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November 8, 2005

Mr. Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

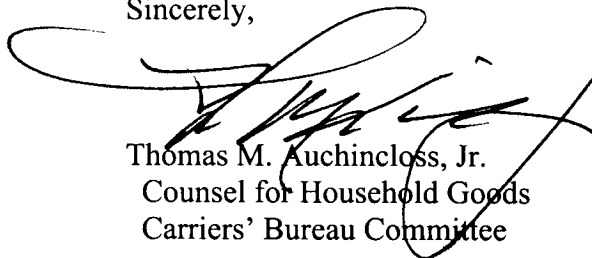
Re: Amendment No. 4 to Released Rates
Decision No. MC-999, Application of
Household Goods Carriers' Bureau
Committee to Amend Released Rates Authority

Dear Mr. Williams:

Enclosed are the original and 10 copies of an application filed on behalf of the Household Goods Carriers' Bureau Committee and its member carriers to amend the Board's decision issued in the above-styled proceeding.

Please hand stamp the additional copy for return to my office via our messenger.

Sincerely,



Thomas M. Auchincloss, Jr.
Counsel for Household Goods
Carriers' Bureau Committee

Encs.
cc: Mr. Joseph M. Harrison

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BEFORE THE
SURFACE TRANSPORTATION BOARD

AMENDMENT NO. 4
TO
RELEASED RATES DECISION NO. MC-999

APPLICATION OF
HOUSEHOLD GOODS CARRIERS' BUREAU COMMITTEE
TO AMEND
RELEASED RATES AUTHORITY

JOSEPH M. HARRISON, Secretary
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Dated: November 8, 2005

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BEFORE THE
SURFACE TRANSPORTATION BOARD



AMENDMENT NO. 4
TO
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APPLICATION OF
HOUSEHOLD GOODS CARRIERS' BUREAU COMMITTEE
TO AMEND
RELEASED RATES AUTHORITY

Comes now the Household Goods Carriers' Bureau Committee (HGCBC or Committee) on behalf of its member carriers (Applicants), and, pursuant to the requirements of Section 14706(f) of the Interstate Commerce Act, petitions the Board for authority to amend the released rates authority granted to motor carriers of household goods by Board decision of December 18, 2001.¹

HGCBC is the principal ratemaking, tariff publishing and data gathering organization of the moving and storage industry. Its membership consists of approximately 2,000 motor carriers of property that are engaged in the transportation of household goods as defined in 49 U.S.C. § 13102(10).

BACKGROUND

By Application filed on August 5, 1999, HGCBC on behalf of its member carriers sought authority to amend the outstanding released rates authority granted to motor

¹ A similar informal request was filed with the Board on behalf of HGCBC under date of July 8, 2005, and was subsequently withdrawn.

carriers of household goods by the former Interstate Commerce Commission by authorizing the cancellation of a depreciated value basis (\$1.25 per pound) for shipper recovery for loss or damage and authority to establish a full (replacement) value protection basis for such recoveries. Following receipt of comments in response to the Board's Notice of the HGCBC Application, 65 *Fed. Reg.* 67472-4 (2000), the authority requested by HGCBC was granted by decision of December 18, 2001 (2001 Decision).² The HGCBC Application also proposed and the Board authorized retention of a 60 cents per pound minimum valuation basis for shipment valuation declarations to apply to those shipments that are not transported subject to the full value protection tariff authority.

In addition to authority to cancel the depreciated value basis for loss or damage recovery and to establish a full (replacement) value basis for recovery, the 2001 Decision authorized the establishment of a \$4.00 per pound minimum valuation declaration and shipment valuation charges for 19 categories of declared valuations ranging from \$5,000 to over \$250,000.

At the request of HGCBC the Board also authorized annual adjustments in the \$4.00 per pound valuation figure and the shipment valuation charges predicated upon annual changes in the United States Department of Labor Bureau of Labor Statistics (BLS) "Household Furnishings and Operations" Index, a sub-index of the BLS Consumer Price Index. (See 2001 Decision, pp. 10 and 11). As explained *infra*, it is this authority that HGCBC requests be amended.

