

BEFORE THE
SURFACE TRANSPORTATION BOARD

Ex Parte No. 661
RAIL FUEL SURCHARGES

COMMENTS
submitted by
THE DOW CHEMICAL COMPANY

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Dated: October 2, 2006

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The Dow Chemical Company ("Dow Chemical") commends the Surface Transportation Board for its decision on railroad fuel surcharge method and application. Dow Chemical is in agreement with the STB on the following points:

- The fuel surcharge should align with the fuel cost for the movement.
- Fuel Surcharges should be tied to and limited to the incremental change in fuel cost for a movement.
- Carriers should be prohibited from "double dipping" by assessing a fuel surcharge and a rail escalator that has a fuel cost component.
- Railroad fuel surcharge practices should be monitored by adopting a single, uniform price index to measure changes in fuel costs.

Dow Chemical would like the STB to consider the following comments on your August 3, 2006 fuel surcharge proposal:

1. Fuel surcharges are necessary only to recover severe unforeseen changes in incremental fuel costs.
2. Today's railroad fuel surcharge programs recover at least 100% of the fuel cost for a movement from the baselines of \$1.25/gallon for unleaded highway diesel fuel or \$23/barrel of oil. This is unreasonable, since rate increases from 2001 include an escalation factor for fuel cost. The current railroad fuel surcharge baselines do not recognize the fuel recovery from past rate negotiations and should be adjusted to reflect only significant changes in incremental fuel cost.
3. If fuel costs drop below the appropriate incremental fuel surcharge baseline, the shipper should receive a fuel cost refund. The past practice of applying a fuel surcharge to the rail rate in total, versus the fuel component only, unfairly compounded the impact of the surcharge. When fuel costs decline below a base level, the existing practice allows the railroads to continue to collect a fuel surcharge compensating them for a fuel cost they no longer incur. This is an unreasonable practice.
4. The railroad fuel surcharge percentage applied should increase at the same percentage rate as the uniform fuel cost index rate. The current railroads' fuel surcharge percentage rises at a steeper rate than the uniform fuel cost index rate.

5. If the railroads are allowed to continue using their current surcharge methodology of full recovery of historic costs, the railroads would have an incentive to over-recover other costs in a similar manner. The railroads must be accountable for the management of their costs and not be allowed to pass on their inefficiencies to the shipper. Therefore, the Board should ensure that surcharges of any type are limited to recovery of significant costs that are highly volatile and unpredictable.

6. Class 1 Railroads' fuel surcharge revenue and actual fuel surcharge cost reports submitted to the STB should be made available to the public. The STB should request historical fuel costs along with fuel recovery amounts back to 2001 from the railroads. A fuel surcharge should be reflective of the railroads' incremental cost and it is important for the shipper to understand how much of the railroads' historical fuel cost has been recovered. The historical railroad fuel cost recovery reports will ensure the establishment of fuel surcharge baselines to reflect the recovery of only incremental fuel cost.

7. If the railroads are required by the STB to reduce their fuel surcharge recovery level, the railroads should not be allowed to take their current fuel surcharge percentage and roll this amount into the base rate. This will create a new mechanism to over recover fuel costs and this is not a reasonable practice. It is important, therefore, that shippers have meaningful rate remedies to prevent railroads from immunizing their unreasonable fuel surcharge practices by shifting those surcharges into base rates.

8. Dow Chemical can accommodate a fuel surcharge mechanism based on actual rail miles.

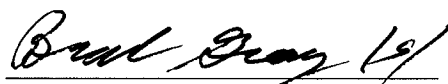
9. The STB should establish an efficient and affordable process by which shippers can seek relief if a railroad is not in compliance with new STB fuel surcharges rules, and have the right to challenge surcharges that exceed incremental fuel cost based on a more reasonable baseline. In addition, there should be a process to allow shippers to recover fuel surcharges that have been charged above incremental fuel costs since implementation of the railroad fuel surcharge programs.

10. The uniform index for measuring increases in fuel cost needs to be a representative measure of the railroads' fuel cost.

Dow Chemical appreciates the opportunity to present comments on this very important issue to our industry.

Respectfully submitted,

THE DOW CHEMICAL COMPANY

A handwritten signature in black ink, appearing to read "Brad Gray" followed by a stylized flourish or date "10/2".

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Dated: October 2, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have on this 2nd day of October, 2006, served a copy of the foregoing Comments on all parties of record, by first-class mail, postage prepaid.

A handwritten signature in black ink, appearing to read "Aimee DePew", written over a horizontal line.

Aimee DePew