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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
DALLAS REGIONAL OFFICE

COMMISSION AUTHORIZED

Office of the Regional Director

October 2, 1989

Raymond A. Bennett, Director
Transportation/Gas Utilities Division
Railroad Commission of Texas
1701 North Congress Avenue
Austin, Texas 78701

Dear Mr. Bennett:

In response to a notice published in the Texas Register,¹ the staff of the Federal Trade Commission submits this comment on the proposed amendment of Section 5.582 of Title 16 of the Texas Administrative Code.²

The proposed revision would permit most common motor carriers operating within the State of Texas to adjust their rates for intrastate shipments within a greater range than current regulations allow.³ Although the amendment would not abrogate all restrictions on common carriage rates, we believe that the relaxation of price constraints would benefit consumers by increasing choices, improving service, and reducing prices for the transportation of goods.

¹ 14 Tex. Reg. 3746 (Aug. 4, 1989).

² These comments are the views of the staff of the Dallas Regional Office and Bureau of Economics of the Federal Trade Commission. They are not necessarily the views of the Commission or any individual Commissioner.

³ Texas law recognizes three principal types of motor carriers transporting goods intrastate for-hire. Only common carriers would be affected by the proposed amendment to 16 T.A.C. § 5.582.

I. Interest and Experience of the Staff of the Federal Trade Commission

The Federal Trade Commission ("FTC") is an independent regulatory agency, which enforces Section 5 of the Federal Trade Commission Act⁴ prohibiting unfair methods of competition and unfair or deceptive acts or practices. By enforcing this statute, the staff of the FTC has gained experience in analyzing the effects of various trade restraints and the costs and benefits of these restraints to consumers. Upon request by federal, state or local governmental bodies, the staff of the FTC regularly assesses the competitive impact of legislative and regulatory proposals to identify provisions that may benefit consumers by promoting competition and reducing prices and provisions that may harm consumers by impairing competition or increasing costs without offering offsetting benefits.

During recent years, the Commission's staff has studied the deregulation of trucking and the benefits from increased reliance on market forces at both the federal⁵ and state⁶ levels. In

⁴ 15 U.S.C. § 45.

⁵ See Comments of the Federal Trade Commission on Pricing Practices of Motor Common Carriers of Property Since the Motor Carrier Act of 1980, Ex Parte No. MC-166, Before the Interstate Commerce Commission (Jan. 1983); Supplementary Comments of the Bureau of Competition, Consumer Protection and Economics of the Federal Trade Commission on the Exemption of Motor Contract Carriers from Tariff Filing Requirements, Ex Parte No. MC-165, Before the Interstate Commerce Commission (1983); Breen, Bureau of Economics, Federal Trade Commission, Regulatory Reform and the Trucking Industry: An Evaluation of the Motor Carrier Act of 1980, Submitted to Motor Carrier Ratemaking Study Commission (March 1982).

⁶ See letter from Thomas B. Carter, Director, Dallas Regional Office, Federal Trade Commission, to Texas Rep. Hugh D. Shine, concerning tow truck regulation (Apr. 18, 1989); testimony of James A. Langenfeld, Deputy Director for Antitrust, Bureau of Economics, Federal Trade Commission, Before the Public Utilities Commission of California, concerning the impact of deregulation on the trucking industry (Oct. 27, 1988); letter from John Mendenhall, Acting Director, Cleveland Regional Office, Federal Trade Commission, to Ohio Rep. Frank Sawyer, concerning contract carrier motor freight rates (Feb. 16, 1988); letter from Janet Grady, Director, San Francisco Regional Office, Federal Trade Commission, to California Sen. Rebecca Morgan, on legislation to repeal the Public Utilities Commission's authority to set contract carrier motor freight rates (Dec. 31, 1987); Comments of the Federal Trade Commission Staff to the Legislative Audit

addition, the FTC's Bureau of Economics recently published a report on trucking deregulation.⁷ Our activities in this area and in matters of competition policy generally have provided us with experience in analyzing the potential effects of trucking deregulation.

