

REPORT TO THE CONGRESS



BY THE COMPTROLLER GENERAL
OF THE UNITED STATES



LM101776

Improved Service To The Small Shipper Is Needed

Interstate Commerce Commission
Department of Transportation

Some truckers consider small shipments undesirable because they believe the revenue derived does not equal the costs. Therefore, shippers of small quantities of freight, especially occasional shippers or shippers in a remote area, sometimes find shipping difficult or service inadequate.

The Interstate Commerce Commission is responsible for making sure that truckers provide adequate, reasonably priced service to all shippers. GAO believes the Commission, within its regulatory capacity, could further improve service to the small shipper by

- collecting more reliable data on complaints,
- emphasizing the formal investigation of small-shipment complaints as the basis for Commission action, and
- determining whether authority to impose civil penalties would help combat the problems.

TO THE READER:

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This is our report on how the Interstate Commerce Commission can improve service to small shippers. The report discusses transportation problems of small shipments and how the Commission has, within its statutory authority, attempted to solve these problems.

We made our review pursuant to the Budget and Accounting Act of 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Chairman, Interstate Commerce Commission; and the Secretary of Transportation.

A handwritten signature in cursive script, appearing to read "Thomas A. Starks".

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

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Interstate Commerce Commission
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D I G E S T

One of the Interstate Commerce Commission's major objectives, required by law, is to make sure that regulated truckers provide adequate, reasonably priced service to all shippers.

Truckers believe the revenue from small shipments (less than a truckload) has not equaled their cost. Therefore, truckers have tended to assign their equipment to larger, profitable shipments. Shippers of small quantities of freight sometimes suffer inadequate or untimely service.

The dilemma of handling small shipments continues as a perplexing problem to all concerned. The Department of Transportation has studied the overall situation and supports the President's proposed Motor Carrier Reform Act as a way to improve service. (See p. 12.)

Since 1968, the Commission has reduced the number and severity of complaints from 8,300 in 1968 to an average of 3,700 annually since 1972. This data, however, is unreliable; GAO believes accurate data would show a substantially larger number of small-shipment complaints. The number, however, does not describe the full extent of the problem. The infrequent shipper or the shipper in a remote area is likely to experience most of the service problems since large shippers generally (1) have the volume leverage to get good service from truckers and (2) are located in areas where frequent service is available. Smaller shippers, according to Commission personnel, are unfamiliar with the Commission and change to another trucker rather than report service problems.

The Commission should:

-- Accumulate accurate data on the problem.

--Make additional investigations of service complaints as the basis for Commission action against truckers who violate the Commission's regulations.

--Determine whether authority to impose civil penalties could combat service problems effectively.

The Commission's information on small-shipment complaints is inadequate because criteria applied by the Commission's field staff who accumulate the data is not uniform. (See p. 19.)

The Commission can use a trucker's service history as a basis for questioning his service fitness when he requests authority to provide additional service. This technique is time consuming. Other administrative actions and rule-makings that could cause truckers to improve service also have been used to a limited extent. (See p. 20.)

If administrative actions and moral suasion fail to encourage truckers to provide adequate service to small shippers, the Commission can institute criminal proceedings. This is a cumbersome, severe tool and is seldom used. Authority to impose civil violations would strengthen the regulatory process, but to be effective, the amount of civil fines should represent an actual deterrent rather than a token amount. (See p. 24.)

If truckers believed rates for small shipments adequately covered their costs and provided a profit, then service would likely improve. In 1976, the Commission began a new study to define these costs. (See p. 28.)

The Commission believes GAO's report is a fair, constructive assessment of the small shipper's situation and has taken some corrective actions on GAO's recommendations. There were some points on which the Commission did take issue. (See p. 31.)

The Department said the report presents some excellent research documenting the situation facing small shippers, but it was disappointed that GAO did not challenge the fundamental structure of the Commission's regulatory approach.

GAO does not believe it is appropriate to use problems of the small shipper as the basis for challenging the broader issues of regulation. The objective of this review was to improve the operation of the Commission as it affects the small shipper. No attempt was made to evaluate the merits or demerits of deregulation proposals. Consequently, the recommendations of this report should not be construed as providing implicit support for either side of the issue. (See p. 32.)

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CHAPTER 1

INTRODUCTION

In November 1975 the President submitted to the Congress a proposed Motor Carrier Reform Act ^{1/} that would considerably deregulate the motor carrier industry which the Interstate Commerce Commission has regulated since 1935. The proposed act, which was not enacted into law during the 94th Congress, would have given trucking and bus firms more freedom to raise or lower prices and would have made it easier for new carriers to enter the industry.

This proposal and others directed at deregulating railroads and airlines have raised the issue of regulation versus deregulation. Part of this issue relates to whether service truckers provide to shippers of small quantities of freight would be adequate.

Trucking interests believe deregulation would encourage discrimination in service availability and would decrease or eliminate service to small shippers and communities. In April 1976 a national shipper organization stated that the small, low volume shipper has a hard time getting prompt, regular pickup service. It also said that carriers often delay delivery until they think they have accumulated enough volume to justify delivery in low volume areas.

The Administration believes the proposed Motor Carrier Reform Act would stimulate the trucking industry and improve trucking service to small shippers and communities. We studied this issue within the context of the Commission's statutory capability to deal with such service problems through the regulatory process.

INTERSTATE COMMERCE COMMISSION

The Commission was established in 1887 to regulate railroad transportation in interstate and foreign commerce within the United States. The Commission's authority has been strengthened and broadened so that now it regulates not only railroads but also trucking companies, bus lines, freight forwarders, water carriers, oil pipelines, transportation brokers, and express companies. By law, regulation varies between these types of carriers, but it generally extends to entry control, rates, and services.

^{1/}H.R. 10909; S. 2929.

The Commission consists of 11 commissioners, each appointed by the President and confirmed by the Senate. The Chairman is designated by the President, and the Vice Chairman is elected annually by the commissioners. The other nine commissioners serve on one of three divisions which act as appellate bodies for reconsidering decisions made by the Commission staff. By area of responsibility the three divisions are (1) operating rights, (2) rates and practices, and (3) finance and service.

Staff organization

The Commission's staff numbers about 2,100 of which three-quarters are located at Commission headquarters in Washington, D.C. As shown on the Commission's organization chart (see app. I), only the Bureaus of Accounts, Enforcement, and Operations have field staffs.

- The Bureau of Accounts is concerned with the accounting phase of economic regulation, such as prescribing uniform accounting rules and auditing carriers' financial records.
- The Bureau of Enforcement enforces civil and penal provisions of the Interstate Commerce Act (49 U.S.C. 1 et. seq.) and may participate in proceedings by developing facts and issues.
- The Bureau of Operations monitors and investigates operations of carriers and rate bureaus ^{1/} to insure their compliance with the law and Commission regulations.

The Commission has 79 field offices located in 6 geographic regions. Field offices are generally staffed with Bureaus of Accounts and Operations personnel. Bureau of Enforcement personnel are located in only 11 field offices.

JURISDICTION OVER MOTOR CARRIERS

The Interstate Commerce Act requires that regulated truckers provide adequate, reasonably priced service to all

^{1/}Truckers formed rate bureaus to ease the filing of proposed rate changes with the Commission. Instead of filing proposals individually, truckers may belong to 1 or more of about 100 rate bureaus that prepare, file, and amend tariffs. The bureaus also provide a means for consolidated trucker action to problems arising from the regulatory process.

shippers. Insuring this is one of the Commission's major objectives in regulating the trucking industry.

The Commission regulates over 17,000 motor carriers. Carriers exempt by law from Commission regulation include (1) those carrying unprocessed farm products, (2) companies moving their own products in their own trucks, and (3) local transportation that is totally within specified urban districts that cross State boundaries. The Commission regulates trucking entry control, service, and rates.

Entry control and service

Motor carriers must apply to the Commission for operating authority and prove that their proposed service is needed. Such authority, which is generally defined in terms of commodities transported and geographical area served, governs the adequacy and quality of service a trucker is to provide on reasonable request. The Commission may suspend, change, or revoke operating authorities if a carrier willfully fails to comply with the law or regulations.

Carriers are designated as either common or contract. A common carrier must transport all shipments--regardless of size or weight--offered by the general public. A contract carrier, on the other hand, transports only the goods of one or a limited number of shippers which have contracted with the carrier.

Rates

The Interstate Commerce Act grants immunity from anti-trust laws to carriers which organize rate bureaus to establish rates, provided the rates proposed and methods used by the bureaus are approved by the Commission. Most rates of regulated truckers are established through regional rate bureaus. Proposed rate changes are made by truckers to their rate bureau. The bureau holds hearings at which carriers and shippers may present arguments; then the bureau files the tariff with the Commission at least 30 days before the effective date.

