

STATEMENT OF
HONORABLE NEIL GOLDSCHMIDT
SECRETARY OF TRANSPORTATION
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
UNITED STATES HOUSE OF REPRESENTATIVES
REGARDING
MOTOR CARRIER REGULATORY REFORM
FEBRUARY 28, 1980

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss legislation to reform regulation of the trucking industry. As you know, the President and all of us in the Administration are committed to strong trucking reform legislation and I think it most appropriate that this priority issue is the subject of my first appearance before this Committee. With me today are Mark Aron, Deputy General Counsel at DOT, John Hassell, the Acting Federal Highway Administrator, and Don Flexner, Deputy Assistant Attorney General, Antitrust Division.

Trucking reform legislation presents the Congress with a unique opportunity not only to improve our truck transportation system, but to help control inflation, conserve fuel, and reduce red tape in government.

This Committee has recognized the significance of trucking reform proposals and has made a strong effort to promptly review all aspects of the issue. The Members and staff of this Committee have traveled to every region of this country to hear from the grass roots about all aspects of the trucking industry. I heartily commend the Committee for having undertaken that process.

Mr. Chairman, as a result of these efforts, you, Chairman Johnson, Representative Harsha, and Representative Shuster have introduced H.R. 6418, the "Motor Carrier Act of 1980".

This bill is an important initiative which includes a number of reforms that will benefit the public. However, Mr. Chairman, I think I should make it clear from the beginning that we do not find this bill sufficiently responsive to the need for reform, and we are here to ask for significant changes in the bill. Simply, we don't think the bill does enough to improve truck transportation, help consumers, and promote competition. It doesn't do enough to open up entry, it allows price-fixing to continue indefinitely, and, in light of these weaknesses, it offers too much pricing flexibility to carriers, to the detriment of shippers and consumers. The end result of this combination may very well be inflationary. This is a result I know we both want to avoid and I am very hopeful that we can work together on this.

Mr. Chairman, what I'd like to do today is start that process of working together and begin what I hope will be a very thorough and candid dialogue between the Administration and this Committee. We think the facts require a strong trucking reform bill and today I will outline some of that evidence. I also want to address some of the arguments that have been used by opponents of reform, particularly the small community service argument.

Let me also make clear at the outset that the Administration does not support "deregulation" of the trucking industry. What we have proposed is a number of specific reforms to end specific wasteful and anti-competitive practices in the trucking industry. Arguments against "deregulation" are simply not arguments against our position.

Without further introduction, let me outline our views on the major issues in trucking reform legislation.

Benefits of Competition

Mr. Chairman, we firmly believe that present trucking rates are higher than they need be and that injecting more competition into the trucking industry will help keep rates down, to the benefit of consumers and shippers.

This belief is based on fact and real world experience as well as theory. Much of this evidence comes from studies comparing similar truck freight moving in regulated and unregulated environments.

Mr. Chairman, one of these studies focused on your own home state, New Jersey. A study prepared for the Department found that unregulated intrastate rates in New Jersey are about 10-15 percent lower than rates for comparable regulated interstate shipments.

Perhaps the best known studies of the benefits of competition looked at the experience of the fifties, when the courts ruled that the transportation of certain then-regulated agricultural commodities was exempt from ICC regulation. Studies by the Department of Agriculture showed that rates on fresh and frozen poultry and fresh and frozen fruits and vegetables fell by 19-33 percent shortly after the courts exempted the transportation of those products from ICC regulation.

Lower rates from non-ICC-regulated carriers do not mean inferior service, either. Shippers are satisfied with service from non-ICC-regulated carriers. Our New Jersey study found that 97 percent of the shippers surveyed thought the service for unregulated intrastate shipments was equal to or better than the service they got on regulated interstate shipments. And farm groups, who rely heavily on non-ICC-regulated truckers, would not be arguing so strongly for reform before this Committee if truck service to farmers wasn't good.

