

217022

**BEFORE THE
SURFACE TRANSPORT BOARD**

Ex Parte No. 575

REVIEW OF RAIL ACCESS AND COMPETITION ISSUES

**SUMMARY OF ORAL PRESENTATION
THE DOW CHEMICAL COMPANY**

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Introduction:

The Dow Chemical Company ("Dow") welcomes the opportunity to provide comments at the July 27th hearing of the Surface Transportation Board (STB) in STB Ex Parte No. 575.

Dow employs 42,000 people, with approximately \$20 Billion of annual sales in North America. Dow initiates 130,000 rail shipments each year and has a fleet of 28,000 rail cars.

I. Dow Ludington, Michigan Paper Barrier Situation:

Dow's sole manufacturing facility for the production of Calcium Chloride, located in Ludington, MI, is served by a short line railroad called the Marquette Railroad. The Marquette Railroad purchased from CSXT an approximately 100 mile rail line from Dow's facility in Ludington to a point just north of Grand Rapids, MI. Marquette has informed Dow that a paper and steel barrier was imposed by CSXT as part of the sale agreement.

II. Impact of Paper Barriers on Dow Chemical Ludington, Michigan:

The CSXT paper and steel barrier prohibits the Marquette Railroad from connecting with the NS, in essence making Dow captive to the CSXT. In addition, CSXT has used its market power to aggressively increase Dow's rail rates, which has been compounded by excessive fuel surcharges. In the Calcium Chloride Business, Dow competes with companies from China and Europe in both the domestic and international market and these significant rail rate increases are harming Dow's ability to compete in these markets.

III. Paper and similar barriers are anti-competitive:

Dow is troubled by the fact that the paper barrier restrictions that affect its Ludington facility are open ended in regards to term and potential future modifications of restrictions. We believe such barriers are inconsistent with anti competition laws, court cases, and sound rail transportation policies.

IV. Summary:

The STB should prohibit railroads from implementing longer term paper and similar barriers as part of their business strategies. In addition, the STB should require railroads to limit or eliminate existing barriers depending on the length of time they have been in place. If not, shippers, such as The Dow Chemical Company, will continue to be competitively disadvantaged in violation on long standing legal and fairness concepts. This could lead, as in the case of Dow's Ludington facility, to U.S. businesses losing market share to foreign competitors.