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Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

Filed Electronically

Re: Ex Parte No. 661, Rail Fuel Surcharges

Dear Secretary Williams:

Please accept this document as written testimony on behalf of ASHTA Chemicals Inc. for the Rail Fuel Surcharge hearing being conducted by the Surface Transportation Board on May 11, 2006. ASHTA, a chlor-alkali manufacturer located in Ashtabula, Ohio, is a shipper of hazardous chemicals including potassium hydroxide and chlorine.

It is clear that rising fuel costs have greatly impacted the operating costs of the railroads. In fact, most industries that rely on some form of energy to manufacture their products and rail or truck transportation to transport these products to the marketplace have been affected by increased energy and fuel costs. Although not all industries are able to fully, or perhaps even partially, pass on the fuel related cost increases to their customers, ASHTA is not suggesting, as part of this testimony, that the railroads should absorb these costs. To the contrary, we believe that a consistent and equitable fuel surcharge program that is representative of incremental fuel costs is a reasonable approach for the railroads to pass on these fuel related cost increases to their customers. ASHTA's contention, however, is that the current fuel surcharge policies of the Class 1 railroads is neither consistent nor equitable. Further we do not believe the additional revenue the railroads are generating from fuel surcharges is representative of the actual incremental costs they are incurring over and above those costs which the "base freight rates" were based on prior to the fuel surcharges being implemented. We also believe that rail related fuel surcharges would not necessarily be as much of an issue if there was true competition across the rail industry and shippers like ASHTA had more than one option for shipping its products via rail. Based on the above, we believe the involvement of the STB is critical and we ask that you 1) strongly consider this testimony as evidence supporting our position and 2) work with rail providers and shippers alike to facilitate a more equitable fuel surcharge strategy. The following is a summary of issues related to fuel surcharges we believe the railroads need to address;

Fuel Surcharges as a Percentage of the Line Haul Rate

The Class railroads that currently serve ASHTA base their fuel surcharges on the line haul rates charged to their customers. The fuel surcharge is a percentage of this line haul rate based on published index for crude oil pricing. This is simply not an equitable way to implement fuel surcharges for the following reasons

- Line haul rates are not based entirely on the cost to move a ton of product from an origin to a destination. There are many factors which determine the line haul rates charged by the railroads. Among these include 1) the specific commodity being transported, 2) the nature of that commodity (i.e. hazardous or non-hazardous), 3) the competitive dynamics of that commodity, 4) the competitive nature of that line haul move (i.e. are there competitive alternatives like truck or barge) and 5) the number of railroads involved in the line haul of that commodity. Thus, basing the fuel surcharge on the line haul rate can and often does result in significant variances in fuel surcharges for the same ton mile traveled by the railroad. This is not only the case for the same or similar commodities shipped by an individual shipper, but also for different shippers shipping different commodities. We would contend that if you look at rates on per "ton-mile" basis, fuel surcharges paid by shippers of chemicals and other hazardous products are well above those surcharges paid by other shippers who ship non-hazardous products across the same "ton-miles".

Example – ASHTA currently has a single line haul rate of \$4,935 from Ashtabula, OH to Tampa, FL for "Commodity A". The single line haul rate charged by the same railroad for "Commodity B" from Ashtabula, OH to Plant City, FL (a city approx 25 miles from Tampa, FL) is \$6,118. At the current fuel surcharge rate of 15.6% of the line haul rate, the difference in the fuel surcharge amount is \$185.55.

- When fuel surcharges were first implemented by the railroads, they were based on line haul rates that were effective in or near the year 2000. Since then rates have increased independent of fuel surcharges. Over the past 2 years in particular, as fuel surcharges have become more significant, line haul rail rates have increased significantly in our business. It is not our intention to challenge the justification for the double digit percentage increases, but it is our intention to challenge the justification for higher fuel surcharges as these rates are increased.

Example – In January 2005, ASHTA paid a line haul rate of \$2,843 from Ashtabula, OH to Dallas, TX for "Commodity A". Effective January 1, 2006, the line haul rate for the same destination from the same origin point and for the same commodity is \$4,127. At the current fuel surcharge rate of 15.6% of the line haul rate, the difference in the fuel surcharge amount is \$200.30.

In addition to the above inequities related to fuel surcharges based on a percentage of the line haul rate, we also believe that the fundamental basis for fuel surcharge rates is inaccurate and out of date. In order for fuel surcharges to reach 0%, the average pricing for West Texas Crude Intermediate (WTCI) during a 30 day period would need to go to \$23/bbl. It follows that when the railroads initially implemented the fuel surcharge, their line haul rates were based on WTCI pricing of \$23/bbl and the then related price for

diesel. We would suggest that the base WTCI price should 1) be higher and 2) be adjusted to reflect more current WTCI price levels.

ASHTA has many more examples similar to the above to further support our charge that the current rail fuel surcharge program is inequitable. We would offer as a simple solution, that the railroads should levy fuel surcharges equitably based on the actual incremental cost of fuel, above a base cost, to move any commodity one ton mile..

Thank you for your consideration.

Sincerely,

Tonya Fritz
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