The increased use of private carriage is further evidence that regulated truck rates are higher than they would be in a freer environment. We have all heard of the tremendous increase in private carriage. Shippers dissatisfied with high rates and inadequate service from regulated trucking have increasingly preferred to ship their goods in their own or leased trucks rather than pay for regulated carriage. Alfred Kahn has referred to this significant trend as "shippers voting with their feet" against regulated carriage. And, Mr. Chairman, it appears that these feet are no longer walking, they're running, in spite of the higher level of empty backhauls and other difficulties faced by private carriers under the present system. The December 24 issue of Business Week noted that we are now experiencing a new surge in this continuing trend toward private carriage, and that article clearly labeled the high rates of regulated carriers as the cause for the shift.

Another aspect of this trend away from regulated carriage is the growth of shipper associations. As you know, shippers can join together to form non-profit associations, exempt from ICC regulation, for the consolidation of shipments for line-haul transportation by regulated carriers. We have found that the volume carried by such associations has almost quadrupled since 1964. On the other hand, the volume of traffic handled by freight forwarders, the regulated counterparts of these associations, who charge regulated less-than-truckload rates, has actually fallen by almost 10 percent in the same period.

There is good reason for shippers to join these associations. A recent survey of shipper associations done for DOT indicates that transportation rates enjoyed by members of exempt shipper associations are from 11-39 percent lower than the regulated rates available to individual shippers, with the biggest savings enjoyed on shipments of the highest-valued

commodities. These savings are available because the association, acting like a freight forwarder, consolidates the freight of its member shippers and charges unregulated truckload rates.

Mr. Chairman, the trend away from common carriage ties in directly to comparisons between the rates of regulated and unregulated trucking. A study completed by the ICC in 1976 found that, as measured by the use of private carriage, shipper dissatisfaction with for-hire trucking is much more acute in the regulated than in the unregulated sectors. That ICC study found that 40 percent of regulated commodities were hauled by private trucks, while private carriage moved only 19 percent of the exempt traffic. Clearly, shippers are more satisfied and have less need to consider arranging for their own transportation when they are served by the more competitive exempt sector of the trucking industry.

Mr. Chairman, we've also taken a look at the industry's contention that regulation has served to keep rate increases below the rate of inflation. Our preliminary results show that, since 1972, regulated truck rates have gone up at a slightly higher rate than the Consumer Price Index (CPI).

As part of this study we considered the very important question of differences between truckload rates, which are available to big shippers with many alternatives, and less-than-truckload rates, which are available to small shippers who generally have few transportation options. Truckload rates are sometimes referred to as "partially deregulated" because the truckload shipper has many alternatives to regulated carriers, including private carriage, and is often able to negotiate rates with the carriers. On the other hand, less-than-truckload shipments are highly regulated.

If the industry argument is correct, one would expect to find that rates for the more heavily regulated less-than-truckload sector would be

lower, but the opposite is true. We found that truckload rates seem to have increased at an annual rate almost a quarter lower than the CPI, while the more heavily regulated less-than-truckload rates have increased over half again faster than the CPI. Even when taking into account the different cost components for the two sectors, such as labor, these preliminary results indicate that less-than-truckload rates have risen faster than truckload rates. We believe this is further evidence that price-fixing and tough restrictions on entry into the general freight business, by limiting competition, inflict particular hardships on the small shippers and small businesses who rely most heavily on less-than-truckload general freight carriers.

So, Mr. Chairman, looking at the evidence, we conclude that less regulation and more competition in trucking will mean lower rates, and I turn now to what has to be done to make this industry more competitive.

Increasing Competition

There are three steps the Congress can take that will do the most to increase competition in the trucking industry. These steps would end legalized price-fixing in the trucking industry, remove artificial barriers to entry, and allow truckers to price their services within a zone of reasonableness not subject to ICC review.

The provisions of H.R. 6418 address all of these areas, and we commend all the sponsors for focusing on the major issues. However, we firmly believe that the changes you have proposed must be strengthened so that they can work together effectively to keep trucking rates down and benefit American shippers and consumers.

Restrictions on entry are one way in which the current regulatory system limits competition. Those who would retain the 1935 status quo argue that entry is virtually free already. Mr. Chairman, this argument does not stand up to the facts.

In a recently completed study which we provided to the Committee staff, we looked into statistics from recent years that show that the ICC is granting over 95 percent of all entry applications. We found that almost all recent applications and grants represent only requests for, and grants of, additional tiny monopolies. If someone wants authority to carry only empty ginger ale bottles, or to carry oyster shells from Baltimore to Michigan, and there are no protests from existing carriers, a filing fee and an average seven-month waiting time will probably suffice to get the authority.

