

Minutes of the One Hundred Fifth Unified Carrier Registration Plan Board of Directors Meeting

February 2, 2016

In person &

Tele-conference

The One Hundred Fifth (105th) Unified Carrier Registration (UCR) Plan Board of Directors (Board) meeting was called to order by Avelino Gutierrez, Chairman at 8:05 am MST.

Attendance - Board of Directors:

Present – Avelino Gutierrez, Adam Anderson, Sandy Bowling, Mike Hoeme, Scott Morris, Elizabeth Leaman, Woody Chambers, Daphne Jefferson, Tina Thurman, Robert Pitcher, Angel Oliver, Monte Weiderhold, Chris Burroughs and Larry Herold.

Absent – Rick Schweitzer.

Avelino Gutierrez conducted a roll call of the States with **self-introductions** of government and industry representatives made by those in attendance.

Adam Anderson moved to accept the **meeting agenda**, which was seconded by Sandy Bowling Agenda (Exhibit A) – Motion passed

Avelino Gutierrez established the **teleconference ground rules**.

Woody Chambers moved to accept the **minutes of the December 9th, 2015 Board meeting**, seconded by Elizabeth Leaman. (Exhibit B) – Motion passed.

UCR Legislative Update – None

FMCSA Update – Daphne Jefferson – Moving forward with the URS and getting the issues resolved. Still working through the reauthorization bill.

Report by Dave Lazarides, UCR Board Contractor – Dave discussed his document called Strategic Decisions Synopsis (Exhibit C)

First question presented to the Board was should administrative fees be used to pursue those carriers that don't pay the UCR fee before that registration year is cut off.

Scott Morris presented the argument that everyone has been working their respective list and that there is going to have to be some work by UCR Inc in regards to the non-base states. Scott Morris mentioned as an interim that the current criteria of the MCS-150 updates be changed from 15 months to 24 months.

Scott Morris moved that the Board direct the consultant with DSL Transportation Services Inc to work with Iteris and get some number on how the current universe would change from 15 months on the MCS-150 to 24 months and show how that will impact our numbers – seconded by Avelino Gutierrez – motion passed.

Sandy mentioned that the Indiana system already has the criteria set as this and that is why the reports on their system is different from the Iteris reports.

A discussion ensued as to why base states could not go after the carriers more in the non-base states to ensure payment. As a reminder one state cannot do much about a carrier in another state except when their vehicle enters a base state. Some suggestions that came out of it was maybe a partnership in working with those states by the Trucking Associations and the Board,

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also another suggestion was to get the IRP and IFTA agencies in those states more involved.

Topic number two was considering the convenience fee. Discussed during Sandy Bowling's report was the indication that the convenience fee was something that the Board should be paying.

Avelino Gutierrez moved that the minutes of the Board meeting that the State of Indiana be advised that the Board desires and requests that the State of Indiana not collect the \$3.00 convenience fee, starting with the 2017 registration year. Furthermore appoint a task force made up of Robert Pitcher, Woody Chambers, Scott Morris, Adam Anderson and Avelino Gutierrez to enter into negotiations with Indiana to amend the MOU with the goal in mind of the Board paying Indiana its cost of running its electronic registration system directly from its expense funds and bring the amended MOU back to the Board for its consideration – seconded by Scott Morris – Motion Passed.

Roll call vote: Yes – Adam Anderson, Chris Burroughs, Tina Thurman, Daphne Jefferson, Larry Herold, Mike Hoeme, Elizabeth Leaman, Scott Morris, Angel Oliver, Robert Pitcher, Monte Weiderhold, Avelino Gutierrez ; Abstain – Sandy Bowling, Woody Chambers; Absent – Rick Schweitzer; No – none.

Topic number three was in regards to the relationship with Indiana and the MOU – a previously discussed during Sandy Bowling's report.

All members stated in the motion above were willing to work on the task force to amend the MOU.

Topic number four on the retreat factor was that according to the memorandum sent out by Robert Pitcher that this was really a non-issue and that it really is an audit issue.

Scott Morris agreed that it really is an audit issue and that maybe what we need to look at is the audit reports. Maybe we change the audit requirements based upon the information and change the percentages to focus more on those areas that show more of an issue with retreat. But we should still get the report for now to help show that data. These reports are showing the amount of dollar retreat not the number of carriers retreating.

This should be a monthly report.

Topic number five was what entities need to be audited and how it is going to be done.

Scott Morris moved that the Board direct the consultant with DSL Transportation Services Inc to come back to the Board two proposals from an accounting firm to perform an audit of the Depository – seconded by Avelino Gutierrez – motion passed

Scott Morris moved that in addition to the audit of the depository to direct the consultant with DSL Transportation Services Inc to solicit as part of proposal of the audit for the Depository and audit of the Administrative funds beginning with the 2015 year – seconded by Avelino Gutierrez – motion passed.

