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**Contact: Janie Sheng (202) 245-0221**

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**COURT UPHOLDS BROAD APPLICATION UNREASONABLE PRACTICE JURISDICTION  
IN ADDRESSING UNDERCHARGE CLAIMS**

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i:½ i:½ Contact: Dennis Watson  
Monday, April 14, 1997 i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½ i:½  
i:½ i:½ i:½ (202) 565-1596  
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i:½ i:½ i:½ i:½ i:½TDD (202) 565-1695

**COURT UPHOLDS BROAD APPLICATION  
UNREASONABLE PRACTICE JURISDICTION  
IN ADDRESSING UNDERCHARGE CLAIMS**

Surface Transportation Board (Board) Chairman Linda J. Morgan today announced an important federal court decision upholding a broad application by the former Interstate Commerce Commission (ICC) of a provision of the Negotiated Rates Act of 1993 (NRA) designed to provide relief to shippers in motor carrier undercharge cases. This first court decision reviewing an ICC decision applying the “unreasonable practices” provisions of the NRA confirms the ICC’s and the Board’s broad interpretation of those provisions in two particularly important respects. The provisions of 49 U.S.C. 13711 authorize the Board to find that an effort to collect motor carrier undercharges is an unreasonable practice. To make an unreasonable practice determination, however, the Board must find “written evidence” of the negotiated rate that the shipper initially paid the carrier in lieu of the higher rate sought in the undercharge proceeding.

**-- MORE--**

In several cases, the ICC rejected the contention that shippers must provide original freight bills or other contemporaneously prepared documents to meet the written evidence requirement, concluding instead that a subsequently prepared report listing the disputed shipments, along with affidavits concerning carrier-shipper negotiations, was sufficient. The ICC also ruled that undercharge claims brought on behalf of defunct carriers can be found to be unreasonable practices and resolved on that ground even when the shipper does not invoke the unreasonable practice defense.

The United States District Court for the Southern District of Texas recently affirmed the ICC’s conclusions on both points. The court’s decision should assist the Board in its efforts to resolve the remaining undercharge cases on its docket, because it confirms the Board’s view that Congress intends that undercharge claims be resolved quickly and efficiently on the basis of the unreasonable practice provisions of the NRA whenever possible.

The ICC’s decision was issued on May 8, 1995, in Gantrade Corporation--Petition for Declaratory Order--Certain Rates and Practices of Ritter Transportation, Inc., ICC No. 40515. It was affirmed by the court in William J. Hunt, Trustee for Ritter Transportation, Inc. v. Gantrade Corporation, Civil Action No. H-89-2379 (D. Tex. March 31, 1997).

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