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March 2, 2005

Via Messenger

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
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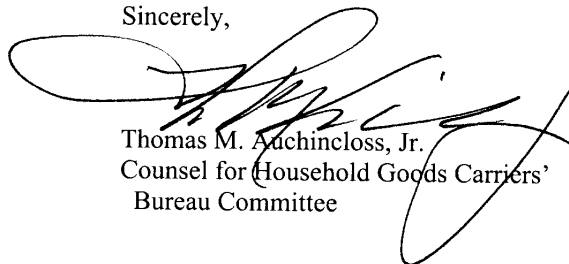
Re: STB Ex Parte No. 656, Motor Carrier
Bureaus—Periodic Review Proceeding

Dear Mr. Williams:

In response to the Board's December 13, 2004, decision, enclosed are the original and 10 copies of the Opening Comments of the Household Goods Carriers' Bureau Committee. Also enclosed is an IBM formatted 3.5 diskette.

Please stamp the additional copy of this filing for return to my office via messenger.

Sincerely,



Thomas M. Auchincloss, Jr.
Counsel for Household Goods Carriers'
Bureau Committee

Encs.

cc: Mr. Joseph M. Harrison, Secretary
Household Goods Carriers' Bureau Committee

213457
ORIGINAL

BEFORE
THE
SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 656

MOTOR CARRIER BUREAUS—PERIODIC REVIEW PROCEEDING

OPENING COMMENTS

OF

HOUSEHOLD GOODS CARRIERS' BUREAU COMMITTEE

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HOUSEHOLD GOODS CARRIERS'
BUREAU COMMITTEE

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DATED AND FILED: MARCH 2, 2005

BEFORE
THE
SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 656

MOTOR CARRIER BUREAUS—PERIODIC REVIEW PROCEEDING

OPENING COMMENTS
OF
HOUSEHOLD GOODS CARRIERS' BUREAU COMMITTEE

These Opening Comments are filed on behalf of the Household Goods Carriers' Bureau Committee (HGCBC or Committee) and the approximately 2,000 motor carriers of household goods that are parties to the HGCBC Collective Ratemaking Agreement identified as Section 5a Application No. 1, in response to the December 13, 2004, Board decision instituting this proceeding.¹ The HGCBC Agreement is appended to the Committee's Request for Renewal which was filed with the Board on December 23, 1998.²

BACKGROUND

The Board's December 13, 2004, decision requests comments on the need for collective ratemaking from all motor carrier bureaus and particularly as to "... whether anything affecting the public interest has changed since the prior review cycle." The prior review cycle referred to by the Board dealt exclusively with the ratemaking agreements of motor carrier freight bureaus and did not include review of the HGCBC

¹ By Board decision served January 21, 2005, the date for filing Opening Comments was extended to March 2, 2005.

² The Agreement was subsequently amended to include new carrier termination provisions. See *STB Section 5a Application No. 1 (Amendment No. 11)* decided June 21, 2001.

Agreement. (Decision, p. 2). Nonetheless, as explained in these Comments, HGCBC carriers have continuously acted pursuant to the authority conferred by the HGCBC Agreement and desire Board approval of the Agreement in order to continue those activities.

The Board's decision also notes that the HGCBC has been operating under its previously approved Agreement and may continue to do so until action is taken on the Committee's pending Request for Renewal. (Decision, p. 2, footnote 2). By decision served December 19, 1999, the Board extended approval of the HGCBC Agreement, without specific consideration of HGCBC activities, which extension remains in effect.

By decision served February 11, 2000, in Section 5a Agreement No. 1 (Sub-No. 10), the Board questioned whether the immunity granted to HGCBC should be conditioned on reductions in so-called "benchmark" rates to market based rate levels. In response to that decision, HGCBC filed Comments with the Board on April 24, 2000, as did the Transportation Consumer Protection Council, Inc. on April 4, 2000. HGCBC filed Reply Comments on May 8, 2000, responding to certain points contained in the Council's comments. The Board has not acted on its February 11, 2000, decision or the comments filed in response to that decision.

HGCBC APRIL 2000 COMMENTS

The factual information and data contained in the April 2000 HGCBC Comments addressed the importance of immunized collective ratemaking authority to the moving and storage industry and the moving public. In fact, the April 2000 Comments described the activities conducted under the HGCBC Agreement from a public interest perspective. The activities described remain essentially the same and do not require restatement here.