² Two subsequent Board decisions were entered in this proceeding. The first, decided January 17, 2002, set May 12, 2002, as the date for carrier conformance with the several requirements of the December 18, 2001, decision, and, the second, decided April 19, 2002, clarified that the authority extended by the December 18, 2001, decision applied to all motor carriers of household goods and that the 2001 Decision did not require cancellation of full value protection tariff items established by HGCBC carriers under their right of independent action authorized by Section 13703(a)(4) of the Act.

RELIEF SOUGHT

As noted, the HGCBC Application proposed annual adjustments in the \$4.00 per pound valuation figure as dictated by annual changes in the BLS “Household Furnishings and Operations” Index. Changes in the \$4.00 figure would only occur if the Index dictated a change of five (5) cents or more. In the case of the per shipment valuation charges, the same Index would govern annual changes of not less than ten (10) cents in all charges. (See HGCBC Application, pp. 20 and 21).

In its November 9, 2000, decision requesting comments on several issues related to the released rates authority requested by HGCBC, the Board questioned whether the “Household Furnishings and Operations” Index was the appropriate index to effect changes in both the \$4.00 per pound valuation figure and the shipment valuation charges. (2000 Decision, pp. 8-9). As discussed in the 2001 Decision (pp. 10-11), the Board concluded that the appropriate Index for increases in both the \$4.00 and the shipment charges was the CPI Household Furnishings, etc. Index.³ Although not discussed in the 2001 Decision, HGCBC explained that calendar year 1999, the year in which the HGCBC Application was filed, was the appropriate base year period (equal to 100%) for calculating future annual adjustments.⁴ The 2001 Decision authorized the annual adjustments to begin one year after the effective date of the tariff item implementing the released rates authority.⁵

³ The 2001 Decision also rejected an HGCBC suggestion that two Indexes in the Producer Price Index could be utilized to determine annual increases in the valuation charges.

⁴ The \$4.00 per pound shipment valuation figure and the shipment valuation charges proposed for 19 valuation categories were developed relying upon 1999 data. (See HGCBC Application, pp. 10 and 16-18.)

⁵ As noted, the effective date of the implementing tariff item was May 12, 2002, as set by the Board’s January 17, 2002, decision.

HGCBC has not effected changes on behalf of its member carriers in the \$4.00 figure or the shipment valuation charges since the released rates tariff item became effective on May 12, 2002. The CPI Household Furnishings, etc. Index which dictates whether changes are necessary has recorded insignificant movement since the base year 1999. The following table sets forth the impact of year to year changes which have been either inconsequential or negative:

Table No. 1

Consumer Price Index—All Urban Consumers
 Item: Household Furnishings and Operations
Base Period: 1999=100

<u>Year</u> (1)	<u>Annual Index</u> (2)
1999	126.7
2000	128.2
2001	129.1
2002	128.3
2003	126.1
2004	125.5
2005 (9 mos.)	126.1

According to these figures, the first adjustment which would have become effective in May 2003, relying upon the full year 2002 result (128.3) relative to the previous period Index (129.1), produced an Index point difference of -0.8, or a percentage reduction of 0.06%. Year to date 2005 results measured against the 1999 base period also produced a negative change.

The peculiarities or inconsistencies of the Household Furnishings, etc. Index may be attributed to periodic structure changes the Bureau of Labor Statistics makes in its

Consumer Price Index Item Subgroups, meaning the contents of the numerous Subgroups are periodically shifted from Subgroup to Subgroup.⁶

It is apparent that the Household Furnishings, etc. Index is ill-suited to the calculation of the annual adjustments contemplated by the Board's 2001 Decision. This fact is confirmed by the BLS which "strongly" recommends against the use of BLS CPI Item Indexes for the calculation of periodic adjustments. According to BLS:

"CPI area indexes and CPI item detail indexes use only a portion of the CPI sample; this makes them subject to substantially greater sampling error than the national CPI. **For this reason, BLS strongly urges users to consider the U.S. All Items CPI for use in escalator clauses.**" (Emphasis in original) BLS *Handbook of Methods*, Chap. 17, Part I, 2004.

