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STATEMENT OF THE STAFF OF THE SEATTLE REGIONAL OFFICE  
AND THE BUREAUS OF COMPETITION, CONSUMER PROTECTION,  
AND ECONOMICS OF THE FEDERAL TRADE COMMISSION

ON

ECONOMIC DEREGULATION OF TRUCKING

TO

THE SUBCOMMITTEE ON REGULATION OF THE  
LEGISLATIVE TRANSPORTATION COMMITTEE  
WASHINGTON STATE LEGISLATURE

presented by

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December 4, 1985

THANK YOU FOR THIS OPPORTUNITY TO PRESENT TESTIMONY CONCERNING TRUCKING DEREGULATION IN WASHINGTON. THE OPINIONS I EXPRESS HERE TODAY ARE THOSE OF THE SEATTLE REGIONAL OFFICE AND THE BUREAUS OF COMPETITION, CONSUMER PROTECTION, AND ECONOMICS OF THE FEDERAL TRADE COMMISSION AND DO NOT NECESSARILY REPRESENT THE VIEWS OF THE COMMISSION OR THOSE OF ANY INDIVIDUAL COMMISSIONER. THE COMMISSION, HOWEVER, HAS AUTHORIZED THE PRESENTATION OF THIS TESTIMONY.

THE STATE OF WASHINGTON IS ONE OF THE MOST IMPORTANT STATES IN TERMS OF INTRASTATE TRUCKING VOLUME, RANKING NINTH IN GENERAL FREIGHT TONNAGE CARRIED BY TRUCK. AT THE SAME TIME, COMPETITION IN THIS INDUSTRY HAS BEEN SUBSTANTIALLY RESTRICTED BECAUSE WASHINGTON REGULATES TRUCKING MORE CLOSELY THAN MOST OTHER STATES. THEREFORE, THE BENEFITS OF DEREGULATION WOULD BE PARTICULARLY SIGNIFICANT IN THIS STATE.

THE PROPOSED LEGISLATION WOULD EXTENSIVELY REVISE WASHINGTON STATUTES REGULATING TRUCKING. WE UNDERSTAND THAT THE NEW REGULATORY FRAMEWORK WILL PERMIT GREATER EASE OF ENTRY AS WELL AS GREATER PRICING FLEXIBILITY. ALTHOUGH THE PROPOSED REFORM DOES NOT GO AS FAR AS WE WOULD RECOMMEND, WE SUPPORT THE PROPOSED TRUCKING DEREGULATION LEGISLATION AS A SIGNIFICANT STEP IN THE RIGHT DIRECTION.

WE BELIEVE THAT THE PROPOSED LEGISLATION WOULD DECREASE SHIPPING COSTS AND INCREASE EFFICIENCY IN THE INTRASTATE TRUCKING INDUSTRY. THIS INDUSTRY DOES NOT NEED ECONOMIC REGULATORY SUPERVISION. TRUCKING DOES NOT HAVE ANY NATURAL MONOPOLY

CHARACTERISTICS. ABSENT REGULATORY BARRIERS, ENTRY IS EASY AND OPERATION ON A RELATIVELY SMALL SCALE IS FEASIBLE. THERE ARE A LARGE NUMBER OF FIRMS, AND CONSUMERS OF TRUCKING SERVICES ARE KNOWLEDGEABLE BUYERS. THEREFORE, WE HAVE EVERY REASON TO BELIEVE THAT COMPETITIVE FORCES WOULD SIGNIFICANTLY IMPROVE THE PERFORMANCE OF THIS SECTOR OF THE ECONOMY.

ACCORDING TO ECONOMIC STUDIES, A RETURN TO A COMPETITIVE MARKET SHOULD CUT FREIGHT BILLS TO SHIPPERS, WITH CONSEQUENT REDUCTIONS IN PRICES PAID BY FINAL CONSUMERS. IT SHOULD ALSO INCREASE OUTPUT AND EMPLOYMENT IN THE TRUCKING INDUSTRY<sup>1</sup> AND LEAD TO A WIDER RANGE OF SERVICE OPTIONS. RELIEVED OF THE NEED TO CONFORM TO RIGID FILING REQUIREMENTS AND TO DEFEND THEIR RATE REDUCTIONS TO COMPETITORS AND REGULATORS, CARRIERS SHOULD BE ABLE TO BE MORE RESPONSIVE TO SHIPPER NEEDS.

