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BEFORE THE  
SURFACE TRANSPORTATION



EX PARTE NO. 656

MOTOR CARRIER BUREAUS – PERIODIC REVIEW PROCEEDING

OPENING COMMENTS OF NATIONAL SMALL SHIPMENTS TRAFFIC  
CONFERENCE, INC., AND NATIONAL INDUSTRIAL  
TRANSPORTATION LEAGUE

ENTERED  
Office of Proceedings

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Dated: March 2, 2005

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I. INTRODUCTION

The National Small Shipments Traffic Conference, Inc. ("NASSTRAC") and the National Industrial Transportation League ("NITL" or the "League") (collectively, the "Shipper Associations") hereby submit their opening comments pursuant to the Board's Decisions served December 13, 2004 and January 21, 2005.

In this proceeding, the Board is considering whether it should terminate, renew, or renew subject to additional conditions the antitrust immunity of the National Classification Committee ("NCC") and a number of regional rate bureaus, including major rate bureaus such as Southern Motor Carriers Rate Conference, Inc. ("SMC"), Midwest Motor Freight Bureau ("Midwest"), Rocky Mountain Tariff Bureau ("RMB"), Pacific Inland Tariff Bureau ("PITB"), EC-MAC Motor Carriers Service Association, Inc. ("EC-MAC"), and others.

## II. IDENTITY AND INTEREST OF NASSTRAC AND NITL

NASSTRAC is a trade association consisting of regular members who ship, control or direct the shipment of freight, such as shippers and 3PLs, and associate members such as carriers. For over 50 years, NASSTRAC has provided advocacy, education and other services to its members, including active participation in proceedings before the ICC and STB, other agencies, and the courts. NASSTRAC's principal focus is on parcel and smaller package shipments by companies of all sizes.

NITL is one of the oldest and largest national associations representing companies engaged in the transportation of goods in both domestic and international commerce. The League is almost 100 years old and has approximately 600 company members, ranging from some of the largest users of the nation's transportation system, to smaller companies engaged in the shipment and receipt of goods. Though its membership consists predominantly of shippers, the League has had motor, rail, air and water carriers as full members since 2001.

NASSTRAC and NITL were active participants in the last round of NCC and rate bureau antitrust immunity proceedings,<sup>1</sup> and are parties to the pending proceeding concerning the application of SMC for nationwide authority.<sup>2</sup> Many members of both Shipper Associations, as well as thousands of other shippers by motor carrier, pay rates based on the commodity class ratings established by NCC and the baseline class rates established by the rate bureaus.

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<sup>1</sup> Section 5a Application No. 61 (Sub-No. 6), National Classification Committee – Agreement, (hereafter National Classification Committee) and Section 5a Application No. 118 (Sub-No. 2) et al., EC-MAC Motor Carriers Service Association, Inc., et al (hereafter EC-MAC).

<sup>2</sup> Section 5a Application No. 46 (Sub-No. 20), Southern Motor Carriers Rate Conference, Inc.

In their past comments, and in their comments in this proceeding, NASSTRAC and NITL support the need rely on competition as the determinant of motor carrier prices and service levels, as Congress intended in the Motor Carrier Act of 1980.<sup>3</sup> Accordingly, antitrust immunity for collective carrier action should either be terminated or minimized.

It makes no sense in today's deregulated trucking environment to preserve antitrust immunity for collective action that is actually or even potentially anticompetitive. Moreover, structural remedies that prevent abuse are preferable to remedies that depend on litigation for their effectiveness. Accordingly, the Board should go beyond the reforms previously adopted and should adopt the recommendations set forth below.

### III. BACKGROUND OF THIS PROCEEDING

At issue here are two forms of motor carrier collective action that are holdovers from the era of cartel-based pricing and pervasive regulation that existed prior to 1980. Although pervasive regulation of the trucking industry is long gone, the NCC and the regional rate bureaus persist, and continue to influence motor carrier ratemaking in ways that distort the competitive market.

The process is as follows. Rather than establishing rates for many individual commodities, the motor carrier members of the NCC, with help from the NCC staff, collectively decide to group commodities together in classes based on their transportation characteristics, with density generally being the most significant characteristic. The NCC takes this information and publishes a tariff called the National Motor Freight Classification, or NMFC, which contains hundreds of class ratings for types of commodities rang-

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<sup>3</sup> See Central & Southern Motor Freight Tariff Assn. v. United States, 757 F.2d 301 (D.C. Cir.), cert. denied, 474 U.S. 1019 (1985).

ing from Class 50, generally covering the densest commodities, to Class 500, generally covering the least dense.