We submit that the Consumer Price Index for All Urban Consumers (CPI-U) is the correct Index for use in calculating annual adjustments in the \$4.00 per pound valuation figure and the shipment valuation charges authorized by the Board. Its use in connection with other important barometers of carrier liability was discussed in the HGCBC Application:

"... the U.S. Department of Transportation Cargo Liability Study which was completed in August 1998, endorsed the need for automatic inflation adjustments to carrier liability limitations. The Study notes that the most efficient means of effecting such changes is to 'adjust the limitations periodically in accordance with a prominent index of inflation such as the consumer price index'. (Study, p. 36).

⁶ As explained by the BLS, in 2001 the Household Furnishings, etc. Index was changed as follows:

"Several components of the current HOUSING-HOUSEHOLD FURNISHINGS AND OPERATIONS subgroup moved to other major groups. 'Televisions and sound equipment,' moved to RECREATION (formerly, ENTERTAINMENT). 'Sewing machines' joined other sewing items and also went to RECREATION. As explained under APPAREL, we combined 'household laundry and dry cleaning' with 'apparel laundry and dry cleaning' and put the combination into OTHER GOODS AND SERVICES, and combined 'household sewing' with 'clothing sewing' and put that in RECREATION. 'Maintenance and repair' moved into this HOUSING subgroup. Components that remained in the HOUSING-HOUSEHOLD FURNISHINGS AND OPERATIONS subgroup were restructured." BLS *Highlights of CPI Item Structure Changes by Major Group and Main Housing Subgroups*, dated October 16, 2001.

“Consistent with that advice, DOT has proposed an increase in the minimum liability U.S. air carriers may impose on passengers for lost, damaged, and delayed baggage from \$1,250 to \$2,500, coupled with a mechanism to automatically effect increases in the limitation amount. The proposal contemplates future increases based on increases in the Consumer Price Index for All Urban Consumers (CPI-U) every two years, rounded to the nearest \$100. 64 Fed.Reg. 34592 (1999). The Department notes that the need to keep the liability limitation in line with inflation is consistent with the statutory requirements contained in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, P.L. 104-134.” (HGCBC Application, pp. 11-12).⁷

Also discussed in the HGCBC Application was the fact that the ICC authorized annual increases in the per pound released valuation applicable to drugs, medicines, etc., as described in the National Motor Freight Classification corresponding to annual increases in the Producer Price Index. *Released Rates Decision No. MC-972*, decided November 26, 1979.

The PPI is the former Wholesale Price Index. It measures changes in the average prices received by producers and, as such, is an appropriate valuation escalator for commodities transported from producers to wholesalers which is the norm for the drug, chemicals, etc. shipments that are subject to the National Classification. Notably, the Commission did not prescribe a more specific PPI product Index for escalation of the per pound released valuation figure established for drugs, chemicals, etc. It prescribed the major Producer Price Index.

Obviously, the Consumer Price Index is widely accepted as an appropriate measure of changes in the prices of consumer goods. Given the nature of the consumer

⁷ The Debt Collection Improvement Act of 1996 authorizes all branches of the federal government to increase administrative claims annually according to changes in the Consumer Price Index. 31 U.S.C. § 3717(i)(1)(6). Both the CPI-U and the C-CPI-U target the U-population. The U-population, which was about 87 percent of the U.S. population in the 1990 census, covers households in all areas of the United States except people living in rural non-metropolitan areas, in farm households, on military installations, in religious communities, and in institutions such as prisons and mental hospitals. BLS *Handbook of Methods*, Chap. 17, Part I, 2004.

