

STB SPECIAL TARIFF AUTHORITY NO. 4

ELECTRONIC FILING OF NONCONTIGUOUS
DOMESTIC TRADE TARIFFS

Decided September 19, 1996

This decision grants authority to depart from the terms of 49 CFR 1312 to the extent necessary to permit noncontiguous domestic trade tariffs to be filed with the Board electronically through FMC's ATFI system.

BY THE BOARD:

The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (ICCTA), transfers responsibility for regulating port-to-port water carrier transportation in the noncontiguous domestic trade from the Federal Maritime Commission (FMC) to the Surface Transportation Board (Board). In connection with this transfer, the tariffs containing rates and related provisions applicable to such transportation must be filed with the Board on and after October 1, 1996.

In the Conference Report accompanying ICCTA,¹ the Board was urged "to continue the FMC's practice of allowing carriers to file their tariffs electronically." In line with this guidance, the Board and FMC have developed and implemented plans that will allow all noncontiguous domestic trade tariffs to be filed with the Board on and after October 1, 1996, through FMC's "ATFI" electronic tariff filing system. Because our current tariff filing regulations (49 CFR 1312) require printed tariffs, we are granting special tariff authority to facilitate the electronic filings without the requirement for printed tariffs.

The procedures established by the Board and FMC will provide for the automatic transfer to the Board of all noncontiguous domestic trade tariffs on the ATFI system as of October 1, 1996, without requiring any further filing action by the carriers. New tariff filings can continue to be made on and after

¹ H. R. Rep. No. 422, 104th Cong., 1st Sess. 206 (1995).

October 1, 1996, using current ATFI tariff filing procedures. Thus, while the current ATFI tariffs will be transferred to the Board's jurisdiction, and new filings will be submitted to the Board, the changes will be largely transparent from the carriers' perspective. The only change in routine tariff filing requirements will be that the Board's advance notice requirements will be substituted for FMC's requirements.² Additionally, for noncontiguous domestic trade tariff filings requiring special tariff authority, the requests for such authority should be submitted to the Board.³

Because the noncontiguous domestic trade tariffs constitute only a minor portion of the total tariffs contained on the ATFI system, FMC will continue to administer the system and process the changes required to add new points, container sizes, etc. Carrier requests for such changes can continue to be submitted to FMC, whether they are needed for foreign or noncontiguous domestic trade tariffs; however, the noncontiguous domestic trade tariffs filed on ATFI on and after October 1, 1996, will be subject to the Board's exclusive jurisdiction.

In addition to the port-to-port tariffs being transferred from FMC to the Board, we will also allow carriers to use the ATFI system to file electronically joint intermodal rate tariffs for noncontiguous domestic trade. Electronic filings will not be mandated for either port-to-port or joint intermodal tariffs; rather, carriers will have the option to file either printed or electronic tariffs.⁴ All tariffs filed electronically will be required to fully comply with the filing procedures, record formats, etc., established for the ATFI system, and the ATFI filing (and retrieval) fees established by the FMC will apply to such filings in lieu of the fees for printed tariff filings established by the Board. Public access to all tariffs filed with the Board, whether in electronic or paper format, will be available through the Board's Office of Compliance and Enforcement.

² The only significant change in this regard will be that initial tariffs can be filed on 1 day's notice, rather than the 30 days' notice required for such filings by FMC. The Board's tariff filing regulations require that independently determined new and reduced rates be filed on at least 1 day's notice; that independently determined increased rates be filed on at least 7 working days' notice; and that all collectively determined rates be filed on at least 30 days' notice.

³ The Board and FMC will coordinate the assignment of ATFI "special case" numbers for special tariff authority requests that are approved.

⁴ If any carriers having ATFI tariffs on file with the FMC desire to file printed tariffs with the Board, they should cancel their ATFI tariffs and file the requisite printed tariffs with the Board.

It is ordered:

1. Authority is granted to depart from the terms of 49 CFR 1312 to the extent necessary to permit noncontiguous domestic trade tariffs to be filed with the Board electronically through FMC's ATFI system.
2. All tariffs so filed must fully comply with the filing procedures, and the data record format and content requirements, established for the ATFI system, and must otherwise fully comply with the Board's tariff filing requirements.
3. The filing and retrieval fees established by FMC for ATFI filings will apply to all such tariffs, unless and until changed by the Board.
4. All noncontiguous domestic trade tariffs on the ATFI system as of October 1, 1996, shall be deemed to be tariffs on file with the Board.

By the Board, Chairman Morgan, Vice Chairman Simmons and Commissioner Owen.