For their part, the regional rate bureaus take the commodity class ratings adopted by the NCC and publish class rates, which correspond to the class ratings. In general, the class rate for a commodity in Class 150 will be 50% higher than the class rate for a commodity in Class 100. The rate bureau class rates are the "baseline" rates for many, if not most, of the rates shippers actually negotiate and pay. Typically, shippers will negotiate "discounts" off these collectively-established class rates; discounts range from about 20% to as much as 70% or more off the class rate.

The process was analyzed at length by the ICC in Investigation of Motor Carrier Collective Ratemaking and Related Practices and Procedures, 7 I.C.C. 2d 388 (1991). At that time, discounts averaged around 40%. It has since been recognized that this system led to the undercharge epidemic, with defunct carriers and trustees in bankruptcy repudiating discount rates in order to pursue mass collection actions. The "spread" between discount rates and undiscounted baseline class rates proved irresistible to carrier and trustee plaintiffs, even though the undiscounted class rates they sought to collect were, by definition, uncompetitive and were consistently found unreasonable by the ICC.

Not only do the NCC and rate bureaus publish the NMFC and bureau class rate tariffs, but their members meet to collectively adopt changes to both the class ratings and the class rates. Four times a year, NCC panels consisting of roughly a dozen carrier members, and the full NCC, consisting of 60-100 carriers, meet to consider changes to commodity class ratings. Dockets for each of these meetings may include 20 or 30 pro-

posals, and a similar number of Review Matters, which may be docketed as proposals at a subsequent meeting. Shippers are allowed to attend and to speak, but have no vote.

The rate bureaus also meet collectively, and generally agree to annual General Rate Increases, or GRIs. The basis for these GRIs is not always explained, though the bureaus consider both actual industry cost increases, and "revenue need," i.e., profit enhancement.<sup>4</sup>

The NCC and the rate bureaus defend this system as helping to rationalize rate-making. The problem for shippers is that it also facilitates "stealth" rate increases. Such collectively-established rate increases take two forms. First, if the NCC increases the class rating for a commodity from, for example, Class 100 to Class 150, then the class rate on that commodity will increase by fifty percent. Second, a rate bureau may increase a class rate level through a GRI or otherwise, thus increasing the baseline rate used for discounting. The 50%-70% discount negotiated by a shipper may be unchanged, but with a higher baseline for discounting, the shipper's actual rate will rise. Today, there is no obligation on the part of a carrier serving a shipper to disclose that the shipper's rates have gone up for these reasons.

This system clearly gives the NCC and the rate bureaus, and their motor carrier members, an incentive to raise commodity class ratings and bureau class rates. Some shippers may never even know that motor carriers, acting collectively with antitrust immunity, have raised the shippers' rates. Other shippers may notice the rate increases but may be unable to avoid them because of the time needed to negotiate adjusted discounts, or to find substitute carriers. Even the largest shippers, who are able to negotiate con-

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<sup>4</sup> SMC operates more openly than other rate bureaus, allowing shippers to attend and be heard (though not to vote) at its meetings addressing GRIs, and providing more explanation than most on the basis for the GRIs.

tracts protecting them against most such increases, are not totally protected. Large and knowledgeable shippers with contracts may nevertheless receive bills for full undiscounted class rates. This may happen, for example, when a customer returns an item, at the manufacturer's expense, using a carrier with which the manufacturer has no discount agreement.

NASSTRAC and NITL members recognize that the prices of goods and services sometimes increase, either because of cost increases incurred by the supplier or because supply and demand support new prices for the goods or services being offered. The issue presented by this proceeding and its predecessors is whether it is in the public interest to permit such rate increases through collective carrier action with antitrust immunity, or whether it is better to rely primarily or exclusively on rate increases negotiated at arms length by individual carriers and shippers. Assuming, as we do, that sound public policy dictates the latter choice, the Board needs to consider barriers to the goal of minimizing collective ratemaking, and ways of achieving that goal. While the reforms the Board ordered in the last round of NCC and rate bureau proceedings were helpful in that regard, they did not go far enough. Therefore, the Board should either eliminate collective ratemaking or further reform the collective ratemaking process.