Any shipper, trucker, or receiver may protest the proposal during the waiting period, and the Commission may suspend the proposal for up to 7 months. The trucker then must prove the proposal is just and reasonable or the Commission may cancel it. Individual truckers may take independent action outside the rate bureau, but most rates are filed through rate bureaus.

SCOPE OF REVIEW

We made our review at Commission headquarters in Washington, D.C., and in 22 field offices located in 3 regions. We examined Commission records on small-shipment complaints, service violation investigations in general, appraisals of carriers applying for operating authority, enforcement actions, and appropriate administrative proceedings. We reviewed the Commission's policies, procedures, and applicable laws and regulations.

In addition, we reviewed published studies by the Commission and others on small shipments and urban goods movement and held discussions with Commission and Department of Transportation officials. We also interviewed officials of a major rate bureau and reviewed rate proposals related to small shipments.

CHAPTER 2

SERVICE TO SMALL SHIPPERS

Common carrier truckers handle about 80 percent of the small shipments transported by regulated carriers. Some truckers, however, are reluctant to carry small shipments because they believe rates do not cover costs. As a result service to the small shipper is sometimes inadequate. Inefficiencies in the Nation's urban goods distribution system not only increase cost and aggravate service problems, they also contribute to traffic congestion, pollution, and wasted energy.

No universally accepted definition of small shipments exists. The Commission, for statistical purposes, uses 10,000 pounds as the basis for separating truckload shipments from less-than-truckload shipments. The trucking industry generally has identified small shipments as under 750 pounds and a 1974 Department of Transportation study defined small shipments as less than 1,000 pounds.

Shippers' service problems cannot be defined solely in terms of weight. The Commission has stated that service difficulties may be encountered on shipments of all sizes, weights, and configurations. For example, a trucker may be reluctant to carry a particular truckload shipment that it considers only marginally profitable or which may be destined to an isolated area.

For our analysis of the small-shipment problem, we defined a small shipment as one that requires separate handling and that is less than a truckload in size and weight.

SMALL SHIPMENTS: A CONTINUING PROBLEM

There are two problems associated with small shipments. First there are industrywide problems which can affect any shipper or receiver regardless of its size. There is also the problem of service to and from small, out-of-the-way locations. These problems have been recognized and, as discussed in chapters 3 and 4, some actions have been taken. However, the problems are continuing, and according to a recent study done for the Department of Transportation, are likely to increase.

Railroads offer virtually no small-shipment service. From the 1940s to the early 1960s, small shippers increasingly preferred truck service because of its flexibility and geographic coverage. As a result the railroads' small-shipment traffic decreased, and cost increased to the point

that they stopped soliciting and handling small shipments. Receiving virtually no protests from the public, the Commission judged the railroads' elimination of small-shipment service to be reasonable.

Besides common carrier truckers, other regulated carriers that transport small shipments include freight forwarders, which consolidate small shipments mainly in metropolitan areas; express companies; and air freight.

In 1967 the Commission described intercity small-shipments distribution as one of the most perplexing problems facing the transportation industry; a problem which might threaten future growth in important segments of the economy.

The Commission believed the severity and worsening of the problem was best indicated by the number of small-shipment service complaints which had increased from 2,900 in fiscal year 1965 to 4,500 in fiscal year 1967. Complaints peaked at 8,300 in 1968, no statistics are available for 1969, and in 1970 the Commission changed its reporting system. Since then the reported number of complaints has averaged about 3,700 annually for fiscal years 1972-75. (See ch. 4 for discussion on accuracy of these statistics.)

Studies of the small-shipment problem have differed somewhat on the extent of the problem. A 1974 study done for the Department of Transportation showed that the problems of small shippers were continuing, and that marketing changes will probably increase rather than reduce the problems involved in handling small shipments in the future. The problems stemmed from a steadily increasing demand for small, fast, or frequent service which carriers seemed unwilling or unable to provide at existing rate levels. This situation existed despite the fact that rates for some small shipments had already been increased to the point where they approached the total value of the shipment.

A 1973 Department of Transportation Industrial Survey showed that over 90 percent of the small shippers surveyed said motor carrier service was at least adequate. The study cautioned, however, that the response was high because (1) none of the respondents were in isolated areas and (2) service provided by small parcel specialists (i.e., United Parcel Service) was included in the survey. The study was based on only a sample of industrial users.

In August 1975 the National Small Shipments Traffic Conference established a telephone "hotline" to help shippers and carriers with complaints about small-shipment service. In June 1976 the Conference discontinued the

hotline saying, "There is no small shipment problem." We believe the Conference's hotline is an invalid base on which to draw conclusions about the extent of the small-shipment problem because the hotline was open only on weekdays from 9:30 a.m. to 1:30 p.m. and was closed on holidays. The hotline was not a toll-free number, but people could call collect.

Cost and service problems are but two factors related to a larger issue: the urban distribution of goods. (See ch. 3.) Consumers, most of whom live in urban areas, buy goods in relatively small quantities and at locations near their homes. This consumption pattern requires the distribution system to move successively smaller shipments from manufacturer to wholesaler to retailer to consumer. This distribution system compounds other problems, such as congested city streets, energy shortage, and noise and air pollution.

COST OF TRANSPORTING SMALL SHIPMENTS

According to truckers the revenue received from small shipments is not enough to cover cost. For several reasons small shipments cost proportionately more to ship than larger shipments, and even though rates have increased, truckers contend they still lose money on small shipments.

Separate handling is one reason why small shipments cost relatively more than truckload shipments. A small shipment normally involves

- picking up the shipment from the shipper in the originating city,
- handling the shipment at the carrier's terminal in the originating city,
- transporting the shipment between cities,
- handling the shipment at the carrier's terminal in the destination city, and
- delivering the shipment to the receiver in the destination city.

A truckload shipment, on the other hand, normally can be picked up from the shipper and transported directly to the receiver, thereby avoiding terminal handling.

Other factors also make small shipments expensive. According to industry and Commission officials, pickup and

delivery costs are basically the same regardless of shipment size and, thus, are usually a higher percentage of the total cost for a small shipment. Overhead and paperwork costs, such as billing and documentation, usually vary with the number of shipments, not weight. Higher loss and damage costs are another characteristic of small shipments because they are easy to identify, carry, and resell. Trucker reaction to this combination of cost factors often has been to seek larger rate increases on small shipments than on truckload shipments. For example, from January 1971 through January 1976, one major rate bureau increased certain territorial rates as follows.

<u>Shipment weight in pounds</u>	<u>Percent increase in rates</u>
Less than truckload:	
1 to 499	72
500 to 999	62
1,000 to 1,999	55
2,000 to 4,999	50
5,000 to 9,999	56
10,000 and over	51
Truckload	31

In late 1975, however, several rate bureaus said that small-shipment costs still exceeded revenues by up to

- 66 percent on minimum charge shipments,
- 36 percent on shipments under 500 pounds, and
- 9 percent on shipments 500 to 999 pounds.

Seemingly the course of action most often taken when cost exceeds revenue has been to raise rates. Truckers, however, must be prepared under Commission regulations to prove the reasonableness of rate increases, and proof must be based on cost evidence. Compiling cost evidence is not an exact science and is controversial.

One issue is the actual handling cost incurred by truckers to transport small shipments. The Commission made a study in 1969-70 to determine how much handling small shipments require, but the results were strongly criticized by shippers. They disagreed on its validity and use in supporting small-shipment rate increases.

Officials of one major rate bureau told us that shipper interests have been relatively successful in persuading the

Commission that small-shipment rates should not be raised to levels that truckers contend are needed for profitable operations.

One commissioner disagreed, saying the Commission's policy is that small shipments should bear their reasonable share of carrier cost. The commissioner pointed out that rate bureaus rarely propose rate increases sufficient to cover small-shipment costs. For example, in November 1975, one major rate bureau proposed small-shipment rate increases yet stated that cost would still exceed revenue by up to

- 49 percent on minimum charge shipments,
- 24 percent on shipments under 500 pounds, and
- 6 percent on shipments 500 to 999 pounds.

SERVICE PROBLEMS

In 1967 a Commission staff study reported that a growing number of truckers were avoiding small shipments because they considered them unprofitable. This practice violated the Commission regulation requiring them to transport all authorized cargo. The study found service problems in the areas of

- service restrictions in tariffs,
- fewer through routes, and
- service inadequacies.

Service restrictions in tariffs

A common carrier must file with the Commission and publish tariffs that show its transportation rates, charges, and services. According to the Commission, truckers have to some degree long selected traffic yielding large-unit profit by placing certain restrictions in tariffs. For example, tariff restrictions provided that a trucker (1) would accept no shipments less than a specified weight, (2) required a minimum weight for shipments to or from certain locations, or (3) would not serve certain locations although it was authorized to serve them. By the late 1960s truckers had intensified using tariff restrictions directed mainly at limiting service on small shipments and on shipments to and from rural isolated areas.

Fewer through routes

Shippers need truck service between widely scattered points. Since common carrier truckers may carry freight only to locations authorized by the Commission, shippers must rely to a great extent on the coordinated services of two or more truckers to deliver some shipments. In 1967 the Commission reported that many trucking firms, particularly the larger ones, were refusing to handle shipments originating on the lines of other truckers. One solution to this situation is the through route, which is an agreement between trucking firms to carry freight from an authorized point on the line of one firm to an authorized point on the line of another.

A joint rate is a single rate truckers agree to charge for carrying freight on a through route. Usually the rate is lower than the combination of rates that each trucker would have charged, and the truckers decide how the joint revenue is divided.

The Commission, by law, has authority to require intramodal through route agreements for railroads, water carriers, and buses and intermodal agreements between railroads and water carriers. The Commission has no authority to require through route agreements for trucks. The law states only that truckers "may" establish through routes, and the Commission through several decisions has interpreted this to mean it has no authority to require through route agreements.

In 1974 about 5,000 trucking firms were participating in through routes, but the Commission reported that some truckers were continuing to curtail service by canceling published through routes.

Through route costs generally are greater than direct service costs because the shipment may require handling each time it is transferred between truckers. Some truckers believed their share of joint revenue was insufficient. The 1967 Commission staff study noted that short-haul truckers in particular said their cost per mile was greater than that of long-haul truckers, and they sometimes demanded a larger share of joint revenue. As a result, truckers frequently canceled through routes, which sometimes left small communities without long-haul service.

Service inadequacies

By selecting and choosing cargo, many truckers have directly violated the Commission's regulations requiring

them to carry all freight, including small shipments. For example, one trucker accepted through route shipments over 200 pounds and rejected smaller shipments, saying no service was available, even though both shipments were offered at the same time and were destined for the same location. Usually truckers justified rejecting shipments by saying their facilities were overloaded and the shipment might be damaged if held until it could be shipped. Sometimes truckers would reject shipments expressly because revenue would be insufficient.

The occasional shipper or shippers in small communities probably experience most of the service problems because larger shippers have the volume leverage to get good service from truckers and are likely located in areas where more frequent service is offered.

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As discussed in chapter 1, regulations require truckers to transport all freight offered by the public. Shipments of small quantities of freight, however, present problems because truckers believe small-shipment rates are inadequate to cover their costs. Shippers complain of inadequate service.

The dilemma of handling small shipments continues as a perplexing problem to shippers, truckers, and the Commission. As shown in chapter 3, the Department of Transportation has studied the overall situation within its capacity as coordinator of national transportation policy. The Commission recognizes the problems of the small shipper, and in 1967 studied the problem and took corrective actions. These actions, their results, and improvements still needed are discussed in chapter 4.

CHAPTER 3

URBAN GOODS MOVEMENT

The high cost of pickup and delivery methods used in urban commercial centers is a major cause of small-shipment service problems.

Characteristically in urban areas each carrier has its own fleet of pickup and delivery trucks simultaneously crisscrossing city streets, serving shippers and receivers in an uncoordinated fashion. This system produces high cost and service delays and contributes to traffic congestion, pollution, and wasted energy.

In 1970 the Tri-State Regional Planning Commission (New York, New Jersey, and Connecticut) sponsored a staff study of regional truck traffic. The staff reported that within a 9-square mile area of Manhattan, New York, over 3,900 trucks daily picked up and delivered freight without ever leaving the area. Average shipment weight was 283 pounds.

Hypothesizing a consolidated pickup and delivery system for the area, the staff concluded the system daily could save over 31,000 vehicle miles--the equivalent of 2,400 trucks a day. Projecting the results to the entire region, the staff estimated annual regional savings at \$95 million.

DEPARTMENT OF TRANSPORTATION INVOLVEMENT IN SMALL SHIPMENTS AND URBAN GOODS MOVEMENT ISSUES

The Department of Transportation was established in 1966 to develop coordinated transportation services, provide general leadership in solving transportation problems, and make recommendations to the President and the Congress. Issues on small shipments and urban goods movement are part of the Department's national transportation concern.

In 1972 the Secretary of Transportation established an Urban Goods Movement Task Force, which reported in June 1973 that major issues in urban goods movement included traffic delay and congestion, loading and unloading problems, pollution, energy shortage, and land use implications.

The task force noted that trucks dominate urban goods movement but cautioned that Department interests should encompass all aspects of urban goods movement. The Department has responded with a variety of research projects, several relating directly to small shipments. The Department also supports proposed legislation which it believes offers solutions to many small-shipment problems.

Research projects

At least four Department studies have dealt with the small-shipments problem as it relates to trucking and urban goods movement.

Small-shipments study

In 1972 the Department contracted with the American University to study the small-shipment problem. The study was to

- evaluate the scope of the problem,
- develop a concise understanding of the overall problem and its subproblems, and
- prepare an action program to deal with the problem.

Reporting in 1974, the University did not suggest solutions to the problem but offered the following conclusions.

- Marketing changes and trends will continue to increase flow of products and movement of business to metropolitan suburbs, heightening the complexity of urban goods movement.
- Many carriers, particularly truckers, are reluctant or unwilling to handle small shipments, mainly in the 100- to 500-pound range.
- Truckers justify their unwillingness to handle small shipments because they are unprofitable.
- Route patterns of truckers and the general lack of through routes present a handicap to efficient, economical transportation of small shipments.

The study also stated that large shippers of small shipments do not have problems as serious or as frequently as small firms because the larger firms can consolidate shipments, move small shipments with their own trucks, and have the volume leverage to obtain good service from truckers. The study pointed out that the occasional small shipper or the shipper of small shipments into and out of small communities have problems due to

- size of their product,
- quantity and weight of their orders,

--their or their customer's out-of-the-way location,
and

--scale of their operations prevents their initiating
internal changes in distribution methods.

Freight consolidation study in
Columbus, Ohio

In 1972 the Department contracted with the Ohio State University to determine the potential impact of a consolidated pickup and delivery system in Columbus, Ohio. The University hypothesized a consolidated pickup and delivery system in the Columbus central business district for shipments weighing up to 5,000 pounds.

The study showed that the actual system compared to the hypothesized system had lower vehicle capacity utilization, higher transit time, duplicated routing, and substantial waiting time at terminals to load or unload. The table below compares the actual and hypothesized systems.

<u>Performance measure</u>	<u>Actual pickup and delivery system</u>	<u>Hypothesized pickup and delivery system</u>	<u>Percent reduc- tion</u>
Number of vehicles	660	69	90
Vehicle miles	1,280	114	91
Transit time (hours)	244	22	91
Unloading time (hours)	392	186	53
Loading time (hours)	81	51	37
Waiting time (hours)	251	-	100
Daily cost	\$11,750	\$3,340	76

Transportation facilitation center
concept

The transportation facilitation concept is another name for consolidated pickup and delivery of small shipments in urban areas. In 1971 the Department contracted with the Ralph M. Parsons Company to study the transportation facilitation center concept, and later it modified the study to include a detailed freight distribution and economic analysis for the Chicago, Illinois, area.

Hypothesizing a consolidated system for shipments under 1,000 pounds, the study concluded that a transportation facilitation center system in Chicago

--could have saved 1.2 million gallons of fuel in 1973,

- could have reduced air and noise pollution and traffic congestion,
- could reduce truckers' fleet requirements and cost, and
- could provide shippers and receivers more reliable service.

The Department said these economies would result by (1) reducing the number of trucks shuttling between terminals, shippers, and receivers and (2) designing terminals specifically to handle and consolidate small shipments.

Institutional barriers to freight consolidation

The Department and the Federal Energy Administration in October 1975 funded a study by the University of Tennessee of institutional barriers to a consolidated urban pickup and delivery system. This study will look at the relationship among shippers, receivers, carriers, and government. The estimated completion date is November 1976.

As part of this study, an Urban Freight Consolidation Workshop was held at the University of Tennessee in January 1976 which revealed the following about services provided by motor carriers:

- All shippers, large as well as small, consider less consistent pickup service than is currently provided reasonable. A consolidation terminal must allow pickup service that is consistent within a range of 2 to 4 hours.
- Small shippers seem willing to accept a slightly slower total service time than many carriers currently provide. They seem willing, on the average, to accept 5-day delivery time.

Proposed legislation

The Department endorsed the President's proposed Motor Carrier Reform Act because it believed the proposal would have given the trucking industry flexibility to improve service and to resolve pricing problems. The Department believed that the present rate structure was distorted so that some shippers paid more than their fair share of cost and others paid much less and that this resulted in misallocated transportation resources. The Department believed that the proposed act, by providing more open entry and more flexibility

in pricing, would enable truckers to serve economically nearly all geographic areas.

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Although the Department of Transportation is responsible for designing overall solutions to national transportation problems, the Commission, because of its relationship to the trucking industry, should play a major role in shaping solutions to small-shipment problems.

