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SERVICE DATE – LATE RELEASE DECEMBER 13, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 656

MOTOR CARRIER BUREAUS–PERIODIC REVIEW PROCEEDING

AGENCY: Surface Transportation Board.

ACTION: Request for comments.

SUMMARY: Pursuant to 49 U.S.C. 13703(c), the Surface Transportation Board is instituting a proceeding to conduct its periodic review of motor carrier collective-activities agreements previously approved under 49 U.S.C. 13703. The Board is seeking comments from those motor carrier bureaus that wish to have Board approval for their collective-activities agreements continued. The Board also is seeking comments from all interested persons on how those agreements, as ordered conditioned by the Board, have been working.

DATES: Opening comments may be filed by the bureaus and any interested member of the public by February 15, 2005. Reply comments may be filed by March 17, 2005. Rebuttal comments may be filed by April 6, 2005.

ADDRESSES: Any filing submitted in this proceeding must refer to STB Ex Parte No. 656 and must be submitted **either** via the Board's e-filing format **or** in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's "www.stb.dot.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (and also an IBM-compatible floppy disk with any textual submission in any version of either Microsoft Word or WordPerfect) to: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. Because all comments will be posted to the Board's website, persons filing them with the Board need not serve them on other participants but must furnish a hard copy on request to any participant.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1609. [Federal Information Relay Service for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 13703, the Board may authorize motor carriers (including motor carriers of passengers and household goods) to enter into "bureau" agreements for the collective establishment of rates, fares, classifications, and certain ancillary activities.

Board authorization immunizes activities taken under the approved agreements from the antitrust laws. Under section 13703(c), the Board must, every 5 years, institute a proceeding to review the motor carrier bureau agreements previously approved under section 13703 and shall change the conditions of approval of an agreement or terminate it when necessary to protect the public interest. Under this provision, the Board must now commence a review proceeding. The Board is hereby commencing the required statutory review proceeding. Approvals of existing agreements will continue in effect unless the Board determines otherwise.

Each bureau should, at a minimum, file a statement with the Board indicating whether it desires to continue to have its collective-activities agreement approved by the Board. The Board's records indicate that approvals for the agreements of the following ratemaking bureaus have expired for lack of timely compliance with the conditions on renewal imposed by the Board during the prior review cycle: Machinery Haulers Association, Inc.; Motor Carriers Traffic Association; Nationwide Bulk Trucking Association, Inc.; New England Motor Rate Bureau; and Willamette Tariff Bureau, Inc.<sup>1</sup> If the Board's records are incorrect in this respect, each affected bureau must notify the Board.

The Board also is particularly interested in whether anything affecting the public interest has changed since the prior review cycle. In that review cycle, the Board approved the bureaus' applications for renewal of their agreements, subject to conditions.<sup>2</sup> In particular, the Board required the National Classification Committee to amend its agreement to provide: (1) shippers with access to specified additional information at an earlier stage in the classification process; (2) resolution of classification dockets by a single, expedited decision; and (3) the right to seek an initial review of that decision by a neutral arbitrator.<sup>3</sup> The Board required the ratemaking bureaus to amend their agreements to provide for: (1) the furnishing of a "truth-in-rates notice" when collective rates are

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<sup>1</sup> In EC-MAC Motor Carriers Service Association, Inc., Et Al., STB Section 5a Application No. 118 (Sub-No. 2), et al. (STB served Oct. 16, 2003), the Board summarily approved the agreements of certain bureaus after noting their full compliance with the required conditions, and, for other bureaus, the Board listed the specific steps required for individual bureau compliance.

<sup>2</sup> The agreement of the National Bus Traffic Association, Inc., was approved without conditions. Application of the National Bus Traffic Association, Inc., for Extended Approval of its Conformed Agreement, Section 5a Application No. 9 (Amendment No. 8) (STB served May 24, 2002). The Household Goods Carriers' Bureau Committee has been operating under its previously approved agreement, and may continue to do so, until the Board rules on its application for renewal of that agreement.

<sup>3</sup> See National Classification Committee – Agreement, 3 S.T.B. 917 (1998), 4 S.T.B. 496 (2000), and decisions served Nov. 20, 2001, Mar. 27, 2003, Oct. 16, 2003, and Dec. 10, 2003.

quoted; and (2) a prohibition of use of a loss-of-discount penalty for late payment of rates.<sup>4</sup> Information on whether these conditions are working as intended would be especially helpful.

Board filings, decisions, and notices are available on its website at [www.stb.dot.gov](http://www.stb.dot.gov).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: December 13, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams  
Secretary

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<sup>4</sup> See EC-MAC Motor Carriers Service Association, Inc., Et Al., STB Section 5a Application No. 118 (Sub-No. 2), et al. (STB served Nov. 20, 2001, Mar. 27, 2003, and Oct. 16, 2003); Niagara Frontier Tariff Bureau, Inc. – Agreement, STB Section 5a Application No. 45 (Amendment No. 17) (STB served Oct. 16, 2003); Middlewest Motor Freight Bureau, Inc. – Renewal of Agreement, STB Section 5a Application No. 34 (Sub-No. 10) (STB served Jan. 21, 2004); and Pacific Inland Tariff Bureau, Inc. – Renewal of Agreement, STB Section 5a Application No. 22 (Sub-No. 8) (STB served Jan. 15, 2004).