

217680



Comments for the Surface Transportation Board Proposal for Fuel Surcharges

Docket Ex Parte No. 661

September 27, 2006

ENTERED
Office of Proceedings
OCT 2 - 2006
Part of
Public Record

Stacy Palmatary and Robin Burns

Occidental Chemical Corporation
5005 LBJ Freeway
Dallas, Texas 75244-6119

972-404-3639

Background information

Occidental Chemical Corporation, directly and through its subsidiaries and affiliates, including, without limitation, Basic Chemicals Company, LLC and Oxy Vinyls, LP (collectively, "Oxy") is a leading North American manufacturer of basic and performance chemicals and vinyl resins. Our various business units make over 70,000 rail shipments per year. In 2006, Oxy will spend in excess of \$250MM on rail transportation, representing 10% of our company's total spend. Our products are vital to the economy of the United States and to the health and welfare of its citizens. They are found or used in a wide variety of products and applications. These products and applications include water purification, medical supplies and devices, pharmaceuticals, construction materials and agricultural chemicals, as well as everyday household cleaners and items, such as garden hoses and rain jackets. Safe, reliable and cost effective rail transportation of our products is critical to our success as a company and essential if we are to meet the needs of our customers and the public.

Recommendations to Proposal.

- Directionally, we are satisfied with the Board's direction on fuel surcharges. It is apparent that the Board has listened to shipper concerns during the public hearings and is moving in the right direction. However, additional clarifications need to be built into the proposal. We agree that the railroads need to develop a computation more closely linked to their increased fuel costs attributable to that movement; however, this point needs to be further defined as a computation linked to mileage. A mileage

based system is the only fair and equitable way to distribute fuel costs across the system. Specifically, Oxy supports the mileage based model that has been proposed by NitLeague (NITL).

- The proposal contains the following elements:
 - To monitor fuel prices, Energy Information Administration (EIA) "U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon)" will be used.
 - The proposal establishes the 4th quarter of 2001 as the base pricing point for computing the surcharge index, since this is the time period no surcharge was applied. The EIA 4th quarter 2001 retail price was \$1.25/gal.
 - The proposal computes an average systemwide surcharge per loaded car mile that would need to be assessed to recover market fuel price increases, under the assumption that fuel purchases are made three months in advance of usage. This will allow carriers to continue to announce surcharges 60 days in advance of implementation.
 - The proposal recommends a fuel surcharge formula that is neutral to individual carrier hedging practices; that is, the surcharge would not take into account hedging gains or losses.
 - A sample calculation to illustrate how the fuel surcharge methodology would be applied is outlined below:

- Once per month, a railroad would calculate a surcharge per loaded car mile based upon EIA retail diesel fuel price data, a \$1.25 base price for diesel fuel in the 4th quarter of 2001 and the average length of haul.
- The railroad would calculate the surcharge applicable to a particular shipment by applying the surcharge per car mile obtained in step 1 to the actual car mile for the movement.

An example of a move made by Oxy illustrates the impact.

Niagara Falls, NY to Charlotte, NC (940 miles) via CSX

Product	Rate	Current Surcharge	Proposed Surcharge
Caustic Soda	\$3,765	\$ 783	\$154
Chlorine	\$5,866	\$1,220	\$154

2001 Cost basis for US No 2 Diesel Retail sales = \$1.25

June 2006 for US No 2 Diesel Retail sales = \$2.898

CSX average haul in 2005 = 531 miles

CSX average fuel cost per carload (Q42001) = \$65.95

Fuel price index = $(\$2.898 - \$1.25) / \$1.25 = 1.318$

Average surcharge per carload for CSX = $1.318 \times \$65.95 = \86.92

Average surcharge per loaded car mile = $\$86.92 / 531 = \0.1637

Applicable surcharge for shipment = $\$0.1637 \times 940 = \154

- Many shippers today are not prepared to adapt to a mileage based system; however, Oxy has made the necessary steps in our enterprise systems to be able to handle this type of fuel surcharge. Other shippers should also be able to revise their systems.

- Railroads continue to state that their revenues do not adequately reflect the cost of fuel. Part of the reason for this is that several long-term agreements do not allow for fuel surcharges. It is unfair for the railroads to attempt to recoup all of these costs under other contracts not so limited. As contracts renew, the railroads are no longer entering into contracts without a fuel surcharge, so this is a temporary situation and should correct itself as new contracts are executed. It is important that the new fuel surcharge program not attempt to compensate for those agreements not containing a fuel surcharge, which are being replaced in any event.
- One of the arguments heard during the hearings was that the fuel surcharge should only cover the change in fuel costs, not the total cost of fuel. This assumes that the base rate already covers some cost of fuel and the surcharge should only cover any overages. However, the Norfolk Southern has established a new fuel surcharge program which rolls the current fuel surcharge into the base rate. Fuel surcharges will be applied as the price of oil continues to rise. However, there is no mechanism for the fuel to roll out of the base rate, now that oil is below the \$64 per barrel threshold. This is an unfair practice and needs to be avoided in a new fuel surcharge program.

Conclusion

As a chemical shipper, who already pays rates materially higher than average rates, and thus may be paying more than our "fair share" of fuel under the

current fuel surcharge program, Oxy welcomes the proposed changes established by the STB. The proposal needs to clearly define mileage and fuel cost changes from a baseline period as the mechanism to apply the surcharge and shippers need to make adaptations to support this in their systems. The Board needs to ensure that the railroads do not attempt to cover costs from contracts that do not allow fuel surcharges from other customers. The new program needs to be able to adjust both when fuel costs increase and when they decline. In addition, we support the Board's August 3 decision that Railroads be prohibited from "double dipping" by charging both a fuel surcharge and a rate escalator index (RCAF), unless fuel is already removed from the index.