

STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AND THE
SUBCOMMITTEE ON TRANSPORTATION AND HAZARDOUS MATERIALS
OF THE HOUSE ENERGY AND COMMERCE COMMITTEE

HEARING ON THE
GENERAL FUNCTIONS OF THE INTERSTATE COMMERCE COMMISSION

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Good afternoon, Messrs. Chairmen and Members of the Committee.

I welcome this opportunity to appear before both of your Subcommittees to discuss an issue of mutual interest, the regulatory jurisdiction and activities of the Interstate Commerce Commission (ICC).

The ICC has a long and distinguished history as the economic regulator of our nation's for-hire surface transportation carriers engaged in interstate commerce or the domestic portions of foreign commerce. Over time, its regulatory scope has expanded and contracted depending on changes in its statutory mandates and the commercial conditions of our rail, truck, bus, and water carrier industries. But its mission has remained constant: to encourage sound economic conditions in the transportation industry. We believe that the modern, post-reform ICC does an effective job of overseeing those industries it regulates, intervening in the marketplace only when necessary. After over a decade of significant changes - legislative reform, market restructuring, and economic swings from growth to recession back to growth - our transportation industries have largely emerged healthy and competitive. The ICC has a important role in maintaining that economic health, and we look forward to working with our ICC colleagues in that regard.

I would like to briefly outline how DOT and the ICC work together, that is, how our jurisdictional paths cross, and at the same time offer some brief

comments on how well the ICC has performed in implementing the Interstate Commerce Act and the regulatory reform statutes of the last eighteen years.

The two main areas in which DOT works most closely with the ICC are, first, through formal ICC regulatory proceedings, and, second, in determinations of the safety fitness of motor carriers. With regard to the latter, under current practice, if a motor carrier applicant is seeking interstate operating authority from the ICC, the ICC checks electronically to make sure DOT has not given the carrier an unsatisfactory safety rating, in which case the ICC would not award the authority. The ICC then informs DOT that the authority has been granted, so we can be certain the carrier is on our list for an on-site review to ensure the carrier is complying with Federal safety requirements.

In addition, both agencies are careful to maintain identical levels of financial responsibility (insurance) requirements. While the ICC polices its insurance requirements somewhat differently than we do, we believe the working relationship is excellent and that the system of shared responsibilities is working well. To put this into context, I should note here that of the 280,000 interstate motor carriers in the U.S., all of which are subject to DOT federal safety standards, the ICC regulates approximately 62,000 carriers.

With regard to the railroad industry, we believe that the remaining rail economic regulation works very well. The Staggers Rail Act of 1980 was an exceptionally fine piece of legislation. It carefully balanced the interests of rail carriers and shippers and, as implemented by the ICC, seems to have satisfied most of them. While the railroad industry is largely deregulated in terms of ton-miles carried, the ICC provides essential oversight in the areas of captive shipper protection, rail mergers, and rail line abandonments.

The Department participated in numerous ICC rulemakings in the years during which the Staggers Act was first implemented and has stayed active as important issues have arisen before the Commission. For example, we were heavily involved in CSX Corporation - Control - American Commercial Line, Inc., the first post-reform case of a Class I railroad's acquisition of a major water carrier. More recently, there have been relatively few occasions that have required our participation, with the most notable exceptions being the

Commission's reduction of regulation of car hire compensation and some relatively minor exemptions from ICC regulation. Overall, there have been few disagreements between our two agencies on issues of importance in rail regulatory policy.

In addition, there remain very few areas where there are strong disagreements among carriers or shippers over ICC rail regulatory policy. There were concerted attempts in the mid 1980's to roll back or "fine tune" some of the Staggers Act provisions as they applied to coal shipments, and to make a few adjustments concerning agricultural contract confidentiality provisions and an ICC export coal decision, but these matters appear to be settled now.

Not only are rail rates lower than they were before the Staggers Act for all major commodity groups, but most railroads are also far better off financially. In addition, intermodal operations have increased dramatically since the ICC exempted "piggyback" traffic from regulation in the early 1980's. This development has allowed freight to move efficiently from one mode to another (e.g. highway to rail), helped to reduce the burden on congested highways and, in the bargain, reduced energy consumption and air pollution. Shippers seem very pleased with the improved service. Moreover, since the Staggers Act rail accidents have fallen by about two-thirds. The improved financial condition of the industry can be credited with a portion of this improvement.