Instead, the April 2000 Comments are by this reference incorporated in these Opening Comments, and, to the extent changes in the Committee's or carriers' activities have occurred since 2000, they are explained. Other subsequent developments or activities that bear upon HGCBC collective ratemaking and the public interest will also be discussed.

The conclusion to be drawn from the April 2000 and the instant HGCBC Comments is that collective ratemaking has produced just and reasonable rates and charges and a relatively simple pricing structure that serves the public interest by facilitating the pricing of interstate moving services.

Included in the April 2000 HGCBC Comments are statements prepared by Joseph M. Harrison, Secretary, HGCBC; Joseph A. Habib, Transportation Consultant; and Donald Ian Hetzmark, Ph.D., Consulting Economist. Each statement addressed different aspects of the collective ratemaking activities conducted by the HGCBC. The following comments relate to each statement and, to the extent necessary, update or modify specific points contained in those statements

Statement of Joseph M. Harrison

Mr. Harrison's previous Statement contains a detailed explanation of the importance of collective ratemaking to the moving industry and its customers. To paraphrase his statement, he explained, *inter alia*, that the HGCBC collective rate structure is the basis for (1) carrier estimates of shipping charges furnished to consumer (C.O.D.) shippers;³ (2) the assessment of final transportation charges for consumer shippers; (3) transportation charge quotations and final charges for national account

³ Consumer (C.O.D.) shippers are private transferees that pay their own transportation costs, usually on a C.O.D. basis.

shippers that elect not to enter into contracts for the transportation of their employees' goods;⁴ (4) national account shippers' contractual arrangements with household goods carriers; (5) third party broker contracts with national account shippers and carriers; (6) civilian government traffic, whether controlled by individual agencies or the General Services Administration; (7) Department of Defense movements using test programs in addition to its longstanding current Personal Property Program. This reliance by the shipping public on the Committee's tariffs has not diminished since 2000.

The number of FMCSA licensed motor carriers of household goods that are signatories to the HGCBC Agreement has increased from 1,935 in 2000 to 1,988 in 2005. The numbers of signatories has remained fairly constant over the past 54 years, in the range of 1,800 to 2,000 carriers. (Harrison Statement, p. 2).

HGCBC continues to publish 12 Agency tariffs on behalf of its carrier members. Attachment No. 1 to Mr. Harrison's Statement identifies the tariffs, the majority of which have been republished since 2000 as successive reissues in their series.

The combined number of carrier (motor, rail, passenger and pipeline) participants in the three HGCBC Mileage Guides has declined to 4,684 from 7,434. (Harrison Statement, p. 3). This decline can be attributed to the fact that large numbers of motor carriers of property, other than household goods, during the past 5 years have elected to disregard the tariff participation requirements imposed by Section 13703(g)(1)(B) of the Interstate Commerce Act.

HGCBC continues to tabulate the operating revenues realized by its carriers under Committee tariffs. The April 2000 Harrison Statement (page 4) explained that the interstate revenues earned by 17 major HGCBC carriers in 1998 were divided as follows:

⁴ National account shippers usually pay their employees' relocation costs, including transportation.

1st proviso traffic – 80.7%; 2nd proviso traffic – 0.9%;⁵ and, 3rd proviso traffic – 18.4%.

The 2003 annual reports to FMCSA for 17 major carriers produced slightly different results: 1st proviso – 79.4%; 2nd proviso – 0.7%; and 3rd proviso – 19.9%. Obviously, the interstate transportation of personal effects household goods traffic (1st proviso) continues to be of major importance to HGCBC carriers.

Mr. Harrison's 2000 Statement (page 5) also contained 1997 personal effects shipment data for each of the major shipper categories as rated under HGCBC Tariffs 400 or 415. Updating those figures according to the HGCBC 2003 Market Share Study produces the following results:

HGCBC CARRIER PERSONAL EFFECTS SHIPMENTS

	<u>1997</u>	<u>2003</u>
C.O.D.	583,748	631,168
National Account	590,000	421,915
Civilian Gov't	22,000	16,818
Military Gov't	177,000	195,706
	-----	-----
Totals	1,372,748	1,265,607

Shipment volumes for certain categories experienced significant declines between the two periods primarily as a result of the general decline in business during the 2001-2003 period. National account and civilian government shipments sustained major losses due to the recession and government budget constraints. The C.O.D. shipment category benefited from a robust real estate market while the increase in the military category reflects the increased relocation requirements of the Department of Defense. Notably, all

⁵ Incorrectly recorded as .09% in the April 2000 Harrison Statement.

shipments, regardless of category, were rated and billed according to rates and charges contained in HGCBC collectively formulated tariffs.