Before doing any motion on the audit of each registration system Scott Morris will get with each state and determine what level of auditing they have. In relation to the peer review there are

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discussions that need to happen to determine such as employee dollars or travel dollars.

The Procedure Subcommittee and the Audit Subcommittee will have to get together to work on the procedure and what is expected from the audit.

Topic number six on reports. The Board also needs to have reports and information sent out well ahead of time, like Indiana's report, maybe the Board wants to see a report like that once a quarter or however often the Board feels they need it.

Scott Morris asked that the Board give some thought on what reports it will need and come back and share them the Board.

Avelino Gutierrez asked that Board members send reports at least a week to 10 days in advance.

Elizabeth Leaman asked if we had tabled the idea of a webpage and is someone actively working on that. Dave Lazarides reported it is being worked on and could be completed by September, but there has to be some decisions on if the website is going to be more static or interactive.

Topic number seven regarding the future roll of states. Only states can do is the enforcement and audits. So the Board needs to think about what the role of states should be.

Topic number eight regarding performance standards. There has not been any real formal standards set by the Board.

Misc. Budgetary motions:

Avelino Gutierrez moved that Board authorize Scott Morris to issue payment to the Saguaro Hotel in the amount of \$3,124.98 for the following: \$526.80 for the poly com, \$329.25 for the video package and \$2,268.93 for the food – seconded by Elizabeth Leaman – motion passed.

Avelino Gutierrez moved that authorizing Scott Morris to pay Bradly and Arrant the amount of \$2,240.00 – seconded by Robert Pitcher – motion passed.

Avelino Gutierrez moved that authorization for Scott Morris purchase a poly com with two extension mics for \$300.00 and a projector in the amount of \$750.00 – seconded by Angel Oliver – motion passed.

Reduction of Administrative funds:

Avelino Gutierrez moved that the Board reduce the projected administrative funds be reduced by \$1 million dollars for the 2017 registration year, as a good faith effort to the industry that the Board is serious in reducing the fees, recognizing there are other expenses that have not been calculated into the budget, such as auditing functions, peer reviews and a reserve amount. Furthermore directing FMCSA to attempt to reduce the fees based upon the \$1 million dollar reduction to the administrative funds for the 2017 registration year and if unable to apply it to the 2018 registration year – seconded by Elizabeth Leaman – tabled (see below)

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Robert Pitcher indicated he would have to vote no.

Avelino Gutierrez indicated that we would have to follow the same process and send a letter to FMCSA indicating what the fee brackets.

Rick Wood indicated that there are two different aspects – one being it looks like the registration program would exceed the total collection amount for the 2015 and 2016 registration year. The second being that if it is a \$1 million reduction to the \$5 million administrative funds to \$4 million for the 2017 registration fees to determine how much over for 2017?

Avelino Gutierrez based upon the projections for the 2015 and 2016 years we are not exactly sure if we will receive the full amount of funds expected for the cap. Scott Morris indicated that there has been a turn down in the registration and looking at the past history we might be over for 2016, it could be less than a million.

Rick Wood indicated that it leaves FMCSA as to whether or not there is any pressure as to changing the fee structure for 2017, recommended that maybe there should be more off line discussion.

Larry Herold – would like to get the rule and the process of doing a fee reduction in place so in the future it will make it easier to do a reduction in fee. This would be a better good faith effort by having the mechanism in place instead of trying to come up with an arbitrary number now.

Robert Pitcher agreed with what Larry was saying.

Scott Morris indicated that maybe we shouldn't include the 2018 because the numbers will become clearer.

A discussion over how hard it is to try and really get a true projection because the 2015 and the 2016 are now in a downward collection mode. They could rebound or they could continue in the downward motion.

Larry Herold asked Rick Wood if he sees this as two separate rule making procedure in one reduce the fees by \$1 million for 2017 and 2nd do the mechanism. Our can they be combined. It is preferred that we have the time to get through the process in the right manner.

Rick Wood – could start a rule making procedure that puts a mechanism in place to change the fees in any given year. The timing is what's unclear. The Statute does say if the fees exceed the revenue allocation for year 1 one you would have to make an adjustment in the next year which may or may not be feasible. Even if you make an adjustment in the administrative fees it won't have a bearing on the 2015 or 2016 fees. It may not have any bearing until you have actually collected all the revenue for a year. If it was possible to put a mechanism in place you may be able to effect the changes in fees, but to put them both into one rule making procedure Rick was not sure about that.

Avelino suggested could we put that million into an account to hold for future fee reductions.

Rick Wood indicated that even with a mechanism to change the fees it would be doubtful if it can be done without any type of public comment period.

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Elizabeth Leaman indicated that maybe we are being a little premature in our discussion for a fee reduction. We have no historical data to back up the reduction.