#### IV. ARGUMENT

##### A. Applicable Law, Policy and Precedent Support Eliminating or Further Reforming Collective Ratemaking

The trucking industry, unlike virtually any other industry in the country, has the ability to raise rates through commodity reclassifications and/or class rate increases with antitrust immunity. The purpose of these proceedings is to determine whether the public interest requires the imposition of additional conditions on the rate bureaus and the NCC,

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in order to eliminate or further reform any exercise of the trucking industry's extraordinary collective rate-making authority that is not justified in today's deregulated marketplace.

Antitrust immunity with respect to pricing is extremely rare in American law, and is narrowly construed when it exists. See, e.g., Federal Maritime Commission v. Seatrain Lines, Inc., 411 U.S. 726, 733 (1973). Traditionally, antitrust immunity has existed only where, and to the extent that, markets are not workably competitive and where the need for implementation of antitrust policies has been displaced by effective regulation. E.g., Keogh v. Chicago & N.W. Ry. Co., 260 U.S.156 (1922).

Since enactment of the Motor Carrier Act of 1980, there has been relatively little regulation of operating motor carrier rates and terms of service, including freight classification matters, by the ICC and STB. The presumption has been that free market remedies, i.e., shippers' ability to use different carriers, would be adequate to resolve most problems.

Prior to 1994, when the Trucking Industry Regulatory Reform Act,<sup>5</sup> and 1996, when the ICC Termination Act of 1995<sup>6</sup> took effect, recourse to the ICC and the Board to challenge the reasonableness of carriers' filed rates, including individual carriers' rates, was available. Today, however, with the general demise of filed rates, STB jurisdiction over the reasonableness of carrier rates is more restricted. In fact, there is no recourse to the Board as to many motor carrier rates, according to the holding in a recent undercharge case, Miller v. WD-40 Co., 29 F. Supp. 2d 1040 (D. Minn. 1998).

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<sup>5</sup> Pub. L. No. 103-311, § 201 et seq., 108 Stat. 1683 (1994).

<sup>6</sup> Pub. L. No. 104-88 (1995), 49 U.S.C. § 10101, et seq.

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The logic underlying exemptions from the antitrust laws – that they are warranted to the extent they are supplanted by regulatory remedies – is highly relevant to this proceeding. The end result of many actions by NCC and the rate bureaus is individual carrier rate increases based on class rate increases published by rate bureaus, or class rate increases by rate bureaus based on NCC commodity classification increases. And if regulatory recourse as to such rate increases is limited or nonexistent, the antitrust immunity under which these actions are taken requires reexamination.

In the past, NASSTRAC and NITL have called for termination of antitrust immunity for the rate bureaus. We continue to believe that immunity is no longer needed. At a minimum, however, it is imperative that antitrust immunity be further reformed since NCC and rate bureau actions affect the rate structure of the motor carrier industry in ways that are anticompetitive. In other words, if antitrust immunity is to be preserved, it must be conditioned in such a way as to insure that the carrier members of the NCC and the rate bureaus cannot "game" the system.

There is nothing unfair about further reform of NCC and the rate bureaus. On the contrary, in this era of less shipper recourse to regulatory remedies, the absence of real reform can put shippers in an untenable position, and there is no unfairness in eliminating or minimizing barriers to the workings of the competitive market.

Finally, to the extent that collective carrier action is preserved, the Board should give preference to structural remedies that prevent or deter abuses, over regulatory or litigation remedies that depend for their effectiveness on injured shippers shouldering the burdens of engaging lawyers and consultants, gathering facts, and going before an arbitrator, the Board, and/or a court for relief. Assuming that collective action is unobjec-

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tionable absent vigorous (and burdensome) shipper opposition turns antitrust policy on its head. There should be no rebuttable presumption in favor of continued collective rate-making. In addition, such an approach gives carriers an enormous advantage. Through "business as usual," they can raise commodity classifications and base rates, secure in the knowledge that a large number of modest increases may not be challenged, even if cumulatively and over time, the increases represent significant distortions of the competitive market.

B. Antitrust Immunity for the Rate Bureaus Should be Eliminated  
Or Further Conditioned

In its decision served February 11, 2000 in EC-MAC, supra, the Board called on the rate bureaus to address the concerns discussed above by reducing their baseline or "benchmark" rates to competitive levels. The Board noted that 49 U.S.C. § 13701 re-  
quires collectively set rates to be reasonable. It did not rule out "default" discounts, but questioned the rate bureaus' attempt to rely on 35% automatic discounts for shippers with no other discount agreement. As the Board recognized, "it appears that the 'default' discounts would not apply if a shipper is given any other discount, no matter how small, and they might be revoked if a carrier or a bankrupt carrier's estate considered payment to be untimely." Decision served February 11, 2000, at 7.

