ADJUSTING TO A CHANGING TRANSPORTATION REGULATORY ENVIRONMENT -- THE CASE OF TRUCKING EXEMPT COMMODITIES

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Introduction

Grain production accounts for a significant portion of farm income in the northern plains region of the United States, particularly for North Dakota where food grains, feed grains, and oilseeds amounted to 55 percent of total farm income in 1984, exclusive of government payments. Since much of the production must be exported out of the state and the region, an efficient, competitive transportation system is critical to both the state and the agricultural economy.

More than 550 million bushels of field crops were shipped from North Dakota origins in the 1983-84 crop year. All shipments made were provided by either truck or rail, which are the only two modes of transportation available to North Dakota shippers.[1] The two modes, while different, are very good substitutes in originating grain. Two railroad firms (Burlington Northern and Soo Line) dominate grain shipments from North Dakota, hauling 74 percent of all grains and oilseeds in 1985-86.

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[1]Some grain moves by truck-barge and rail-barge combinations after the grain leaves the state.

By contrast, between 600 and 1000 trucking firms captured the remaining 26 percent of the grain traffic. Thus, truckers provide the only competition to an otherwise oligopolistic transport industry in the Upper Midwest. Shippers of agricultural commodities in the region rely heavily on the trucker to maintain a reasonably competitive transportation market by limiting the market power of the railroads.

During the late 1970's and early 1980's a variety of legislation was passed that affected the transportation industries. Legislated changes, coupled with rising costs and a depressed economy, represented a wide variety of new circumstances facing the grain distribution system, particularly the grain truckers' role in that system. A program was therefore initiated to educate truckers, shippers, and others about this changing economic and regulatory environment. In addition, the program addressed the long run implications of these dynamic forces and the truckers' changing role in the distribution system.

The program consisted of management topics presented by economists and attorneys. Specific topics discussed included truck costs, pricing, competitive factors, policy changes, the impact of truck and rail deregulation, the importance of the industry to agriculture, and growth in the industry (see Appendix A).

The program was conducted at one day seminars at two different North Dakota locations in August of 1981. Since 1981, portions of the program have been given several times at related workshops and seminars. In this chapter, a brief summary of the program is provided in conjunction with the rationale for including each component. In the final section, a discussion of the problems encountered and suggestions for organizing similar programs are provided.

North Dakota's "Exempt" Truckers

The first presentation, entitled "Exempt Trucking: The Case in North Dakota", was intended to summarize an on-going research effort investigating the nature, role, and economic viability of exempt agricultural truck transportation. The rationale for this presentation was based on the proposition that as independent truckers, the firms might be unable to track industry trends and performance and were in need of somewhat simplistic formulas and mechanisms upon which to base pricing decisions. With these purposes in mind, the presentation covered broad industry trends and descriptions of the industry, followed by a discussion of pricing decisions with particular emphasis on the role of costs and differing revenue sources (i.e., the availability of backhaul loads.)

Exempt truckers serving the State of North Dakota are composed of a variety of different types of operations. These truckers range from farmers hauling their own agricultural products, to relatively large trucking firms serving large market areas. This sector of the industry is exempt from regulation when carrying bulk, unprocessed agricultural products. It is therefore difficult to estimate the number of firms--estimates range from 600 to 1000.[2] Of the firms identified, 77 percent were located in North Dakota, while the remainder were located in the bordering states of Minnesota, Montana, and South Dakota. The distribution of firms is heavily weighted to the eastern part of North Dakota, reflecting both greater production and truckers' comparative advantage in shorter hauls as the major markets for the region's agricultural products are in Minnesota.

Truck and rail market share data suggested that transportation by truck, relative to rail, grew in every year between 1974 to 1979. Truck competition was strongest in the northeastern and southwestern parts of North Dakota. While the number of truckers was quite large in the northeastern part of the state, the number of firms in the southwest was considerably smaller. Therefore, the larger market share of trucks in southwestern North Dakota may be due to lack of reliable rail service or low density of production, rather than truckers inherent economic advantages in the southwest.

This opening session of the workshop gave a general overview of trucking in North Dakota including number of firms, geographical dispersion of firms and intermodal competitive relationships. The next part of the discussion provided average industry characteristics and data that firm managers may use to evaluate their own performance. This discussion centered around

[2]See Cosgriff (1978).

a sample of firms operating in 1979. In general, the truckers in the state are of relatively small size (two to four tractors). A high degree of industry concentration was noted in the sample; the largest eight firms accounted for 56.8 percent of the loaded miles in the survey. In explaining this level of concentration, it is noted that the largest firms traveled greater distances (635 miles versus about 450 miles per one way trip) and a greater proportion of their return legs of round trips were loaded (59 percent versus about 25 percent). Larger firms had been in business about 13.5 years, while medium sized firms and owner-operators had been in business only about 8 years. This may be reflective of some inherent efficiencies or market strength associated with larger carriers.

The final segment of the initial presentation covered cost concepts and an integration of cost and backhaul availability into fronthaul pricing decisions. Statistical analysis was used to generate average cost estimates per mile based on firm size, utilization (miles per year per truck), average length of haul, and equipment age. Greater efficiencies were associated with larger firms; these firms had about a 4.5 cent per-mile cost advantage over single truck firms. These results were discussed with the audience and provided as a standard from which firms could evaluate their own performance. After reviewing cost concepts and results of the cost estimates, a costing worksheet was provided to the firm managers. The format of the worksheet was based on cost accounting principles and was relatively easy to use. It corresponded closely to the statistical formulae used to calculate costs discussed above, and therefore could be used by truckers to compare their costs with those from the statistical analysis.

Based on the discussion of costs, pricing and the seasonality of rates was then presented. With regard to pricing decisions, it was pointed out that backhaul traffic has a minimal impact on costs, but a profound impact on revenues. The firms were encouraged to incorporate expected revenues associated with backhaul traffic in evaluating the fronthaul price they need. It was noted that the critical decision the trucker makes is whether or not to provide the service at the price offered, given that the truckers' role in establishing the fronthaul rate is minimal (Cosgriff, 1978). The role, nature, and level of costs and backhaul traffic was emphasized in that decision. Means of attracting backhaul traffic were then discussed.

A Changing Regulatory Environment

The conference was conducted in 1981, one year after passage of two major transportation bills, The Motor Carrier Act of 1980 and The Staggers Rail Act of 1980. The second and third presentations were based on the assumption that an extension effort was needed to educate all parties in the state concerning not only the specific changes in law, but also the longer run implications of each act. Each of these presentations are summarized below and were conducted by attorneys actively specializing in transportation law.

The Motor Carrier Act of 1980 and its Effects

The first presentation, dealing with the Motor Carrier Act of 1980, consisted of several components. No overview of recent legislation is complete without a description of the source of the change. The first component of this presentation was therefore a cursory overview of the history of motor carrier regulation. Second, the recent pressures for deregulation were discussed. Deregulation or partial deregulation of transport has occurred in virtually all freight transport sectors. Since much can be learned from experiences in other sectors, a brief discussion of the adjustment of airlines to deregulation was presented. Finally, the recent changes emanating from the Motor Carrier Act of 1980 were detailed and implications for both exempt and regulated truckers were discussed.

History of Motor Carrier Regulation

Federal regulation of interstate motor carrier transportation was non-existent prior to 1925. However, interstate motor carriage was regulated in most regions of the United States by state regulatory authorities. Some 40 states at this time required truck operators to obtain operating authority, regardless of whether they operated intrastate or interstate. In 1925, the Buck versus Kuykendall decision by the United State's

Supreme Court effectively eliminated state controls on entry into interstate routes by motor carriers. As a result, there was pressure and perhaps need for legislation at the federal level.

The Motor Carrier Act of 1935 was passed in response to a variety of pressures from not only state regulatory bodies, but also from railroads, shippers, and large established motor carriers. This Act provided for regulation of interstate motor carriage under the umbrella of the Interstate Commerce Commission. The act grandfathered operating authority to those carriers already providing the service, and thereafter required new entrants to obtain operating authority. Not all traffic, however, was subject to the jurisdiction of the ICC. Most notably, private motor carriage and the interstate transportation of unprocessed agricultural commodities were exempted from ICC jurisdiction.

Pressures for Deregulation

Several events lead up to the eventual passage of the Motor Carrier Act of 1980. Some of these events included: experiences with other deregulated transportation sectors; problems with the then current regulatory system; the fuel shortage of the 1970's; and finally, a growing consensus of the public in favor of less government intervention in the market place. In 1978, total economic deregulation of the airways was initiated, culminating with the recent sunsetting of the Civil Aeronautics Board. While in the initial years there were some adverse price and service effects, the general attitude toward air deregulation has been favorable due to benefits accruing from innovative fare structures by new entrants.

A number of problems identified with current motor carrier regulation also prompted moves toward less regulation. The problems were primarily associated with the bureaucratic morass associated with the fragmented jurisdiction of the ICC, as well as restrictions on routes and backhauls. Exempt and nonexempt classification of commodities raised serious concern for the workability of regulation. For example, as Representative Millicent Fenwick testified:

> The ICC has 36 categories of exempt and nonexempt products listed under the heading of "Milk and Cream." Buttermilk is exempt, but butterfat and buttermilk with condensed cream are regulated. Concentrated skim milk, and powdered, are exempt, but condensed and evaporated are not.
>
> And believe it or not, Mr. Chairman, manure in its natural state is an exempt commodity but mature, fermented with additives such as yeast and molds, producing a rich liquor which in water solution is used for soil enrichment, is not.[3]

In addition, restrictions on routes and backhauls seemed an anomaly at a time when fuel shortages abounded and Americans were being told to save gasoline. An example provided by Snow (1977) is demonstrative of an inefficiency introduced by regulation.

> A company ships two loads per week from North Carolina to New England and the trucks return empty. A subsidiary firm ships a like number of truckloads from New England to Georgia. These also return empty. Total annual mileage is 330,000, almost

[3]See Dempsey (1980) for further discussion.

> half of which is needlessly empty because of ICC restrictions on intercorporate hauling by private carriers. If these artificial restrictions were eliminated, either of the present fleets could pick up the other's cargo on its return haul. Total annual mileage would be 170,000, of which 5,000 miles would be empty. Fleet capacity would be reduced by half, mileage savings would be 160,000 per year, and fuel savings would be 40,000 gallons per year. There would be no impact on regulated traffic.[4]

In short, public attitudes, inefficiencies, and positive experiences with other transportation deregulation were all contributory factors in the drive for passage of the Motor Carrier Act of 1980.

Specific Changes in the Regulatory Environment

The primary audience for the conference was the "exempt" trucker. That is, they haul commodities exempt from interstate or intrastate economic regulation. The data suggest these firms regularly serve the same elevator for most of their trips. Hence, they return back to the same North Dakota origins. As discussed earlier, they often travel empty on the return trips, a situation not unlike the private carrier example given earlier. There are many possible reasons for traveling empty on these return trips, not the least of which being that North Dakota is a region exporting agricultural commodities and importing regulated commodities. Unless these carriers of exempt commodities have some form of operating authority they are restricted from serving the regulated transport market directly.

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[4]Taken from Snow (1977).

The changes in the regulatory system afforded by the Motor Carrier Act of 1980 went far in relaxing these entry barriers. First and foremost, entry restrictions into transport markets of regulated commodities were greatly reduced. To gain entry under the old law, carriers had to prove they were "fit, willing, and able," and show that the proposed service was required for the public convenience and necessity. Under the new legislation, these criteria were continued but greatly changed. Now the applicant need only show that the proposed service will serve a useful public purpose, and be responsive to public demand. The burden is now on the protestants to show that the service is inconsistent with the public convenience and necessity. In addition, there are now cases wherein applicants need only show they are fit, willing, and able. These include:

1. service to communities which are not regularly served by another motor carrier,
2. service to locations where rail service has been abandoned,
3. movements of U.S. government property (with some exceptions),
4. small shipments (under 100 pounds), and
5. movements of foodstuffs and fertilizers by an owner-operator (provided the owner-operator remains with the truck at all times).

