WASHINGTON, D.C. – The American Fuel & Petrochemical Manufacturers (AFPM) filed a petition for review in the U.S. Court of Appeals for the D.C. Circuit, challenging the Surface Transportation Board's (STB) dismissal of its complaint against the unlawful surcharge imposed by BNSF Railway Company on DOT-111 tanks cars carrying crude oil.

The complaint, filed in April 2016, focused on BNSF's violation of its common carrier obligation and its attempt to alter the DOT-approved retrofit schedule through the imposition of a surcharge. BNSF's action is an improper collateral attack on tank car specifications established by the Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA).

AFPM President and CEO Chet Thompson commented, "DOT, not the railroads, is tasked by Congress to establish tank car standards, so BNSF is overstepping its authority by penalizing shippers of oil for using the federally authorized DOT-111 tank cars. DOT has approved and deemed the cars safe for use, and a rail company can't supplant the government's decision."

The STB incorrectly characterized AFPM's complaint as a challenge to BNSF's base rate. This despite PHMSA and BNSF publicly describing the premium on DOT-111s as a surcharge separate from BNSF's base rate, which the STB simply ignored.

"This surcharge harms our members and consumers, and there is little doubt that BNSF's intent is to usurp DOT's authority over tank car standards, something it should not be permitted to do," added Thompson.

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