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Before the U.S. Surface Transportation Board

***PETITION FOR
ADVISORY OPINION ON REASONABLENESS
OF LIMITED HOURLY INTERSTATE MOVING RATES
AND
FOR RELEASED RATES ORDER AMENDMENT No. 6***

Docket No. RR 999

**Petition Submitted by
The Small Business in Transportation Coalition**

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The Small Business in Transportation Coalition, Inc. (SBTC) is a 20,000+ member 501(c)(6) nonprofit trade organization representing small business motor carriers, independent truckers, small property (“freight”) brokers, and other transportation professionals in the industry. SBTC promotes and protects the interests of small businesses in the industry and aims to foster fair and reasonable regulation of industry, grounded in common sense legislation, rulemaking, and regulatory guidance. SBTC encourages ethical business practices and supports teamwork, cooperation, transparency, and partnerships among truckers, carriers, brokers, forwarders & shippers who seek to do business with the utmost integrity.

Comes now, the SBTC to respectfully petition the U.S. Surface Transportation Board (“the Board”) for: (1) an advisory opinion on the reasonableness of hourly interstate rates in certain limited instances pursuant to the STB’s authority over the HHG mover tariff publishing requirement and rate reasonableness; and (2) a new released rates order that adjusts the previous January 10, 2012 released rates order for inflation... on behalf of its 150+ interstate motor carrier of household goods (“HHG movers”) members.

I. REASONABLENESS OF HOURLY MOVING RATES FOR INTERSTATE
MOVES ON THE BORDER OF TWO STATES

As the Board knows, HHG movers are required under 49 U.S. Code § 13702 and 49 CFR 1310 to publish a bona fide tariff of rates, charges & rules as a condition to operate under interstate authority granted by the United States Department of Transportation. (USDOT).

Generally, 49 CFR Part 375, promulgated by USDOT as “consumer protection regulations,” requires HHG movers to perform interstate residential household goods moves either on a weight-distance or written binding estimate basis. However, there are certain times when consumer residential moves entail a short distance on the border of two states and, we believe, these moves should, as a matter of practicality, be allowed to be performed on an hourly basis as if the moves were local intrastate moves. We believe this is in shippers’ and the public’s interest and in accordance with the National Transportation Policy (49 U.S. Code § 13101,) which calls for efficiency:

§13101. Transportation policy

(a) In General. -To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and-

(1) in overseeing those modes-

(A) to recognize and preserve the inherent advantage of each mode of transportation;

(B) to promote safe, adequate, economical, and efficient transportation;

(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

(E) to cooperate with each State and the officials of each State on transportation matters; and

(F) to encourage fair wages and working conditions in the transportation industry;

(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to-

(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

(C) meet the needs of shippers, receivers, passengers, and consumers;

(D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

(E) allow the most productive use of equipment and energy resources;

(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

(G) provide and maintain service to small communities and small shippers and intrastate bus services;

(H) provide and maintain commuter bus operations;

(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

(J) promote greater participation by minorities in the motor carrier system;

(K) promote intermodal transportation;

(3) in overseeing transportation by motor carrier of passengers-

(A) to cooperate with the States on transportation matters for the purpose of encouraging the

States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part;

(B) to provide Federal procedures which ensure that intrastate regulation is exercised in

accordance with this part; and

(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory

Reform Act of 1982 are not nullified by State regulatory actions; and

(4) in overseeing transportation by water carrier, to encourage and promote service and price competition in the noncontiguous domestic trade.

(b) Administration To Carry Out Policy. -This part shall be administered and enforced to carry out the policy of this section and to promote the public interest.

While this raises the issue of “commercial zones” that exempt certain transportation under certain circumstances, the commercial zone exemption rule¹ is problematic as a solution to HHG movers’ need for flexibility because of two reasons...

First, the rule indicates the exemption applies to passengers and property but does not specifically state it applies to the separate statutory category of “household goods.”