In subsequent decisions in EC-MAC, the Board softened its position considerably. Commendably, the Board ordered that undiscounted bureau class rates may not be the basis for late-pay penalties. See the Decision served March 27, 2003 in EC-MAC, at 9-11.

However, the Board abandoned its call for a reduction in bureau class rate levels. It also refused to adopt a presumption that the collection of such rates is unreasonable,

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and even refused to require the bureaus' "automatic" discounts to be made true minimum discounts. Instead, the Board adopted a "truth in rates" requirement, under which the carrier members of rate bureaus are to disclose discount ranges to shippers, and report their discount ranges to the Board annually. In other respects, the Board evidently concluded that shipper self-help remedies are adequate protection against collective carrier action with respect to bureau class rates and GRIs. See, e.g., the Board's Decisions served November 20, 2001 and March 27, 2003.

While the Board's reforms are helpful as far as they go, NASSTRAC and NITL respectfully submit that further conditions are needed. Further reforms would not weaken the financial position of the trucking industry. Since 2003, tighter capacity in the trucking industry has meant that LTL and TL motor carriers have been in a position to raise their rates and collect fuel surcharges. Indeed, these individual actions, which are subject to arms-length negotiations between carriers and shippers, comport far better with the intent of Congress in deregulating trucking than rate increases in baseline bureau class rates through collective, and largely secret, carrier action.

Under the circumstances, the Board should reconsider its refusal to adopt a rebuttable presumption of the unreasonableness of full undiscounted class rates, if antitrust immunity for rate bureaus is to continue. The rate bureaus and their members do not need rate increases through commodity classification increases or GRIs of baseline class rates. As detailed above, law and policy favor replacing collective ratemaking with individual ratemaking to the extent possible.

The Board should also make the bureaus' automatic discounts true minimum discounts, and it should make them mandatory. The voluntary system currently in use has

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not worked, as shown by several rate bureaus' own filings. Specifically, EC-MAC, RMB and Middlewest argued in the last round of rate bureau proceedings that infrequent or less informed shippers are protected by these rate bureaus' 35% discount programs. However, status reports filed May 27, 2003 by EC-MAC and RMB in Section 5a Application No. 118 (Sub-No.2), et al., and the status report filed May 23, 2003 by Middlewest in Section 5a Application No. 34 (Sub-No. 10) disclose that the actual minimum discounts were as low as 20% for EC-MAC, and 25% for RMB and Middlewest.<sup>7</sup>

Fewer and fewer shippers maintain large traffic departments. This is a tribute to the success of deregulation, which has made more shippers regard transportation as a service to be purchased as other services are. However, it has also increased the number of shippers vulnerable to little known and poorly understood collective carrier action immune from the antitrust laws.

In the last proceeding, the rate bureaus defended their practice of raising class rates not just to cover trucking industry cost increases, but also to increase carrier profit margins. The rate bureaus have defended this arrangement by arguing that smaller carriers lack the resources to analyze costs and revenue needs.

Producers of other goods and service manage without rate bureaus to analyze the price increases needed to cover cost increases and enhanced profits. NASSTRAC and NITL are therefore skeptical about this argument. At best, it might support the use of rate bureau staffs to gather and analyze data on industry costs and cost projections. However, antitrust immunity for collective action should not extend beyond cost recovery to profit enhancement, which should be driven by the competitive market. Accordingly, the

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<sup>7</sup> To its credit, SMC reported no discounts among member carriers lower than the 20% minimum discount SMC adopted several years ago.

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Board should require the rate bureaus' agreements to be modified to prohibit agreement on increases in bureau class rates to enhance member carriers' profits.

Finally, the Board should require more transparency. The other bureaus should follow the lead of SMC by providing public notice of proposed class rate increases, and an opportunity for interested parties to comment at and/or attend the meetings where these decisions are made by bureau members. All rate bureaus, including SMC, should provide fuller advance notice to the public of the basis for proposed increases in bureau class rates. The Board required such advance notice by NCC of information underlying proposed commodity classification changes. This notice has helped shippers identify errors of fact and errors of analysis prior to NCC meetings. Similar transparency would help shippers assess bureau class rate increases.