But we found that if someone dares to seek broad operating authority, in terms of commodities carried or geographic area served, he or she is still faced with long, difficult, and expensive proceedings, and limited prospects for success. These recent narrow grants of common carrier authority, many of which authorize service only to or from an individual plant or factory, simply have not resulted in meaningful additions to competition.

Those recent entry statistics are deceptive not just because they represent grants only of tiny monopolies. These statistics record as granted those applications which are granted only in part, including those which are in large part denied.

Further, Mr. Chairman, because applications which seek to inject new competition into markets are so heavily protested, an informal process has evolved under which applicants frequently do not file for new authority until after having consulted with potential protestants. This process encourages applicants to narrow the scope of their requests and, as a result, applicants often file for substantially less authority than they really want.

This system also works particular hardships on small businesses and minorities. While a large trucking company seeking to enter lucrative markets has the legal and other resources needed to engage in long protested proceedings before the ICC, small businesses usually do not. So, barriers to entry must be lowered to give all new entrants a fair chance to enter the regulated trucking industry.

The bill before the Committee today recognizes the need for change in the entry area and proposes several useful reforms. Particularly, under the bill the public convenience and necessity test would no longer apply to requests for authority to serve areas abandoned by railroads, or points not served by another motor carrier. These kinds of reforms can improve small town truck service. The bill would also eliminate frivolous protests of entry applications.

However, we feel strongly that an important change should be made in the entry provision of H.R. 6418. One of the truly significant regulatory changes initiated by the ICC in recent years has been to shift the burden of proof on most (but not yet all) entry issues from the applicant to the opponents of an application. We think that this change is very necessary.

To us, placing the burden of proof on opponents of entry is a way of saying to them that "unless you give us a good reason, we're going to assume its good to allow more competition." But, to place the burden of proof on an applicant is to say to that applicant "we'll only believe more competition is good if you prove it to us." So, Mr. Chairman, given our concern with increasing competition, we were greatly disappointed to find that H.R. 6418 appears to reverse recent ICC decisions and place the burden of proof back on applicants, rather than on opponents of new entry.

This is not an inconsiderable burden, either. The public convenience and necessity test which has been administered by the Commission involves a number of factors. Under H.R. 6418 the Commission would have to consider, in entry applications: evidence of public support and need for an application, quality and quantity of available service, and the new national transportation policy for motor carriers of property. Producing evidence pursuant to these kinds of requirements is particularly difficult for smaller firms. So, to return to the past on this point would be a signal to small businessmen and innovative trucking companies that the opportunity to compete will not be had easily or inexpensively.

In brief, there is a need to reform the current entry process and the way to do that is to accelerate the trend that the ICC has begun. Placing the burden of proof on applicants would offer carriers protection they don't have under the present system, and we most strongly recommend that the burden of proof be placed squarely on the opponents of an application.

As to price-fixing, we are extremely disturbed that H.R. 6418 would not end antitrust immunity for any segment of the industry, either now or at some point in the future. While H.R. 6418 would reform the way that rate bureaus operate, and while we think that many of these reforms are desirable, they are not sufficient. We have to begin now to end price-fixing itself. Rates which are set collectively generally reflect the revenue needs of the relatively inefficient carriers, and there is no competitive incentive for carriers to set lower, individual rates. What it all means is that price-fixing adds to the costs of consumers and shippers, and we think it essential that this Committee develop legislation which will phase-out price-fixing.

Let me also mention that to end price-fixing is not to abolish rate bureaus. Rate bureaus would be able to continue to publish rates and provide informative services to shippers after antitrust immunity for truckers is eliminated.

Regarding the specific rate bureau reforms proposed in H.R. 6418, we do recommend a change to remove an ambiguity which we believe was unintended. The provision concerns the docketing of intrastate rates. There is presently no federal statute that immunizes intrastate price fixing of motor carriers, and the Justice Department recently won a case in Atlanta against two rate bureaus, enjoining them from continuing to fix intrastate rates. It is our understanding that the provision was not intended to change existing law to permit intrastate rate fixing, but we are quite concerned that this section might be interpreted differently by carriers who would then be exposed to antitrust liability. To avoid creating any unintended ambiguity in the law, we suggest that this section be deleted entirely.