IN EXAMINING TRUCKING REGULATION, IT IS INSTRUCTIVE TO LOOK AT ITS HISTORICAL ORIGINS. TRUCKING REGULATION WAS ORIGINALLY INTENDED TO HELP PROTECT THE REGULATED RAILROADS FROM THE THEN UNREGULATED AND EXPANDING TRUCKING INDUSTRY. IT WAS ALSO DESIGNED, IN PART, TO SUPPORT THE TRUCKING INDUSTRY BY RESTRICTING COMPETITION DURING THE 1930'S DEPRESSION.<sup>2</sup> NEITHER RATIONALE HAS ANY VALIDITY IN 1985.

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<sup>1</sup> Kidder, "An Econometric Measure of the Impact of Regulatory Reform on Employment and Unemployment in the Trucking Services Industry." Presented at the Transportation Research Forum, 24th Annual Meeting, Washington, D.C., November 2-5, 1983.

<sup>2</sup> Nelson, "The Changing Economic Case for Surface Transport Regulation," in Perspective on Federal Transportation Policy, (James C. Miller III ed. 1975).

THE FIRST ARGUMENT USUALLY ADVANCED IN SUPPORT OF CONTINUED REGULATION IS THAT DEREGULATION WOULD INEVITABLY LEAD TO SO-CALLED "DESTRUCTIVE COMPETITION." IF "DESTRUCTIVE COMPETITION" MEANS PRICE CUTTING AND CHRONIC LOSSES IN AN INDUSTRY UNABLE TO RID ITSELF OF OVERCAPACITY, ONE WOULD EXPECT THAT INDUSTRY, AT A MINIMUM, TO BE CHARACTERIZED BY A HIGH RATIO OF FIXED TO TOTAL COSTS, SUBSTANTIAL SUNK INVESTMENT, AND A LONG TERM DECLINE IN DEMAND. IN THE TRUCKING INDUSTRY, HOWEVER, COSTS ARE LARGELY VARIABLE AND ASSETS ARE RELATIVELY SHORT-LIVED AND HIGHLY MOBILE. THESE CONDITIONS MAKE IT RELATIVELY EASY FOR THE INDUSTRY TO ADJUST CAPACITY TO EVEN TEMPORARY REDUCTIONS IN DEMAND.

ANOTHER ARGUMENT FOR REGULATION, ADVANCED BY SOME, IS THAT LARGE TRUCKING FIRMS WILL ENGAGE IN PREDATORY PRACTICES IF NOT CLOSELY SUPERVISED. BUT PREDATION IS UNLIKELY TO BE A REAL CONCERN WITH RESPECT TO THE TRUCKING INDUSTRY, BECAUSE ENTRY IS RELATIVELY EASY IN THE ABSENCE OF REGULATORY BARRIERS. AS A RESULT, A WOULD-BE PREDATOR WHO TRIED TO RAISE RATES TO MONOPOLY LEVELS TO RECOUP ITS LOSSES FROM BELOW-COST PRICING WOULD ALWAYS FACE COMPETITION FROM NEW ENTRANTS OR RE-ENTRANTS.<sup>3</sup> PREDATION SIMPLY DOES NOT PAY IN AN INDUSTRY SUCH AS TRUCKING.

A THIRD ARGUMENT RAISED BY THOSE WHO FAVOR REGULATION IS THAT THE COMMON CARRIER OBLIGATION WILL BE UNDERMINED IF TRUCKING IS DEREGULATED AND, AS A RESULT, SMALL RURAL COMMUNITIES WILL

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<sup>3</sup> Breen, Antitrust and Price Competition in the Trucking Industry The Antitrust Bulletin, Spring 1983, pp. 212-215.

LOSE SERVICE. HOWEVER, TWO STUDIES CONDUCTED IN THE WESTERN UNITED STATES SUGGEST THAT FOLLOWING FEDERAL DEREGULATION, THE QUANTITY AND QUALITY OF SERVICE FOR SMALL TOWNS HAS REMAINED APPROXIMATELY THE SAME AS BEFORE.<sup>4</sup> THIS RESULT IS CONSISTENT WITH THE FINDING OF AN I.C.C. STUDY THAT TRUCKING SERVICE TO SMALL COMMUNITIES HAS NEVER BEEN SUBSIDIZED BY RATES ON HIGH DENSITY ROUTES.<sup>5</sup> IF CROSS-SUBSIDIZATION FROM LARGE TO SMALL TOWNS DOES NOT OCCUR IN A REGULATORY ENVIRONMENT, IT IS DIFFICULT TO SEE HOW SMALL TOWNS WOULD SUFFER UNDER DEREGULATION. IN FACT, 65% OF THE SHIPPERS IN SMALL COMMUNITIES IN FLORIDA, WHICH HAS DEREGULATED TRUCKING, STATED A PREFERENCE FOR DEREGULATION.<sup>6</sup>

