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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

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October 31, 2011

The Honorable Raymond H. LaHood
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary LaHood:

I am deeply concerned about what appears to be the Federal Motor Carrier Safety Administration's (FMCSA) lax oversight of the cross-border pilot program. Specifically, two recent events in FMCSA's administration of the program leave me with serious questions about whether the agency is giving applicants an adequate level of scrutiny. First, FMCSA nearly authorized Grupo Behr for long-haul operating authority until public stakeholders brought to light the carrier's poor safety record. Only after this occurred did the agency decide to withhold its decision on the carrier's application until completion of additional review. In a second instance, FMCSA granted permanent operating authority to Transportes Olympic based on an outdated safety record that is nearly three years old.

In addition to concerns I previously expressed over the long-haul cross-border pilot program's effect on American businesses, I made clear that the program must absolutely be focused on maximizing motor carrier safety. I am disappointed that FMCSA failed to detect problems in Grupo Behr's performance record. As I understand the facts, the carrier had an out-of-service rate of 28.6% and had amassed 40 vehicle violations over the previous 24 months. It reportedly also had a history of cancelled insurance from 2007 to 2010. I'm told questions remain about whether Grupo Behr's fleet has the ability to comply with the Environmental Protection Agency's vehicle emission requirements. Despite these red flags, FMCSA was prepared to approve Grupo Behr's application until public safety advocates pointed out the carrier's unsatisfactory record to the agency. Unfortunately, this instance was not a lone case of concern.

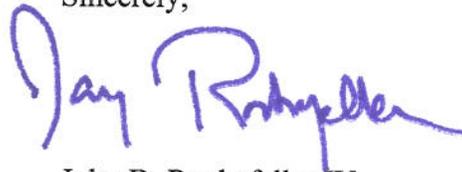
I am also disappointed that FMCSA is allowing Mexican carriers to apply time from previous cross border programs toward the 18 month requirement for permanent operating authority. FMCSA's decision to grant Transportes Olympic permanent operating authority is based on a nearly three year-old compliance review for the carrier. That review noted a number of safety violations that should have prompted additional scrutiny by FMCSA at the time. FMCSA should require Transportes Olympic and any other carrier that applies to the cross border program to continue operating under provisional authority until the agency can adequately assess the carrier's current safety performance as it stands today.

In standing up the cross-border pilot program, FMCSA committed to hold Mexican-domiciled motor carriers to a high level of safety while under provisional operating authority. However, these examples are disturbing and force me to seek your reassurance that FMCSA will be aggressive about making safety its main focus in administering this program.

Of further concern, FMCSA has not made the cross-border pilot program transparent for public review. To date, FMCSA has not provided the public with sufficient information to adequately participate in the agency's review process. Based on the results of the public's review of Grupo Behr's application, I urge you to make cross-border pilot program applications and the review process more publicly accessible. This would ensure the pilot program is subject to additional scrutiny and elevate public confidence that carriers being admitted into the program meet all qualification standards.

Thank you for your attention to this matter and please know that I will continue to monitor FMCSA's implementation of the cross-border pilot program with Mexico.

Sincerely,

A handwritten signature in blue ink that reads "John D. Rockefeller IV". The signature is fluid and cursive, with the first name "John" being particularly prominent.

John D. Rockefeller IV
Chairman