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Via Statehouse Mail

THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE

Re: Interpretation of House Bill No. 474

Dear Steve:

In your letter of July 20, 1990, you asked the Attorney General to render an opinion on H.B. 474. The Idaho Public Utilities Commission and the Idaho Department of Transportation disagree as to the legal and practical implementation of this bill. After reviewing the comments of each agency during our July 27, 1990, meeting, this letter responds to your inquiry.

STATUTORY BACKGROUND

Idaho Code § 61-812 establishes the annual regulatory fees per power unit at \$21 for common and contract motor carriers and at \$7 for private motor carriers operating within Idaho. Idaho Code § 61-811A designates the Idaho Department of Transportation (ITD) as an agent of the Public Utilities Commission (PUC) for purposes of collecting and remitting these regulatory fees. Finally, Idaho Code § 61-812A provides that the annual regulatory fee for power units for each common, contract, or private carrier "shall be prorated" as registration fees of vehicle fleets used in interstate commerce. This "proration is based upon the number of fleet miles driven in Idaho compared to the total fleet miles

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driven as an interstate motor carrier."

HOUSE BILL 474

House Bill 474, enacted by the 1990 Centennial Legislature, amends § 61-812A of the Idaho Motor Carrier Act. This section provides for the collection of a minimum annual PUC regulatory fee.

The legislative intent embodied in the title to the 1990 amendment provides "THAT REGULATORY FEES FOR COMMON, CONTRACT OR PRIVATE MOTOR CARRIERS SHALL NOT BE PRORATED BELOW THE MINIMUM REGULATORY FEE FOR REGISTRATION OF A SINGLE POWER UNIT." 1990 Idaho Sess. Laws Ch. 14, p.25. The bill amends § 61-812A as indicated by the underlined portion below:

61-812A. Prorating. The annual regulatory fee to be collected per power unit of each common or contract or private motor carrier prescribed by section 61-812, Idaho Code, shall be prorated as other registration fees according to valid interstate agreements for the proration of registration fees of fleets of vehicles used in interstate commerce; provided, however, that the minimum annual regulatory fee for a common, contract or private motor carrier shall not be less than the annual regulatory fee for one (1) power unit for that class of motor carrier.

The agencies agree that the annual regulatory fee for vehicles is to be prorated on Idaho's share of the vehicle's (or fleet of vehicles) interstate mileage and that a minimum fee must be charged at the time the annual fee is collected.

The only dispute between the agencies concerns the registration of additional vehicles after a carrier has been assessed the one minimum regulatory fee. The Public Utilities Commission asserts that registration of additional vehicles not covered under the carrier's initial registration would justify imposition of another minimum fee. The Department of Transportation argues that additional vehicles should be registered without a regulatory fee until such time as the additional prorated fee exceeds the one minimum fee.

LEGISLATIVE HISTORY

The PUC drafted H.B. 474 at the suggestion of the Legislative Auditor. In 1988, the Legislative Auditor noted that the PUC and the ITD were calculating and collecting the regulatory fee differently. The PUC followed the policy of prorating the fees for motor carriers but collected a minimum one

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unit fee for each carrier. ITD collected prorated fees from instate based motor carriers without regard to collecting a minimum of one unit fee. This resulted in ITD collecting regulatory fees in the amounts of \$.05, \$.61, \$2.99, \$1.60 and \$.07. The Auditor recommended in his 1988 report that "the PUC put together a legislative package to get Idaho Code § 61-812A, amended."

In compliance with the Auditor's recommendation, the PUC submitted draft legislation in 1989 and 1990. This 1990 legislation is found in House Bill 474. In testimony before the House and Senate Transportation Committees, the PUC asserted that the Legislative Auditor recommended the proration not be allowed to result in a fee less than the fee for registering one power unit. The PUC testified that H.B. 474 implements the Legislative Auditor's recommendation. The PUC further stated that the bill will "prevent the Commission from spending more to collect a fee than the actual amount of the fee involved."

CONCLUSION

Having reviewed H.B. 474 and its legislative history, this office concludes that the PUC's interpretation of the bill comports with the Legislature's intent. Since the amendment to § 61-812A requires that a minimum annual regulatory fee not be less than the annual regulatory fee for one power unit, the PUC and ITD must collect that fee when the carrier pays its registration fee. If the carrier transfers registration from fleet vehicles no longer used to new fleet vehicles, then the agencies would not have to collect a new minimum annual fee. However, if the carrier registers additional vehicles after his initial fleet registration, then the fact that these new vehicles were not covered under the carrier's initial registration would justify the imposition of another minimum fee.

I hope this answers your question. If you have additional questions, please do not hesitate to contact our office.

Sincerely,



JOHN J. McMAHON
Chief Deputy Attorney General

JJM/mkf