IF DEREGULATION DOES NOT HAVE THE DISADVANTAGES CLAIMED BY ITS OPPONENTS, THEN WHAT ARE ITS ADVANTAGES? THEY ARE THE ADVANTAGES BROUGHT ABOUT BY ANY FREE COMPETITIVE MARKET: EFFICIENCY, FLEXIBILITY AND INNOVATION IN SERVICE AND PRICING.

ALL OF THESE ADVANTAGES ARE PROMOTED BY EASE OF ENTRY INTO THE TRUCKING BUSINESS. AT PRESENT, HOWEVER, ENTRY IS LIMITED IN WASHINGTON STATE BECAUSE EACH NEW TRUCKER MUST OBTAIN A STATE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. COMPETITORS MAY

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<sup>4</sup> Impact of Regulatory Reform on Shipper/Receiver Freight Service in Selected Rural Communities, 1982: a Second Followup Study, Mar. 1983, U.S. Department of Transportation.

<sup>5</sup> An Evaluation of Charges That Regulatory Reform Will Degrade Small Community Motor Carrier Service, Mar. 1980, U.S. Interstate Commerce Commission.

<sup>6</sup> Freeman, A Survey of Motor Carrier Deregulation in Florida: One Year Experience, I.C.C. Practitioners Journal, Nov.-Dec. 1982, p. 51.

CONTEST THE APPLICATION FOR THE CERTIFICATE, RAISING THE COSTS AND TIME ASSOCIATED WITH ENTRY EFFORTS AND KEEPING SOME POTENTIAL COMPETITORS WHOLLY OUT OF THE MARKET. THE NEED TO OBTAIN AN OPERATING CERTIFICATE RESTRICTS COMPETITION IN TRUCKING, RESULTING IN HIGHER RATES FOR SHIPPERS AND THEIR CUSTOMERS AND HIGHER PROFITS FOR INCUMBENT TRUCKING FIRMS THAT ALREADY HAVE CERTIFICATES. THE POWER CONFERRED BY THE OPERATING CERTIFICATES TO EARN MONOPOLY PROFITS OR RENTS CAUSES THE CERTIFICATES THEMSELVES TO ACQUIRE SUBSTANTIAL VALUE. UNDER THE FORMER FEDERAL RESTRICTIONS ON ENTRY THESE PRIVILEGES HAD AN ESTIMATED WORTH BETWEEN \$1.5 AND \$2 BILLION.<sup>7</sup> THAT LARGE DOLLAR VALUE SUPPORTS THE CONCLUSION THAT COMPETITION HAS BEEN SEVERELY RESTRICTED BY ENTRY BARRIERS INTO BOTH INTERSTATE AND INTRASTATE MARKETS.

THERE IS ANOTHER UNDESIRABLE ASPECT OF ENTRY CONTROL IN TRUCKING. TYPICALLY, CERTIFICATES ARE QUITE CIRCUMSCRIBED IN TERMS OF COMMODITY AND GEOGRAPHIC SCOPE AND THEY OFTEN CONTAIN OTHER OPERATING RESTRICTIONS. FOR EXAMPLE, THEY MAY SPECIFY HIGHWAY ROUTES TO BE USED OR PROHIBIT THE SOLICITATION OF RETURN LOADS. NOT ONLY DOES THIS MAKE IT DIFFICULT FOR CARRIERS TO ADJUST THEIR OPERATIONS AS THE PATTERN OF DEMAND FOR TRUCKING CHANGES, BUT IT ALSO CREATES INEFFICIENCIES, SUCH AS EMPTY BACK-HAULS AND CIRCUITOUS ROUTES.<sup>8</sup> THESE INEFFICIENCIES INFLATE THE

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<sup>7</sup> Moore, The Beneficiaries of Trucking Regulation, The Journal of Law and Economics, October 1978, p. 327.

<sup>8</sup> Kafoglis, A Paradox of Regulated Trucking, Regulation, Sept./Oct. 1977, p. 27.