II. Texas State Regulation of Common Motor Carriers

In 1929, the Texas Legislature enacted the Texas Motor Carrier Act, investing the Railroad Commission of Texas with broad authority to regulate the intrastate trucking industry.⁸ The statute defines three classes of for-hire motor carriers transporting goods within the state. "Contract carriers" may serve up to five specific shippers, pursuant to contracts between the carriers and each shipper. "Specialized carriers" use special equipment in transporting goods or carry particular commodities specifically named in the Texas Motor Carrier Act. "Common carriers" transport general commodities for shippers at large.⁹ Under its statutory mandate, the Railroad Commission has promulgated a wide range of regulations controlling entry into, and prescribing intrastate rates for, each class of motor carriage. Entry and shipping rates were tightly controlled until 1983 and 1987, respectively, when the legislature enacted major reforms affecting competition in common motor carriage.

A. Market entry requirements

Until 1983, entry into the Texas trucking industry as a common carrier was difficult. A prospective entrant was required to establish the inadequacy of existing service in order to obtain a required certificate of public convenience and necessity. The Railroad Commission could issue a certificate only after a hearing, at which incumbent firms were entitled to protest the granting of route authority to a new entrant.

Council of the State of South Carolina on possible restrictive or anticompetitive practices in South Carolina's Public Service Commission statutes (Sept. 29, 1987); Statement of the Staff of the Federal Trade Commission on economic deregulation of trucking to House and Senate Transportation Committees, Washington State Legislature (March 7, 1985).

⁷ Owen, Bureau of Economics, Federal Trade Commission, Deregulation in the Trucking Industry (May 1988).

⁸ Acts 1929, 41st Leg., p. 698.

⁹ Tex. Rev. Civ. Stat. Ann. § 911b(1)(g)-(i) (Vernon).

The 68th Legislature eased the market entry requirements in 1983.¹⁰ Although the requirement of obtaining a certificate of public convenience and necessity was not abolished, the revised statute altered the burden of proof. Thus, if a prospective entrant establishes, *prima facie*, that its entry in the market would promote the public convenience and necessity, the protestant then bears the burden of proof to show the adequacy of existing service or the inability of the applicant to serve the public's need. Moreover, the Railroad Commission now must disregard protests by carriers that have not endeavored to serve part of the geographical area at issue in the application. Further, in making its determination of public convenience and necessity, the Commission may not consider the services or facilities of firms that are not party to the proceeding.

B. Rate regulation

From the enactment of the Texas Motor Carrier Act until its amendment by the 70th Legislature in 1987, trucking rates for common motor carriers were tightly controlled. The law granted the Railroad Commission the authority to set minimum and maximum rates. Traditionally, the Railroad Commission prescribed tariffs setting rates for the transportation of specific commodities and commodity groups. The prescribed rates were based on the average operating costs of a group of carriers and an assumed margin of revenue above these costs. The Commission required all motor carriers to charge the regulated rates, unless a carrier could justify a different rate based upon its individual costs. Over the years, however, thousands of rate variances developed in Railroad Commission tariffs because of rate adjustments for particular commodities, particular routes, and the circumstances of particular shippers and carriers. (For example, El Paso and the Rio Grande Valley were allowed lower outbound "backhaul" rates because an imbalance of incoming and outgoing freight resulted in underutilized carrier capacity.)¹¹ Because only the Railroad Commission had the authority to set rates, carriers were unable to deviate from the published tariffs without applying to the regulatory agency.

In 1987, the Legislature made "the most comprehensive changes to the Motor Carrier Act since its original enactment in

¹⁰ Acts 1983, 68th Leg., p. 1183, ch. 263, § 15B (eff. Sept. 1, 1983), Tex. Rev. Civ. Stat. Ann. art. 911b, § 4(e) (Vernon).

