

BEFORE THE
SURFACE TRANSPORTATION BOARD



SECTION 5a APPLICATION NO. 34 (SUB-NO. 10)
MIDDLEWEST MOTOR FREIGHT BUREAU, INC. –
AGREEMENT

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Brian L. Troiano
1707 L Street, NW
Suite 570
Washington, DC 20036
(202) 785-3700

Counsel for Middlewest
Motor Freight Bureau, Inc.

Of Counsel:

Rea, Cross & Auchincloss
Suite 570
1707 L Street, NW
Washington, DC 20036

Dated: January 13, 2004

ORIGINAL

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SECTION 5a APPLICATION NO. 34 (SUB-NO. 10)
MIDDLEWEST MOTOR FREIGHT BUREAU, INC. -
AGREEMENT

Middlewest Motor Freight Bureau, Inc. (MWB) and its member motor carriers of property who are party to the above-entitled agreement (hereinafter "Agreement") hereby submit their revised amendments to the Agreement pursuant to the Board's decision in STB Section 5a Application No. 118 (Sub-No. 2), et al., EC-MAC Motor Carriers Service Association, Inc., et al., served on October 16, 2003¹ (hereinafter "October Decision").

By decisions served November 20, 2001, (hereinafter "2001 Decision") and March 27, 2003 (hereinafter "March 2003 Decision") in STB Section 5a Application No. 118 (Sub-No. 2), et al., EC-MAC Motor Carriers Service Association, Inc., et al., the Board concluded that approval of motor carrier rate bureau agreements would be in the public interest provided that such agreements were revised to require that: (1) member motor carriers give a "truth-in-rates" notice to potential shippers whenever they offer a rate that references a bureau-set class rate; and (2) member carriers certify that they will not apply a loss-of-discount provision that would reinstate a collectively set class rate as a

¹ MWB's Agreement is embraced by all of the EC-MAC decisions referenced herein.

penalty for late payment. The Board also required the bureaus to file with it range of discount information gathered from member carriers.

In accordance with those decisions, MWB submitted its range of discount information on May 23, 2003. Subsequently, on July 25, 2003, MWB tendered amendments to the By-Laws of its Agreement requiring member carriers, as a condition of membership, to: (1) give the "truth-in-rates" notice required by the Board's 2001 and March 2003 Decisions when they list rates or give a rate quote that reference a collectively set class rate; and (2) certify that they will not apply a loss-of-discount provision that reinstates a collectively set bureau class rate as a penalty for late payment of freight charges.

In its October Decision, the Board found that the range of discount information provided by MWB complied with its prior decisions. However, the Board also concluded that MWB's amendment was deficient with respect to the "truth-in-rates" notice because it would "merely ask member carriers to comply" with the above-referenced decisions and leave it up to the carriers to determine the precise information to be conveyed to shippers. The Board directed that corrective action be filed within 90 days and permitted continued operations under the current Agreement pending its ruling in a subsequent decision.²

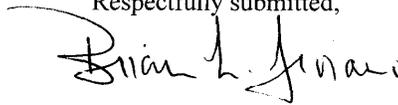
MWB did not intend to give member carriers the leeway to depart from the notice requirements envisioned by the Board. By incorporating the requirements by reference to both Decisions, MWB believed that the carriers had no discretion to alter the information to be provided. Nevertheless, to comply with the Board's directive and clarify its original

² The Board found no deficiency in that portion of MWB's amendment addressing the loss-of-discount prohibition.

intent, MWB tenders a revised amendment to its Agreement which is modeled on the substitute version submitted by Southern Motor Carriers Rate Conference and approved by the Board. The revised amendment is attached hereto as Appendix A.

MWB respectfully requests the Board to approve its Agreement as amended.

Respectfully submitted,



Brian L. Troiano
1707 L Street, NW
Suite 570
Washington, DC 20036
(202) 785-3700

Counsel for Middlewest Motor Freight
Bureau, Inc.

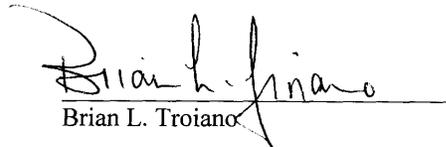
Of Counsel:

Rea, Cross & Auchincloss
Suite 570
1707 L Street, NW
Washington, DC 20036

Dated: January 13, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of January 2004, served the foregoing document upon all parties of record in this proceeding by first class mail, properly addressed with postage prepaid.


Brian L. Troiano

APPENDIX A

**SECTION 5a APPLICATION No. 34 (Sub-No. 10)
MIDDLEWEST MOTOR FREIGHT BUREAU, INC., - AGREEMENT**

Amend Article IV of the By-Laws by re-numbering Section 4.6 as Section 4.7 and inserting as new Section 4.6 the following:

- SECTION 4.6 (a) When a member motor common carrier lists or quotes a rate that references a collectively-established rate, it must give the potential shipper the minimum "truth-in-rates" notice required by the Surface Transportation Board. That notice must indicate in large type that the class rate was collectively set by motor carrier competitors acting under immunity from the antitrust laws; that the class rate is not necessarily the prevailing market rate; and that generally, there is a wide range of discounts available from member carriers. The range of available discounts shall be disclosed in the notice and shall be updated annually based upon a survey of member motor carriers conducted by this Association.
- (b) As a condition of membership, each member motor carrier shall certify that it will not apply a loss-of-discount provision that reinstates a collectively set class rate as a penalty for late payment of freight charges.