goods transported by household goods carriers it is the appropriate escalator Index for annual adjustments in the \$4.00 per pound valuation figure and shipment valuation charges authorized by the Board in its 2001 Decision. The following table sets forth changes in that Index starting with the base year, calendar year 1999:

Table No. 2

Consumer Price Index—All Urban Consumers
Item: All Items
Base Period: 1999=100

<u>Year</u> (1)	<u>Annual Index</u> (2)	<u>Year to Year % Increases</u> (3)
1999	166.6	--
2000	172.2	3.4
2001	177.1	2.8
2002	179.9	1.6
2003	184.0	2.3
2004	189.0	2.7
2005 (9 mos.)	194.4	2.9

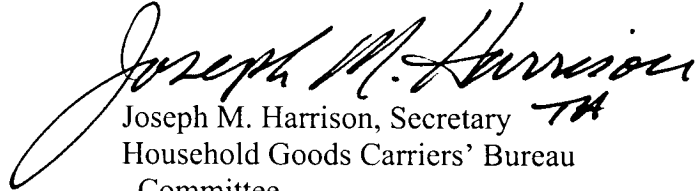
The percentage figures shown in column 3 are the year to year increases that occurred starting with the year 2000. The cumulative increase since 1999 is 16.7%. The annual increases and the total increase since 1999 are not excessive and, in fact, are the same as the general inflation rate calculated by BLS over the same period which, according to the Department of Transportation is an appropriate measurement mechanism to effect automatic annual adjustments, a result that is consistent with the statutory requirements of the Debt Collection Improvement Act of 1996.

CONCLUSION

For the foregoing reasons, the Board is requested to amend its 2001 Decision to authorize household goods carriers to use the United States Department of Labor Bureau of Labor Statistics Consumer Price Index—All Urban Consumers (All Items) in lieu of the previously authorized “Household Furnishings and Operations” Index as the basis for annual adjustments in the per pound minimum valuation declaration and shipment valuation charges also previously authorized in this proceeding. In the case of HGCBC carriers, the first adjustment would be published to become effective May 12, 2006, reflecting the results of the CPI Index changes from 2000 through 2005. The next adjustment and succeeding adjustments would be published to become effective on each year’s May 12 annual anniversary date reflecting the change resulting from the previous years’ Indexes. Changes in the per pound valuation figure will be in amounts (multiples of 5 cents) that are sufficient to justify the reprinting of carrier bills of lading since that figure appears on the obverse and reverse sides of the bill of lading in the “Customer’s Declaration of Value” notice that is required by the Board to be given to shippers. Generally, the bills of lading utilized by household goods carriers are multi-set documents that are printed by the thousands at significant costs to carriers. Depending upon the annual Index increases, if any, they may not result in changes in the per pound figure each year, but may be aggregated to be published in a subsequent year. All changes in shipment valuation charges would be published simultaneously with the

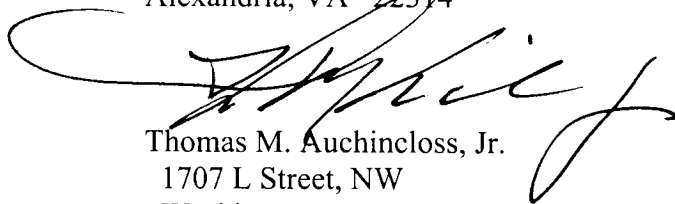
publication of increases in the per pound figure to also become effective on the May 12 anniversary dates.

Respectfully submitted,

Handwritten signature of Joseph M. Harrison in black ink, with a stylized 'TH' monogram to the right.

Joseph M. Harrison, Secretary
Household Goods Carriers' Bureau
Committee

1611 Duke Street
Alexandria, VA 22314

Handwritten signature of Thomas M. Auchincloss, Jr. in black ink, with a stylized 'TH' monogram to the right.

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Dated: November 8, 2005