¹¹ Railroad Comm. of Texas, Transportation Div., Staff Report to the House Business and Commerce Committee, 3-4, 8 (Apr. 19, 1988).

1929."¹² Commonly referred to as Senate Bill 595, the new law mandated simplification of the tariff system for motor carriers.¹³ The Railroad Commission is required, *inter alia*, to establish by collective ratemaking procedures base rates for the shipment of general commodities weighing more than 500 pounds.¹⁴ These rates are to be determined on the basis of "actual operating costs" and "a reasonable margin," which is the same basis the agency had used previously. For the first time, however, common carriers are allowed some flexibility to determine their own rates. The law permits deviation from the base rate up to 5% for shipments weighing between 501 pounds and 10,000 pounds, and up to 15% for shipments over 10,000 pounds.¹⁵ Carriers intending to deviate from the base rate must file a notice of the proposed rate with the Railroad Commission; the proposed rate is made public and becomes effective five days after filing.

Within 15 days of public notification, an interested party may petition the Railroad Commission for suspension of the proposed rate on the ground that it results in "predatory pricing," defined in the statute as rates that are below the carrier's "actual operating costs or unreasonably above such costs or which are unduly discriminatory." If the Railroad Commission finds predation, it may disallow the deviation.

C. Proposed regulatory change

In addition to the 5% to 15% rate deviations permitted common carriers under Senate Bill 595, the statute grants additional authority to the Railroad Commission to deregulate motor carrier rates further. Section 4(a)(9) of the Texas Motor Carrier Act, as amended, empowers the Railroad Commission to increase (but not decrease) the permitted degree of deviation

¹² *Id.* at 1.

¹³ Acts 1987, 70th Leg., ch. 372, § 2 (eff. Aug. 31, 1987).

¹⁴ The legislation has no direct effect on specialized or contract carriers, or on common carrier shipments of 500 pounds or less. However, the Railroad Commission was given discretionary authority to extend the rate deviation provisions to other motor carriers and smaller shipments. Tex. Civ. Stat. Ann. art. 911b, § 4(a)(8)-(10) (Vernon).

¹⁵ Railroad Commission regulations implementing the deviation provisions are published in Title 16 of the Texas Administrative Code, Section 5.582.

from established rates for common carriers.¹⁶ Pursuant to that authority, and acting upon the petition of a shipper, the Railroad Commission has proposed amending 16 T.A.C. § 5.582. The proposed amendment would permit common carriers to charge rates deviating up to 40% from base rates on shipments weighing at least 501 pounds.¹⁷

III. Arguments Advanced in Support of Regulation

Trucking regulation, including legal restraints on motor carrier rates, originally was intended to help protect the regulated railroads from competition from the then-unregulated and expanding trucking industry. It also was designed, in part, to support the trucking industry by restricting competition during the depression of the 1930's.¹⁸

In our experience, those who support continued rate-setting and other regulation of motor carriers usually advance four major arguments. They argue that regulation will prevent predatory pricing, forestall destructive competition, maintain safety, and ensure service to small communities. As discussed below, however, a number of empirical studies have concluded that none of these rationales supports the contention that continued regulation of common motor carriers is either necessary or desirable.¹⁹

A. Predatory pricing

A primary argument advanced in support of rate regulation is that such regulation will prevent predatory pricing. The principal thrust of this argument is that larger, better financed companies will attempt to drive out competitors by selling

¹⁶ Acts 1987, 70th Leg., ch. 372, § 2 (eff. Aug. 31, 1987); Tex. Civ. Stat. Ann. art. 911b § 4(a)(9) (Vernon).

¹⁷ 14 Tex. Reg. 3746 (Aug. 4, 1989).

¹⁸ Nelson, "The Changing Economic Case for Surface Transport Regulation," in Perspectives on Federal Transportation Policy (James C. Miller III, ed. 1975).

