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SERVICE DATE – JUNE 13, 2007

SURFACE TRANSPORTATION BOARD

Decision

Amendment No. 4 to  
Released Rates Decision No. MC-999

RELEASED RATES OF MOTOR COMMON CARRIERS OF  
HOUSEHOLD GOODS

Decided: June 11, 2007

The Board amends its previous decisions authorizing motor carriers of household goods to offer “released rates,” under which they limit their cargo liability, to comport with a statutory change in the standard liability of motor carriers for damage to, or loss of, the household goods they transport.

Prior to the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, 119 Stat. 1144 (2005), motor carriers of household goods (HHG) were generally liable, under former 49 U.S.C. 14706, for the actual loss or injury they caused to the property they transported and, because most HHG are “used,” the carriers’ liability was for the depreciated value of the goods. However, under 49 U.S.C. 14706(f), HHG carriers could, with the permission of the Board, limit their liability by offering “released rates,” under which the carrier’s liability is limited to a value established by written declaration of the shipper or by written agreement. The Board has authorized HHG carriers to offer released rates under certain terms and procedures.

In section 4207 of SAFETEA-LU, Congress changed the statutorily prescribed, standard cargo liability of HHG carriers from the actual (i.e., depreciated) value of lost or damaged goods to the replacement value of the goods, up to the pre-declared total value of the shipment, unless the shipper waives in writing that level of protection. See 49 U.S.C. 14706(f)(2), (3). Thus, the standard (or default) cargo liability of a HHG carrier is now the replacement value of the goods (for example, the value of a comparable new television to replace a used television that was lost in a household move, rather than the depreciated value of the used television). This change in the standard level of cargo liability requires changes in the currently authorized released rates terms.

The current released rates authorizations for HHG carriers are: Released Rates of Motor Common Carriers of Household Goods, 5 S.T.B. 1147 (2001); and Released Rates of Motor Common Carriers of Household Goods, Amendment No. 4 to Released Rates

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Decision No. MC-999 (STB served Apr. 22, 2002, and July 26, 2006) (collectively, “the released rates orders”). These orders authorize motor carriers of HHG to limit their liability for damage to, or loss of, the goods in their care through a written declaration of the shipper. Under these orders, HHG carriers could avoid the default cargo liability level by offering their shippers a choice of two alternative carrier-liability options based on the rate that the shipper agreed to pay for the transportation of the goods. Under one option, the carrier’s cargo liability is limited to 60 cents per pound per article (“60-cents option”) if the shipper writes a valuation of “60 cents per pound” on the bill of lading/contract. In that event, the shipper pays only a base rate for the shipment. Alternatively, for an additional charge, the shipper may obtain “full value protection” for the shipped goods (“FVP option”), meaning that the carrier is liable for the replacement value of the lost or damaged goods (up to the pre-declared value of the shipment), or, at the carrier’s option, for restoring damaged goods to their prior condition. In SAFETEA-LU, Congress used the same terminology—“full value protection”—to describe the new statutory default level of liability. See 49 USC 14706(f)(2). We therefore construe the term “replacement value” in 49 U.S.C. 14706(f)(2) as equivalent to the FVP option. In other words, what before SAFETEA-LU was the FVP option is now the statutorily prescribed default standard for HHG carrier liability.

The released rates orders currently require a carrier to obtain the shipper’s signature or initials on the contract or bill of lading, indicating that the shipper has received an explanatory brochure about the two available cargo liability options. There also is a penalty when the carrier has not obtained the shipper’s signature or initials: the carrier is held liable for the unreleased level of liability set by the statute – formerly, the actual (depreciated) value of the goods lost or damaged.

After SAFETEA-LU, the “unreleased” or standard level of liability set by the statute is replacement value. Accordingly, we must amend the Board’s authorization for HHG carriers to offer released rates to provide that, when the carrier does not obtain the shipper’s signature or initials indicating receipt of the explanatory brochure, the carrier will be liable for the replacement value of the HHG that were lost or damaged.

It is ordered:

1. The decisions previously issued in this proceeding are amended to provide that, when a HHG motor carrier does not obtain a shipper’s signature or initials indicating receipt of the brochure describing the carrier’s liability for loss of or damage to cargo, the carrier will be liable for the replacement value of the goods lost or damaged.

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2. This decision is effective on July 13, 2007.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams  
Secretary