



The miracles of science

October 2, 2006

The Honorable Vernon A. Williams
Secretary
Attn: STB Ex Parte No. 661
Surface Transportation Board
1925 K Street NW
Washington, DC 20423

Re: STB Ex Parte No 661 – Rail Fuel Surcharges

Dear Secretary Williams:

On August 3, 2006 the Surface Transportation Board (STB) issued a decision in the above-referenced matter involving Rail Fuel Surcharges. The STB also requested comments on the various positions taken and proposed governing standards. E.I du Pont de Nemours and Company (DuPont) would like to thank the members of the Board for its attention to this matter and offer the following comments.

E. I du Pont de Nemours and Company is a global science and technology company engaged in the manufacture, sale and distribution of chemicals, crop protection products, paints, textiles, resins, plastics and related materials.

DuPont currently spends about one point four billion dollars (\$1,400,000,000) on its distribution function world wide. In the United States it leases or owns over fifty-two hundred (5,200) rail cars and expends more than one hundred and twenty million (\$120,000,000) million dollars on rail services. DuPont currently moves the vast majority of its rail shipments under private contracts with the major class one rail carriers and several other short line carriers. DuPont's contracts are multi-year contracts and do contain escalation factors in them to cover increases in the cost of providing services.

The STB decision in Ex Parte No 661 reflects the position that DuPont has maintained with its serving railroads for many years. DuPont recognizes that costs (as well as productivity improvements) will impact the ability of the railroads to provide the services required to serve DuPont's customers throughout the United States and, to a lesser extent, abroad. However, DuPont also expects the railroads, in this globally competitive market, to keep these cost increases to a minimum and, to have those that cannot be off set by productivity improvements, reflect the true underlying and unavoidable cost factors. DuPont does not expect the railroads to utilize these unavoidable cost increases as profit centers.

DuPont would note that in a truly competitive market place, rail carriers would not be able to increase prices for their services above legitimate and unavoidable cost increases. It is only their monopoly or oligopoly positions that permit them to pass along these costs and add profit factors to the increases.

DuPont strongly endorses the STB's position that railroad's surcharges for fuel be limited to actual increases and that they not be permitted to "double dip" by utilizing both a fuel surcharge and a rail escalator based on an index that already includes fuel such as the STB's Railroad Cost Adjustment Factor (RCAF).

DuPont also strongly endorses the STB's requirement that the railroads utilize a true measure of the cost increase such as the Energy Information Administration's "U.S. No. 2 Diesel Retail Sales by All Seller (Cents per Gallon)" as an index of fuel-cost increases. Although the railroads undoubtedly purchase fuel on a "wholesale" basis, the change in this published index should provide a consistent and well known measure of the change in the wholesale price changes experienced by the railroads. Surcharges based on cost factors should be designed to pass along the actual increase in the cost of the raw material and/or service and not include profit. This is especially true in the absence of effective competition such as exists in much of the current rail industry today.

Further, DuPont endorses the requirement imposed upon the railroads to report on a periodic basis (monthly) the actual fuel expenditures of the railroad together with the total fuel consumption and total fuel surcharge revenues. This information will permit the STB to determine if the railroads are utilizing their surcharges to recover actual increases in the cost of fuel alone or where such recovery efforts also include profit. The additional reporting required to determine if the Class 1 railroads are passing along an appropriate share of the surcharge revenue to the short line railroads is also very appropriate and a practice heartily endorsed by DuPont.

Finally, DuPont agrees that where the railroads are not fulfilling their otherwise applicable common carrier obligations, are threatening the safe carriage of cargo or are undermining the economic well being of short line carriage of cargo, the exemption permitted under 49 U.S.C. 10502 should be revoked and the Class I railroads should be brought back under the effective oversight of the STB.

E.I. du Pont de Nemours and Company strongly endorses the position taken by the STB in Ex Parte No. 661 and thanks the Board for the opportunity to offer its comments and support its actions in this case.

Very truly yours;
William A. McCurdy, Jr.
William A. McCurdy, Jr.
Logistics and Commerce Counsel

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.

William A. McCurdy
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