¹⁹ These arguments have been discussed and dismissed in a number of studies. See generally Weinstein & Gross, Transportation and Economic Development: The Case for Reform of Trucking Regulation in Texas, Center for Enterprising, Southern Methodist University (Feb. 1987); Breen, supra note 5; Owen, supra note 7.

trucking services below their average variable costs.²⁰ The surviving firms will then raise their prices above the competitive level, eventually recouping their losses and increasing their profits.

This argument is usually applied to industries with high entry barriers and high sunk costs. The trucking industry comprises two distinct segments. One involves shipments of 10,000 pounds or more (truckload, or TL, shipments), and the other involves shipments of less than 10,000 pounds (less-than-truckload, or LTL shipments). Truckload shipments usually go from shipper to consignee without intermediate handling; the truck itself is the only equipment needed. Because trucks are highly mobile and can be transferred quickly, sunk costs are probably minimal in the TL segment. Although LTL shipments often are transported to break-bulk facilities before reaching their destinations, the sunk capital costs associated with warehousing do not make predation more likely. The sunk costs can be reduced significantly by leasing, rather than owning, terminal facilities.

If a predator tried to raise its prices to noncompetitive levels, other firms should enter or re-enter the market, taking business away from the predator and forcing prices back to competitive levels. Predatory pricing is therefore unlikely to succeed. Because predation is unlikely to be profitable, motor carriers are not likely to attempt it. In 1987, the General Accounting Office joined the Interstate Commerce Commission, the Motor Carrier Rate-making Study Commission, and the Department of Justice in concluding that predation is unlikely to occur as a consequence of trucking deregulation.²¹ In Matsushita Electrical Industrial Co. v. Zenith Radio Corp.,²² the Supreme Court stated

²⁰ As noted above, Senate Bill 595 uses "predatory pricing" to include unreasonably high or discriminatory prices, as well.

²¹ United States General Accounting Office, Trucking Regulation: Price Competition and Market Structure in the Trucking Industry, 8-10 (Feb. 1987). The positions of the ICC, MCRSC, and DOJ are discussed in the GAO report.

²² 106 S. Ct. 1348 (1986).

that "predatory pricing schemes are rarely tried, and even more rarely successful."²³

For these reasons, predatory pricing in the trucking industry appears to be little more than a theoretical possibility.²⁴ This theoretical possibility does not justify the type of price restraints embodied in the current Texas regulations any more than it would in any other competitively structured industry. In any event, firms that attempt to engage in predatory pricing would also be subject to public and private antitrust enforcement actions.

B. Destructive competition

Proponents of trucking regulation also argue that deregulation of motor carriage rates will lead to "destructive competition." Destructive competition may occur in industries characterized by fluctuating demand, relatively high sunk costs, and a high ratio of fixed to total costs. These conditions are likely to create excess capacity and considerable pressure to cut prices when demand falls. If price competition exists, prices may persist below the total cost of providing services because the sunk nature of costs makes capacity adjustments difficult. Firms facing such losses may, as a result, try to reduce costs by skimping on service, to the detriment of customers.

Conditions conducive for destructive competition are not likely to exist in the trucking industry. Fixed costs comprise only a small percentage of total costs, which include such variable costs as labor and fuel expenses. Trucks also are highly mobile assets, which suggests that they may be transferred readily and easily from less profitable to more profitable geographic markets in response to fluctuations in demand, or sold

²³ *Id.* at 1357-58, citing R. Bork, *The Antitrust Paradox*, 149-56 (1978); Areeda & Turner, "Predatory Pricing and Related Practices Under Section 2 of the Sherman Act," 88 *Harv. L. Rev.* 697, 699 (1975); Easterbrook, "Predatory Strategies and Counterstrategies," 48 *U. Chi. L. Rev.* 263, 268 (1981); Koller, "The Myth of Predatory Pricing -- An Empirical Study," 4 *Antitrust L. & Econ. Rev.* 105 (1971); McGee, "Predatory Price Cutting: The Standard Oil (N.J.) Case," 1 *J. L. & Econ.* 137 (1958); McGee, "Predatory Pricing Revisited," 23 *J. L. & Econ.* 289, 292-94 (1980).