CHAPTER 4

ACTIONS TAKEN BY THE INTERSTATE COMMERCE

COMMISSION TO IMPROVE SERVICE TO THE SMALL SHIPPER

The Commission has been concerned about improving services to the small shipper, but it needs to give more emphasis to (1) developing procedures to assure systematic collection of reliable data on small-shipment complaints and (2) investigating service complaints as a basis for questioning the fitness of regulated carriers. The Commission also should determine whether authority to impose civil penalties would be effective in combating service problems. The Commission has developed detailed requirements for the cost evidence carriers use to support rate proposals; yet, a controversy still exists as to actual cost of handling small shipments. This controversy is being studied by the Commission.

In January 1967 the Commission Chairman appointed three commissioners to a special ad hoc committee to study and recommend solutions to the small-shipment problem. The committee limited its study to the trucking industry because the problem was primarily associated with trucks. Goals of the study were to

- investigate service problems in general,
- seek immediate and long range solutions, and
- devise recommendations for the full Commission to consider.

The committee reported in 1967 that no single action could solve existing service problems because certain actions could be beneficial in one situation and harmful in others. However, the committee recommended five areas to continue studying:

- Increased monitoring and reporting of service complaints.
- Increased emphasis on service fitness of carriers seeking additional operating authority.
- Institution of court cases against service violators.
- Increased efforts to obtain appropriate legislation.
- Increased efforts to obtain appropriate cost data in rate proceedings.

INCREASED MONITORING OF SERVICE COMPLAINTS

The Commission reported in 1967 that small-shipment service complaints increased from 2,910 in fiscal year 1965 to over 4,500 in fiscal year 1967--an increase of about 55 percent. The committee recommended that

--the Chairman of the Operating Rights Division be designated to deal with service complaints as they are filed and

--Operating Rights Division members should receive immediate reports on complaints and actions taken to investigate and resolve them.

The Commission, however, did not set up a procedure for systematically reporting service complaint statistical data until July 1970. Then, the Bureau of Operations started a quarterly statistical report of small-shipment service complaints filed against regulated trucking companies. Before 1970 service complaint data was sent to the Operating Rights Division upon request.

Operations personnel receive complaints against carriers and try to resolve them as quickly as possible. Since complaints and their severity vary, Operations personnel determine whether they can resolve the complaint immediately or whether a formal investigation is necessary. Operations personnel also assist the public by trying to resolve complaints outside the Commission's statutory jurisdiction. Typically, nonjurisdictional complaints against truckers involve loss and damage claims which the Commission has no power to settle.

In July 1972 Operations started documenting all complaints on the "Complaint Register/Action Log." On this form Operations personnel identify the complainant, the type of carrier, and the nature of the complaint. Service complaints are classified into categories, such as pickup, delivery, small shipment, transit time, through route, and rate and charges.

Monthly, regional offices send Commission headquarters the complaint register data for all complaints Operations has taken final action on, and headquarters makes computerized summaries of the complaint data. It appears the complaint register could be used to

--provide data on the volume and types of complaints,

--identify types of carriers that are subjects of complaints,

--provide information on the effectiveness of Operations' work program, and

--identify complaints that should be included on the quarterly small-shipment statistical report.

Unreliable reports

The quarterly statistical report and the computerized summary of complaint data, however, do not reflect the true number of small-shipment complaints. This is because field personnel use inconsistent criteria to determine which complaints to report quarterly to headquarters, and frequently they do not prepare the complaint register accurately for small-shipment complaints.

Operations' headquarters personnel said the quarterly small-shipment report should include all service complaints against regulated trucking firms. However, in discussions with field supervisors, who actually fill out the report, we learned of wide variances in what was reported. Although the Commission states that small shipments are those under 10,000 pounds, some supervisors considered small shipments to be only those under 200 or 500 pounds, some reported complaints on shipments only under 5,000 pounds, one used 10,000 pounds, and others had no weight criteria for reporting complaints.

Operations' headquarters personnel told us the quarterly report should also include complaints not under the Commission's statutory jurisdiction, but many field supervisors said they reported only jurisdictional complaints. One supervisor said he reported only jurisdictional complaints in which he judged the trucker to be wrong.

The Commission's computer analysis of complaint register data is a potential source of more reliable small-shipment complaint information. Reliability of this small-shipment information, however, is questionable because field personnel have not consistently and properly prepared the Complaint Register/Action Log for small-shipment complaints.

Instructions for filling out the complaint register require that field personnel mark the type of complaint. For example, a complaint could be classified as both a pickup problem and a small-shipment problem, the latter referring to complaints alleging failure of truckers to provide service because of the small size of the shipment.

Our analysis of the complaint registers for all complaints filed against regulated motor carriers, other than household goods carriers, during fiscal years 1973-75 showed

only 748 marked as small-shipment complaints. The quarterly statistical reports, however, showed over 11,000 small-shipment complaints for the same period. Some field personnel explained they may have failed to identify some small-shipment complaints on the complaint register because a large volume of paperwork prevented them from accurately completing every complaint register. Others said they may have marked only the immediate nature of the complaint, such as pickup or delivery, and not indicated whether it involved a small shipment.

Commission field personnel told us that there are probably more small-shipment problems than reported to their offices because the public is not aware of what the Commission does or can do to insure reasonable and dependable service. They also told us that shippers change to another trucking firm rather than report their problems to the Commission.

The Commission has issued public advisory number 2 which advised small shippers on their rights, remedies, and alternatives. In July 1976 the Commission issued a revised advisory to include a questionnaire for shippers to use voluntarily to report to the Commission on the adequacy of service received. The advisory is available free at Commission offices and for a fee at the Government Printing Office.

There are millions of small shipments annually; the number of shippers is unknown and probably quite large. As of November 1976, 15,000 advisories were printed and about 7,500 distributed. Since the questionnaire is new, the Commission has not compiled data on the number of responses received.

CARRIERS' WILLINGNESS TO PROVIDE SERVICE

The Commission has several courses of action to combat service problems. The Commission may (1) challenge a carrier's fitness when it applies for additional authority, (2) use other administrative actions, such as revoking operating authorities, issuing only limited-term authorities, or approving pooling agreements, or (3) issue regulations aimed at industrywide practices. None of these actions have been used to a great extent.

Challenging service fitness

The Commission has seldom challenged a carrier's service fitness and has not found a carrier unfit. We believe this situation results because Commission personnel do not emphasize formally investigating complaints of service inadequacies.

A carrier applying for operating authority must prove it is fit to provide the service it proposes. In 1960 the Commission authorized the Bureau of Enforcement to challenge the fitness of carriers applying for operating authority. The ad hoc committee concluded in 1967 that challenging the service fitness of some carriers applying for additional authority should be an effective way to improve service.

The Commission instructed the Bureaus of Operations and Enforcement to examine each applicant's service history and to question the fitness of applicants which actively avoid small shipments and through-route traffic. Since 1968 thousands of applications have been evaluated, about 20,000 during the 3-year period fiscal years 1973-75. Since 1968 there have been eight challenges of service inadequacies; none of the carriers were found unfit.

In 1967 the ad hoc committee recognized that an aggressive program to question carriers' fitness could require much staff time and recommended that Enforcement increase its efforts on service fitness. Before Enforcement can take action, however, complaints about inadequate service must be formally investigated by Operations. Operations personnel take some action on all complaints, although they seldom formally investigate complaints involving small-shipment service inadequacies. For example, during fiscal years 1973-75 Operations personnel conducted about 2,600 formal investigations, but only about 3 percent involved small-shipment service failures by trucking companies other than household goods carriers.

Field personnel told us that relatively few service failure investigations are made because of the lengthy time to make them. As discussed on page 24, it is likely that no corrective action will result. From the available data it is not possible to determine if more investigations were warranted.

Our analysis of formal investigations made by two regions during calendar years 1972-75 showed that about 75 percent dealt with one type of complaint--unauthorized transportation by a regulated trucker. Field personnel told us that violations of unauthorized transportation are generally simple to investigate and document, normally requiring only a review of documents at the trucker's office. Service failure investigations, however, can be complex and time consuming, usually requiring many interviews, travel time, and review of various documents.

A staff panel, appointed by the Commission Chairman in 1975 to study the Commission's compliance program, found that Operations' headquarters places too much emphasis on the number of investigations rather than on their value to overall regulatory objectives. The panel said that field personnel shun violations which are time consuming in favor of those easier to develop.

Revocation of operating authority

According to the Commission, a basic regulatory concept is that possession of operating authority is a privilege not a right. The ad hoc committee stated that revocation of authority could be useful in certain circumstances but disagreed with revocation as a general policy.

The Interstate Commerce Act specifies a two-step revocation process. First, the Commission must prove a carrier is willfully failing to provide adequate service. At that point, the Commission may issue a cease and desist order, instructing the carrier to resume adequate service. If the Commission can prove the carrier willfully fails to comply with the order, the Commission may revoke the carrier's authority. It is difficult to prove noncompliance if the carrier performs only token service but can establish the service is commensurate with its financial and equipment capabilities.