As to pricing flexibility, H.R. 6418 would allow individual carriers to price their services within a zone of plus or minus ten percent, or they may choose to "go with the rate bureau," so long as antitrust immunity continues, if they wish to subject rate changes within the zone to ICC review. While pricing flexibility can be an important reform that can work to the benefit of shippers and consumers, we think that this provision might well be counterproductive in combination with other provisions of H.R. 6418, and I turn now to a discussion of the relationship of various parts of the regulatory system.

Mr. Chairman, as I said earlier, reforms in the areas of entry, price-fixing and ratemaking flexibility can have the greatest impact on competition in the industry. What I did not stress earlier is that it is critically important that the implementation of these reforms be closely coordinated. To provide reforms in only one or two of these three areas could be ineffective, or even counterproductive.

For example, ratemaking flexibility without sufficient rate bureau reforms or entry liberalization -- or entry that is slow in coming -- could easily lead to a preponderance of rate increases, not decreases. In such a case, existing carriers could take advantage of both their present market power and their new ability to raise rates.

On the other hand, increased entry without sufficient ratemaking flexibility could easily lead not to price competition, but service competition, much as we witnessed among the airlines in the 1960s and early 70s. In this scenario we could certainly expect to see more frequent scheduling of truck movements, which would mean reduced load factors. This combination would give us the worst of both worlds: rates that continue to be higher than they ought to be, and greater fuel waste as load factors fall.

As to H.R. 6418, we feel that the bill must provide for more entry and for a phase-out of price-fixing to enable the flexible ratemaking reform you have proposed to have its intended effect. We want entry reformed so that there will be more carriers available to compete in markets and we want antitrust and ratemaking reforms so that there will be price competition between the carriers that do enter a market.

We believe that entry reform, particularly limited entry reform, combined with continued price-fixing, would place unrealistic reliance on the zone of rate freedom to achieve the pricing competition that is needed to help keep rates down for shippers and consumers. We are not confident that a ten percent zone will encourage individual carriers to leave the protective umbrella of the rate bureaus' immunity and prepare ratemaking initiatives on their own. And without a good bit of individual ratemaking, we will not see much price competition. "Business as usual" general rate increase requests will continue as long as there is immunity to do so and they will likely exceed 10 percent. Without antitrust and significant entry reforms we might not see many price decreases either, even though our studies and other studies have indicated that rate reductions of 20 and 30 percent are realistic expectations in some segments of the industry.

So, it is crucial that ratemaking flexibility be combined with the elimination of antitrust immunity and with significant entry reform. Without more entry reform and an end to price-fixing we could expect to see truckers in many markets using only the upward side of the zone,

depriving shippers and consumers of the benefits of competition that the zone was intended to provide. In other words, as I said at the outset, this combination would likely have an inflationary impact. We find this possibility to be so undesirable, and so likely, that unless the bill is amended to provide more entry reform and a phase-out of price-fixing, we do not think that any upward pricing flexibility should be offered to the trucking industry. While we do believe that truckers should have pricing flexibility, they should only have that flexibility in a competitive environment, an environment which will protect shippers and consumers in the absence of ICC regulation.

However, in conjunction with phased-out price-fixing and significant entry reform, it might be reasonable to allow truckers even more ratemaking freedom than H.R. 6418 would allow. In a truly competitive environment, shippers would be able to find alternatives to truckers who price their service unreasonably high and, in such a case, a larger zone would be acceptable, if not desirable. Further, a wider zone would have the benefit of encouraging imaginative and efficient pricing systems such as peak and off-peak rates, low backhaul rates, and the like. For seasonal or time-sensitive traffic, carriers may have to offer, at short notice, a wider spread of rate options than allowed under H.R. 6418's zone in order to allocate their trucking capacity efficiently. For example, some truck fleets may be idle during certain periods, and it may be worthwhile for a shipper and a carrier to take advantage of the otherwise idle fleet at a rate lower than permissible under the proposed zone.