²⁴ For a review of the modern theoretical literature on predatory pricing, see J. Tirole, *The Theory of Industrial Organization*, Cambridge: MIT Press, 1988, chs. 8 & 9.

or leased to other operators. Therefore, it seems unlikely that destructive competition will occur.²⁵

C. Safety

Another argument that has been advanced is that deregulation will have an adverse effect on safety in the trucking industry, because carriers facing stiff competition in rates or service will neglect maintenance, delay replacement of vehicles, and overwork drivers. Although opponents of deregulation have cited statistics showing an increase in the average age of trucks on the road and a greater frequency in reported accidents involving truckers, other studies have shown that safety has not been compromised following deregulation.²⁶ In any case, reduced safety is not a necessary consequence of price and entry deregulation; nor do regulated motor carriage rates ensure that profits will be spent to ensure safe truck operations.

A study of truck safety in California, conducted jointly by the California Public Utilities Commission ("CPUC") and the California Highway Patrol was "unable to prove the hypothesis that CPUC economic regulation of trucking is significantly and positively linked to improved highway safety."²⁷ In Texas, the Railroad Commission shares with other agencies the responsibility to ensure the safe operation of motor carriers; stringent enforcement of safety regulations need not depend on the existence of inflexible tariffs.

D. Preserving service to small communities

Some proponents of trucking regulation have argued that deregulation will result in loss of service to smaller communities, because motor carriers will find it unprofitable to serve small markets unless they are guaranteed a fair return on investment. This argument has a certain appeal in Texas because more than 2,500 cities and towns have populations under 25,000; and the size of the state may mean that some of these communities are geographically isolated. However, studies of the effect of

²⁵ See A. Kahn III, 2 Economics of Regulation 178 (1971), in which the author states, "[D]oes trucking have the economic attributes of an industry subject to destructive competition? It would be difficult to find one less qualified."

²⁶ Owen, supra note 7, at 18-21; Weinstein & Gross, supra note 19, at 50-51.

²⁷ California Public Utilities Commission & California Highway Patrol, AB 2678 Final Report on Truck Safety, Joint Legislative Report, 3 (Nov. 1987).

trucking deregulation at the federal and state levels have not revealed any significant deterioration in service to small communities.

A series of surveys conducted between 1980 and 1985 by the U.S. Department of Transportation found that a large majority of shippers in rural areas reported either no change or an improvement in the quality of service after partial deregulation of interstate trucking by the Motor Carrier Act of 1980.²⁸ These findings are consistent with those of a 1982 Interstate Commerce Commission study, which found that federal deregulation had resulted in lower prices, less damage, and often more service options for shippers in small communities.²⁹ Similarly, in a survey following deregulation of intrastate trucking in Florida, 65 per cent of respondents in small communities expressed a preference for deregulation, with 30 per cent expressing no preference.³⁰

A researcher at Texas A & M University has concluded that small Texas communities would not lose service in a deregulated environment, because common carriers have found such service to be profitable. Noting individual entry petitions for common carrier operating authority, as well as a resale market for existing authority, the researcher found that these indications of willingness to serve small communities suggested that carriers would provide the service voluntarily, "even in the absence of regulation."³¹

IV. Benefits of Deregulation

Adoption of the proposed amendment to 16 T.A.C. § 5.582 permitting intrastate common carriers in Texas to deviate up to 40% from established base rates, may result in lower shipping

²⁸ Pub. L. No. 96-296, 94 Stat. 793 (1980). See U.S. Dept. Transp., Third Follow-Up Study of Shipper-Receiver Mode Choice in Selected Rural Communities, 1982-3 (1986); U.S. Dept. Transp., Fourth Follow-Up Study of Shipper-Receiver Mode Choice in Selected Rural Communities, 1984-5 (1986).