Since 1967 the Commission has instituted 40 revocation proceedings against truckers, other than household goods carriers, because of small-shipment violations. As a result, the Commission has issued 10 cease and desist orders and revoked the operating authority of 1 carrier. Thirteen cases were pending as of June 1976.

Limited-term authorities

The Commission has for many years issued limited-term operating authority to common carriers when their proposed service involved hazardous material or when the applicant had a history of noncompliance with safety regulations. In more recent years, the Commission has issued limited-term authority when applicants proposed limited or specialized service. To receive limited-term authority, the carrier must submit annual performance reports. The Bureau of Operations' field staff regularly reviews carrier performance reports to determine accuracy and evaluates service complaints received against the involved carrier. This information is submitted to the Bureau of Economics and the Office of Proceedings for further handling.

The Commission first imposed the performance report requirement on a carrier that requested authority specifically to provide service on small shipments to several delivery points. Shippers said adequate service was being provided to some of the delivery points for which the authority was requested but not to other points.

Performance reports show if a carrier actually provided the service it proposed. Reports are not standard but are tailored to the needs of each situation. The usual period of a limited-term authority is 3 years which gives the applicant time to establish and develop the proposed service. The authority's renewal depends on the carrier's performance during the 3-year period. As of November 1976 there were 15 pending operating authorities containing performance reporting conditions.

Pooling of traffic

A pooling agreement is an arrangement among common carriers to pool or divide traffic, service, or revenue. Pooling agreements are unlawful unless approved by the Commission because they restrain competition. The Commission may approve a pooling agreement only if the agreement provides better service to the public or offers operating economies and does not unduly restrain competition.

The Commission has permitted certain truckers to pool their traffic to combat service problems faced by small communities. For example, in 1975 the Commission approved a pooling agreement between a long-haul carrier and several short-haul carriers. The long-haul carrier turned over freight for 266 small towns to short-haul carriers which depended on this and other interchange freight to support 5-day-a-week service to small towns. Service by the long-haul carrier was not feasible on any scheduled basis and would have jeopardized the short-haul carriers' operations.

Regulation prohibiting service restrictions in tariffs

In 1969 the Commission instituted a rulemaking proceeding (Ex Parte No. MC-77, Restrictions on Service by Motor Common Carriers) to study tariff restrictions. Truckers were using restrictions to limit the service they provided to small shippers. For example, truckers sometimes required a minimum charge for shipments under a certain weight, or the tariff showed that service would not be provided to certain isolated areas. As a result, in February 1970 the Commission adopted a regulation prohibiting

tariff provisions that restrict truckers' services to less than their authorized scope of operation. The Commission ordered truckers to bring all tariffs into compliance by June 1, 1970.

However, the Commission postponed the regulation's compliance date several times, and finally in December 1974 the Commission ordered the compliance date postponed indefinitely. This action resulted from a meeting during which truckers claimed the regulation could severely damage the industry's ability to serve the public economically and efficiently.

The Commission has not allowed truckers to continue placing new service restrictions in tariffs. However, postponing the compliance date does allow a trucker to transfer restrictive provisions of an older tariff to a later revision of the same tariff provided the restrictions were in effect prior to the regulation.

INSTITUTION OF COURT CASES

By law the Commission may seek criminal penalties, but not civil penalties, for service violations. The courts may impose fines up to \$500 per violation. As of 1967 the Commission had not instituted any criminal cases for small-shipment service violations, but the ad hoc committee recommended that the Commission start seeking criminal penalties and court injunctions, orders permitting or restraining certain actions.

Since 1967 the Commission has instituted a limited number of court cases to combat small-shipment service problems. Through calendar year 1973, the Commission had instituted 24 criminal cases and 17 had resulted in a fine, averaging about \$175 a violation. No criminal cases have been instituted since 1973.

Since 1967 the Commission has also instituted two cases seeking injunctions. A permanent injunction was obtained in one case in 1970, and the other case was dismissed, also in 1970.

In September 1971 the Commission submitted a legislative proposal which would have provided a general forfeiture provision for violations under all parts of the Interstate Commerce Act. The bill was introduced in February 1972; no action was taken.

Two factors apparently limit the effectiveness of criminal penalties in a service failure case

--difficulty in proving truckers knowingly and willfully violated regulations and

--crowded schedules of U.S. attorneys.

Knowledge and willful service failures

In a criminal case, it must be proved, beyond a reasonable doubt, that the defendant was knowingly and willfully at fault. Enforcement field officials said that proving knowledge and willfulness in a service failure case requires more than merely showing a carrier refused to provide service. It must also be proved that the carrier had dock space and equipment available to handle the shipment at that time and that the service failure was part of a pattern of inadequate service. As a result a successful criminal case is a complex, time-consuming task.

The Interstate Commerce Act provides civil penalties for some violations, such as operating without authority and failing to file required reports, but not for service violations. Enforcement officials stated that authority to impose civil penalties for service violations could be effective because the burden of proof is much less than in criminal cases--the Commission has only to prove the violation occurred. Also, because the likelihood of conviction is greater, offenders would be more willing to settle out of court--about 70 percent of all Enforcement actions are settled this way.

Crowded U.S. attorney schedules

The Commission does not have authority to bring cases before the court. Instead, cases must be presented to the U.S. attorney who decides whether to prosecute. Enforcement field officials said that in certain jurisdictions regulation cases generally take a back seat to cases with greater public interest, such as bank robbery, kidnapping, and extortion. The U.S. attorney often declines the case or it takes a long time before it can be prosecuted. As a result, some Enforcement officials are reluctant to pursue criminal actions because the likelihood of prosecution is small.

EFFORTS TO OBTAIN LEGISLATION

The Commission has proposed legislation related to many aspects of small-shipment service, and the ad hoc committee recommended in 1967 that the Commission continue to seek legislation that could minimize service problems. The Commission believed that proposed legislation on through routes and freight forwarders would have improved service to the small shipper.

Through routes

As early as 1949 the Commission proposed legislation that would give it authority to order truckers to establish through routes and joint rates. Similar proposals have been introduced 10 times since then.

The Commission's latest proposal, S. 2086, would have given it authority to establish through routes and joint rates between trucks and between trucks and rail, water, and express companies. The Commission believed this authority would result in better service to small shippers located in smaller, out-of-the-way communities, often bypassed by long-haul carriers. The Senate Commerce Subcommittee on Surface Transportation held hearings on the proposed bill in July 1975. No further action was taken during the 94th Congress.

Freight forwarders

Several times since 1950 legislation was introduced to permit freight forwarders and railroads to arrange special rates. Forwarders would be permitted to play a larger role in small-shipment transportation by offering lower rates and expanding their service. The Commission's current proposal, S. 2083, was not enacted into law.

The Commission told us that freight forwarders were the only real competitors for small-shipment transportation in metropolitan areas. Freight forwarders assemble and consolidate small shipments but cannot perform any long-haul services; instead, they turn over full load or volume shipments to long-haul carriers. Within a limited area around their terminals, freight forwarders may provide pickup and delivery service. Freight forwarders profit by the difference between rates they charge their customers and lower volume rates they pay the long-haul carriers.

COST DATA FOR SMALL SHIPMENTS

According to the Commission, better service to small shippers is possible by developing rates that match shippers' needs and carriers' ability to provide profitable service. In 1967, the ad hoc committee recommended:

"Continued and increased efforts to obtain appropriate data in rate proceedings, * * * so that carriers can be assured of profitable operations and shippers can be assured of economical and non-discriminatory rates."

Since then the Commission has instituted two major rulemaking proceedings on this issue: New Procedures in Motor Carrier Revenue Proceedings (Ex Parte No. MC-82) and New Procedures in Motor Carrier Restructuring Proceedings (Ex Parte No. MC-98).

New procedures in motor carrier revenue proceedings

In August 1970 the Commission instituted this proceeding (Ex Parte No. MC-82) to consider new procedures governing evidence requirements in rate proposal cases. Stated goals were to

- achieve greater uniformity in data submitted,
- avoid having to request additional evidence during the case,
- define the minimum evidence required, and
- reduce time required for disposition.

In April 1971 the Commission adopted the proposed procedures which were further refined in 1971 and 1975.

One controversial matter in evidence requirements relating to small shipments is the platform-handling time of shipments.

Motor carrier platform study

Small shipments generally receive more platform handling than large shipments and, therefore, should be charged more platform cost per hundred pounds than larger shipments. The degree to which small shipments actually receive more handling, however, is unknown.

The Commission in 1969-70 conducted a study which, as shown below, confirmed carrier contentions that small shipments require more platform handling per hundred pounds than large shipments.