Mr. Chairman, to summarize this discussion of entry, ratemaking flexibility, and antitrust immunity, we feel that H.R. 6418 recognizes that change is needed in these critical areas. However, we also believe that the bill must offer much more reform of rate bureaus and entry so that consumers and shippers can obtain the benefits that are there to be had.

Specific Reforms

Mr. Chairman, let me shift now to a discussion of the need for reform of several particular aspects of the trucking industry. The most important of these specific proposals would remove fuel wasting operating restrictions, broaden the agricultural exemption, and open up opportunities for private and contract carriers.

Operating Restrictions

Mr. Chairman, in the past year I know that you and the other Members of the Committee have heard a great deal about the many irrational operating restrictions governing trucking operations. Truckers are often required to follow out-of-the-way routes or carry an absurdly limited range of commodities. Ending these restrictions will save fuel and greatly improve the efficiency of trucking operations and, in a more competitive environment, these fuel and other savings will be passed on to consumers and shippers.

Let me also mention that the removal of restrictions will do more than reduce operating inefficiencies. The broadening of commodity and backhaul authorities is a form of increased entry and, as such, is also an important part of efforts to make trucking more competitive.

H.R. 6418 addresses this important problem by providing for prompt ICC consideration of applications to remove restrictions, including circuitous routing, backhaul, and commodity restrictions. We think the provision should be strengthened by providing for at least several of the restrictions to be removed automatically. Further, we have serious concerns with one aspect of the proposed scheme for Commission consideration of applications to remove restrictions.

Let's consider circuitous routing requirements. Mr. Chairman, in these times we simply cannot allow this kind of regulatory waste. It makes no sense to require trucks to travel from Philadelphia to Ohio by way of upstate New York, or from Denver to Albuquerque by way of Salt Lake City. One carrier based in New Jersey has told us that he must serve the traffic between Pittsburgh and Frederick, Maryland by way of Southern New Jersey, adding 216 miles to what should be a 188 mile trip. Mr. Chairman, no ICC proceeding, even an expedited one, is needed to resolve the merits of applications to end circuitous route restrictions.

But although circuitous routes are perhaps the most blatant example of wasteful operating restrictions, all restrictions work together to waste fuel and add to operating costs. The New Jersey carrier I mentioned earlier has recently filed with the ICC to have all of its restrictions removed, including routing, backhaul, commodity, and intermediate stop restrictions. In its filing the carrier estimated that it would save over 100,000 gallons of fuel per month if restrictions are removed. This application faces numerous protests and difficult proceedings before it is resolved. Lengthy proceeding for restriction removal petitions are clearly inappropriate and the Committee is to be commended for recognizing that part of the solution is providing for an expedited process.

There is one aspect of that proposed process which we would definitely like to see deleted. H.R. 6418 provides that in a proceeding to remove restrictions the applicant shall have the burden of showing that the proposed removal of a restriction will result in fuel or efficiency savings. This provision may not focus only on the fuel and efficiency savings that might be achieved by the applicant. The provision could

well be construed as requiring an applicant to show that the removal of restrictions on his operations will not adversely affect the efficiency of competing truckers.

There are several problems with such an approach. First, it creates an unreasonable factual burden. No trucker should be required to know so much about his competitors' operations as to be able to show how removal of his restrictions will affect the operations of others. Second, this kind of requirement can only slow down and impede the process of removing restrictions. Mr. Chairman, given the urgent need to conserve fuel in this country, the restriction removal provision of trucking reform legislation should be drafted in a manner which clearly favors the prompt elimination of restrictions. Thirdly, the provision would be applied to applications to remove restrictions that impede some goal other than fuel savings or efficiency. For example, removal of intermediate stop restrictions could enhance service to many small towns. However, an applicant seeking to remove an intermediate stop restriction in order to provide new service to a small town would have to meet a burden of proof as to whether the removal of his restriction helps his efficiency or fuel savings more than it hurts the fuel use or efficiency of his competition. And that burden would have to be met before the ICC could even begin to weigh the social benefits of providing more service to the small town.

This is not to say that the Commission should not consider system wide fuel savings in proceedings. However, H.R. 6418 will give the Commission that authority even in the absence of that burden of proof provision. Another part of this provision indicates that, in reviewing

applications to remove restrictions, the ICC is to consider energy savings, potential cost savings, efficiency and the factors of the national transportation policy. This, we think, is the correct approach to ICC review of application to remove restrictions. It would allow the Commission to balance energy considerations with competitive factors, without placing an undue factual burden on a trucker seeking to make some sense out of his overly restricted operations.