²⁹ Interstate Commerce Comm., Small Community Service Study (1982).

³⁰ Beilock & Freeman, "Motor Carrier Deregulation in Florida," 14 Growth and Change 31-41 (1983).

³¹ Pustay, "Interstate Motor Carrier Regulation in Texas," The Logistics and Transportation Review, vol. 19, no. 2 (1984), quoted in Weinstein & Gross, supra note 19, at 49.

rates and service/rate combinations that are preferred by shippers.

There is little doubt that the regulated intrastate shipping rates that have been charged by common carriers in Texas have been costly to Texas consumers and damaging to the competitive position of businesses within the state. Studies have cited a significant disparity between interstate and intrastate rates. For example, Procter & Gamble could ship detergent from Tulsa to Dallas for \$1.46 per mile; shipping it about the same distance, from Houston, cost \$2.52 per mile.³² Frito-Lay found it saved \$95 per truckload shipping corn chips to San Antonio from Mississippi, rather than from its Lubbock plant, 200 miles closer.³³ Some shippers have located their warehouses in adjoining states, primarily to avoid Railroad Commission regulation and to secure lower interstate rates.³⁴ Researchers surveyed more than 2,700 Texas manufacturers and distributors, mostly small businesses heavily dependent upon Texas suppliers and customers. Asked to rank the importance of aspects of the Texas business environment to their companies' performance, more than half the respondents declared shipping costs to be second only to demand for their products. Nearly three quarters reported that the disparity between interstate and intrastate shipping rates adversely affected their ability to compete.³⁵

If the proposed amendment is made, Texas intrastate shipping rates are likely to decrease. After Senate Bill 595 became effective, common carriers quickly took advantage of the opportunity to adjust their rates within the 5% and 15% deviations allowed by the law. In the first three months of 1988, for example, common carriers filed 231 applications for rate deviations, the great majority for rate decreases. Moreover, motions for suspension were rare.³⁶

A number of other states have already deregulated intrastate rates as well as eased entry restrictions into the intrastate trucking industry. The experiences of these states attest to the benefits to consumers and competition produced by trucking deregulation. California, for example, experimented with partial

³² Owen, supra note 7, at 30-31; Weinstein & Gross, supra note 19, at 21.

³³ Id.

³⁴ Id.

³⁵ Weinstein & Gross, supra note 19, at 18-19.

³⁶ See Railroad Commission Staff Report, supra note 11, exhibit 2.

economic deregulation of trucking from 1980 to 1986. During that time entry was virtually free, and rates, though regulated, were flexible.³⁷ The result was lower rates with no loss in service.³⁸

A study of trucking in New Jersey concluded that deregulation has worked well in that state.³⁹ According to a study by W. Bruce Allen, shippers were satisfied with the available service, rates were about ten percent lower than they would have been under regulation, and intrastate carriers have prospered.⁴⁰

In Florida, deregulation occurred so quickly that truckers and shippers had no opportunity to prepare for it. Nonetheless, according to one study, a year after deregulation, 88 percent of shippers, as well as 49 percent of truckers, supported it. Most shippers thought that service levels remained constant and that rate fluctuations had posed no difficulties. Only a few shippers converted to private carriage;⁴¹ many more such shippers' conversions might have been expected if "destructive competition" had resulted in a large reduction in the number of truckers.⁴²

³⁷ Carriers were permitted to change rates, after a short waiting period, without having to show the change was cost-justified. There was no waiting period to match a competitor's rate.

³⁸ Simmerson, "Analysis of The Impact of Deregulation of the General Freight Trucking Industry," Investigation No. 84-05-048, California Public Utilities Commission, 20-21 (Aug. 10, 1984) (based upon survey by CPUC of 239 general freight carriers and survey by California State University, Hayward, Institute of Research & Business Development of 596 shippers.)

