



Louisiana Public Service Commission

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January 11, 2008

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EVE KAHAO GONZALEZ
General Counsel

Mr. Avelino Gutierrez, Esq.
Chairman, Board of Directors
Unified Carrier Registration Agreement
PERA Building
P.O. Box 1269
Santa Fe, NM 87504

Re: Louisiana-UCR

Dear Mr. Gutierrez:

Please consider the following discussion as a response to the issues raised by the Louisiana Motor Transport Association, Inc. ("LMTA") in its letter of December 5, 2007, concerning the implementation of the UCR in Louisiana by the Louisiana Public Service Commission.

The Louisiana Public Service Commission is a constitutionally created agency and is not a creature of the Louisiana legislature. Under Article IV, Sec. 21 (B) of the Constitution of 1974, the Commission is not only empowered, but also mandated to regulate common carriers. In addition, the Louisiana Supreme Court has repeatedly held that the Commission's jurisdiction cannot be diminished, nor curtailed by the Louisiana legislature.

Under its constitutional authority, the Commission administered Single State and its predecessor program. In addition, under Title 45:163.1 the legislature further empowered the Commission to register and regulate interstate carriers, including common carriers, contract carriers and **private carriers**.

In 2006, the Louisiana legislature attempted to curtail the Commission's powers, through an act, which gave the implementation of UCR to the Louisiana Department of Public Safety. That act did not become law because the governor vetoed the message as unconstitutional due to the powers granted to the Commission by the Constitution.

Relying upon its constitutional powers, the Commission filed a UCR state plan, wherein it certified that it had the legal authority and resources to administer the UCR. Thereafter, the Commission took all necessary steps to begin registering carriers under UCR, including the training of staff members to assist carriers in the process. The Commission mailed approximately 11,000 applications to Louisiana based carriers. To date, the Commission has registered 3733 carriers. The registration of carriers began on September 10, 2007. On

September 7, 2007, the Commission opened a rulemaking docket to consider establishing a fine and bond for failure to register UCR. On September 24, 2007, LMTA filed an intervention and protect, objection to the Commission authority for implementation of UCR in Louisiana. However, through the entire process, the Commission continued assisting common carriers, private carriers, freight forwarders and brokers.

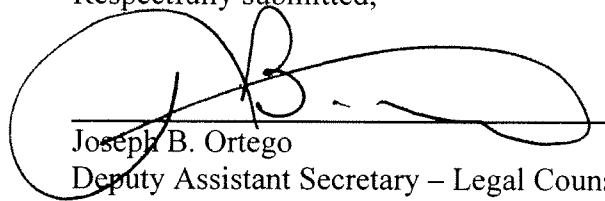
It is the Commission's position that it has the legal authority to implement and enforce UCR in Louisiana under its constitutional mandate and under La. R.S. 45: 163.1. The Louisiana constitution clearly grants jurisdiction over common carriers to the Commission. Title 45 grants the Commission jurisdiction over private carriers at the very least in so far as Single State. It is the Commission's position that when Congress chose to expand Single State to include private carriers, freight forwarders and brokers into the registration system, the entire UCR fell to the Commission to implement and enforce.

LMTA also argues that UCR should be implemented by the Louisiana Department of Public Safety and not the Commission because safety inspections are performed in Louisiana by the State Police and not the Commission. LMTA is fully aware that the Commission and the Department of Public Safety have been in discussions for the last two years to reach an interagency agreement whereby a portion of UCR registration fees will be used to pay the cost of certain safety programs administered by the State Police. This approach has always been envisioned by both agencies because the UCR Act mandates that registration fees be spent on administration, enforcement and **SAFETY**. An agreement in principle has been reached by the two agencies, but has not been finalized. First, it is difficult to determine at this time the amount of funds that will be available to Louisiana for distribution to the two agencies. Secondly, a new governor will be inaugurated on January 14, 2007 and a new State Colonel will take command of the State Police on that same date. A final agreement, even in general principles, cannot be executed until the new Colonel takes office.

It is clear that LMTA wants the Commission to continue expending time and money to register carriers in the UCR program. However, LMTA seeks to prevent enforcement in Louisiana. Of course, the Commission, as most other jurisdictions, is not enforcing UCR at the present time and is simply informing carriers that the UCR program is now in place and encouraging carriers to register.

I will be present at the upcoming UCR board meeting in Clearwater when this matter is considered on the agenda. I will be happy to answer any questions at that time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joseph B. Ortego', is written over a horizontal line. The signature is stylized and somewhat cursive.

Joseph B. Ortego
Deputy Assistant Secretary – Legal Counsel
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Louisiana Public Service Commission
P.O. Box 91154
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cc: Gordon D. Polozola