The Department of Defense Personal Property Test Programs described in Attachment No. 2 to Mr. Harrison's 2000 Statement have been completed. As a result, DOD has incorporated certain features of those Programs into a new Program entitled the Families First Program. Importantly, under this Program the procurement of interstate household goods transportation services for military service members will be predicated solely on HGCBC Tariff 400. The Families First Program is scheduled to start in October 2005 after which hundreds of thousands of DOD shipments will be rated and billed according to the provisions of Tariff 400. DOD's decision to utilize Tariff 400 for shipment rating, billing and auditing purposes is the result of extensive analysis on their part. DOD will require that all individual carrier transportation price offers be submitted as percentage factors of the Tariff 400 rate level.

The General Services Administration Centralized Household Goods Traffic Management Program (CHAMP) continues to rely on HGCBC Tariff 415 to rate and bill civilian government employees' household goods shipments. (Harrison Statement, p. 6). While most Federal Agencies participate in the CHAMP Program and utilize Tariff 415, since 2000, certain civilian agencies have elected to adopt the Federal Acquisition Regulations (FAR) for the procurement of interstate transportation services. The FAR based acquisitions rely on HGCBC Tariff 400 for rating, billing and auditing purposes rather than Tariff 415.

At pages 8 through 11 of his 2000 Statement, Mr. Harrison recounted the collective and independent announcement activities of HGCBC carriers between 1988

and April 2000 (numbers of general application proposals and independent announcement actions). He also described the on-going Committee efforts to simplify Tariff 400 through tariff restructures that consolidated sections of the tariff making the estimating, rating, billing and auditing procedures employed by all users of the tariff significantly less complicated.

Since 2000 further simplification of Tariff 400 has been accomplished by restructuring the rates for packing and packing containers into a single rate, which, together with the rates for unpacking, were converted to a per hundredweight basis applicable for so-called full pack service. Per carton packing rates are also maintained for partial pack shipments. A number of accessorial service tariff provisions and charges that were infrequently applied have been cancelled. And, charges for linehaul transportation service have been restructured to reflect the impact of industry average carrier cost indices, labor indices, population density factors and the elimination of certain accessorial service charges.

An important by-product of the HGCBC ongoing simplification program was the computerization of Tariff 400. Tariff users may now enter shipment origin and destination zip codes and estimated shipment weights into their computers to rate shipments. The zip code rating of shipments automatically determines applicable mileages, thus eliminating the need to separately calculate shipment distances. In order to display thousands of possible origin/destination zip code combinations and related transportation rates and charges, the tariff has been reissued in an electronic format on a CD-Rom that can be loaded into a personal computer for shipment estimating, rating, billing and auditing purposes.

The most recent restructure of Tariff 400 became effective in January 2002, and was quickly embraced by the moving industry and national account shippers as the *de facto* standard for uniform, easy-to-understand price and service negotiations between individual carriers and shippers. Consumer shippers also recognize that carrier estimating procedures have been simplified since many of the former charges for accessorial services have been consolidated.

A major step in simplifying the task of declaring shipment valuations and equitably addressing the basis for shipper recovery for loss or damage was also accomplished when the Committee proposed and the STB approved amendments to Released Rates Order No. MC-999 in May 2002. The former \$1.25 per pound level of depreciated valuation for loss or damage recovery was cancelled and Full Value Protection replacement liability provisions were approved by the Board. The Full Value Protection provisions have general application and are explicitly explained on carrier bills of lading to ensure that shippers are given the opportunity to make informed decisions about available shipment valuation declaration options. In addition, carriers are required to furnish shippers with a detailed explanation of the available carrier liability options in a separate information brochure which may be incorporated into the "Your Rights and Responsibilities When You Move" publication distributed by carriers to consumer shippers. 49 C.F.R. Part 375, Appendix A. Carriers are also required to assume replacement value liability for shipment loss or damage without payment of a valuation charge if they fail to confirm that a shipper received the required valuation information.

Amendment of the Released Rates Order in the manner described provides an excellent example of the importance of collective ratemaking to consumer shippers of

household goods. The HGCBC approved a general application proposal that would eliminate a somewhat confusing basis for carrier limitations of liability and shipper recovery for loss or damage and, in its place establish a replacement value protection provision for consumers' goods. The Committee's Released Rates Application was filed with the Board pursuant to Section 14706(f) of the Act. Following receipt of comments on the proposal, the Board approved the Committee's Application. The result is a highly equitable basis for shipper declaration of shipment valuations and for recovery for loss or damage. The HGCBC collective ratemaking Section 5a Application mechanism can be credited with this result.