Many of the truck firms are based in small, rural communities which may qualify under the fitness only application criteria.

In addition, many communities in North Dakota faced the rail line abandonment issue. Finally, many carriers in the state were of relatively small size, and the owner typically is a driver, hence, an owner-operator.

The legislation also expanded the list of exempt commodities. Fish and shellfish byproducts, livestock and poultry feed, agricultural seeds, and plants transported to a farm or to a business selling to farmers are now exempt. Some of these commodities are inputs to the agricultural economy and therefore represent new potential backhaul traffic to the exempt trucker.

Finally, a cursory overview of some of the remaining changes of the legislation was provided. These included new rules for contract carriage, private carriage, pricing, etc. Specific attention was paid to how these new changes created problems or opportunities for the trucking firm.

The Staggers Rail Act--Bane or Boon?

The two modes of transportation serving North Dakota's agricultural community are truck and rail. The partial, yet substantial, deregulation of the railroads occurred in 1980. The success or failure of the Staggers Act is a subjective topic, and specific interests certainly have differing viewpoints depending on the individual's perspective.

Much of the new transportation legislation reflected a movement toward greater reliance on the market to determine prices which was accomplished by removing regulatory lags in price adjustment, and enhancing profitability of the railroads by enabling unprofitable dimensions of the business to be divested. Each of these factors and the implications for trucking were addressed in the third presentation.

Rail Price Adjustment

A cost index was introduced into rail rate making by the Staggers Act to expedite recovery of inflationary cost increases. Under the new legislation, rail rates can be adjusted quarterly using an inflationary index. It was pointed out that when rail rates increase under this provision, more traffic could accrue to truckers. However, it was also noted that in attracting the added traffic it was important to have a knowledge of costs, and not to "cut each others throats".

Price Determination and Market Dominance

The concept of market dominance was introduced to regulatory policy under the 4-R Act but was changed somewhat by the Staggers Rail Act. In essence, if the railroad is not found to have market dominance, the jurisdiction of the ICC with respect to maximum rate controls is removed and the price is determined by the marketplace. The traffic had to demonstrate a revenue to variable cost ratio of at least 160 percent before the ICC had authority to determine the existence of market dominance (the 160 percent threshold increasing over time). If the rate in question was more than 160 percent of variable cost, the ICC then considered a variety of other standards before rendering a decision on market dominance. If the traffic was found market dominant, only then could the question of whether or not the rate was reasonable be addressed. It was pointed out that most grain traffic in the region yielded a revenue to variable cost ratio greater than 160 percent, and that in five out of nine grain reporting districts in North Dakota the railroad had a market share over 70 percent. Given the current regulatory policy, the proposition was that very little of the traffic would be found market dominant. Hence, rates were expected to be the result of market processes. The important role of the exempt truck as the only competitor of the railroad was stressed, again as it affected transport rate determination.

Surcharges on traffic (economically, a means to abandonment) was a second provision of the Staggers Rail Act having serious implications on grain transportation in the state. Under the new legislation, carriers can place surcharges on a variety of traffic including: 1) any joint line rate that does not yield 110 percent of variable cost, 2) rates applying to carriers with inadequate revenues on lines carrying less than three million gross ton miles per year; and 3) rates applying to carriers with adequate revenues on lines carrying less than one million ton miles per year. Most, if not all, North Dakota branch lines fall within the second category. Thus, railroads have the potential to effectively abandon unprofitable or marginal branch lines by applying rate surcharges. Truckers serving those areas could then anticipate added potential loads if appropriate pricing and service decisions were made.