Mr. Chairman, our position on restriction removal is quite clear. On behalf of the American people, we simply must obtain the largest possible energy savings in this legislation. The Department of Energy has estimated fuel savings of 220-320 million gallons per year from the reforms the Administration proposed. We are certain that, with modifications, the restriction removal provision of H.R. 6418 can also provide substantial savings, and we strongly urge you to strengthen this provision as part of the national effort to conserve fuel.

Agricultural Transportation

It is extremely important to significantly expand the agricultural exemption. The evidence is clear that the rates for transporting certain unprocessed agricultural products dropped significantly when transportation of those products was removed from economic regulation. Further, the evidence is equally clear that this sector of the industry operates efficiently, and that every town in America receives regular shipments of fresh produce. We feel strongly that the effectiveness of the agricultural sector, both in terms of costs and efficiency, presents a compelling argument for expansion of the exemption.

Our own legislation, H.R. 4586, proposed that the transportation of processed food, farm machinery and implements, fertilizer, and other agricultural items be made exempt. H.R. 6418 moves in the right direction

but not as far as we think the merits require. H.R. 6418 would add only a few commodities to the exempt list, specifically feed, seed and plants.

We are aware that the owner-operator provision of H.R. 6418 in part addresses the need to expand the agricultural exemption. That provision would lift restrictions for one important group of operators serving the agricultural sector. However, we do not find that provision to be a wholly satisfactory substitute to our proposals. Thus, we urge you to supplement the reforms you have proposed by expanding the agricultural exemption to include uncooked meat, processed food, fertilizer, farm implements, and other agricultural items.

We also continue to support an expansion of the authority of agricultural coops to haul non-exempt goods on an exempt basis. This expansion will help these coops fill their trucks on backhauls and cut down on fuel waste. Further, we feel that the expansion of this authority should not be combined with imposition of new conditions on those coops which choose to haul non-exempt traffic. We feel that present ICC controls on coop transportation of this traffic are adequate. Our goal is to help consumers by making trucking more competitive and efficient. Expanding opportunities for coops is part of the answer; more paperwork is not.

Private Carriers

As I mentioned earlier, recent years have seen a tremendous shift from regulated to private carriage in order to avoid the high prices charged by the regulated general freight carriers. However, as I also

noted, today's private trucker faces significant operating restrictions. Private carriers face empty backhauls more than twice as often as regulated carriers, as the present system has limited their ability to obtain backhaul traffic.

We continue to believe that the truck transportation system would be made more efficient and competitive by legislation which would codify recent ICC decisions and end any legal question as to whether private carriers may obtain common carrier authority, either for front-hauls or backhauls. Such legislation should also include reform of the securities laws governing truck transportation, such as have been proposed by the Commission and ourselves. We also recommend legislation to expand the right of private carriers to trip lease for regulated carriers.

In addition H.R. 6418 should be modified to put an end to the present unreasonable restrictions on intercorporate hauling. Intercorporate hauling can help private carriers fill up their backhauls and operate more efficiently. While H.R. 6418 has the merit of firmly establishing the legality of intercorporate hauling, we feel the provision is too restrictive in allowing intercorporate hauling between parent and subsidiary companies only when the subsidiary is wholly owned by the parent. We feel that the Committee should allow intercorporate hauling for subsidiaries which are more than 50 percent controlled by the parent. Such a provision would make private carriers more competitive and help fill up empty backhauls.

Contract Carriers

H.R. 6418 would lift at least one important restriction on contract carriers by ending limitations on the number of shippers a contract carrier may serve. However, further reforms are needed to assure that shippers and consumers will obtain the benefits of increased service from contract carriers.

First, as to dual authority, the bill correctly recognizes that contract carriers should have the opportunity to apply for common carrier authority. However, the bill's provision places a restriction on such applications which is not found in present law. H.R. 6418 would condition a grant of common carrier authority to a contract carrier on a finding by the Commission that the grant of dual authority will result in more balanced and fuel efficient operations.

