

Proposed Assessment for Litigation
Concerning
Tank Car Mileage Allowances
(ICC Ex Parte 328)

RECOMMENDATION: The representatives of MCA member companies participating in the tank car compensation program recommend approval of an additional assessment of member companies of \$1.50 for each owned or leased tank car in chemical service as of January 1, 1977. The assessment should yield about \$98,000. These funds will be used to continue negotiations and litigation in tank car mileage issues associated with Ex Parte 328.

BACKGROUND: Railroads are not required by law to furnish specialized rolling stock such as tank cars, but if they do not, they are required to make reasonable compensation to those who do. Since 1962, MCA has been involved in establishing a more equitable basis of tank car mileage allowances.

On May 3, 1976 the Interstate Commerce Commission (ICC) ordered parties (shippers and railroads) to the litigation under ICC 35537 to develop procedures for continuing adequate tank car compensation and a method for making periodic adjustments in compensation levels. Guidelines were provided under ICC Ex Parte 328. The Commission's decision also required the railroads to increase compensation by 22.5%. The increase provided an estimated \$17 million additional annual compensation for the MCA tank car fleet. This was in addition to increased compensation of \$13 million annually produced through litigation efforts from 1964 to 1969 and a 1971 adjustment, also produced through litigation, of \$28 million a year.

During the interim period, while the parties develop procedures to provide adequate compensation and a permanent updating method, tank car compensation adjustments are to be made in relation to and at the same time as the railroads adjust car compensation paid one another for the use of each others cars. An increase in tank car compensation under the interim method ranging from 3.5% to 8.6% is scheduled to become effective April 1, 1977. The estimated annual tank car compensation increase for the chemical industry will amount to over \$5 million.

Since 1962, MCA has dispensed about \$447,000 for legal and other special consultant fees, raised through four special assessments of tank car users totaling \$7 (\$2, \$3, \$1 and \$1 approved by the Board in October 1962, June 1965, March 1970 and November 1975, respectively) for each tank car in chemical service. About \$4,000 remains from these assessments.

MCA

EC - 4/12/77

BD - 4/12/77