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Comments for the Surface Transportation Board Proposal
Simplified Standards for Rail Rate Cases

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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.

As a purchaser of railroad transportation services, Oxy is increasingly being subjected to "market dominance" by the railroads. Eight five percent (85%) of Oxy's spend represents moves that have a Revenue to Variable Cost Ratio (RVCR) greater than 180%. However, it should be noted that 94 of our current rates (or 5% of our rail movements) have an RVCR in excess of 500%.

Recently, one of our moves was rated at \$1,759/car plus fuel (\$2,118 total) moving 19 miles! This represents an RVCR of 1,232%.

Oxy is very dependent on the railroad system to move our products and today we have essentially no recourse to combat the Railroad's abuse of "excessive market power". The volume of material shipped on a typical O-D pair simply does not allow us to invest the time and money to challenge this abuse of power via the current STB mechanism. We, as a merchandise shipper, desperately need a simple, cost effective and timely small rate capability to deal with the unreasonable rates that have continued to escalate over the past several years.

Recommendations to Proposal.

- Shippers need a simple, cost effective way to resolve unfair rates. The new proposal is cumbersome, costly and the amount of time required to resolve a case is unrealistic. The Board needs to simplify the process so that shippers can understand the requirements and receive a decision in under 6 months.
- The thresholds that have been established are unrealistically low. As mentioned previously, Oxy spends over \$250MM annually on rail freight costs and currently 85% of our spend represents moves that have greater than a 180% RVCR. This means that 85% of our spend would be a candidate for the simplified stand alone cost case proceeding. However, by limiting the eligibility to a maximum of \$3.5MM aggregate that can be

argued in a 24 month period, only 1% of our spend would be allowed to be presented as a small rate case.

- In addition, the unrealistically low thresholds severely limit individual moves that qualify as candidates. For example:
 - Direct move from Alabama to Georgia (150 annual carloads)
 - Tariff rate \$6,296
 - Rate at 180% RVCR- \$1,156
 - Difference of \$5,140 per car
 - Annual value \$771,000
 - 5 year value \$3,855,000

This move would exceed the \$3.5MM threshold established by the STB.

- The Simplified Stand-Alone Cost (SSAC) procedure is unrealistic and not a viable solution. Oxy requests that the proposed method for medium shippers (SSAC) be eliminated in its entirety and the Three Benchmark method be streamlined and clarified to be used by all non-coal shippers. Ideally, thresholds need to be removed altogether since the remedies available will either be for coal shippers or non-coal shippers. However, if the Board feels it is important to clearly define the difference, Oxy recommends raising the threshold to \$20MM.

Conclusion

As a merchandise shipper, whose shipping model is to move a small number of cars to multiple destinations, Oxy welcomes a remedy for small rate cases. Our

70,000 shipments are spread across 1,850 O-D pairs. Lane density across O-D pairs varies considerably, averaging 38 shipments per origin/destination. The current Stand Alone Case process is not a viable option for the shipper who operates in this model and the current small rate case remedy is too confusing, costly and cumbersome.

We firmly believe that our captive status (over 75% of our moves are captive at either the origination or destination or both), coupled with railroad market dominance has resulted in Oxy having unreasonably high rates to move our material.

The current proposal is cumbersome, costly, time consuming and the extremely low threshold severely limits moves that can be brought through the process. We request that the Simplified Stand Alone Case be eliminated and the Three Benchmark method be streamlined and clarified to be used by all non-coal shippers.

The Three Benchmark remedy must be simplified, clarified and streamlined, enabling the shipper to present its case and the Board to deliver a decision, all within 6 months. Companies do not have the resources to spend up to 18 months, operating at exorbitant tariff rates, waiting for a decision from the STB.

Shippers are desperate for a means to challenge the reasonableness of today's rates. In the past three weeks, Oxy has been quoted rates exceeding \$10,000 per car! We are hopeful that the Board will listen to shippers' concerns, similar to ours, and propose a small rate case procedure that better fits the needs of the shipping population.