

600 North 18th Street
Post Office Box 2641
Birmingham, Alabama 35291
Tel 205.257.1000

January 28, 1997

QA-21496

FEDERAL
ADMINISTRATION

97 FEB 11 P12: 44



A SOUTHERN COMPANY

LEGS./REGS. DIV.

FHWA Docket # MC-96-28
RIN 2125-AD93
Office of Chief Counsel
Federal Highway Administration
400 Seventh Street, SW.,
Washington, D.C. 20590

FHWA-97-2350-43

Re: Hours of Service of Drivers (HOS) 49 CFR PART 395

To Whom It May Concern :

Alabama Power Company is an electrical utility company. We employ approximately 2300 utility service employees that are regulated by the Federal Motor Carrier Safety Regulations. We appreciate the opportunity to comment on the proposal to revise the HOS regulations and to submit scientific evidence to be used by the FHWA to make informed decisions.

It is our belief that the HOS regulations are in need of revision because they constitute a significant burden to industries that were not originally nor currently in need of such restrictions. The HOS regulations were originally designed to protect the operators and public from accidents caused by fatigue related to hours of monotonous over the road driving. In 1987 the scope of these requirements was expanded to encompass vehicles based on the vehicle's weight rating alone. Since that time, we believe that these requirements not only impede productivity for industries such as the utility industry but do so without any benefit to the safety of the operator or the public.

Alabama Power Company and forty three other public utilities participated in a national research project to gather data from drivers of utility service vehicles (USV) and operators, their related hours of service and associated accident information from May 1995 through June 1996. The study was called the Utility Service Vehicle Study and a copy is attached for FHWA's review and use. A utility service vehicle is defined in the study.

DOCKET MC-96-28-108
PAGE 1 OF 5

In this letter, we will address why we feel that operators of utility service vehicles should be excepted from the HOS requirements , why the study results indicate that these regulations need to be revised, and why we believe the HOS requirements greatly impact productivity at no benefit to public safety or vehicle accident prevention.

The typical USV operator drives a specialized vehicle and relocates it from one job location to another. This travel is incidental to his primary job and not related to professional driving. The study indicates that the typical USV operator's actual driving time will occur within the first two hours and last two hours of a typical eight to nine hour day. The study further indicates that the USV operator typically drives a total of 12 % of his/her work shift or approximately one hour per day.

As stated in a report by the ICC on May 1, 1940, we concur with the statement that, "drivers of vehicles engaged in this type work (public utility work) should not be required to maintain a driver's (HOS) log". "This exemption was granted primarily because motor vehicles engaged in such transportation are operated relatively few miles and make frequent stops".¹ We believe that this ICC's decision and the attached study give credibility to the contention that utility service vehicles and operators were not originally intended to be regulated by the HOS requirements.

As presently written, the HOS requirements force utility companies to train and qualify additional personnel to operate CMVs when the normal operators have exceeded 15 hours on duty even though they may have only driven for 30 minutes that day and are only 1/2 mile from their normal headquarters. Conceivably, this replacement operator could have less experience in the operation of the vehicle, put the public at greater risk, and still be in compliance with the rules. This unnecessary alteration in

¹ Interstate Commerce Commission Reports - Motor Carrier Cases, Ex Parte No. MC - 3, Motor Carrier Safety Regulations - Private Carriers. Decided May 1, 1940.

DOCKET MC-96-28-108
PAGE 2 OF 5

operations has fostered an inefficient work environment for utility companies. As a result, the HOS regulations promote a more expensive and less responsive service to the public without a demonstrated value to public utility vehicle highway safety.

The USV data demonstrates that the highest frequency of accidents involving our industry's driver's occur between 40 and 48 hours of on duty time and that 95.3% of the accidents happen prior to 70 hours on duty in 8 days. We believe that this is due to the relatively low "driving" exposure. It is further documented in the USV study that the majority of accidents happen during a normal 8-10 hour shift and that most (97.8%) occur prior to an operator being on duty for 15 hours. The study shows that the risk of accidents is actually greatest between the eighth and ninth hour on duty and actually decreases there after. If the HOS requirements were beneficial in decreasing accidents due to fatigue, it would be reasonable to assume that the accident rate of operators should increase as the day progresses. However, as indicated in the study, this is not the case. In both cases the scientific evidence does not support the reasoning that the 70 hour or 15 hour rules reduce accidents caused from fatigued utility vehicle operators.

Finally, an account written for the U.S. Department of Transportation² reported that the accident rate for heavy trucks (vehicles with GVWR greater than 10,000 pounds) was 230.9 reportable accidents per 100 million miles driven. The USV study reported 53 accidents per 100 million miles driven, indicating further that the USV operator has considerably fewer vehicle accidents than the common carrier operator.

² U.S. Department of Transportation, Federal Highway Administration, Office of Motor Carriers, Assessing the Adequacy of Commercial Motor Vehicle Driver Training : Final Report., July 1995.

DOCKET mc-96-28-108
PAGE 3 OF 5

Based on the attached research and stated arguments, it is Alabama Power Company's conclusion that the Utility Service Vehicle operator should be exempted from the requirements of the FMCSR Part 395, Hours of Service requirements. We believe this exemption, would provide needed relief without negatively impacting the safety and health of drivers or the public.

Sincerely,



Kenneth L . Roberts
Manager- Safety and Health

DOCKET mc-96-28-108
PAGE 4 OF 5