C. Antitrust Immunity for the NCC Should be Eliminated or Further Conditioned

In its prior decisions approving continued antitrust immunity for the NCC, the Board imposed two conditions – that the NCC provide more data about the justification for its proposals, and that there be an arbitration option, in addition to the option of a protest filed with the STB, for dispute resolution. So far as NASSTRAC and NITL are aware, the arbitration option has not yet been tried. The requirement of additional data has been helpful.

However, problems remain. Like the rate bureaus, the NCC's members and the trucking industry generally benefit when commodity class ratings are increased. In the last proceeding, the NCC conceded that the number of increases in class ratings far exceeds the number of decreases.

NCC procedures appear to favor increases in class ratings. A single letter or fax from a member of NMFTA is apparently enough to trigger an investigation by the NCC staff. The carrier (whose identity will not be revealed) merely has to advise the NCC Staff that it handled a shipment of a commodity whose density appears to support an increase in the current class rating. The NCC Staff will then send out surveys to NASS-TRAC, NITL, and known shippers of the commodity in question, seeking information about the transportation characteristics of the commodity.

These inquiries generally come as a surprise to shippers, since carriers are usually actively soliciting their business at the current class rating.

The surveys are also extremely burdensome, taking substantial time to fill out completely. Nor are they limited to the specific commodity about which a carrier has raised a question. If a carrier notifies NCC that it handled a shipment of Revere 10-inch frying pans from a particular distributor to a particular retail outlet, specifics of that shipment of that commodity are not sought from its manufacturer. Instead, all manufacturers and shippers of all pots and pans of all sizes may be asked to analyze and report to the NCC on the density, handling characteristics, stowability and liability experience of their wares. If they don't "cooperate," they may face an across-the-board class rating increase, based on the NCC Staff's own research.

There are several problems with this approach. First, carriers have no incentive to report to the NCC when shipments have transportation characteristics justifying a lower class rating. Second, there is a clear imbalance between the costs and burdens confronting a carrier who wants to initiate a proceeding (basically, an anonymous "tip"), and the costs and burdens confronting affected shippers. The shippers are asked to provide reams

of data, which may be available only after many hours of work, as to a broad range of products that may include hundreds of products about which no carrier inquiry has been received by NCC.

In addition, shippers have no anonymity, and they must therefore be concerned about disclosure of commercially sensitive data concerning what they make and how and where they ship it. They may also have to travel to NCC meetings to defend a status quo that their own carriers apparently find satisfactory.

Third, the decision makers are all carriers and the NCC Staff is answerable to a carrier organization whose members benefit from increased class ratings.

Compounding these problems are the standards the NCC uses. For many commodities (those without unusual handling, stowability or liability characteristics), the class rating is a function of density. The NCC uses Density Guidelines,<sup>8</sup> as follows:

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<sup>8</sup> These Guidelines are part of the NCC's Policies and Directives which are available on the NCC's website at [www.nmfta.org/directives.pdf](http://www.nmfta.org/directives.pdf), and at [www.nmfta.org/DensityValueGuidelines.pdf](http://www.nmfta.org/DensityValueGuidelines.pdf). The NCC also has Value Guidelines that are non-linear, favoring carriers.

## NATIONAL CLASSIFICATION COMMITTEE DENSITY GUIDELINES

| Minimum Average Density<br>(in pounds per cubic foot) | Class |
|-------------------------------------------------------|-------|
| 50                                                    | 50    |
| 35                                                    | 55    |
| 30                                                    | 60    |
| 22.5                                                  | 65    |
| 15                                                    | 70    |
| 13.5                                                  | 77.5  |
| 12                                                    | 85    |
| 10.5                                                  | 92.5  |
| 9                                                     | 100   |
| 8                                                     | 110   |
| 7                                                     | 125   |
| 6                                                     | 150   |
| 5                                                     | 175   |
| 4                                                     | 200   |
| 3                                                     | 250   |
| 2                                                     | 300   |
| 1                                                     | 400   |
| Less than 1                                           | 500   |

Note that this is a non-linear scale. As density falls, class ratings and bureau class rates rise quickly, with a similar result for discounted rates for many shippers. This benefits carriers. However, as density rises, class ratings fall far more slowly, resulting in slower reductions in the bureau class rates that are the baseline for discounting in the marketplace. This also benefits carriers.