With regard to the intercity bus industry, economic conditions have changed dramatically since the Bus Regulatory Reform Act of 1982. The principal reforms of the Act concerned eased entry control, fare-setting by individual carriers rather than industry-wide, and ICC preemption of state regulatory decisions on entry, fares and service abandonments when those decisions adversely affect interstate carriers. We believe the ICC has continued to implement the Act as Congress intended. Large numbers of new carriers have entered the industry, most of them charter and tour carriers, as opposed to regular route carriers. Given the relatively low demand for intercity regular route services, by and large the industry seems workably competitive.

The main areas of concern are: the financial health of the industry, including that of Greyhound, which is by far the largest carrier; the large number

of service abandonments, especially in rural areas not served by Amtrak or air carriers; and the continuing competitive issues between Greyhound and the independent carriers with which it both cooperates and competes. We believe, however, that these concerns are primarily the result of economic and demographic factors affecting the industry, rather than any regulatory policies or decisions by the ICC. We have not had any substantial areas of disagreement with the ICC over its conduct of bus regulatory policy in recent years. In fact, we generally agree with the Commission's views on handling carrier disputes, recognizing that it has to use its regulatory powers very carefully in cases where one carrier's aggressive business practices can appear to another carrier as anti-competitive, especially in a declining industry. Unfortunately, the intercity bus industry has been in decline for several decades and, in spite of the best intentions of the proponents of the 1982 Act, it has not been the invigorating force that had been hoped. Competing for riders against the airlines and Amtrak for a traveling public that has more registered vehicles than licensed drivers, is a difficult task.

The ICC performed a study of the intercity bus industry in 1993, and its bottom-line concerning the complaints by independent carriers against Greyhound was to recommend no action be taken, but to monitor developments with the possibility of regulatory action in future, should there be an adverse change in circumstances. DOT agrees with that conclusion.

Finally, with regard to the trucking industry, the reforms of the Motor Carrier Act of 1980, coupled with their aggressive implementation by the ICC in the early 1980's, have been remarkably successful in creating a much more competitive trucking industry. Over 30,000 new carriers entered the industry, making rate levels more competitive. Of these new entrants, about 2,000 are women- and minority-owned carriers that had been effectively "frozen out" of the industry under the old entry controls. It also has been estimated that shippers and consumers have saved at least \$15 to \$20 billion per year from lower shipping costs. Even larger savings continue to accrue to businesses and their customers from the "just-in-time" inventory and manufacturing systems that were made possible by regulatory reform of the air cargo, trucking, and railroad industries. Employment in the trucking services industry has increased by about 675,000 jobs, including about 591,000 new truck driver jobs, even after netting

out the thousands of jobs that have been lost due to bankruptcies. Finally, evidence shows that the implemented reforms have produced these benefits without jeopardizing either small community trucking service or highway safety. The fatal accident rate for medium and heavy trucks fell to 2.5 per 100 million miles of travel in 1992 (the latest available data) from 4.6 in 1980.

The ICC's implementation of these trucking reforms has been very successful. However, adjustment to these new rules has been difficult at times. A notable example is the so-called shipper undercharge problem. We were pleased that an equitable legislative solution was worked out among all parties through legislation produced by the Surface Transportation Subcommittee. One of the major trucking functions that the Commission must perform for the next several years is the implementation of the Negotiated Rates Act of 1993. Hopefully that new law will put an end to much of the protracted litigation over these claims.

Of course the Commission also handles the thousands of applications for entry into the trucking industry, and the millions of tariffs that common carriers must continue to file as long as the tariff filing requirement remains law. However, these functions are purely ministerial in nature, and many argue that they serve no useful purpose.

The debate over the future course of trucking regulation will continue for some time, spurred on by conditions in a very competitive intermodal transportation marketplace. DOT will continue to participate in that debate and would welcome further dialogue with Members of Congress, our colleagues at the ICC, shippers, industry and labor over what is best for all segments of the industry.

Mr. Chairmen, that concludes my prepared remarks. I would be happy to answer any questions you may have.