

National Shippers Strategic Transportation Council (NASSTRAC) History

NASSTRAC had its inception on July 1, 1952, when more than 100 shippers met in the Morrison Hotel in Chicago, IL to plan action in connection with the Central States Motor Carriers' \$1.509 surcharge on small shipments. Following this meeting, several others were held and the need for a national organization to protect the interests of shippers and receivers of minimum charge shipments became apparent.

On October 22, 1952, a group of interested shippers met in the Sherman Hotel in Chicago, IL and pledged the necessary finances to organize NASSTRAC (National Small Shipments Traffic Conference). The first formal meeting of NASSTRAC was held November 19, 1952 in the Biltmore Hotel in New York City. Approximately 100 traffic representatives attended. At this meeting a Constitution and Bylaws were adopted and officers elected.

A small shipment is defined as any shipment of less than 10,000 lbs. or a Less-than-Truckload (LTL) shipment. This means that the range of shipments in which NASSTRAC is interested in is from individual parcels up to 10,000 pounds. The majority of shipments are 600 lbs. or less. About 15% of NASSTRAC members qualify as "small shippers" of small shipments and another 15% qualify as "very large shippers" of small shipments. The remainder is moderate to intermediate in the volume of LTL shipments they ship. Thus, NASSTRAC represents all segments of the LTL shipping community.

Throughout its history, NASSTRAC has effectively represented shippers in successful litigation at the Interstate Commerce Commission, with state regulatory agencies and in the courts in matters pertaining to rates, charges and/or services, or policies affecting these aspects of LTL distribution. The retained General Counsel is one of the best known and most respected transportation attorneys in the country. NASSTRAC has been successful in protecting shipper interests by defeating efforts to impose additional charges on small shipments without compromising additional services. It was principally responsible for restraining rate increases during the "cost-plus" pricing period preceding the Motor Carrier Act of 1980, and has vigorously defended shipper interested in matter affecting the following: liability and released rates, negotiated rates, contract carriage and the validity of contracts, hazardous materials (HAZMAT) regulations and charges for HAZMAT shipments. It has been the leader in combatting classification actions which increase rates through imposing higher classification ratings on selected types of products. NASSTRAC is continuing to be vigilant in monitoring classification actions to defend against any unreasonable and unfair changes in classification which would have an adverse impact upon shippers. NASSTRAC has actively worked with carrier members and staff of the National Classification Committee to attempt to improve procedures so that shippers are not intimidated by the process and that they have adequate representation in the process and a voice in the classification actions. While no significant results have yet been achieved, the process continues.

NASSTRAC, which had a history of effective representation of the LTL community with both the Senate and the House of Representatives, was one of the principal shipper groups involved in crafting the Motor Carrier Act of 1980, ensuring that the concerns of their LTL shippers were addressed in the legislation as it was drafted. Once this legislation was passed and the increased competition in the trucking industry fostered by its provisions produced increasing advantages, improved pricing practices, and better service. Litigation at the interstate level dropped off. NASSTRAC concentrated its efforts on an enhanced educational program providing its members tips on how to cope with changes in the regulatory system and the manner in which business is conducted between shippers and carriers. NASSTRAC became a leader in the process of developing partnerships and promoted the partnership approach by increasing carrier participation in planning meeting programs, expanding carrier presentations at its meetings, and establishing a closer working relationship with groups such as the American Trucking Associations (ATA). As the effects of the Motor Carrier Act of 1980 lessened the involvement in interstate regulatory matters, NASSTRAC became the LTL shippers' principal representative in the intrastate arena, being especially active in those states where intrastate regulation was most oppressive and had the greatest impact on increasing intrastate distributions costs. Texas and California received primary attention, but NASSTRAC was also active in a number of other states too.

