

SURFACE TRANSPORTATION BOARD BEGINS PROCEEDINGS TO BRING CHANGES TO MOTOR CARRIER CLASSIFICATION PROCEDURES, REDUCTIONS IN CLASS RATES

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued decisions temporarily extending the agreements of the motor carrier classification bureau (the National Classification Committee) and various motor carrier rate bureaus, but requiring the classification bureau to change its operating procedures, and requiring the motor carrier rate bureaus to reduce "benchmark" rates.

Under the law, interstate trucking, bus and household goods carriers may enter into agreements under which competitors may discuss certain matters related to rate setting, and the Board is directed to continue its approval of existing "rate bureau" agreements unless it finds them contrary to the public interest. Activities conducted under such Board-approved rate bureau agreements are protected from the application of antitrust laws. Some bureau agreements pertain to "classification," which involves grouping commodities according to their transportation characteristics, and some pertain to the "class" rates that are set for the various classifications. Although many motor carrier bureaus have operated with governmental approval for several years, shippers have complained that the classification procedures do not provide for enough shipper participation, and that collectively set class rates are far above market levels.

Pursuant to the terms of the ICC Termination Act of 1995 (Termination Act), on December 18, 1998, the Board issued decisions indicating that, absent a clear expression from Congress to the contrary, it would initiate proceedings to effect appropriate reductions in benchmark rates and to change the classification bureau's procedures (see Surface Transportation Board "News" release No. 98-82, issued on December 18, 1998). Subsequently, in section 227 of the Motor Carrier Safety Improvement Act of 1999, H. R. No. 3419 (Nov. 19, 1999), Congress addressed the specific issues that had been discussed by the Board in its earlier decisions. In the new law, Congress prospectively changed the timing governing the Board's periodic review of rate bureaus, and it directed the Board not to follow through with two of the initiatives the Board had suggested in its earlier decisions (in particular, the Board's expressed intention to allow rate bureaus to operate on a nationwide basis, and to disallow collective action on bills of lading). But in all other respects, Congress indicated that "[n]othing in [the new legislation] shall be construed to affect any case brought under [the rate bureau provisions of the law] that is pending before the Board as of the date of the enactment of [the new law.]"

Accordingly, the Board decided that it should go forward with the approach outlined in its 1998 decisions, and it instituted new proceedings designed to effect reductions in motor carrier class rates to market levels, and to open up the classification process to more shipper participation. The Board also issued notices requesting public comment on whether further proceedings were necessary for the intercity bus or the household goods carrier industries.

The Board's decisions and notices were issued today in *National Classification Committee--Agreement, Section 5a Application No. 61 and Section 5a Application No. 61 (Sub-No. 6)*; *EC-Mac Motor Carriers Service Association, Inc., Et. Al., Section 5a Application No. 118 (Amendment No. 1), et al.*; *Application of the National Motor Bus Traffic Association, Inc., for Extended Approval of its Conformed Agreement, Section 5a Application No. 9 (Sub-No. 8)*; and *Household Goods Carriers Bureau Committee--Agreement, Section 5a Application No. 1 (Sub-No. 10)*. The decisions are available on the Board's web site at www.stb.dot.gov.

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