This restriction could well be subject to the same kind of interpretation as the burden of proof provision in the operating restrictions section. Under this provision, an applicant might have to show how a grant of authority to him would affect the fuel efficiency of not only his own operations, but also of his competitors' operations. Further, the provision would prevent the Commission from balancing the many factors involved in a public interest determination of the application's merits. A twenty percent cost savings to a shipper might not be allowed to outweigh a possible fuel inefficiency to a competitor.

Mr. Chairman, the way to assure that the competitors of contract carriers do not suffer fuel inefficiencies is to remove the operating restrictions on those carriers, free up entry, and let those carriers rationalize their own operations. This new limitation on dual authority

is not needed to assure that the Commission considers energy factors, but it needs to be deleted to be sure that other factors are also given appropriate weight.

We would like to see several other restrictions on contract carriers removed. For example, we think that contract carriers should be allowed to enter into agreements with freight forwarders and persons other than the owners of goods to be shipped. We would also like to see the burden of proof placed on opponents of applications for contract carrier authority. So, Mr. Chairman, we feel that modifications to the provisions of H.R. 6418 regarding contract carriers would help shippers and consumers obtain the benefits that contract carriers can offer.

Let me also mention that we do not favor opening up opportunities only for these particular classes of carriers. What we want is a balanced approach that opens up opportunities for the general freight common carriers as well. Eased entry and removed operating restrictions will give common carriers new opportunities just as removing other restrictions will help agricultural, private and contract carriers.

Arguments Against Reform

Mr. Chairman, what I have described so far today are a number of common sense reforms to the present system of trucking regulation that can help us in our national effort to keep prices down and reduce fuel waste. However, in the last year we have heard a number of arguments that these reforms will have adverse side effects. Primarily we have heard two arguments - that less economic regulation will make trucking a less safe industry, and that changes to the present system will somehow adversely affect the ability of shippers and consumers in small towns to obtain the truck service they need.

Safety

On safety, I think the main point is that safety laws, not economic regulation, operate to assure safe motor vehicle operation.

We have studied allegations that there is a causal relationship between commercial motor vehicle safety and economic regulation. The available evidence simply does not support those allegations. Mr. Chairman, the various kinds of restrictions in the present trucking system which I have described today were never designed to promote safety, so it is not surprising that we cannot find evidence that they have had an effect on safety. The ICC has said that its only statutory basis for safety authority is its administration of the fit, willing, and able requirement, a requirement that we would retain and revitalize.

However, we do feel that this is the time not only to improve the economic regulatory system governing trucking, but also the time to improve our truck safety laws. Title II of the Administration's trucking reform bill set forth a number of important proposals to improve commercial motor vehicle safety programs and we continue to support legislation in this area. As you know, Mr. Chairman, the Senate has passed truck safety legislation, S. 1390. To assist this Committee in the development of safety legislation we will forward to the Committee in the near future some specific comments on S. 1390.

Service to Small Communities

Let me turn now to allegations that reforms of wasteful regulatory practices will somehow adversely affect small town truck service.

Mr. Chairman, our studies of this issue demonstrate that small town service will not be hurt by reform. In fact, we have found that small community service can be improved by reforms. In short, the state of small community service is a reason for proposing change, not a reason for resisting change, and this is borne out by the facts.

The main facts are these. First, we have found no evidence to support allegations that, under the present system, carriers cross-subsidize service to small towns with so-called "excess" profits from service to larger cities. Further, the carriers have repeatedly told us that there are no "excess" profits for truckers, so it's hard to find the source of any cross subsidy.

Second, Mr. Chairman, we have not proposed any change to the exit provisions of present law. I think this bears repeating because on this point the opponents of reform have tried very hard to argue against the strawman of "deregulation," not against the merits of particular reform proposals. Simply, we never proposed a change in the common carrier obligation.

Third, and of greatest importance, we have found that, under the present system, the regulated general freight carriers simply do not deliver a high percentage of the goods shipped to small towns. It is other kinds of trucking that keep small town America going.

We've found, from studies done in the field, that far away from the ICC's offices here in Washington, the common carrier obligation doesn't prevent a common carrier from ceasing to provide service without notifying the ICC.