The NASSTRAC educational program for members is designed to help them identify new and innovative approaches to LTL distribution which will save their companies money and has taken a number of forms. A bi-weekly newsletter (now E-Link) keeps members informed of significant developments affecting their way of doing business or of new regulations with which they must comply, identifying pitfalls which could cost members money. As changes in the business structure occur resulting from such actions as corporate reorganizations, reengineering, downsizing, and mergers, buyouts or other similar actions, NASSTRAC has expanded its educational program to address these

issues and how they impact distribution executives. The program is now addressing ways in which distribution executives can cope with these changes and adjust their distributions program to fit into the changed environment with improved efficiency. Changes in shipper/carrier relationships and in the manner in which distribution programs are developed and implemented, as well as applications of new technology are also being addressed on a regular basis. The theme of this program is enhanced professionalism for distribution executives and new and better ways to save money on LTL distribution.

Periodic special bulletins distributed to the membership also highlight significant developments. Publications such as Small Shipments and Parcels Guidelines, designed to help shippers identify the most efficient and least expensive way to ship packages have been published and are updated regularly, as well as fact sheets identifying the basic requirements for transportation contracts and other matters. A Telephone Hotline responsive to member requests for information on specific subjects is an important source of problem solving for all members and provides access to expertise not otherwise available. Not only are the in-house expertise of the staff, the General Counsel and membership made available through this process; NASSTRAC maintains a close relationship with a variety of government and private agencies which are an excellent asset which members can access through a telephone call to the Washington office.

NASSTRAC prides itself in providing an enhanced networking opportunity for its members. The relationships established with fellow distribution professionals (many of whom have enhanced expertise in a number of fields) and with senior executives of national, regional, and local freight carriers, and package express carriers as well as professionals representing a wide range of transportation support services provide members with a resource that would not otherwise be available for addressing and solving almost any problem they face. This networking opportunity is likely one of the more significant advantages of membership.

Motor Carrier bankruptcies during the 1980's have led to an unscrupulous effort by collection agents to invalidate tariffs under which shippers made shipments and to impose onerous and unjustified undercharge claims on shippers. While the problem began as what was known as the "negotiated rates" or "unfiled rates" problem, which more heavily impacted on those shippers who were in a position to negotiate larger discounts, all tariffs and all shippers became the target. One of the issues raised in this process has been penalties for late payment of freight bills, most of which are outrageously illegal. Many shippers, regardless of size, have already received an undercharge claim of some type. More are underway from trustee for existing bankrupt carriers as well as from additional bankruptcies which have occurred. A vast number of claims are on the order of \$1,000 to \$4,000 and the collection agents place tremendous pressure on shippers to pay the claim. Since responding to a court-issued summons will cost on the order to \$2,500 or more, a cost benefit analysis often leads shippers to pay the claim...and in many cases this then leads to additional and larger claims...and the shipper is caught up in a process designed to bleed him of money which in all justice he does not owe. NASSTRAC has advised its members not to settle such claims without first contacting the Washington office or the NASSTRAC General Counsel for advice. That advice was usually is not to do anything about the claim until a summons is received from a Bankruptcy Court and then to work with a qualified transportation attorney to take advantage of relief available under the law.

NASSTRAC was a leader in the battle to get legislative relief from shippers from the Congress. As a result of extensive efforts over a period of more than four years, the Negotiated Rates Act of 1993 (NRA) was passed despite strong and persistent opposition from the Teamsters and the auditors, trustees and attorneys for the bankrupt motor carriers, all of whom sought to benefit financially from the undercharge process. The NRA provided ways of defending against undercharge claims by having cases referred to the Interstate Commerce Commission for review or settling at rates specified in the law. The law also provided ways for addressing contract disputes and other issues.

Despite the fact that the NRA became law in early December of 1993, the auditors, trustees and attorneys for the bankrupt carriers have not given up the fight and have contested provisions of the law and the authority of the Interstate Commerce Commission. However, the impact of the law has been to encourage much more reasonable settlements, and to permit the Commission to move forward on a number of cases. NASSTRAC has been active in fighting challenges of the law brought in the Federal Courts, and the Interstate Commerce Commission has joined in the battle in a number of cases. Some cases have already been won at the court of Appeals level and at the US Supreme Court. NASSTRAC is there to fight for the shipper position in all of these cases and has been active in proceedings at the Interstate Commerce Commission to develop implementing instructions for the NRA.

