

Unified Carrier Registration Agreement

UCR Board

Avelino Gutierrez, Chair

Robert Pitcher, Vice-Chair

May 15, 2014

Anne S. Ferro
Administrator
Federal Motor Carrier Safety Administration
United States Department of Transportation
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

Subject: Collection and disbursement of funds for administrative expenses under 49
U.S.C. § 14504a(h)(3)(B)

Dear Administrator Ferro:

The Board of Directors (“Board”) of the Unified Carrier Registration Plan¹ (“UCR Plan”) is required to recommend to the Federal Motor Carrier Safety Administration (“FMCSA”) the level of fees to be assessed under the Unified Carrier Registration Agreement² (“UCR Agreement”) in any agreement year.³ In setting the fee level, federal law directs the Board and FMCSA to consider, among other things, administrative costs associated with the UCR Plan and UCR Agreement.⁴ As explained below, to-date, money to pay administrative costs has yet to be collected under the UCR Agreement. However, the Board anticipates that circumstance may change possibly within the next eight months. Therefore, the Board is seeking advice from FMCSA regarding what entity is authorized to disburse funds received by the UCR Plan for administrative expenses, to whom, and under what procedure(s).

In its fee recommendation for agreement year 2010, the Board included an amount of \$5,000,000 for administrative expenses.⁵ The final rule published by FMCSA, acting on the Board’s agreement year 2010 fee recommendation, approved administrative

¹Under 49 U.S.C. § 14504a(a)(9), “[t]he terms “unified carrier registration plan” and “UCR plan” mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.”

²Under 49 U.S.C. § 14504a(a)(8), “[t]he terms “unified carrier registration agreement” and “UCR agreement” mean the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.”

³49 U.S.C. § 14504a(d)(7)(A).

⁴49 U.S.C. § 14504a(d)(7)(A)(i).

⁵September 3, 2009 (74 FR 45583, 45588).

costs in the amount of \$5,000,000.⁶ In spite of the Board recommendation and FMCSA approval, the Board has yet to realize any money for payment of administrative expenses because of the language of the federal law that states that administrative costs of the UCR Plan and UCR Agreement are paid only after all states have been paid their revenue entitlements.⁷ As stated above, the Board believes that there is a reasonable probability that all UCR participating states will collect their revenue entitlement for the 2014 agreement year⁸ thereby realizing for the first time money for payment of administrative costs.

The major reason for asking FMCSA for its opinion now is that the Board would like to have the issues associated with administrative costs and disbursements dealt with deliberatively so that an orderly, legal, ethical, and transparent process can be established in advance of any such money being available. In addition to the questions at the end of paragraph one above, the Board would like FMCSA to specifically address the following questions:

- 1) Do any federal statutes or regulations governing acquisitions of good and services apply to the disbursement of funds for administrative expenses by the UCR Plan?
- 2) What ethical or fiduciary obligations apply to the collection and disbursement of such funds?

By the questions posed in this letter, the Board does not intend or desire to limit the discussion of other issues FMCSA believes are relevant to the collection of administrative money and payment of administrative costs and would gratefully appreciate any other advice or direction from FMCSA on these matters. If you have questions regarding this letter, please contact me. Thank you.

⁶ April 27, 2010 (75 FR 21993, 22008). *See*, 75 FR 22006 (“... FMCSA believes it is not only reasonable, but imperative to include [administrative] costs in the fee calculation”); *and*, 75 FR 22008 (“After evaluating comments that opposed inclusion of the administrative expenses... FMCSA has concluded that it is statutorily required to include the administrative expenses. . .”).

⁷ 49 U.S.C. § 14504a(h)(3)(B).

⁸ The Board is unsure as to *when* this might occur for the 2014 registration year, but has done projections that would indicate that full state revenue entitlement is more than possible before December 31, 2014.

LETTER TO ANNE S. FERRO
ADMINISTRATOR, FMCSA
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Sincerely,

A handwritten signature in cursive script, appearing to read "Avelino A. Gutierrez".

Avelino A. Gutierrez
Chair, Board of Directors
Unified Carrier Registration Plan

cc: Unified Carrier Registration Plan Board of Directors
Bill Bronrott, Deputy Administrator, FMCSA
Gerald Folsom, UCR Program Director, FMCSA
Frederic L. Wood, Office of Chief Counsel, FMCSA