And not only did we find that many common carriers were not providing service, we found that those who were handled only a small part of truck service provided to small towns. These towns receive most of their truck service from private carriers, with significant contributions from small package firms, agricultural exempt carriers, and intrastate carriers.

Mr. Chairman, these were the findings of studies conducted in many states, including Nevada, Oregon, New Mexico, Kentucky, Washington, Idaho, Montana, and Utah. These were also the findings of a recent study by the California Public Utilities Commission, which looked at interstate and intrastate truck service to small towns in California. These results are consistent with the results of earlier studies, and all of the particular studies I just mentioned have been completed within the last year. They are more up to date than anything else that is available on the subject.

And, Mr. Chairman, I think it is important to note that in designing our study of small towns in Nevada, Kentucky, and New Mexico, we were fortunate to have the assistance of the Senate Commerce Committee and its fine staff. We consulted with Commerce Committee staff in the design of our questionnaire. Further, the towns we studied were selected by the Commerce Committee. Copies of that study have been provided to the Members of this Committee.

Mr. Chairman, all of us have seen the advertisement picturing a truck passing through a small town. Under the picture is the phrase "the truck stops here." Well, Mr. Chairman, what we've found from our studies is that the truck does stop there, but it's not often the truck of a regulated interstate general freight carrier. It's usually a private truck, or an exempt truck or some other kind of truck.

And Mr. Chairman, it's important to remember that reforms can help improve town service. Expeditious removal of intermediate stop restrictions, eased entry, particularly for small package service, and an expanded

agricultural exemption are among the reforms that can help improve truck service to small towns and rural, agricultural areas. We are pleased that H.R. 6418 is responsive to some of these suggestions and we urge the Committee to broaden its small shipment entry provision and make other changes which will further improve small town service.

Mr. Chairman, in brief, I think the record is clear that reform is in the interest of small towns. This means that now, as we enter the final stages of Congressional consideration of trucking legislation, we can focus more clearly on specific proposals before us, recognizing that improved small town service is one of the merits of reform.

Other Provisions

In my statement today I have tried to focus on the major issues. However, we have looked at the other provisions of H.R. 6418. Of particular note, we believe that the proposed policy statement for motor carriers of property should give greater emphasis to competition and specifically reference potential as well as actual competition. The transportation policy statement is a factor to be considered in every Commission decision, particularly those regarding entry, antitrust immunity and restriction removal. We think it tremendously important to emphasize competition in those and other ICC decisions.

We also found that the proposed exemption for truck transportation incidental to air transportation should be expanded to reflect the economic realities of that segment of the industry. We also noted that the bill would take effective action against the practice of lumping, and we join you in opposing that practice.

We do have some other suggestions and comments regarding other provisions of the bill and we will be forwarding some additional recommendations to the Committee in the next few days.

Summary and Conclusion

In closing, Mr. Chairman, let me reemphasize that the Committee is to be commended for having moved promptly to develop a bill. Further, we think that H.R. 6418 has identified the key areas where change is needed and moves in the right direction in many of these areas.

However, as I have said, the facts warrant significant modifications to the bill, modifications which will provide price and fuel conservation benefits to the public. As I said earlier, combining ratemaking flexibility with limited entry and rate bureau reforms would likely have an inflationary impact. To avoid this result, and provide benefits to consumers and shippers, we feel that the bill must take a stronger and more balanced approach to the reform of those areas most directly related to competition -- entry, ratemaking flexibility, and price-fixing.

The other provisions I discussed can also be made more responsive to the need to increase competition and conserve fuel. Agricultural transportation, operating restrictions and the role of private and contract carriers are important pieces of the trucking reform puzzle and I urge you to provide for more reform of these areas.

Finally, Mr. Chairman, what this all gets down to is that we simply cannot retain regulatory practices that waste fuel and add to consumer costs. Strong trucking legislation will end these wasteful practices and help consumers in towns large and small. These are goals that I think we all want to achieve, Mr. Chairman, and I think the American people want us to achieve them as soon as possible.

With these important goals in mind, I look forward to working with this Committee in the coming weeks to strengthen H.R. 6418 and to assure passage of strong trucking legislation.

This concludes my prepared statement, Mr. Chairman. At this time we would be pleased to answer any questions that you and the other Members of the Committee may have.

