



**Public Utilities
Commission**

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February 4, 2011

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590-0001

Re: Docket No. FMCSA-2004-19608

To whom it may concern:

Per the instructions in the December 29, 2010 Federal Register, the attached comments are being submitted electronically to the Department of Transportation, Federal Motor Carrier Safety Administration, and are being filed in the above docket.

If you have any questions, please feel free to contact me at the number below.

Respectfully submitted,

/s/ William L. Wright

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**Counsel for the Public Utilities
Commission of Ohio**

WLW/klk

Attachment

cc: Joseph Turek
PUCO Transportation

**Before the
DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration**

Hours of Service of Drivers; : Docket No. FMCSA-2004-19608
Proposed Rule :

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

INTRODUCTION

The Public Utilities Commission of Ohio (PUCO) submits these comments pursuant to the Notice of Proposed Rulemaking issued by the Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation on December 29, 2010 in this docket. The PUCO appreciates this opportunity.

The PUCO is the lead motor carrier safety enforcement agency in Ohio and as such has adopted an extensive body of rules to govern the conduct of motor transportation companies. The PUCO has an active interest in the safety of the motoring public and the ability of regulated motor carriers to safely and efficiently conduct their business over the state's highways and roadways.

Ohio has been a leader in motor carrier regulatory enforcement since 1921. It was at that time that the PUCO first established a program to regulate the operations of commercial motor carriers in the state. This program has continually evolved into one of the most comprehensive motor carrier safety programs in the nation. Today, under the leadership of the PUCO, Ohio

administers a program that addresses a wide range of safety issues. The state is an active participant in the Motor Carrier Safety Assistance Program (MCSAP) and was recently recognized by the FMCSA for having the most comprehensive and effective compliance review program among large states in 2009.

COMMENTS

At this time, the PUCO does not take a position as to the merits of the proposed hours-of-service rule and has no reason to doubt the FMCSA's supposition that the proposed rule would enhance safety on the country's highways. However, the PUCO would like to offer brief comments regarding the resources that Ohio and other MCSAP states will require for an effective implementation of any change to the current rule.

Although it appears that the proposed rule provides drivers with additional flexibility it is nevertheless much more complex than the current rule, requiring substantial training of state inspectors and significant modifications to the software they use (i.e. ASPEN and CAPRI) as part of their active enforcement efforts. Because sufficient lead time is critical, the PUCO would recommend that the effective date of any change to the hours-of-service rule be no earlier than 6 months from the date of publication in the Federal Register. Further, the FMCSA should provide states with the necessary training and software updates at least three months prior to the rule's effective date to provide the states sufficient time to test the software and train their enforcement personnel.

The FMCSA must also consider the costs associated with the training of state inspectors and others in the industry. Not only does Ohio have approximately 200 inspectors who will need to receive instruction on the rule, the PUCO likely will be called upon to conduct extensive outreach and educational activities for industry participants just as it has whenever major changes to

the state's regulations have occurred. The FMCSA should perform a thorough analysis as to the additional expenses MCSAP states will incur to implement these new regulations, and it should identify and propose funding mechanism(s) that may be employed so that states have adequate financial resources to ensure an orderly transition from the current rule to the proposed one.

Although training of this sort would appear to simply require a one-time cost, it, in fact, commits states to higher levels of spending in the future to meet maintenance-of-effort requirements under the MCSAP program. Considering that Ohio and most MCSAP states currently face budget crises, which may persist for a number of years, the PUCO believes it would be unwise to obligate the states to increased spending levels into the future. The PUCO would thus recommend that the FMCSA provide grants to the states to facilitate the necessary training.

Finally, while the PUCO does not opine on the substantive provisions of the proposal, it recognizes that there may be considerable resistance from the trucking industry that likely believes the current rule is achieving the optimal level of safety. Before the rule is made effective, the PUCO suggests that the FMCSA forge a partnership with state regulators to implement a pilot program whereby the FMCSA can gather information on the proposed rule's effect on safety, and receive anecdotal evidence as to potential state enforcement and industry compliance challenges. The PUCO would like to take this occasion to express its willingness to engage in further discussions with the FMCSA in this regard.

CONCLUSION

The PUCO is concerned that the proposed rule will be promulgated without due consideration of the implementation activities that states will be forced to undertake. The PUCO encourages FMCSA to act in a deliberate, thoughtful manner to devise a timeline that allows for sufficient training, industry outreach, and software programming to occur. Moreover, the

FMCSA must address the issue of the costs the states will incur as a result of adopting these regulations. Lastly, the PUCO again offers to discuss a possible partnership with the FMCSA to further investigate the efficacy of the proposed rule and the difficulties state enforcement personnel may encounter. The PUCO again thanks the FMCSA for this opportunity and appreciates its consideration of these comments.

Respectfully submitted,

/s/ William L. Wright

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**On Behalf of the Public Utilities Commission of
Ohio**

Dated at Columbus, Ohio, this 4th day of February, 2011.

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Document ID: FMCSA-2004-19608-4095: Hours of Service of Drivers, Proposed Rule, 75 FR 82170, December 29, 2010

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Summary: Comments submitted on February 4, 2011 by William Wright on behalf of the Commission to the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, to be filed in Docket No. FMCSA-2004-19608, In re Hours of Service of Drivers; Proposed Rule electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio