

**SURFACE TRANSPORTATION BOARD ISSUES DECISIONS IN 34 ST. JOHNSBURY, 28 BE-MAC, AND 4 FRIEDMAN'S UNDERCHARGE CASES; DISMISSES 10 CHURCHILL CASES**

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Surface Transportation Board (Board) Chairman Linda J. Morgan announced that the Board has recently issued decisions in 34 motor carrier undercharge cases involving St. Johnsbury Trucking Co., Inc. (St. Johnsbury), 28 involving Be-Mac Transport Co., Inc. (Be-Mac), and 4 involving Friedman's Express, Inc. (Friedman's), three defunct motor carriers, and that the Board has dismissed 10 undercharge cases involving Churchill Truck Lines, another defunct trucking company. The Board's decisions reflect the Board's overall effort to manage its docket efficiently and better serve the public by moving all of its cases to resolution promptly.

St. Johnsbury, Be-Mac, and Friedman's. In the St. Johnsbury, Be-Mac, and Friedman's cases, St. Johnsbury, Be-Mac, and Friedman's negotiated transportation rates with a variety of shippers. The rates, however, according to St. Johnsbury and Be-Mac, were not properly filed in public tariffs. The general requirement that motor common carriers file tariffs was abolished in the ICC Termination Act of 1995. The shipments at issue were handled before passage of the ICC Termination Act. Therefore, in each case, the carrier sought in court to collect the difference between the filed rate and the negotiated rate. The courts supervising the bankruptcy proceedings of the three carriers referred the cases to the Board for rulings.

The law provides that it is an unreasonable practice for a carrier to seek to collect a higher rate if a shipper can show, through written evidence, that a lower rate was negotiated, and that the shipper relied on the negotiated rate in tendering its traffic to the motor carrier. In each of these cases, the Board found that rates on which the shipper relied had been negotiated, and that it would be an unreasonable practice for the carrier to collect higher rates.

The Board's rulings were issued in 22 decisions. Nineteen of the decisions involved individual cases. One of the decisions involved four Friedman's cases, which Friedman's presented argument of counsel but produced no evidence. The other two decisions involved 43 cases, in which St. Johnsbury or Be-Mac produced no evidence. In each of those 43 cases, the carrier asked for permission to file its

evidence late, but because its requests to late-file were not submitted until long after the evidence was overdue, they were denied.

Churchill. Churchill is another former motor carrier that had brought several undercharge cases against its shippers. In decisions issued in late 1995, the Board's predecessor, the Interstate Commerce Commission, found that Churchill's attempts to collect undercharges in certain particular cases constituted unreasonable practices. Later, in October 1996, a district court broadly enjoined Churchill from attempting to collect additional freight charges. Ten such cases, however, remained pending at the Board. In its most recent decisions, the Board dismissed those cases.

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