



The Chemical Company

October 24, 2006

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington DC 20423-0001

Re: Ex Parte No. 646, Rail Rate Challenges in Small Cases

Dear Secretary Williams:

BASF Corporation is grateful to the Surface Transportation Board for initiating its recent decision on Rail Rate Challenges in Small Cases, and as invited by the Board, respectfully offers the following comment:

Maximum Value of the Case (MVC) eligibility presumptions in the Three-Benchmark standard, under a five year remedy, are significantly inadequate, and in the interest of establishing a simplified and workable process, should be adjusted upward well in excess of the proposed limit. Based on sample lanes of BASF business that might otherwise be candidates for this standard, where actual rates greatly exceed the estimate R/VC 180% threshold, we conclude that lanes moving as few as 12 loads per year, could be ineligible based on the proposed MVC. This ineligibility would shift a candidate lane to the proposed Simplified Stand Alone Case standard, which in our opinion, as guided by expert review, still contains significant uncertainty related to cost, process time, and results.

This one point is especially relevant to BASF as a good portion of our business, and several candidate lanes for review on rate reasonableness, have volumes with a range of 12-36 annual loads, and could very likely fall into this middle ground of ineligibility on a "Small Case" standard, and non-viability on a "Medium Case" standard. We also understand that as proposed, and over a specified period, total MVC of one or more "Small Cases" would be counted in aggregate, further precluding the likelihood of any but the smallest of shippers with the smallest of lanes, under the proposed eligibility standards, from using the Three-Benchmark standard. We do not believe this is fair, we do not believe it was the intent of Congress under their recent intervention.

We understand the Board will entertain opinions from many parties, and in the interest of highlighting a single relevant issue as a stand out, will limit our comments to this one point. Our choice in focusing on this one issue should by no means be construed as acceptance or agreement of the remainder of Ex Parte No. 646 as proposed. We thank the Board once again for your efforts on this issue, and appreciate the opportunity to share our views.

Sincerely,

David J. McGregor
Senior Vice President NAFTA Logistics

BASF Corporation
100 Campus Drive
Florham Park N.J. 07932
Tel: (973) 245-6352

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