³⁹ Allen, Lonergon & Plane, Examination of the Unregulated Trucking Experience in New Jersey, U.S. Dept. of Transportation (July 1979).

⁴⁰ Allen, Statement Before the National Commission for the Review of Anti-Trust Laws and Procedures (January 22, 1979).

⁴¹ Private carriage refers to those situations where the motor carrier is owned by the shipper.

⁴² Freeman, "A Survey of Motor Carrier Deregulation in Florida: One Year's Experience," ICC Practitioners Journal, at 51 (Nov.-Dec. 1982).

Likewise, a 1982 U.S. Department of Transportation study⁴³ found that 90 percent of Florida shippers believed that post-deregulation service was at least as good as service before deregulation and 30 percent reported improvements. A majority of these shippers (58 percent) perceived that deregulation had held down rates. Finally, economists Blair, Kaserman, and McClave found that Florida's deregulation of intrastate trucking led to a 15 percent average reduction in motor carrier rates.⁴⁴

The experience of other states is consistent with that of California, New Jersey and Florida. For example, in Wisconsin, 67 per cent of shippers were satisfied with deregulation and only six per cent were dissatisfied. Seventy-three per cent said that rate information was as readily available after deregulation as before. Carriers were evenly divided on the question of deregulation. Those with increased profits tended to favor deregulation, while some of those opposing deregulation were concerned about the loss of the asset value of their certificates of convenience and necessity.⁴⁵

In Maryland, intrastate household goods movers were not regulated. A study conducted in that state in 1973-1974 revealed that the then-regulated interstate household goods carriers charged 27 per cent to 67 per cent more than unregulated intrastate carriers for comparable moves.⁴⁶

Oregon deregulated the shipping of certain building materials in 1980. The results of this action were examined in two separate surveys by the Legislative Research Office of the Oregon Legislature.⁴⁷ All parties surveyed agreed that deregulation increased the number of carriers in the market. According to one survey, almost all shippers and most of the truckers with prior authority to carry these products believed

⁴³ Statement of Matthew V. Scocozza, Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation, Before the Subcommittee on Surface Transportation, U.S. House of Representatives (June 20, 1984).

⁴⁴ Blair, Kaserman & McClave, "Motor Carrier Deregulation: The Florida Experiment," 68 Rev. Econ. & Stat. 159 (1986).

⁴⁵ Wisconsin Office of the Commissioner of Transportation, Deregulation of Wisconsin Motor Carriers (July 1983). There may, however, be other capital losses.

⁴⁶ Breen, "Regulation and Household Moving Costs," Regulation, 53 (Sept.-Oct. 1978).

⁴⁷ Unpublished surveys conducted by the Oregon State Legislature's Legislative Research Office (1984).

that trucking rates had decreased. None of the groups surveyed believed that general rate levels had increased as a result of deregulation.

It thus appears that deregulation of intrastate trucking has not had the adverse impact on competition or consumers that had been predicted by many critics of deregulation. In fact, deregulation has been beneficial to the industry and consumers alike. If the Railroad Commission approves the amendment to 16 T.A.C. § 5.582 and allows deviations up to 40% from base rates, the rates charged by common carriers for shipments exceeding 500 pounds may be effectively deregulated. This deregulation of intrastate trucking rates in Texas may, as it has in other states, result in lower transportation charges with no undesired reduction in service. The Railroad Commission is further empowered to grant rate-setting flexibility to specialized and contract carriers and for smaller shipments by common carriers. The Commission may wish to consider whether similar rate-setting flexibility as to those categories of carriers and shipments might also be beneficial.

V. Conclusion

The proposed amendment to 16 T.A.C. § 5.582, which would permit common carriers to deviate further from established rates for shipments over 500 pounds, may result in significant benefits for consumers. These carriers will be more likely to provide the price and service options desired by their customers, and they will be able to adjust quickly to changes in their business environment.

We appreciate this opportunity to present our views.

Sincerely,



Thomas B. Carter
Director