

212 485

STEPTOE & JOHNSON ^{LLP}
ATTORNEYS AT LAW

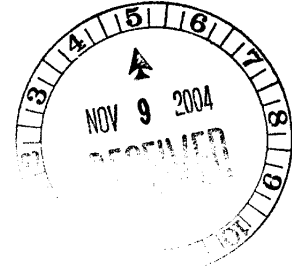
David H. Coburn
202.429.8063
dcoburn@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

November 9, 2004

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, DC 20423-0001

ENTERED
Office of Proceedings
1
RECEIVED
JAN 10 2005



Re: Section 5a Application No. 46 (Sub No. 20), Southern Motor Carriers Rate Conference, Inc.

Dear Secretary Williams:

The Rocky Mountain Tariff Bureau, Inc. and EC-MAC Motor Carriers Service Association, Inc. (jointly, "Rate Bureaus") are in receipt of the November 3, 2004 letter of counsel for the National Industrial Transportation League to Chairman Nober concerning the burden of proof in this proceeding, an issue raised during the October 27, 2004 oral argument. For the reasons expressed in the NIT League's letter, Rate Bureaus concur that the party seeking an amendment to an approved ratemaking agreement that would expand the scope of its antitrust immunity under that agreement bears a heavy burden of proving that the amendment is in the public interest. The Rate Bureaus also concur with the views expressed in the NIT League's letter that, in the context of immunized motor carrier rate bureaus, SMC has failed to show how the elimination of territorial boundaries would enhance carrier rate competition for the benefit of shippers or the public. Given the likelihood that it would have just the opposite impact by allowing SMC to achieve a dominant position, SMC has not met its high burden of proof.

Respectfully,

David H. Coburn
Attorney for Rocky Mountain Tariff Bureau, Inc.
and EC-MAC Motor Carriers Services Association,
Inc.

cc: All parties of record

WASHINGTON

PHOENIX

LOS ANGELES

LONDON

BRUSSELS