



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:

ASHTA Chemicals Inc. is pleased to submit the following comments relating to the Rail Fuel Surcharge hearing conducted by the Surface Transportation Board (STB) on May 11, 2006. ASHTA's comments are specifically in response to the measures that are being proposed by the STB in its decision published on August 3, 2006. ASHTA, a chlor-alkali manufacturer located in Ashtabula, Ohio, is a shipper of hazardous chemicals including potassium hydroxide and chlorine.

The decision pertaining to STB Ex Parte No. 661 released on August 3, 2006 by the Surface Transportation Board proposed the adoption of several measures regarding railroad practices involving fuel surcharges. While ASHTA applauds these proposed measures, we would ask the STB to specifically consider the following in making its final ruling;

1. *"A railroad wishing to assess a fuel surcharge would need to develop a computation more closely linked to its increased fuel costs attributable to that movement".* As ASHTA submitted in its original testimony to the STB, we believe that the most equitable way to determine fuel surcharges is based on the distance and weight of the movement (or "ton-mile") rather than on the current percentage of the line haul rate. Because of inequities inherent in the negotiated line haul rates and/or inequities based on rates for different commodity types, fuel surcharges based on a percentage of these rates is not equitable.
2. *"Railroads would be prohibited from "double dipping" by charging for the same fuel-cost increases for the same shipment both through a fuel surcharge and through application of a rate escalator based on an index, such as the STB's Railroad Cost Adjustment Factor (RCAF), without first subtracting any fuel-cost component from that index".* While we agree with this measure, we believe that the STB needs to go further than to eliminate the fuel cost component from the RCAF. Unless the STB develops a specific ruling that prohibits fuel surcharges based on a percentage of the

line haul rate, any increases to that line haul rate will also effectively qualify as “double dipping”. Furthermore, the NS has already established a new fuel surcharge program whereby the new “base” line haul rates were increased over previous rates and which consider a new WTI base cost of \$64.00/bbl for calculating the fuel surcharges. If the WTI goes below \$64.00/bbl, the new fuel surcharge program has no defined mechanism to reduce the line haul rate or apply a negative fuel surcharge. This “built-in” fuel surcharge effectively institutionalizes the current fuel surcharge program as part of the line haul rate which we have all along considered to be unfair. We believe the STB should require the NS to return to its previous rate scheme, apply the STB measures, and then if they choose to change their base fuel rates for the purposes of implementing fuel surcharges, they do so under any new guidelines and use base rates that are more realistic.

We also agree with the additional measures proposed by the STB which requires the use of a “single, uniform index--the Energy Information Administration "U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon)"--for measuring fuel-cost increases” and with the requirements for the Class I railroads to submit monthly data reflecting fuel costs, fuel usage, fuel surcharge revenues and fuel surcharge revenue sharing. These measures are needed to promote more transparency relating to this issue and to insure that any new measures implemented, will be equitable for not only the shippers, but the rail providers as well.

Thank you for the opportunity to submit the above comments and for your serious consideration in this matter.

Sincerely,

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