The new legislation also greatly facilitates the direct abandonment of unprofitable or marginal branch lines. Each rail line abandoned represents added potential traffic for motor carriers. Those authorized for abandonment were identified for the audience. In addition, just prior to the conference, representatives of one of the two railroads serving the state identified rail lines either up for, pending, or under consideration for abandonment. These lines were identified for planning purposes of motor carriers, shippers, and other affected parties.

This presentation was concluded with a warning. While much of the regulatory change suggests a boon to truckers, the long term implications of the railroad industry painted a different picture. That is, much of the above discussion dealt with marginal or low volume branch lines. The long term strategy identified with the railroads in the region is to publish multiple car rates and provide the incentive for a "subterminal" system of transportation in the state. The implication over the long term for the trucker is they would be displaced from long haul traffic and placed into short haul traffic feeding the subterminal distribution system.

Agricultural Trucking Growth in North Dakota

The previous presentations were structured by conference planners to outline the existing transportation infrastructure and shifts in regulatory policy. The next presentation provided an overview of trends in trucking, railroad pricing responses to growth in trucking, and expected future behavior of railroads and truckers.

During the 1970's trucking in North Dakota grew at a consistent rate. In 1974 the truck share of agricultural products was only about 19 percent, increasing to about 40 percent in the late 1970's. The increase was not only in terms of relative market shares but in absolute volumes as well. The growth in trucking was attributed to rail car shortages occurring in the time period, rail pricing policies (higher prices, perhaps to obtain rents associated with the car shortage), and a rapidly growing agricultural economy. Most of the growth occurred in the eastern third of the state where sunflower and wheat production growth was largest and where firms were located closer to the major markets in Minnesota. While both Minneapolis and Duluth truck markets experienced growth, the growth was highest in the Duluth markets (where backhauls are generally not available), emphasizing the front haul rate available to truckers.

Railroad reactions had consisted of meeting truck competition by decreasing the single car rail rate. However, this policy was changed somewhat in the late 1970's and early 1980's as a reaction to a growing truck share of shipments from western North Dakota to the Pacific Northwest. In 1981 the truckers' share of that market had increased to over 45 percent. Much of this growth was attributed to the growing availability of backhauls from the west coast. Truckers were able to compete over this longer haul if loaded in both directions. In addition to continued price competition with decreases in single car rates, for the first time railroads also responded with greater product differentiation. The railroad introduced multiple car rail rates as a strategy to meet truck and truck-barge competition in the west. The result was that continued backhaul traffic from the west coast was essential in order for truckers to compete with the railroad for the long haul agricultural traffic from North Dakota to the west coast.

The railroad was expected to continue to base competitive pricing decisions on long run truck costs. Also, product differentiation by multicar merchandising was expected to be the principal competitive tool used by the railroads in meeting truck competition. Finally, it was pointed out that in short run pricing decisions the railroad could well abandon the above strategies, and increase prices to gain profits associated with rail car shortages. Under the new legislation railroads could be expected to react much faster to such shortages and other changes in the market, again providing short run opportunities for the aggressive trucking firm.

An Overview of Agricultural Trucking in North Dakota and the Nation

The last presentation was a review and synthesis of the four presentations summarized above. An overview of other issues facing these and other trucking firms throughout the nation was also presented. Transportation as a derived demand was emphasized. That is, transportation is only useful in terms of the time and place utility it creates. As such, there is a need for truckers not only to drive, but also to identify what needs to be moved, where it needs to be moved, and the value of the service.

While earlier presentations pointed to advantages of the large firm over the small firm, the conclusion was not that small truckers cannot compete. Rather, the results suggest that progressive and successful truckers have more opportunities. The cost information provided a mechanical means to calculate costs as well as industry averages to evaluate performance. Carriers were again encouraged to use the cost information in conjunction with backhaul prospects to form a basis for their pricing decisions.

