

36667
EB

SERVICE DATE – APRIL 13, 2006

SURFACE TRANSPORTATION BOARD

DECISION

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

RELEASED RATES OF MOTOR COMMON CARRIERS
OF HOUSEHOLD GOODS

AGENCY: Surface Transportation Board.

ACTION: Notice of filing of an application to amend released rates provisions for motor carrier shipments of household goods and request for public comments.

SUMMARY: The Household Goods Carriers' Bureau Committee (Committee), on behalf of its member motor carriers, seeks authority to amend Released Rates Decision No. MC-999 by changing the index used for annual adjustments to the minimum per-pound valuation and to the charges for protecting the full value of shipments of household goods.

DATES: Comments are due May 15, 2006.

ADDRESSES: Send an original and 10 copies of any comments, referring to Amendment No. 4 to Released Rates Decision No. MC-999, to: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, send one copy of any comments to the Committee's representative, Thomas M. Auchincloss, Jr., 1707 L Street, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 565-1578. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339].

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 14706(a)(1), motor carriers of household goods ordinarily are liable for the actual loss or injury that they cause to the property they transport. However, under 49 U.S.C. 14706(f), a household goods carrier may establish, with the Board's permission, "released rates," under which the carrier's liability is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper.

In a decision in this proceeding served on December 21, 2001 (December 2001 Decision), the Board authorized the Household Goods Carriers' Bureau Committee (the Committee), which is composed of motor carriers of household goods, to change the terms under which its member motor carriers may limit their liability for damage to, or loss of, household

goods in their care.¹ The December 2001 Decision authorized carriers to provide household goods shippers with two options concerning the level of cargo liability to be assumed by the carrier, depending upon the level of the rate that the shipper wishes to pay for the transportation of its goods. Under one option, the carrier's cargo liability would be limited to 60 cents per pound, per article, and the shipper would pay only a base rate for the shipment. Alternatively, for an additional charge, the shipper could obtain "full value protection" (FVP) for the shipped goods, meaning that the carrier would be liable for the replacement value of 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.

The second, or FVP, option established charges that would apply to various levels of valuations. It also provided for a minimum declared value of \$4.00 per pound (or a lump sum of \$5,000, whichever is greater). That means that, if a shipper does not write in a valuation, or writes in a declared valuation lower than \$4.00 per pound, the minimum declared value that would be deemed to apply to that shipment is the value derived by multiplying the weight of the shipment in pounds by \$4.00, and the shipper would pay a charge based on that valuation.

The December 2001 Decision also authorized the Committee to make annual adjustments, without prior Board approval, to this minimum per-pound valuation and also to the charges that would apply when a shipper selects FVP. The annual adjustments that the agency approved were based on changes in the household furnishings and operations index, a subgroup within the Consumer Price Index (CPI), U.S. City Average, published by the Bureau of Labor Statistics (BLS) of the United States Department of Labor.

The Committee has now asked us to modify the December 2001 Decision, so that, instead of using the household furnishings and operations index to benchmark the annual adjustments to the minimum per-pound valuation and FVP charges, its members would now use data from BLS's Consumer Price Index—All Urban Consumers (All Items) (CPI-U). The Committee states that the household furnishings and operations index (which has recorded insignificant movement since the base year 1999 and has not resulted in any valuation or charges adjustments since the Board authorized its use in the December 2001 Decision) is inappropriate for calculating annual adjustments because several components of the former household furnishings index subgroup were moved to other major groups. In addition, the Committee cites a BLS publication indicating that CPI subgroup indexes are subject to a substantially greater sampling

¹ In a subsequent decision served April 22, 2002, the Board clarified that the approach authorized in the December 2001 Decision may be used by carriers that are not members of the Committee, as well as those that are.

error than the national CPI, and for that reason, it strongly urges users to consider the CPI-U for use in escalator clauses.²

The Committee indicates that approval of the proposed amendment would permit household goods carriers immediately to take an increase of 16.7% in the minimum per-pound valuation and in their charges for FVP coverage for shipments of household goods.

We invite comments on the proposed amendment from interested members of the public. We will also serve this decision on the parties that provided comments concerning the December 2001 Decision and invite their comments on the proposed amendment.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: April 6, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams
Secretary

² BLS Handbook of Methods, Chapter 17 at 4, available at “www.bls.gov/opub/proghome.htm.”