¹ 49 CFR § 372.241

Second, this rule imposes a patchwork of exemptions based on population that are burdensome for HHG movers to interpret and apply. At best, it appears a move on the border of two states might be exempt if “property” under the rule is to be interpreted as both “property-except-household goods” and “household goods” but a 20-mile distance does not afford a HHG mover much flexibility to be exempt from the obligation to weigh their truck on a short distance move of, say, 25 miles.

As the Board knows, Congress has granted the Board the authority to regulate the reasonableness of HHG movers’ rates and charges published in their tariffs.

49 U.S. Code § 13701 states:

(a) Reasonableness.—

(1) Certain household goods transportation; joint rates involving water transportation.

—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under chapter 135 for transportation or service involving—

(A) a movement of household goods,

must be reasonable.

49 U.S. Code § 13711 states:

(b) Jurisdiction of Board. —

(1) Determination. —

The Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a).

In furtherance of its authority over HHG movers, the Board has published tariff guidance at:

<https://www.stb.gov/resources/need-assistance/hhg-moving/hhg-tariff-guidance/>

Previously, STB staff issued an informal non-binding advisory opinion that stated it was reasonable for HHG movers to publish hourly charges in their interstate tariffs as an alternative to weight distance rates if the distance cut off in the tariffs was “reasonable,” without defining exactly what would be the maximum mileage that would constitute a threshold that falls within the STB’s conception of a zone reasonableness. SBTC estimates that hundreds of interstate HHG movers relying on said STB informal staff guidance have in good faith published through their tariff publishers hourly rates as an alternative to weight distance rates when the distance between points of origin and destination are, in the opinion of these HHG movers, reasonable.

The SBTC now asks the Board to please issue a formal advisory opinion on this matter, one that ratifies previous staff guidance and confirms for industry and the public that this practice is

reasonable and that hourly rate tariff provisions are indeed lawful alternatives to weight-distance rates when moves on the border of two states are short distance hauls. SBTC proposes the Board specifically declare and advise HHG movers that they may offer interstate moving consumers hourly rates in their tariffs whenever the distance between the point of origin in one state and the point of destination in a different state is under 100 miles, or set an alternative mileage threshold that the Board deems reasonable, just and proper.

II. RELEASED RATES ADJUSTMENT FOR INFLATION:

On January 10, 2012, the Board issued a released rates order under Docket No. RR 999 (Amendment No. 5). This order adjusted minimum per-pound valuation for inflation:

“We will set the minimum per-pound levels at \$6.00 per pound and

\$6,000 per shipment, subject, as noted above, to voluntary indexing of the per-pound

figure and of the mover’s charges for full-value protection.”

While HHG movers may already, pursuant to Amendment No. 5, adjust the \$6.00 per pound minimum for inflation using the US Bureau of Labor Statistics’ Consumer Price Index for all Urban Consumers (CPI-U), to about \$8.00², there is no uniformity within the industry to do so. That may be because HHG movers are reluctant to deviate from the \$6.00 because it does not

² According to the US Department of Labor’s CPI-U tool at https://www.bls.gov/data/inflation_calculator.htm \$6.00 as of January 2012 has the same buying power as \$8.03 as of April 2023.

appear that the Board has granted HHG movers the authority to adjust the \$6,000 per shipment amount. We believe this has confused and deterred most HHG movers who do wish to raise the \$6.00 per pound minimum level to \$8.00 from doing so.

As most HHG movers, especially new entrant HHG movers, use pre-printed forms offered by printing companies that specialize in moving forms and these printers still use the \$6.00 level more than a decade later, it is unlikely HHG movers will adjust the level from \$6.00 to \$8.00 without a clear and decisive order from the Board giving them a clear green light.

The SBTC therefore hereby petitions the Board to please issue Amendment No. 6 to formally address these issues since inflation has substantially increased over the past decade by 33% to warrant a new amendment to the order.

Thank you for your consideration.

Respectfully submitted,



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