By integrating these concepts with a changing regulatory environment, the Motor Carrier Act of 1980 was considered as having opened many opportunities for the trucker. These opportunities, when used, could make a trucking firm a more efficient and profitable business. The Staggers Rail Act of 1980 was considered as positive in the short run. The role of the trucker may change in the long run from providing service in long haul markets to being a critical factor in short haul markets, serving as a feeder to the grain subterminal system.

Trends in trucking, regulation, and competition suggest that for truckers to compete over long hauls they simply must look to backhaul traffic--a theme throughout the conference. Unit and multiple car rail rates will cause extreme competition for truckers, and the only way they will be able to compete is to enhance revenues on a total trip basis.

Finally, a variety of national trends and issues will continue to affect the trucker. These include not only a deregulated transportation industry, but also continued debate about size and weight restrictions. Recent analyses had shown that truckers were not paying for the cost of the damage they did to the road system. Thus, increases in user fees were identified as a coming possibility. In addition, there appears no end in sight to the continuing problem of different weight and length restrictions across states. The final parting point given to all attending the conference was that a number of changes were taking place in transportation, and that truckers' could no longer afford to just drive. They must make both management and merchandising decisions.

Lessons of Organization

As a concluding note to this chapter, the lessons learned from both organizing and conducting the conference are summarized. First, the conference was held in mid-August. The choice of time period corresponded to the beginning of the harvest of commodities. While an alternative time period could not have been chosen for the initial effort, later attempts have been coordinated with off peak time periods.

Second, three different mechanisms were used in publicizing the conference. These included direct mailing to the known truckers, contact with the local news media, and contact with the national trade magazines. All had some benefit; attendance was about 40 to 50 people at each location. The locations chosen were in the northeast and lower central parts of North Dakota, based on the geographical dispersion of truckers. Future attempts at this type of a program may well be advised to also contact the customers of these carriers as well as truck stops located throughout the region. Finally, contact with the local news media was essential. Notice was given to the public, and television coverage of the event in each of the two cities was obtained.

Third, the content of the conference was well received by most of the public attending, with some exception. The content was broad and integrated. However, one possible omission was that of the process of locating and negotiating for backhaul loads. As demonstrated in the initial presentation and throughout the remaining conference, backhaul loads have a profound impact on the economic viability of the trucker.

Mechanisms to enhance the likelihood of obtaining backhauls could have been better developed.

The inclusion of two specific items in the conference program may have been warranted. First, the mechanics of obtaining fitness applications and other operating authority may have been a fruitful area of discussion. Second, little is known of the mechanics of obtaining a backhaul load in a given market. The inclusion of a broker from one of the major markets may have been very useful.

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Appendix A

Trucking in North Dakota

(program)

August 12 and 13, 1981

TRUCKING IN NORTH DAKOTA
A Management Seminar

August 12, 1981

Location: Ramada Inn, Coronado Room
Grand Forks, ND at 1:00 p.m.

August 13, 1981

Location: Holiday Inn, Hall of Ports
Bismarck, ND at 1:00 p.m.

A Management Seminar Discussing:

- Costs
- Competition
- Growth
- Pricing
- Deregulation
- An Overview of the Industry

AGENDA

1:00 Introduction and Coffee

1:30 "Trucking: The Case in North Dakota"
by Wesley W. Wilson, Research Assistant,
Upper Great Plains Transportation Institute,
NDSU, Fargo, ND

2:00 "Truck Deregulation: What Now?"
by Dr. William E. Thoms, Professor of Law,
University of North Dakota School of Law,
Grand Forks, ND

2:30 "Railroad Deregulation: Its Effects on Motor Carriers"
by John I. Finsness, Director of Traffic,
North Dakota Public Service Commission,
Bismarck, ND

3:00 "Agricultural Trucking: Growth"
by Gene C. Griffin, Director
Upper Great Plains Transportation Institute,
NDSU, Fargo, ND

3:30 "Trucking in North Dakota: An Overview"
by Dr. Kenneth L. Casavant, Professor of
Agricultural Economics, Washington State
University, Pullman, WA

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