<u>Pounds per shipment</u>	<u>Platform handling minutes per hundred pounds</u>
0 to 49	6.40
50 to 99	3.18
100 to 149	2.34
150 to 299	1.77
300 to 499	1.34
500 to 999	1.00
1,000 to 1,999	0.84
2,000 to 4,999	0.62
5,000 and over	0.36

The study has been criticized by shipper groups which believed the results are unreliable and should not be used in rate proceedings. They pointed out that:

- The carriers and terminals studied were not selected randomly.
- Only 18 cities in 13 States were studied.
- Only a limited number of shipments (2,797) were studied.
- Terminals were studied only during peak activity periods.

The Commission allowed the study's results to be used in one case in August 1975; it has not approved the study's results for all rate proceedings. In this case two commissioners dissented, saying that using the study gave it prima facie validity, and because of its deficiencies the study should not be used in rate proceedings.

The majority of the Commission, however, believed that using the study's results was preferable to ignoring differences in platform costs. The majority proposed to start a new platform study to resolve the controversy. In May 1976 the Commission directed that a study be performed; it was started in August 1976 with an estimated completion date of March 1979.

New procedures in motor carrier pricing

The Commission's objective in this proceeding (Ex Parte No. MC-98) is to develop a pricing system that can match shippers' needs and carriers' ability to provide profitable service.

Late in 1975 eight major ratemaking bureaus submitted proposals to the Commission to restructure small-shipment rates. The bureaus proposed to increase rates on smaller shipments and decrease rates on heavier shipments. For example, one proposal was as follows:

<u>Weight in pounds</u>	<u>Percentage rate change</u>
1 to 499	+6
500 to 999	+5
1,000 to 1,999	no change
2,000 to 4,999	-3
5,000 to 9,999	-3
10,000 and over	-6

The proposal contended current rates were undercompensating carriers for smaller shipments and overcompensating for heavier shipments.

Seven of the eight proposed increases went into effect in early 1976. The Commission instituted this proceeding in January 1976 and asked interested parties to comment on the need for, desirability of, and methods for restructuring small-shipment rates. The Commission pointed out that ideas for change did not need to be confined to the present traditional rate structure. As of November 1976, the proceeding was pending.

CONCLUSIONS

The Administration sent to the Congress in 1975 proposed legislation to reform regulation of interstate trucking. This proposal renewed public interest in the issue of regulation versus deregulation. One aspect is inadequate service to the small shipper which, according to a recent study done for the Department of Transportation, is not only continuing but is likely to increase.

One of the Commission's major objectives in regulating the trucking industry is to insure that truckers provide adequate, reasonably priced service to all shippers as required by law. This objective is not difficult to achieve for large shippers, because it is compatible with truckers' objectives of maximum profit. However, it seems that shippers of small quantities or undesirable cargo generally have not fared as well. Over the years there have been persistent complaints from both carriers and small shippers--shippers complain about inadequate service and carriers about inadequate profit. We believe the number of complaints, however, does not adequately show the extent of the problem.

The occasional shipper or the small shipper in a small community probably experiences most of the service problems.

The Commission in 1967 established an ad hoc committee which studied the problem of transporting small shipments and recommended corrective actions. Since 1968 the Commission has steadily reduced the level and severity of complaints, but we believe additional emphasis should be given to solving this problem if the objectives are to be achieved through the regulatory process.

Accumulating accurate and reliable data is of primary importance in our view. We think the Commission's data, which indicates there are about 3,700 complaints annually, is not completely reliable because criteria applied by the Commission regional staff responsible for accumulating the data is not uniform. We believe that variances by field personnel in defining small shipments and failing to report many small-shipment problems invalidates the summary data the Commission uses to make many decisions about small shipments. We believe accurate data would show a larger number of small-shipment complaints. Data relating to rates and tariffs is equally important. Until it has reliable data on platform-handling costs, the Commission probably can not resolve the conflict between small shippers complaining their shipping rates are too high and truckers contending that small-shipment rates do not cover costs.

The Commission can encourage carriers to provide reasonable and adequate service by using the carriers' service history to question their service fitness when they apply for additional authority or routes. This technique has been used infrequently, however. Commission field personnel told us that investigatory processes used to support negative service fitness findings were quite time consuming compared to other types of investigations and so were given relatively low priority.

The Commission has used other administrative actions to a limited extent. For example, the Commission has issued a regulation prohibiting service restrictions in new tariffs, but the regulation does not apply to tariffs issued before February 1970. Instead, the Commission has allowed restrictive provisions of older tariffs to be transferred to later revisions of the tariffs as long as a completely new tariff is not involved.

The remaining course available to the Commission, other than moral suasion, to encourage truckers to provide reasonable service to less desirable shipments, is to institute criminal proceedings. This tool is cumbersome and rather

severe, and the Commission understandably uses it with great reluctance. It appears that authority to impose civil claims for service violations could enhance the regulatory process, improve the Commission's enforcement efforts, and receive much greater acceptance from the carriers. Civil fines will have to be large enough to be a real deterrent, however, if they are to be effective.

RECOMMENDATIONS

We recommend that the Chairman of the Commission:

- Insure that data collected on small-shipment service complaints is reliable.
- Direct that additional formal investigations of complaints involving service failures be made as the basis for challenging a carrier's fitness, and make greater use of other remedies, such as limited-term authorities and pooling agreements, already available to the Commission.
- Determine whether authority to impose civil penalties would be a valuable tool for combating service problems and, if so, request congressional approval to impose such penalties.

AGENCY COMMENTS AND OUR EVALUATION

Interstate Commerce Commission

The Commission generally agreed that the report was a fair, constructive assessment of the small-shipment situation and stated it was implementing our recommendations on the collection of complaint data.

The Commission stated it also recognized the need for improvement in its compliance and enforcement programs and, as a result, made major internal reforms. On October 15, 1976, the Commission issued an outline of a revitalized compliance program which stated:

"* * * Civil forfeitures as an enforcement tool should also be available across the board in rate and credit cases and for all violations of the Act. Legislative authority for Commission attorneys to litigate cases which are not settled out of court to strengthen this program also may be necessary. * * *"

"This compliance policy should result in the concentration of regulatory effort on the more significant matters. To achieve this objective, the Commission will emphasize the following areas.

- 1) Violations of law relating to inadequate motor or rail service, together with consumer complaints, * * *." (Underscore added.)

* * * * *

The Commission took issue with certain aspects of the report. It noted that all studies of motor carrier regulation and the small shipper do not agree on the extent of the small-shipment problem. These are discussed on page 6.

The Commission stated the 1969 study gave them information on the degree to which small shipments actually receive more handling. The study, however, has been criticized by both carriers and shippers because it was not statistically valid. Furthermore, the Commission has not approved the earlier study and began a new study in August 1976 using a probability sampling technique to overcome the criticism of the earlier report.

Department of Transportation

The Department stated that:

"The GAO draft report presents some excellent research documenting the failure of the existing economic regulatory system to resolve difficulties which shippers of small shipments have experienced with regulated motor carrier service. * * *"

The Department, however, stated it was disappointed that the report recommendations did not challenge the fundamental structure of the Commission's regulatory approach.

As stated on page 1 of the report we studied the small-shipment problem within the context of the Commission's statutory capability to deal with the problem through the regulatory process. It was not our objective to support either regulation or deregulation but rather to inform the Congress how the Commission has responded to a specific problem and what improvements are possible.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE CHAIRMAN

October 15, 1976

Mr. Henry Eschwege
Director
Community and Economic
Development Division
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Eschwege:

On behalf of the Commission, I appreciate the opportunity to comment on the proposed draft report to the Congress entitled "Potential for Improved Service to the Small Shipper". On the whole, I believe it is a fair and constructive assessment of the situation. However, there are some aspects of the report with which we on the Commission take issue.

[See GAO note 1, p. 37.]

The Commission has taken a number of corrective actions to address this problem which are referred to in your report. The Commission has also sought legislation to enable it to prescribe through routes and joint rates between motor carriers and rail and water carriers [94th Congress S. 2086 and H.R. 15441].

At page 3, the draft report should reflect that the Commission regulates trucking in three areas--entry control, service and rates.

As noted at page (ii), we have found some interpretive problems in respect to the reporting and recording of complaint data by the field staff. The data, although not totally accurate, did not cause an adverse impact on the Commission and its actions to combat the problem. The data-collection problem did not deter our field staff from rendering prompt assistance to all complainants.

Although the data collected was not totally accurate, it did correctly reflect the trend of small shipments complaints. [See GAO note 1, p. 37.]

The Bureau of Operations is taking corrective action to improve our complaint data-collection activities. It is in the process of implementing the recommendations from GAO auditors. We believe the review and recommendations by your GAO auditors, as to our collection of complaint data, will prove to be very helpful.