Tariff 400 also contains a Fuel Cost Price Adjustment item that became effective in May 2000. It produces a fuel surcharge based on the National U.S. average price of diesel fuel as reported by the U.S. Department of Energy (DOE). This surcharge is intended to assist carriers and particularly owner-operators in the recovery of their fuel expenses during rising fuel cost periods such as the recent past. The surcharge amount is based on the DOE official diesel fuel price in effect on the first Monday of each calendar month. The reported price is indexed to arrive at a surcharge amount that becomes effective on the fifteenth (15th) day of the same month. The adjustment applies on all shipments loaded beginning on the 15th day of the month and remains in effect through the 14th day of the following month. As the average price of diesel fuel increases or decreases according to the DOE tracking system, corresponding changes in the surcharge are effected in Tariff 400.

The HGCBC fuel surcharge is critical to the financial stability of the independent operator segment of the moving industry. As small business operators, independent

drivers require a non-controversial mechanism that produces sufficient income to recover rising fuel costs. Without such a mechanism the entire moving industry would face the prospect of labor shortages and the inability to provide adequate service to the public.

Tariff 400 also includes a General Price Adjustment tariff item that relies on Federal Government indices to determine appropriate annual increases or decreases in all tariff rates and charges. The general adjustment percentage amounts are produced by application of appropriate segments of the U.S. Department of Labor Consumer Price and Current Employment Statistics (Not Seasonably Adjusted) indices. A General Price Adjustment (GPA) percentage amount results in an annual increase or decrease on January 1 of each year. Each adjustment is effective throughout the affected year.

The GPA tariff item was approved by the HGCBC to establish a mechanism for general increases and decreases that is tied to changes produced by indisputable government indices. As a result, general adjustments have become non-controversial.

The restructuring and simplification of the principal moving industry personal effects tariff (Tariff 400) can be expected to continue as additional proposals are presented for the Committee's consideration. The productive collective efforts described herein are the product of 63 carrier general application proposals docketed by the Committee since April 2000, 40 of which were approved. In addition, carrier independent announcement activity continues unabated although a reduction in the number of independent announcements since April 2000 (991) reflects general acceptance of the important amendments to Tariff 400, obviating the need for many independently announced exception tariff provisions.

The remainder of Mr. Harrison's April 2000 Statement describing other aspects of the HGCBC collective ratemaking activities and tariff publication process remains accurate and does not require further comment.

Statement of Joseph A. Habib

Mr. Habib's April 2000 Statement deals primarily with personal effects shipments transported by HGCBC carriers on behalf of consumers and national account shippers and the carriers' discounting practices related to each shipper category. (Habib Statement, pp. 6-8). Changes in those practices since the April 2000 Statement was prepared are not significant. The discounting of charges for both categories of shippers continues to be very similar while the characteristics of each group's shipments differs significantly as shown in the following table:

HGCBC CARRIER DISCOUNTS—
C.O.D. VS. NATIONAL ACCOUNT SHIPMENTS⁶

	<u>1997 Data</u>	<u>2003 Data</u>
<u>C.O.D. Discounts</u>		
Less than 30%	21.0% avg.	21.9% avg.
More than 30%	54.0% avg.	62.5% avg.
<u>National Account Discounts</u>		
Less than 30%	21.0% avg.	18.9% avg.
More than 30%	57.0% avg.	62.4% avg.
<u>C.O.D. Avg. Ship. Wt.</u>		
Less than 30%	2,415 lbs.	2,709 lbs.
More than 30%	6,326 lbs.	6,899 lbs.

⁶ The 2003 Market Share Study involved 1,053,083 C.O.D. and national account personal effects shipments. That Study indicates that all shipments moved at discounted charges below the Tariff 400 rate level. Mr. Habib's April 2000 Statement erroneously provided the number 583,748 as the corresponding 1997 shipment count. The correct number should have been 1,173,748.

