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THE OHIO TRUCKING ASSOCIATION

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July 31, 2009

PUCO Docketing Division
Public Utilities Commission of Ohio
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Columbus, Ohio 43215

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PUCO

On behalf of the Ohio Trucking Association, we respectfully provide the following comments to Proposed Rule Changes and Request for Comments, Case No. 09-223-TR-ORD.

Concerning Rule 4901:2-5-02(E) (F)

The Construction Hours of Service Exception provides the trucking industry the added flexibility that is necessary during the construction season. Our members have informed us that they utilize this exception 10% of the time. If the exception was to be removed, carriers will be forced to purchase additional equipment and or hire additional drivers to accomplish the same amount of work as they accomplish now using the exception. This will also require additional vehicles to be on the already congested roadways adding to pollution.

In the proposal, the PUCO has not provided statistics to indicate there is a crash problem associated with the carriers utilizing the construction exception. PUCO merely cites the fact the rules are not compatible with the FMCSA's interstate rules. PUCO's attempt to satisfy the federal government during this economic recession is not timely.

This regulatory relief is afforded to a very small portion of the industry, private carriers, operating within in 50 mile radius of the facility. Ironically, the PUCO provides complete and unlimited exclusion of carriers working on road projects and transportation provided solely within contiguous municipalities. As well as the FMCSA recently provided total relief of the hours of service to the utilities industry based upon the industries needs of flexibility and the lack of crash statistics that reflect a crash problem associated with driving long hours. This exception is limited to a 50 mile radius, has not negatively impacted traffic safety and does not necessarily increase the number of hours the drivers drive. Carriers that utilize this exception, their drivers do not drive the majority of their time. Their time is spent on other tasks, not driving.

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This exception has been effective since 1998 and the PUCO has not provided any evidence that public safety has been compromised. Additionally, the FMCSA has not threatened to withhold any MCSAP funding due to incompatible rules. Therefore, the question that begs to be answered is why are these rules at issue. The rules have provided an industry with the needed flexibility and have not adversely affected the motoring public, so why change them now or ever.

The industry is currently suffering one of the most devastating economical times in history, with most members of industry seeking more regulatory relief rather than increased regulations. The timing of the commission's decision to remove the exception is for economical reasons not good. This exception allows the carrier to provide services at a lower cost to the consumer and makes the carrier more flexible when bidding jobs.

Concerning 4501:2-5-07(C) (4)(5)(6).

The PUCO should not implement Out Of Service for failing to pay ordered forfeitures, annual tax payment and failing to maintain insurance. Here again the agency has failed to provide any evidence to support such drastic measures. Placing a driver or vehicle or carrier out of service at the roadside is extremely expensive and a great hardship to those involved. Not to mention the safety related issues associated with vehicle, driver and load disposition based on geographical area issues, weather issues, accommodation issues and a host of other issues that come into play.

These three proposed changes have absolutely nothing to do with safety. Safety is the driving reason for the authority to place a vehicle, driver or carrier out of service. Out of service should be for safety reasons and not punitive in its application. Law enforcement should not be used as fee collectors.

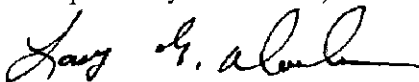
The PUCO does not have the infrastructure nor the resources necessary to provide the registration services needed by the industry. The PUCO does not offer same day service during renewal of the annual tax payments, insurance filings nor the civil forfeiture payments. A carrier cannot accomplish these payments electronically as promised to the industry when PUCO implemented PRISM. Once PUCO has made these programs electronic and same day service, then we can start discussions concerning collections of delinquent fees.

Many times, PUCO holds the carrier responsible for the driver violations. By the time the carrier receives the civil forfeiture or the notice of violation, the driver is no longer an employee of the carrier, however, PUCO unreasonably holds the carrier responsible. This issue exists after repeated pleas from our members and or the association. PUCO should hold the driver responsible, assess civil penalties and collect fines from the driver when it is obviously the driver's violation. Not hold the carrier responsible for violations the driver knowingly committed, while violating carrier policies and training.

Insurance filings or the lack of filings are sometimes not the fault of the carrier. There has to be alternative methods to placing the vehicle and driver out of service at the roadside because the insurance carrier failed to file the proper paperwork with the PUCO.

In summary, these three proposed out of service violations are not safety related. PUCO should focus on providing its customers with same day service that is electronically effective and efficient. PUCO should search for alternative means to collect delinquent fees, rather than create roadblocks on our transportation system in Ohio.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Larry G. Woolum". The signature is fluid and cursive, with the first name "Larry" being more prominent.

Larry G. Woolum
Director of Regulatory Affairs
Ohio Trucking Association