



213602

22 March 2005

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Reference STB EP 656

Dear Mr. Williams:

We understand the Surface Transportation Board (STB) is accepting "Reply Comments" until 1 April 2005, Reference STB ExParte No. 656 – Docket Number EP 656.

After reading the comments of the National Motor Freight Traffic Association (NMFTA) and the National Classification Committee (NCC), we find no reason to change our position that was stated in our letter of 18 January: *we believe it is not appropriate to grant antitrust immunity in today's deregulated economy.* We strongly recommend that antitrust exemption be withdrawn from the NCC and other similar entities and we urge the STB to remove the exemption now.

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In reviewing the comments of the NCC and other groups, we found no compelling argument to continue their antitrust exemption. The NCC states in its Comments Part I, Page 4 that *"the vast majority of motor carriers providing common carrier service, and many contract carriers as well, participate in the NMFC for one reason only, because the system continues to work well for them and for their customers.* In our opinion, the system works well for truckers because they can use the classifications created by the NCC to increase their revenues. It does not work well for shippers! Their costs are increased through a system that has no place in a deregulated economy.

Truckers and shippers need no special mechanism to do business today. Every business has ample access to information that will allow them to arrange proper contracts for service. Other U.S. businesses operate without antitrust protection and the trucking industry can be equally successful without it.

In our letter of 18 January we also said should the STB find some reason to continue the NCC's antitrust exemption, we called on the STB to insure fairness and that the NCC be restructured from the current 100% trucker make up to 50% shippers and 50% truckers, with an impartial chairperson. In the NCC's Comments Part II Page 3 they state *"shippers cannot serve as NCC members, but they nevertheless have a strong voice in the classification making process."* In our view, if you have no vote, you have no voice! The

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shipping community has no representation on a body (the NCC) that has significant influence over its business. While the members of the NCC are fine people, their perspective and interests lie with the trucking industry. If the NCC is to continue, it must fairly represent both points of view and the shipping community can only be effectively represented by persons from their own constituency.

World Trade Center
PO Box 420288
Dallas, Texas 75342-0288

800.60.light toll-free
214.698.9898 telephone
214.698.9899 fax
www.americanlighting.com

The NCC discussed "Public Notice and Disclosure" in Part II, Page 5 of their Comments. We wish to emphatically state that 60 days notice is not adequate for shippers of any industry to be prepared for a classification meeting. Worse, to have rebuttal materials prepared and submitted 30 days in advance of the hearing, is a burden and inadequate time. Most shippers in the lighting industry do not have full-time logistics people to work these issues. Even if they do, no one has excess staff standing by to respond to a possible NCC notice. Notice of hearings should, at the least, be 180 days and shippers should have a minimum of 120-150 days to respond. This additional time is needed to allow persons to meet work/travel schedules and reorganize their time to adequately prepare and submit their response.

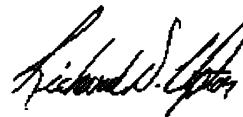
Finally, we point out to the STB that the lighting industry community feels so strongly about this issue that 42 manufacturing members of ALA sent letters calling for the termination of the NCC's antitrust immunity. Additionally, several members of Congress have written to Chairman Nober urging the STB to carefully consider the issue.

Thank you for receiving our comments.

Respectfully submitted,



Michael H. Ber, CLC
Chairman, Board of Governors
American Lighting Association
Association



Richard D. Upton, CCE
President/CEO
American Lighting

A handwritten signature in black ink, reading "Paul Wilhelm Eusterbrock". The signature is written in a cursive style with a large, stylized 'P' and 'E'.

Paul W. Eusterbrock
Chairman, Freight Classification Task Force
American Lighting Association

Other Submissions

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Middle Name:	D.		
Last Name: *	Upton		
Address: *	PO Box 420288		
City: *	Dallas		
State: *	TX		
Zip Code: *	75342-0288		
Email Address: *	dupton@americanlightingassoc.com		
Group/Affiliation:	American Lighting Association		
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