At page 1 of the draft report, reference is made to a statement from a national shipper organization in April, 1976 that the small, low-volume shipper of small shipments currently has a hard time getting prompt, regular pickup service. Although the shipper organization is not identified, I am enclosing an article from the June 7, 1976, issue of Traffic World. The article indicates that the National Small Shipments Traffic Conference discontinued its telephone hot-line service after 10 months of operation because, in its opinion, "There's no small shipment problem". Only 22 related calls were received.

On sheet 6 of the draft report, GAO has questioned the validity and reliability of the Commission's criteria for designating small shipments and for reporting complaints thereon. We are concerned with whether your definition of what constitutes a small shipment would meet the tests of validity (does it actually define a small shipment?) and reliability (would that definition time-and-time again provide a similar answer?). In that respect, we might point out that each shipment, whether it is a small shipment or truckload shipment, "requires special handling." Moreover, your definition of what constitutes a less-than-truckload shipment (by size and weight) would appear to raise numerous definitional problems which might result in different judgments if the matter is considered by a number of people. For example, a shipment because of extreme density or peculiar nature of the commodity might take up a very small portion of the truck but yet would be designated as a truckload shipment by both a carrier and a shipper.

At page 15, the draft report refers to four Department of Transportation studies dealing with small shipments, which generally contain negative findings as to motor carrier services. The report fails to include the D. O. T. study, Industrial Shipper Service (Plant Level), completed in April, 1975 and released in November, 1975. The study includes motor carrier performance in less-than-truckload and small shipments. This study reported that approximately 97 percent of the shippers believe motor carrier service to be adequate, and significant percentages of the shippers believe that certain motor carrier performance factors were at a high level of service (Table 11). Only 3.2 percent of the shippers believe there exist too few motor carriers to maintain good service, 84.7 percent feel there is an adequate number of carriers, and 12.1 percent believe there are too many carriers (Table 21). These findings seem to be contrary to the D. O. T. supported legislation to provide more open entry, as reflected at page 19 of the GAO draft report.

A survey¹ presented by the University of Tennessee at the Urban Freight Consolidation Workshop, sponsored in part by D. O. T. on January 13 and 14, 1976, revealed the following in respect to motor carrier services.

All shippers, large as well as small, consider less consistent pickup service than is currently provided reasonable. A consolidation terminal must allow pickup service that is consistent within a range of 2 to 4 hours.

Small shippers seem willing to accept slightly slower total service time than many carriers currently provide. They seem willing, on the average, to accept 5 day delivery time.

These reports were furnished to your GAO staff auditor, Kenneth Hockman, and were discussed during the meeting on July 9, 1976. I believe their inclusion in your report would provide for a more balanced treatment of the issue.

As to a forfeiture provision for service matters reflected at page 21 of the draft report, the Commission in September, 1971, submitted a legislative proposal which would have provided a general forfeiture provision for all violations of Parts I, II, III and IV. This was introduced by Senator Magnuson on February 25, 1972, as S. 3239.

At page 25, the draft report indicates 748 small shipment complaints shown on our complaint register computer data reports, and 11,000 complaints on our quarterly statistical reports covering the same periods. The computer data reviewed by your auditors only dealt with shipment complaints related to the size of the shipment, whereas the quarterly statistical reports covered all types of "small shipment complaints" listing six different categories. Our further review of computer data and the quarterly statistical reports strongly suggests that the number of small shipment complaints was between 11,000 and 12,000 during fiscal years 1973 - 1975.

Concerning the discussion at page 26 of the draft report, we have recently revised Public Advisory No. 2, which now contains a shipper questionnaire in order to make certain the public is more aware of available Commission assistance, and to permit better evaluation of shipper problems. The questionnaire provides the shipper with a convenient means of furnishing us information as to the adequacy of motor carrier services. A copy of the advisory is enclosed.

1/ Freight Service Expectations, Performance and Tradeoffs in Urban Areas: A Survey, Robert A. Robicheaux, Ph.D., Assistant Professor of Marketing and Transportation, The University of Tennessee

APPENDIX II

APPENDIX II

Regarding the discussion at page 28 of the draft report, two important service cases were instituted against Class I carriers. These proceedings, No. MC-C-8877, Consolidated Freightways Corporation of Delaware--Investigation and Revocation of Certificates and No. MC-C-8807, Pacific Intermountain Express Co. --Investigation and Revocation of Certificates, resulted in the Commission issuing cease and desist orders to prohibit further violations of Section 216(b) of the Act on May 13, 1976, and June 18, 1976, respectively. These cases should have an impact in this area.

Regarding the comments on page 28 concerning the areas to be investigated for possible enforcement action, the Commission has recognized the need for improvement in its compliance and enforcement programs. As a result, within the last few months we have made major internal reforms in that area and expect that the coming years will see significant improvements in our compliance and enforcement activities.

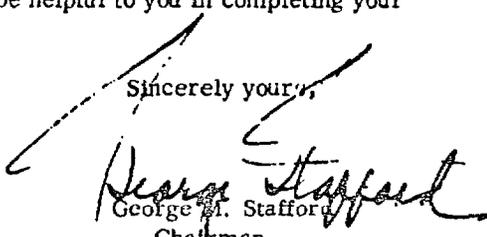
Regarding the discussion at page 30, the Bureau of Operations' field staff regularly reviews carrier performance reports to determine accuracy and, evaluates service complaints received against the involved carrier. This information is submitted to the Bureau of Economics and the Office of Proceedings for further handling.

At page 36, the draft report asserts that it is unknown as to the degree to which small shipments actually receive more handling. We cannot concur in this statement because our 1969 study did provide this information. The new study to which reference is made will utilize a probability sampling technique to overcome the criticism of the earlier report.

The Commission requests that this reply be included in your final report.

We hope that our comments may be helpful to you in completing your report.

Sincerely yours,


George M. Stafford
Chairman

Enclosures [See GAO note 2.]

*Commissioner MacFarland was absent and did not participate.

- GAO note: 1. The deleted comments relate to matters discussed in our draft report but omitted from or modified in this final report.
2. The enclosure to this letter is not included in this appendix due to its length.

note: Page references in this appendix refer to our draft report and may not correspond to the pages of this final report.

APPENDIX III

APPENDIX III



ASSISTANT SECRETARY
FOR ADMINISTRATION

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

November 10, 1976

Mr. Henry Eschwege
Director
Community and Economic Development Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

This is in response to your letter of September 15, 1976, requesting comments from the Department of Transportation on the General Accounting Office draft report entitled, "Potential for Improved Service to the Small Shipper." We have reviewed the report in detail and prepared a Department of Transportation reply.

Two copies of the reply are enclosed.

Sincerely,


William S. Heffelfinger

Enclosures

DEPARTMENT OF TRANSPORTATION REPLYTOGAO DRAFT REPORT OF SEPTEMBER 15, 1976ONPOTENTIAL FOR IMPROVED SERVICE
TO THE SMALL SHIPPERSUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

The report explores the extent to which certain complaints have been raised on the provision of regulated motor carrier service for small shipments. Various responsibilities of the Interstate Commerce Commission (ICC) and the Department of Transportation (DOT) in regard to truck transportation are discussed.

The report finds that the data now collected by the ICC on small shipments complaints is inadequate and unreliable for assessing the true magnitude of the problem. Accordingly, the report recommends that the ICC take steps to: (1) collect reliable data on complaints, (2) emphasize formal investigation of small shipment complaints as the basis for Commission action, and (3) determine whether new authority for the ICC to impose civil penalties on motor carriers who are the target of complaints would help combat service problems.

The report also discusses small shipments problems within the context of urban goods movement problems. Four studies sponsored by the Department of Transportation in regard to freight consolidation and facilitation problems are described briefly. In addition, a one paragraph mention is made of the DOT's proposed Motor Carrier Reform Act (MCRA), and its goal of improving motor carrier price and service options through increased price flexibility and liberalized entry for the motor carrier industry. The report makes no recommendations in regard to DOT activities.

SUMMARY OF DEPARTMENT OF
TRANSPORTATION (DOT) POSITION

- (1) The DOT strongly supports the type of research conducted for this report.
- (2) However, we are very concerned that the report's recommendations do not address the basic question of whether the existing system of motor carrier economic regulation might be a fundamentally poor mechanism for dealing with shipper service problems. The research findings documented in the report reveal substantial ICC problems in assessing and dealing with shipper service complaints. But, in the three recommendations of the report for resolving these problems, the GAO accepts the ICC's traditional regulatory approach,

and simply calls for increased data gathering and regulatory activities on the part of the Commission in regard to small shipment service problems.