Randy – gave a comment from the enforcement side, that some states are very important on these funds and understands the good faith to the industry. What about the prior years when states had to lay off people. Could an overage be used to pay those years states were short. The whole issue of good faith is just a way to cut off the arm of UCR Inc, there just has not been enough time to show how the funding will go. States are very dependent upon these fund for enforcement.

Avelino Gutierrez moved that the motion be tabled indefinitely – Elizabeth Leaman – motion passed.

Roll call vote: Yes – Adam Anderson, Sandy Bowling, Chris Burroughs, Woody Chambers, Tina Thurman, Daphne Jefferson, Larry Herold, Mike Hoeme, Elizabeth Leaman, Scott Morris, Angel Oliver, Monte Weiderhold, Avelino Gutierrez; Absent – Rick Schweitzer, Robert Pitcher, No – none

Woody Chambers moved that the UCR Inc shall present to the Board a formula in regard to a system of state dues necessary to compensate the State of Indiana for its costs to manage the registration system – seconded by Monte Weiderhold –

Roll call vote: No – Adam Anderson, Sandy Bowling, Chris Burroughs, Tina Thurman, Daphne Jefferson, Larry Herold, Mike Hoeme, Elizabeth Leaman, Scott Morris, Angel Oliver, Avelino Gutierrez; Absent – Rick Schweitzer, Robert Pitcher, Yes – Woody Chambers, Monte Weiderhold

Woody Chambers recommended that we could do the same as how IRP and IFTA charge member states dues to run their program. The registration dues would come out of the state's entitlements in the amount of 1% of each states entitlement.

Avelino Gutierrez respectfully oppose because in the UCR Act it clearly states that the Board would receive its administrative funds from the registration fees after the states were made whole. New Mexico would not pay it because they would want some statute that points to the requirement of the state to pay the dues.

Adam Anderson reminded that these funds are used to do all types of motor carrier programs and when you reduce how much each state is not going to have they will make adjustments to their staffing to do those functions more important. The states should not have to pay this type of dues when the act already specifies where the funds are to go.

Tina Thurman reminded us that IRP and IFTA are structured differently.

Other comments from the audience was the IRP and IFTA the state has the opportunity to set the registration fees to what that state allows and for the UCR fees that's not allowed.

Audit Subcommittee – Angel Oliver – Asked if she could come back to the next Board meeting with a proposed budget for the Audit Subcommittee.

Angel Oliver also reported that they will be waiting till June for the report on those audit but know that the next obvious step is to start developing some policy in regards to the audits.

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Procedures/Best Practices Subcommittee – Adam Anderson – presented the proposed budget for the subcommittee then motioned that the Board accept the proposed budget for the Procedure Subcommittee.

Avelino Gutierrez motioned to accept the proposed budget of \$40,000.00 seconded by Elizabeth – motion passed (Exhibit D).

Adam Anderson also presented the UCR Audit Matrix and motioned that it be approved by the Board as the matrix every state should use beginning with the 2017 registration year - seconded by Scott Morris - motion passed (Exhibit E)

Avelino Gutierrez asked about states filling in all the boxes or just what they have and is there going to be some training.

Adam Anderson mentioned that it is proposed that there be some training provided in June.

Industry Advisory Subcommittee – Robert Pitcher – Commended that the UCR registrations is being very successful and reminded everyone to consider were the UCR program is going to go. The Board needs to focus its attention were it is needed most such as in the audit of carriers that are potentially paying less and making sure the participating states are doing what they are supposed to.

A lot of the things that are proposed need to be prioritized and do those things that are necessary such as re leaving Scott Morris in his work load in the accounting area and setup a reserve fund before the incorporation. However, a lot of the other stuff is going to be more complicated then realized and needs to be prioritized. (See Roberts noted from the Industry in Exhibits F, G)

Woody Chambers asked the question regarding when the Board was going to present an amount on a fee reduction.

Avelino Gutierrez – reminded everyone that the chairman of the Revenue and fees Subcommittee was waiting to hear what the decision's the Board makes at this meeting to begin determining any type of fee reduction.

Robert Pitcher recommended that a recommendation based upon the projections be done so FMCSA can start its rule making process. That the Board needs to do something, a frame work needs to be put in place.

Rick Wood and Daphne reported that trying to get a rule making through this year would be very difficult.

A discussion over the possible methodology to lower the fee's based upon the new carriers that come in however there is almost the same number of carriers coming into the system as those going out.

Revenue and Fees Subcommittee – Larry Herold – The committee will be working on a plan for the fee reduction.

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Dispute Resolution Subcommittee – Tina Thurman – Just waiting for a response from FMCSA on the letter that was drafted. Rick Wood had a couple of comments on the letter and will get with Tina on them.

Indiana System Subcommittee – Sandy Bowling – reviewed a report showing the number of registrations on the system over the three years with the percentages of compliance. The depository updates had been implemented along with the language in the system to help with payment issues.