COST OF PROVIDING TRUCKING SERVICE BECAUSE MORE TRUCKS, LABOR AND FUEL ARE NEEDED TO DO THE SAME JOB. AS AN EXAMPLE, BEFORE THE FEDERAL PARTIAL DEREGULATION, THE FEDERAL ENERGY ADMINISTRATION ESTIMATED THAT EMPTY BACKHAULS INFLATED TRUCKING COSTS BY AT LEAST \$300 MILLION A YEAR.<sup>9</sup>

THE EXPERIENCES OF STATES THAT HAVE NEVER REGULATED OR HAVE DEREGULATED TRUCKING ATTEST TO THE BENEFITS OF FREE COMPETITION IN THE INDUSTRY. A STUDY OF NEW JERSEY, FOR EXAMPLE, CONCLUDED THAT NON-REGULATION HAS WORKED WELL. SHIPPERS ARE SATISFIED WITH THE AVAILABLE SERVICE, RATES ARE ABOUT 10% LOWER THAN THEY WOULD HAVE BEEN UNDER REGULATION, AND THE INTRASTATE CARRIERS HAVE SURVIVED AND PROFITED.<sup>10</sup>

FLORIDA'S EXPERIENCE IS PARTICULARLY INTERESTING BECAUSE IN THAT STATE, DEREGULATION OCCURRED SO SUDDENLY THAT SHIPPERS AND CARRIERS WERE NOT ABLE TO PREPARE FOR IT IN ADVANCE. ONE STUDY REPORTS, NEVERTHELESS, THAT A YEAR AFTER DEREGULATION 88% OF SHIPPERS, AS WELL AS A SURPRISINGLY HIGH 49% OF TRUCKERS, SUPPORTED DEREGULATION. MOST SHIPPERS THOUGHT THAT SERVICE LEVELS REMAINED SATISFACTORY. A LATER U.S. DEPARTMENT OF

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<sup>9</sup> Public Concern Foundation, Washington Spectator 1 (Dec. 1, 1978).

<sup>10</sup> Allen, Statement Before the National Commission for the Review of Anti-trust Laws and Procedures, Jan. 22, 1979, p. 199.

TRANSPORTATION STUDY OF FLORIDA<sup>11</sup> FOUND THAT 90% OF SHIPPERS BELIEVED THAT POST-REGULATION SERVICE WAS AT LEAST AS GOOD AS SERVICE BEFORE DEREGULATION, AND 30% REPORTED IMPROVEMENTS. IN ADDITION, A MAJORITY OF SHIPPERS (58%) PERCEIVED THAT DEREGULATION HAD HELD DOWN RATES.

IN WISCONSIN, 67% OF SHIPPERS WERE SATISFIED WITH DEREGULATION, AND ONLY 6% WERE DISSATISFIED. FOR INSTANCE, 80% OF THE SATISFIED SHIPPERS SAID THAT RATE INFORMATION WAS AS EASY TO GET AFTER DEREGULATION AS BEFORE. CARRIERS WERE EVENLY DIVIDED ON THE QUESTION OF DEREGULATION. THOSE WITH INCREASED PROFITS HAVE TENDED TO FAVOR DEREGULATION. SOME OF THOSE DISFAVORING DEREGULATION WERE UNHAPPY OVER THE LOSS OF CERTIFICATE VALUES, AN INEVITABLE ONE-TIME RESULT OF CONVERTING FROM A REGULATED TO A FREE MARKET.<sup>12</sup>

AS YOU ARE PROBABLY AWARE, OREGON DEREGULATED THE SHIPPING OF CERTAIN BUILDING MATERIALS IN 1980. THE RESULTS OF THIS ACTION WERE EXAMINED IN TWO SEPARATE SURVEYS BY THE LEGISLATIVE RESEARCH OFFICE OF THE OREGON LEGISLATURE. ALL PARTIES SURVEYED AGREED THAT DEREGULATION INCREASED THE NUMBER OF CARRIERS IN THE

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<sup>11</sup> Statement of Matthew V. Scocozza, Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation, Before the Subcommittee on Surface Transportation, U.S. House of Representatives, June 20, 1984.

<sup>12</sup> Deregulation of Wisconsin Motor Carriers, The Wisconsin Office of the Commissioner of Transportation, July 1983.