- (3) Other alternatives to traditional economic regulatory approaches deserve serious consideration in dealing with small shipments/shipper problems.
- (4) The report's recommendations ignore the implications of the Administration's proposed motor regulatory reform act for more flexible pricing and service options in the marketplace.
- (5) The report needs to distinguish better the difference between small shipment problems generally, and the problems of small, rural shippers.
- (6) No means are suggested whereby the recommendations for more reliable field data and more intensive formal field investigation by the ICC of service complaints might be translated into action in the field.
- (7) Civil penalties may be inadequate to solve this problem in light of the ICC's present difficulties in convicting carriers even for operating rights violations.
- (8) The role of DOT's Office of Facilitation in working with government, consumer, and industry groups to solve transportation

problems should be considered among the report's recommendations for resolving shipper/carrier service problems.

- (9) As a result of the comments summarized above, we find the ultimate recommendations of the report to be quite disappointing.
- (10) The DOT would welcome the opportunity to discuss our reform proposals in detail with GAO, and to provide them with additional materials in this regard.

DEPARTMENT OF TRANSPORTATION POSITION STATEMENT

The GAO draft report presents some excellent research documenting the failure of the existing economic regulatory system to resolve difficulties which shippers of small shipments have experienced with regulated motor carrier service. Nevertheless, this draft must be viewed as only a first step in understanding and resolving these problems. We particularly find the report's ultimate recommendations to be quite disappointing.

Our deepest concern is that the report never asks the basic question of whether the existing system of motor carrier economic regulation might be a fundamentally poor mechanism for dealing with shipper service problems. The ultimate recommendations of the report never challenge the fundamental structure of the ICC's regulatory approach. Rather, they accept this basic structure, and

merely call for increased data gathering and regulatory activities on the part of the ICC in regard to small shipment service problems.

Such recommendations are most dismaying in light of the many interesting and informative insights presented in this report on the failures of the existing system. Yet, the report never seriously considers the alternative of a more competitive marketplace for motor carrier service. The report does mention the Administration's proposed Motor Carrier Reform Act, which is designed to increase the flexibility of individual carriers and shippers to arrive at their own pricing and service solutions in the marketplace (see page 19). However, the implications of this approach essentially are ignored by the ultimate recommendations of the report which, instead, would simply extend and continue existing ICC economic regulatory activities.

Rather than increasing the opportunities for individual shippers and carriers to work out their own individual solutions directly in a competitive marketplace, the report's recommendations would involve an expansion of legalistic complaint procedures under the ICC, increasing the size, scope, and cost of ICC regulatory activities. There is no evaluation of the ability of such an approach to effectively and equitably deal with the thousands of shippers and receivers throughout the country who must depend on motor carriers for responsive pickup and delivery of small shipments. Furthermore, the GAO recommendations take no account of the extremely important observation made on page 26 of

the report: that one way shippers now deal with service problems is to "change to another trucking firm rather than report their problems to the Commission."

The latter finding deserves serious consideration as a direct, effective, immediate and efficient means of dealing with small shipment service problems. Indeed, better ICC formal investigation of complaints, even when such complaints are made to the Commission, will not serve to solve the immediate problems of small, rural shippers and receivers. By contrast, the alternative of changing carriers, where alternative carriers are available, offers a most just and direct client response to service problems.

Unfortunately, a shipper's alternative of changing carriers frequently is thwarted by the existing regulatory system. This is because the current system confines competition in given markets to an ICC-determined field of carriers regulated as to the types of service and rate competition in which they may engage. In large urban markets this situation may pose no pressing problems for general freight shippers, since the latter may have as many as twenty, thirty, or forty carriers from among whom to choose for service. However, for shippers with specialized service needs or located in small towns or rural areas, only one or two carriers may have the necessary ICC authorizations to serve them. Such shippers have little scope for using alternative carriers when they encounter service problems,

short of undertaking the usually costly, time-consuming, and difficult course of supporting new carrier applicants to the ICC for grants of operating authority.

As the GAO report bears out, traditionally the problem of income to carriers from the transport of small shipments has been addressed by the technique of throwing more money at the problem, that is by raising the rates. This "more revenue" syndrome is a key factor in reducing the motivation for developing cost-effective solutions to the handling of small shipments. By contrast, the ICC's granting of a unique operating authority for a certain range of small shipments to the United Parcel Service (UPS) has resulted in a highly successful and shipper-responsive operation. The approach of additional ICC grants of specialized carrier operating authorities certainly merits thoughtful consideration. What is needed, moreover, must go beyond consideration of only limited-term operating certificates or pooling agreements, since the latter are not suitable for addressing widespread service problems experienced by small shippers.

There are several additional problems with the scope and recommendations of this report. One such, which might be easily corrected, is in addressing the difference between problems with small shipments as opposed to the narrower scope of small shipper problems. In fact, the small shipments problem in regard to the motor carrier industry involves small shippers, large shippers,

government shippers at all levels, and large as well as small receivers. On the other hand, the small shipper problem usually involves small shipments to small, out-of-the-way shippers and receivers. The report needs to clarify this distinction better.

Directly related to the above problem, it is crucial to note that the present field forms used by the ICC are woefully inadequate for identifying the extent to which small, rural shippers and receivers experience problems. We need to know specifically whether the summary data from the ICC Quarterly Report Forms is compiled directly from the Commission Complaint-Register Action Log, and, if so, how the summary compilation is done, since the two forms are substantially different. The GAO report, itself, on page 25 notes an extremely large discrepancy between the number of complaints from these two sources. In light of these acute concerns about the reliability of the ICC forms and data, very severe questions need to be raised about the potential usefulness even of upgraded ICC statistical data gathering.

Even by increasing the already substantial resources of time and money going to ICC field offices, it still may be simply impossible to establish the actual extent of the small shipper problem. The GAO recommendation that the ICC collect more reliable data will not get around shipper non-reporting, nor will it change the tendency of field office personnel to spend the bulk of their time investigating simple

violations relating to carriers' transport of unauthorized commodities. It seems logical to assume that under the existing system the more complex and time-consuming nature of service complaints will continue to make them less subject to investigation by ICC field personnel.

We also anticipate a problem in regard to the GAO recommendation for ICC authority to impose civil penalties on carriers in small shipments complaints cases. Right now the Commission has the authority to seek civil penalties for carriers who do not fulfill the obligations associated with their operating rights. In such cases, if the ICC brings suit in a court of law to convict a carrier for a violation of its operating rights certificate, the fines which the courts can impose run between \$100 and \$500 per day, with each day of the violation constituting a separate offense. While there is no information on how effective this system is, we do know that there are very few cases brought. The difficulty is in proving that a carrier is not providing service consistent with its equipment and financial capabilities. This is also the same problem as in revocation proceedings, and there seems to us no reason to believe it would be any different for small shipment cases.

The DOT also would like to point out the success of our Office of Facilitation, Office of the Assistant Secretary for Environment, Safety and Consumer Affairs, in working with segments of the transportation industry as a catalyst/leader in joint government/industry/consumer

attacks on identified problem areas in the transportation and distribution industry. It would seem desirable for the GAO to consider the mission and techniques of this Office in order to include in the final report other possible alternative approaches that may be taken to the small shipments problem.

All in all, we find the recommendations of the GAO report to be disappointing. This is dismaying in light of the commendable review of the current nature of the small shipments problem. What is needed is more attention to and consideration of alternatives to the traditional regulatory approaches of the past. We strongly support the type of research conducted for the report, as far as it goes. However, we would very much welcome the opportunity to discuss with GAO in more detail our proposals for economic regulatory reform of the motor carrier industry. To this effect, we also would like to make available, for their further consideration, a wide range of DOT materials on the need for motor carrier regulatory reform which are not now considered in the draft report, in the chapter dealing with DOT studies of small shipments problems.



Robert Henri Binder
Assistant Secretary for Policy,
Plans and International Affairs

note: Page references in this appendix refer to our draft report and may not correspond to the pages of this final report.

PRINCIPAL OFFICIALS
RESPONSIBLE FOR ADMINISTERING
ACTIVITIES DISCUSSED IN THIS REPORT

Tenure of office
From To

INTERSTATE COMMERCE COMMISSION

CHAIRMAN:

George M. Stafford	Jan. 1970	Present
Virginia Mae Brown	Jan. 1969	Dec. 1969
Paul J. Tierney	Jan. 1968	Dec. 1968
William H. Tucker	Jan. 1967	Dec. 1967

DIRECTOR, BUREAU OF ENFORCEMENT:

Robert S. Turkington (acting)	Nov. 1976	Present
Bernard A. Gould	Jan. 1967	Oct. 1976

DIRECTOR, BUREAU OF OPERATIONS:

Joel E. Burns	Sept. 1976	Present
Lewis R. Teeple (acting)	Dec. 1975	Sept. 1976
Robert D. Pfahler	May 1967	Dec. 1975

DEPARTMENT OF TRANSPORTATION

SECRETARY OF TRANSPORTATION:

William T. Coleman, Jr.	Mar. 1975	Present
John W. Barnum (acting)	Feb. 1975	Mar. 1975
Claude S. Brinegar	Feb. 1973	Feb. 1975
John A. Volpe	Jan. 1969	Feb. 1973