	<u>1997 Data</u>	<u>2003 Data</u>
<u>Nat'l Acct. Avg. Ship. Wt.</u>		
Less than 30%	6,948 lbs.	9,070 lbs.
More than 30%	9,331 lbs.	9,877 lbs.
<u>C.O.D. Avg. Distance</u>		
Less than 30%	1,089 miles	899 miles
More than 30%	1,269 miles	1,281 miles
<u>Nat'l Acct. Avg. Distance</u>		
Less than 30%	1,044 miles	943 miles
More than 30%	1,086 miles	1,117 miles

The shipment discounts received by consumer shippers continue to fare as well as and even somewhat better than the discounts received by national account shippers. In the under 30 percent discount category, C.O.D. shipment discounts increased from 21.0 percent to 21.9 percent. In the same category, national account shipment discounts dropped from 21.0 percent to 18.9 percent.

In the greater than 30 percent discount category, C.O.D. shipments increased from 54.0 percent to 62.5 percent, and national account discounts increased from 57.0 percent to 62.4 percent.

National account shipments continue to produce markedly better shipment characteristics than C.O.D. shipments. In each discount category (less than 30 percent and more than 30 percent) national account shipments weighed considerably more than C.O.D. shipments (2,709 and 6,899 pounds—C.O.D. vs. 9,070 and 9,877 pounds—national account).

Lengths of haul changed somewhat for both groups in the less than 30 percent category. C.O.D. mileage is down 17.4 percent and national account mileage is down

9.7 percent. Both groups increased insignificantly in the over 30 percent category – less than 3 percent.

As previously explained by Mr. Habib, the general perception that national account shippers have greater purchasing power resulting in lower transportation costs because of the number of employee shipments they control as opposed to the C.O.D. shipper who moves infrequently is disputed by the shipment discount data compiled by HGCBC. This continues to be the case as confirmed by the more recent data shown in the foregoing table. Clearly, C.O.D. shippers are not bearing any of the costs or in any way subsidizing the transportation of personal effects corporate traffic. They are, in fact, the beneficiaries of vigorous price competition between HGCBC carriers for all available traffic.

In his April 2000 Statement, Mr. Habib posited that an industry that produced an operating ratio of 97.0 percent in 1998 was not enjoying unreasonable profits. (Habib Statement, pp. 8-9).

Revenue and expense data obtained from the 2003 annual reports to FMCSA filed by 30 major HGCBC carriers confirm that this situation has not changed. The composite 2003 operating ratio for the 30 carriers was 98.0 percent, with a high of 144.8 percent, and a low of 93.3 percent.

The remainder of Mr. Habib's April 2000 Statement is accurate and does not require changes.

Statement of David I. Hertzmark, Ph.D.

The statement prepared by Dr. Hertzmark is devoted exclusively to the economic rationale underlying the moving industry's maintenance of benchmark prices that are the

basis for individual carrier shipment charge discounts. His conclusion that a price setting mechanism of the type employed by HGCBC carriers reduces costs for both carriers and shippers is as accurate today as it was in April 2000. The validity of this proposition, of course, lies in the actual rates and charges paid by shippers for the carriers' services. The shipment discount data contained in the foregoing HGCBC Carrier Discounts table confirms that the HGCBC tariff rate level has not impeded carrier competition or discounting or resulted in charges that are more than just and reasonable.

Dr. Hertzmark's April 2000 Statement makes the case for continued maintenance of the HGCBC benchmark rate level and does not require changes.

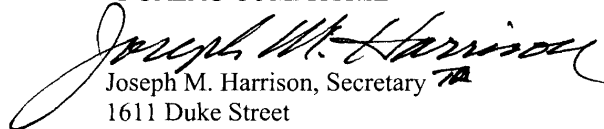
CONCLUSION

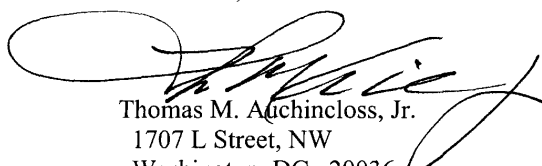
The activities conducted by HGCBC carriers pursuant to the Agreement identified as Section 5a Application No. 1 promotes the numerous goals set forth in the National Transportation Policy, 49 U.S.C. § 13101. The fact that all segments of the moving public (private, corporate, civilian and military government) utilize and rely upon the tariffs produced by the HGCBC collective ratemaking process attests to its importance in the pricing of household goods interstate transportation services. Accordingly, for all of

the foregoing reasons, HGCBC and its member carriers confirm their desire to have their
Collective Ratemaking Agreement, Section 5a Application No. 1, approved by the Board.

Respectfully submitted,

HOUSEHOLD GOODS CARRIERS'
BUREAU COMMITTEE


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Dated and Filed: March 2, 2005