Sandy Bowling presented to everyone her report on how much it was costing the State of Indiana to maintain the registration system with a proposal to hire two full time IT personnel (for the year) for 2016 and 2017 and two full time staff members (3 months) for 2016 and 2017 (Exhibit Q,R).

A discussion followed on the costs that Indiana has been incurring since the start of the UCR program and how it was not meant for Indiana to shoulder those cost. The discussion also revolved around the convenience fee be charged on the Indiana system to help cover the costs and that since the Board now has operating funds that the Board should be paying for the cost so Indiana would not have to charge that fee to the carriers.

Sandy mentioned that by approving the reimbursement to Indiana for its costs will require a change to the MOU.

Avelino Gutierrez motioned that the Board authorize payment to Indiana in the amount of \$316,087.50 to hire two full time IT personnel and two office staff for 2016 – seconded by Adam Anderson – motion passed.

Roll call vote: Yes – Adam Anderson, Chris Burroughs, Tina Thurman, Daphne Jefferson, Larry Herold, Mike Hoeme, Elizabeth Leaman, Scott Morris, Angel Oliver, Robert Pitcher, Monte Weiderhold, Avelino Gutierrez ; Abstain – Sandy Bowling, Woody Chambers; Absent – Rick Schweitzer; No – none.

Administrative Fee's Subcommittee – Elizabeth Leaman – Will have a better report on the conference call/webex costs next meeting.

Depository Subcommittee - Scott Morris – reviewed the proposal from Jackson/Thornton on their proposal to handle the depository account piece and the administrative side of the accounting (Exhibit H). Scott Morris stated he went back to revise his budget for 2016 (Exhibit I).

Avelino Gutierrez motioned that the Board approve the proposed budget of \$151,800.00 as outlined in the handout and authorize Scott Morris to engage Jackson/Thornton for the accounting work – seconded by Angel Oliver – motion passed.

Scott Morris reviewed all the state reports, 2013 is closed (Exhibits J).

Review of the depository accounts (Exhibit K). Reviewed the Operating Fund Report (Exhibit L).

Reviewed the UCR Budget Report (Exhibit M). Reviewed the Outstanding Invoices Report (Exhibit N).

Working on the invoices to the states for 2015 and 2016 fees owed to the Depository. Make

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sure if you are going to combine the two years that you include a note on how it is supposed to be divided out.

Reviewed the UCR Distributions – 2011 Report (Exhibit O).

Sandy Bowling mentioned there would be a training session with the states on doing their acknowledgements.

Reviewed the Discrepancies 2010-2013 report (Exhibit P).

Scott Morris moved that any overages, except for Missouri, from prior years accounts that are closed be transferred against their 2012 & 2013 obligations and to the extent that any further obligations cannot be identified closed and acknowledged and the distributions be made and closed – seconded by Avelino Gutierrez – motion passed.

Old/New Matters:

Mike Hoeme asked if there could be any type of a public announcement done to help carriers understand what the UCR fees is used for. Avelino Gutierrez asked Dave Lazarides could maybe work on that.

Sandy Bowling brought up the discussion on the exemption mentioned in the FAST ACT regarding the vehicles used exclusively in the maintenance and construction of pipe. Rick Wood was going to take a second look at it to determine the applicability toward UCR fees.

Avelino Gutierrez mentioned that Tina Thurman was working on getting those nominations to the UCR Board for the NCSTS slots that will expire on May 31st.

Future Board Meetings:

March 17th, 2016 12:00 PM to 3:00 PM EDT

May 12th, 2016 12:00 PM to 3:00 PM EDT

June 5th – 8th in Providence, Rhode Island. Board meeting on the June 8th, at 8:00 AM to 12:00 PM EDT.

July 14th, 2016 12:00 PM to 3 PM EDT

The Board adjourned at 12:15 pm MST.

Minutes approved by the UCR Board on March 17, 2016.

Adam Anderson, UCR Board Secretary

Exhibit A – Meeting Agenda

Exhibit B – Board Meeting Minutes

Exhibit C – Strategic Decisions

Exhibit D – Procedure Committee Proposed Budget

Exhibit E – UCR Audit Matrix

Exhibit F – UCR Fee Reduction Comments 116

Exhibit G – UCR Budget Comments 116

Exhibit H – Jackson/Thornton

Exhibit I – Depository Budget

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Exhibit J – State Reports

Exhibit K – Depository Accounts

Exhibit L – Operating Funds

Exhibit M – UCR Budget Report

Exhibit N – Outstanding Invoices

Exhibit O – UCR Distributions - 2011

Exhibit P – Discrepancies 2010 – 2013

Exhibit Q – UCR Budget Recommendation 2016 - 2017

Exhibit R – UCR Costs Indiana