MARKET. ACCORDING TO THE SURVEY, ALMOST ALL SHIPPERS AND MOST OF THE TRUCKERS WITH PRE-EXISTING AUTHORITY TO CARRY THESE PRODUCTS BELIEVED THAT TRUCKING RATES DECREASED. NONE OF THE GROUPS SURVEYED BELIEVED THAT THERE HAD BEEN A GENERAL INCREASE IN RATES AS A RESULT OF DEREGULATION.

AT THE NATIONAL LEVEL, PARTIAL FEDERAL DEREGULATION HAS BROUGHT ABOUT STRIKING CHANGES. ENTRY INTO THE INTERSTATE TRUCKING BUSINESS HAS BEEN GREATLY EASED.<sup>13</sup> THE NUMBER OF REGULATED CARRIERS HAS ROUGHLY DOUBLED SINCE 1980.<sup>14</sup> FURTHERMORE, THE NEW OPERATING CERTIFICATES ISSUED HAVE TENDED TO BE MUCH BROADER IN SCOPE AND FREE OF OPERATING RESTRICTIONS. THERE HAS ALSO BEEN AN INCREASE AT THE NATIONAL LEVEL IN THE NUMBER OF INDEPENDENT RATE CHANGES, WITH THE VAST MAJORITY OF OBSERVED CHANGES BEING RATE DECREASES.<sup>15</sup>

EMPIRICAL STUDIES OF NATIONAL TRUCKING DEREGULATION HAVE CONFIRMED ITS EXPECTED BENEFITS FOR CONSUMERS. A RECENT FEDERAL STUDY FOUND THAT REGULATED RATES ARE HIGHER THAN COMPETITIVE

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13. The Effect of Regulatory Reform on the Trucking Industry: Structure, Conduct, and Performance, Office of Policy and Analysis, U.S. Interstate Commerce Commission, June 1981.

14 Interview with Edward Guthrie, Attorney, Office of Commissioner Sterrett, Interstate Commerce Commission, Nov. 25, 1985.

15 Statement of Reese Taylor Jr., Chairman Interstate Commerce Commission, Before the Senate Committee on Commerce, Science, and Transportation; Sept. 21, 1983.

RATES.<sup>16</sup> THIS IS DUE IN PART TO THE ASPECTS OF ENTRY CONTROL AND RATE REGULATION I HAVE ALREADY DISCUSSED, AND IN PART TO THE ABILITY OF CARRIERS, UNDER REGULATION, TO "PASS THROUGH" HIGHER COSTS AUTOMATICALLY VIA COLLECTIVE GENERAL RATE INCREASES. THIS HAS DIMINISHED CARRIERS' INCENTIVES TO MINIMIZE THEIR COSTS, RESULTING IN HIGHER RATES.

IN CONCLUSION, AS JAMES C. MILLER III, FORMER CHAIRMAN OF THE FEDERAL TRADE COMMISSION AND CURRENT DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, HAS STATED:

. . . IT IS EXTREMELY IMPORTANT THAT POLICY MAKERS PERIODICALLY REASSESS THE NEED FOR REGULATION. INDEED, BECAUSE REGULATION TENDS TO BE SELF-SERVING, THE BURDEN SHOULD ALWAYS BE ON THOSE WHO MAINTAIN THAT REGULATION IS NEEDED.<sup>17</sup>

WE BELIEVE THAT PROPONENTS OF TRUCKING REGULATION CANNOT SATISFY THEIR BURDEN OF DEMONSTRATING ITS ECONOMIC VALUE FOR THE REASONS I HAVE ALREADY MENTIONED. THIS COUNTRY THEREFORE MUST CONTINUE TO MOVE IN THE DIRECTION OF THE MOST EFFICIENT POSSIBLE ECONOMY. WE CAN NO LONGER AFFORD THE COST OF PROTECTING MOTOR CARRIERS AND INEFFICIENT OPERATIONS FROM THE RIGORS OF

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<sup>16</sup> Collective Ratemaking in the Trucking Industry, Motor Carrier Ratemaking Study Commission, June 1, 1983.

<sup>17</sup> Miller, The Pros and Cons of Trucking Regulation, Reprinted from Economic Regulation of Trucking, in Report of the Economic Advisory Panel to the National Commission for the Review of the Antitrust Laws and Procedures (Nov. 9, 1978), p. 2.

COMPETITION. THE PROPOSED LEGISLATION REPRESENTS AN IMPORTANT  
STEP IN THE NECESSARY PROCESS OF DEREGULATING THE TRUCKING  
INDUSTRY.