

**SURFACE TRANSPORTATION BOARD DECIDES LAST TRUCKING INDUSTRY "UNDERCHARGE" CASE, MARKING FINAL RESOLUTION OF THE UNDERCHARGE CRISIS**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced that, with today's issuance of the Board's decision in the proceeding entitled *Shuford Mills, Inc.--Petition for Declaratory Order--Certain Rates and Practices of Willig Freight Lines, Inc.*, STB No. 42018, the agency has resolved the last remaining case arising out of the trucking industry "undercharge crisis" of the 1990s.

Undercharge proceedings typically involved claims made by a defunct trucking company or its successor-in-interest for additional monies allegedly due on previously delivered shipments for which originally billed charges had been paid. Such claims were usually based on carrier assertions that the charges originally assessed--even if they had been negotiated and agreed to by both the carrier and the shipper--were lower than rates published in tariffs filed with the former Interstate Commerce Commission (ICC), and that the shipper thus was required to pay the higher charge published in the filed tariff. In *Maislin Indus. v. Primary Steel*, 497 U.S. 116 (1990), the Supreme Court found that such claims, most of which were made by or on behalf of carriers no longer in business, were generally valid. Rebilled undercharge claims arising out of this practice, estimated at \$27 billion, were filed against hundreds of thousands of shippers.

In an effort to deal with the situation, Congress passed the Negotiated Rates Act of 1993 (NRA). The NRA provided a basis by which the ICC, and subsequently the Board, could find the assessment of undercharges to be an unreasonable practice, and it also provided shippers with several new defenses against undercharge claims. In today's decision, Chairman Morgan noted that, since December 3, 1993, when President Clinton signed the NRA into law, the Board and its predecessor agency have closed approximately 1,075 proceedings involving undercharge issues.

The Board issued its decision today in *Shuford Mills, Inc.--Petition for Declaratory Order--Certain Rates and Practices of Willig Freight Lines, Inc.*, STB No. 42018. A printed copy is available for a fee by contacting: **D~To-D~ Office Solutions, Room 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 466-5530**. Today's decision is also available for viewing and downloading via the Board's Website at <http://www.stb.dot.gov>

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