



215283

THE GENLYTE GROUP INCORPORATED
10350 ORMSBY PARK PLACE, SUITE 601
LOUISVILLE, KENTUCKY 40223
PHONE 502/420-9500
FAX 502/420-9540

November 18, 2005

Secretary Vernon A. Williams
Surface Transportation Board
1925 K Street N.W., Suite 700
Washington, DC 20423

ENTERED
Office of Proceedings

DEC - 5 2005

Part of
Public Record

Dear Secretary Williams:

Decisions are being made that will impact our daily business and your invitation for additional input prior to your decision on STB EX Parte No. 656 (Sub-No.1), *Investigation into the Practice of the National Classification Committee* is appreciated.

Genlyte is a member of both NEMA (National Electrical Manufacturers Association) and ALA (American Lighting Association) and has represented both groups in person during recent NCC hearings related to decisions involving classification changes to classification 109810-Lighting Fixtures. I am aware that you have received a letter and detailed information on this issue from ALA President & CEO Mr. Richard Upton, Mr. John F. McKiernan, ALA Chairman - Board of Governors, and Mr. Paul W. Eusterbrock, ALA Chairman - Freight Classification Task Force.

We agree with the information presented in the aforementioned letter and also urge the Surface Transportation Board to terminate the NCC's antitrust immunity. Maintaining this antitrust immunity amounts to giving the trucking industry a special advantage in the marketplace, and the shipping community does not support this advantage. Truckers and shippers are fully capable of negotiating their own agreements and eliminating the hidden rate increases that are unfair to everyone.

The NCC is funded by the trucking industry and the voting body consists only of carriers. The ability of shippers to receive an unbiased decision is not realistic in the current setting. As Mr. Upton mentioned in his summary and I will attest to as well, in the 109810 - lighting fixtures hearing, we felt the decision was made before the vote was ever taken, despite the overwhelming facts that indicated no significant changes in characteristics had occurred. In addition, the prior two decisions in 1990 and 1997 favored the continued 4-tier classification with the same data. In essence this decision broke a long-standing precedent for this commodity, again demonstrating a carrier bias in the decision.

I think it is important to point out that eleven Lighting Industry organizations were present at the hearing. I can't speak for each business, but Genlyte spent several thousand dollars in expenses and man-hours to prepare for this hearing. I would estimate that total costs (travel, meals, accommodation, research hours, etc.) from NEMA, ALA and the industry members might well have exceeded \$100,000. My point is this; companies (including ourselves) will not fight these decisions in the future when their efforts are deemed futile because of a biased decision making process. Case in point, Genlyte did not spend any money or resources in the Fans/Light Kits hearing in August of 2005 for this very reason. You will see this trend continue from most of the shipping industry because we will not waste valuable resources to fight pre-made decisions by a monopoly board protected by antitrust immunity. It makes no sense and undermines the free market, pure competition process.

If the STB does think that antitrust status should continue, contrary to the opinion of the shipping industry, then a variation to the current structure needs to be implemented. Some recommendations include but are not limited to: 1) longer notices of Dockets/Reviews given to shippers for preparation; 2) equal representation for all voting decisions and 3) NCC procedures should not favor either shippers or carriers. While these are some of the basic changes, the total elimination of the NCC is still the preferred outcome and let market competition proceed.

In closing, as a key lighting manufacturer, member of NEMA and the American Lighting Association, and a representative of the August, 2004 negotiating team, I urge you to terminate the decision to grant antitrust immunity to the NCC.

Sincerely,



Jeff Leep
Corp. Director of Logistics

JL/lis

cc: Larry Powers/Genlyte Group
Ron Schneider/Genlyte Group
John McKiernan/ALA
Richard Upton/ALA
Paul Eusterbrock/ALA