While all this is going on, NASSTRAC has actively provided guidance for members on how to react to and or handle undercharge claims. A book called "A Guide to Shippers for Undercharge Cases" was published and updated. Guidance is published regularly in "The Small Shipment", the bi-weekly newsletter and additional Fact Sheets and other publications have been distributed to members. In addition members are urged to contact either the Washington office or the NASSTRAC General Counsel if they have any questions about approaches by auditors,

trustees or attorneys for bankrupt motor carriers. The resultant savings for member companies has been significant and NASSTRAC will continue to provide this service to save additional money that would otherwise be in the hands of the auditors, trustees and attorneys. NASSTRAC is working toward a final solution to the undercharge problem...through implementation of the NRA and through action in the Courts. In the P-I-E case where a Defense Group approach was appropriate, NASSTRAC set up a Defense Group for members. The policy of NASSTRAC calls for providing members with every support action possible to alleviate the impact of the serious and pervasive undercharge problem.

Congress has reacted favorably to the continuing testimony of NASSTRAC executives at Congressional hearings, and to material provided by NASSTRAC on a continuing basis, by moving further in the direction of deregulation. The Trucking Industry Regulatory Reform Act of 1994 (TIRRA) was a natural follow-up to the Negotiated Rates Act for which NASSTRAC was largely responsible, and which provided considerable relief from undercharge claims. TIRRA provided deregulation of intrastate motor carrier operations. Currently, NASSTRAC views are being considered by the Congress as legislation is being developed to terminate the Interstate Commerce Commission and interstate regulation of motor carriers.

NASSTRAC has taken a firm stand that legislation to provide adequate relief to shippers from an archaic process must eliminate the File Rate Doctrine, retain the Carmack Amendment, and establish an independent adjudicatory group to process the residual undercharge claims which involved approximately \$5 billion in claims. While some groups have backed off from strong advocacy of such an independent group to protect shipper interests in undercharge cases, NASSTRAC has remained steadfast and true as an advocate for LTL shipper interests.

NASSTRAC continues to tailor the services available to members to meet member needs. As the interstate and intrastate regulatory systems change and ways of doing business are modified, NASSTRAC will develop specific programs and services to meet the changing needs of the membership. The objective of the conference is "innovative ideas for saving money on LTL shipping", which includes: education, responding to threats, representation to achieve solutions in the legislative, regulatory and judicial arenas, an effective networking opportunity, and an expanding information resource.

The education program is completely reactive to the needs of members to keep up with new developments and to keep informed about the latest in theories and philosophies being developed to forge solutions to the demands of today's distribution requirements. The program follows up on its program of management theories to the specifics of implementation of such theories, including management techniques, as well as information processing systems. The result is a two-phased program for the two annual membership meetings: the Spring Meeting addresses theories and philosophies while the Fall Meeting addresses the hands on solutions being used in the system to implement these theories and philosophies.

Also a part of this educational system, are regularly scheduled seminars addressing specific areas of interest. An annual seminar is held to address the financial condition of the trucking industry. This seminar not only provides a snapshot of the current condition of the industry but projects where the industry is going. More importantly, it provides shippers guidelines on how to assess the reliability of motor carriers in which they are interested. Other seminars address specific subjects of particular and timely interest. For example, seminars were held on the implementation of the Negotiated Rates Act of 1993 and the Trucking Industry Regulatory Reform Act of 1994. These seminars provided specific guidelines for shippers. Currently, a seminar has been scheduled for February of 1996 which will address the legislation which is finally passed to complete the deregulatory process, highlighting what has been eliminated, what remains, what agency or agencies are responsible for whatever functions of the ICC remain, and how this affects shippers. Finally, this seminar to serve the needs of shippers will have a hand-on session providing guidance on what kinds of actions shippers need to take to protect their interests.

NASSTRAC adjusts its activities to provide what its members need most. Just as the situation in which shippers find themselves is dynamic, so NASSTRAC is dynamic and constantly changing to best meet shipper needs and to answer shipper questions in a timely and effective manner. The NASSTRAC philosophy is that NASSTRAC belongs to the members and exists for the members. There is no activity generated within NASSTRAC which is not member oriented.