



**Westlake Chemical
Corporation**



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September 29, 2006

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

Re: Rail Fuel Surcharges, STB Ex Parte No. 661

Dear Secretary Williams:

Westlake Chemical Corporation ("Westlake") is pleased to submit its comments in response to the Decision served August 3, 2006 by the Surface Transportation Board ("Board") making findings concerning the fuel surcharge programs as administered by the freight railroads and proposing new standards to govern the manner in which the railroads may apply fuel surcharges in the future.

Westlake applauds the Board for its fair, balanced and reasonable findings and proposed new standards concerning fuel surcharges. As described in our comments dated April 27, 2006, our concern is that the railroads impose fuel surcharges in a manner which does not simply recover the unanticipated increase in the cost of fuel, but rather materially over-recovers the carriers' increased costs and has thus become a revenue enhancement device.

As described in our earlier comments, Westlake is a vertically integrated manufacturer of petrochemicals, vinyl materials, polymers and fabricated products. Shipping from fourteen (14) locations in North America, Westlake made more than 12,000 railcar shipments in 2005.

Westlake fully concurs with the Board's finding that application of a fuel surcharge to the transportation charge is not a reasonable practice for all the reasons set forth in the Board's decision. As the Board's Decision reflects, the effects of a railroad's decision to forego charging certain shippers for increases in fuel costs should not impose a burden on other shippers. Where a railroad structures a rate and service package without a fuel surcharge in order to secure competitive traffic, the benefits of those increased revenues are not shared with the carrier's other customers; and consequently, any burden incurred in serving such traffic without the benefit of a fuel adjustment clause should not be imposed on the carrier's other customers, many of whom are captive and have no effective transportation alternative.

Westlake further concurs with the proposed requirements that (i) any fuel surcharge be applied to the mileage transported or to the ton-miles of the shipment, (ii) to the double-dipping prohibition, and (iii) to use of the Department of Energy, Energy Information Administration's U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon) index for measuring changes in

the railroads' fuel costs. While other indexes may also be appropriate, the Diesel Retail Sales index appears to be a reasonable and appropriate choice based on the correlations found by the Board.

The key to fairness in a fuel surcharge program is transparency. The Board has proposed to require the Class I railroads to report certain information on a monthly basis. Such reporting is critical. Westlake recommends that information concerning total revenue miles be added to the monthly reports. The Board proposes to allow the railroads to use either revenue miles or ton-miles as the basis for application of fuel surcharges. The proposed monthly reporting form contains lines for reporting ton-miles, but not revenue miles. Accordingly, comparable to lines 6 and 7 on the reporting form, data lines for "Revenue miles of freight revenue—road service fuel surcharge applied to" and "Total revenue miles of freight revenue—road service" also should be required to be reported. With this information, the Board and the shipper community can calculate the true increased cost of fuel in the same units as the Board proposes that the surcharges must be applied, without distortion based on variances in the volume of traffic.

Finally, while the reporting requirements are proposed to apply to the Class I railroads, the rules adopted should apply to all rail carriers, regardless of classification as a Class I, Class II or Class III carrier. While many Class II and Class III carriers are dependent on the Class I railroads for participation in the transportation charges, others have full pricing authority and so should be subject to the rules proposed in this proceeding. The Board's Decision speaks generally of railroads, and the rules ultimately adopted should be applied uniformly to all carriers.

We appreciate the opportunity to share our views with the Board, and we respectfully urge the Board to adopt rules as proposed in the Decision dated August 3, 2006, with the further refinements described above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen Wallace", with a long horizontal flourish extending to the right.

Stephen Wallace
Vice President, General Counsel and
Secretary