To illustrate, if a commodity currently rated at Class 100, based on a minimum average density of 9 pounds per cubic foot, is found after research by the NCC to have an actual minimum average density of 6 pounds per cubic foot, the commodity will be rerated from Class 100 up to Class 150, leading to a 50% increase in the applicable bureau class rate. However, if shippers were to come in and show a change in another Class 100 commodity from 9 pounds per cubic foot to 12 pounds per cubic foot, the commodity

would be rerated from Class 100 down to Class 85, leading to a 15% reduction in class rates, even though the change in both cases is 3 pounds per cubic foot in minimum average density.

Not only are NCC's procedures and standards skewed in favor of carriers and against shippers, but NCC proceedings often involve small changes as to 20 or 30 different commodities. On occasion, a large increase in a large number of commodities may be proposed, energizing shippers. NASSTRAC and NITL note that manufacturers of lighting fixtures have expressed their opposition to renewed antitrust immunity for the NCC in a number of letters filed in this proceeding. We share their concerns.

However, there are also many instances in which, by keeping the increases varied and modest, NCC can avoid shipper opposition. Few shippers today have employees who follow NCC dockets, and large shipper associations like NASSTRAC and NITL must devote most of their resources of the interests of all their members. They lack the resources to represent shippers of chainsaws, motorcycle saddles, footlockers and sneeze guards, etc., in May, shippers of animal antlers and soap dispensers, etc., in August, and shippers of ac adapters, boilers and office counters, etc., in November. The STB should therefore favor structural remedies in proceedings like this one that will eliminate or minimize potential abuses.

The NCC can be expected to make two arguments in favor of the status quo. One is that shippers can protect themselves through contracts. Many shippers have done this, but it makes no sense to tolerate, let alone preserve, a system that so clearly enables carriers to act collectively, with antitrust immunity, to further their own interests merely because many knowledgeable shippers have elected to protect themselves through con-

tracts. Smaller and less knowledgeable shippers' interests are not irrelevant, and even large shippers may not always be able to enter contracts covering all of their freight.

Caveat emptor may be an acceptable rule of commerce in markets characterized by full and free competition, but it should not be the Board's guiding principle in determining the rules for collective carrier action with STB-approved antitrust immunity.

Another likely argument from NCC is that it needs to increase some shippers' commodity class ratings so other shippers don't pay too much. This would be a more convincing argument if the NCC were lowering as many class ratings as it is raising. Even then, however, the fundamental question remains: why should carriers, acting collectively with antitrust immunity, decide which shippers need to pay higher freight rates on which commodities, when these determinations can be left to the free market?

What most shippers want is for their rates to be determined by competition and by arms-length negotiations, and not through carrier price-fixing by an anachronistic remnant of a long-abandoned regulatory model.

NASSTRAC and NITL therefore urge the Board to terminate antitrust immunity for the NCC. Antitrust immunity is not necessary for freight classification, or the National Motor Freight Classification, to continue to be used, subject to future changes negotiated by shippers and carriers. However, if antitrust immunity is to be maintained for the NCC, further conditions need to be imposed. The Board has in the past considered shipper voting participation in NCC proceedings, possibly including a 50-50 mix of carrier and shipper decisionmakers. This recommendation was not adopted, but it should be reconsidered.

A possible alternative to a continuing shipper presence in all NCC actions would be the formation of an advisory panel of shipper and carrier representatives, under STB auspices and with antitrust immunity, to consider reforms beyond the access to data and arbitration reforms previously ordered by the Board. Such a group could attempt to develop procedures that address the problems of disparate burdens on carriers (light) and shippers (heavy). The group could also explore the possibility of a linear scale of density guidelines, as well as other points of contention between shippers and carriers.

There is a precedent for such an advisory group. Several years ago, representatives of motor carrier members of the NCC met over a period of several months with representatives of NASSTRAC and NITL to develop a new bill of lading. The result of these negotiations was the "Uniform Straight Bill of Lading" that currently appears in the NMFC.

Whether or not it authorizes formation of a carrier-shipper advisory group, the Board should direct the NCC to adopt fair density guidelines, to modify its investigation procedures so shippers know the precise issues involved (e.g., 10 inch Revere frying pans rather than all pots, pans and cookware from all manufacturers), and to further simplify and facilitate shipper participation.

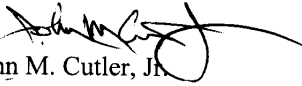
V. CONCLUSION

For the foregoing reasons, NASSTRAC and NITL urge the Board to terminate antitrust immunity for the rate bureaus and the NCC, or to condition their continued immunity as discussed in these Opening Comments.

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