(3)	(4)	(5)	(6)	(7)
PPG Plant Origin	Destination	Liquid Commodity X Rate ²	Liquid Commodity Y Rate ²	Rate Difference	March FSC%	FSC Difference
Plant 1	Location A	\$3,169	\$4,008	\$839	17.2%	\$144.31
Plant 1	Location B	\$2,198	\$2,623	\$425	17.2%	\$73.10
Plant 1	Location C	\$1,753	\$2,776	\$1,023	17.2%	\$175.96
Plant 1	Location D	\$1,799	\$3,905	\$2,106	17.2%	\$362.23
Plant 1	Location E	\$4,063	\$5,474	\$1,411	17.2%	\$242.69
Plant 1	Location F	\$3,654	\$4,100	\$446	17.2%	\$76.71
Plant 1	Location G	\$1,856	\$3,419	\$1,563	17.2%	\$268.84
Plant 1	Location H	\$3,133	\$4,377	\$1,244	17.2%	\$213.97

1. Fuel Surcharge
2. A carload of Commodity X and a carload of Commodity Y weigh the same.

Exhibit II

FSC¹ Inequity - Per Mile Charges for Different Commodities Moved in Identical Lanes

(1) PPG Plant Origin	(2) Destination	(3) Operating Miles	(4) Liquid Commodity X Rate ²	(5) Liquid Commodity Y Rate ²	(6) March FSC %	(7) FSC/Mile - Liquid Commodity X ³	(8) FSC/Mile - Liquid Commodity Y ⁴
Plant 1	Location A	377	\$3,169	\$4,008	17.2%	\$1.45	\$1.83
Plant 1	Location B	167	\$2,198	\$2,623	17.2%	\$2.26	\$2.70
Plant 1	Location C	325	\$1,753	\$2,776	17.2%	\$0.93	\$1.47
Plant 1	Location D	150	\$1,799	\$3,905	17.2%	\$2.06	\$4.48
Plant 1	Location E	357	\$4,063	\$5,474	17.2%	\$1.96	\$2.64
Plant 1	Location F	599	\$3,654	\$4,100	17.2%	\$1.05	\$1.18
Plant 1	Location G	394	\$1,856	\$3,419	17.2%	\$0.81	\$1.49
Plant 1	Location H	445	\$3,133	\$4,377	17.2%	\$1.21	\$1.69

1. Fuel Surcharge
2. A carload of Commodity X and a carload of Commodity Y weigh the same
3. Calculated as follows: [(Liquid Commodity X Rate x 17.2%)/Operating Miles].
4. Calculated as follows: [(Liquid Commodity Y Rate x 17.2%)/Operating Miles].

Exhibit III

Additional¹ FSC Revenue on Increased Portion of Rate

(1)	(2)	(3)	(4)	(5)	(6)	(7)
PPG Plant Origin	Destination	Liquid Commodity X 2002 Rate	Liquid Commodity X 2006 Rate	Rate Difference	March FSC %	FSC Increase
Plant 1	Location I	\$2,535	\$2,872	\$337	17.2%	\$57.96
Plant 1	Location K	\$1,815	\$2,003	\$188	17.2%	\$32.34
Plant 1	Location L	\$1,992	\$2,198	\$206	17.2%	\$35.43
Plant 1	Location M	\$3,105	\$3,426	\$321	17.2%	\$55.21
Plant 1	Location N	\$3,040	\$3,225	\$185	17.2%	\$31.82
Plant 1	Location O	\$3,320	\$3,663	\$343	17.2%	\$59.00
Plant 1	Location P	\$3,420	\$3,774	\$354	17.2%	\$60.89
Plant 2	Location J	\$3,250	\$3,586	\$336	17.2%	\$57.79
Plant 3	Location Q	\$1,172	\$1,873	\$701	17.2%	\$120.57
Plant 3	Location R	\$1,750	\$2,200	\$450	17.2%	\$77.40

1. Fuel Surcharge

Exhibit IV

Additional FSC¹ Revenue on Increased Portion of Rate

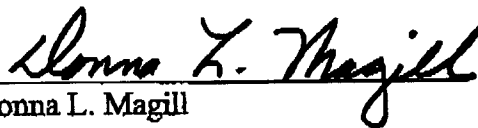
(1)	(2)	(3)	(4)	(5)	(6)	(7)
PPG Plant Origin	Destination	Liquid Commodity Y Current 2006	Liquid Commodity Y Proposed	Rate Difference	March FSC %	FSC Increase
Plant 1	Location A	\$4,008	\$5,413	\$1,405	17.2%	\$241.66
Plant 1	Location B	\$2,623	\$3,686	\$1,063	17.2%	\$182.84
Plant 1	Location C	\$2,776	\$4,423	\$1,647	17.2%	\$283.28
Plant 1	Location D	\$3,905	\$4,814	\$909	17.2%	\$156.35
Plant 1	Location E	\$5,474	\$6,284	\$810	17.2%	\$139.32
Plant 1	Location F	\$4,100	\$6,151	\$2,051	17.2%	\$352.77
Plant 1	Location G	\$3,419	\$5,657	\$2,238	17.2%	\$384.94
Plant 1	Location H	\$4,377	\$6,994	\$2,617	17.2%	\$450.12

1. Fuel Surcharge

VERIFICATION

I, Donna L. Magill, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized on behalf of PPG Industries, Inc. to file this written testimony with the Surface Transportation Board.

Executed on April 26, 2006.


Donna L. Magill