

STATEMENT OF MELANIE YASBIN
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STB Docket No. 42085, Climate Master Inc. and International Environmental, Inc.–Petition for Declaratory Order–Certain Rates and Practices of Trans Tech Solutions, Inc., F&M Bank, and Midland Transportation Co.

Good morning, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Climate Master, Inc. and International Environmental, Inc., whom I will refer to as Petitioners, filed a petition for a declaratory order requesting that the Board determine the legality of the attempts by Trans Tech Solutions, Inc., and F&M Bank to collect additional freight charges concerning shipments of freight for the Petitioners' accounts by Midland Transportation Co., an interstate motor carrier now in Chapter 7 Bankruptcy. Petitioners also request that the Board award attorneys fees, expenses and costs.

F&M Bank, a creditor of Midland and owner of the accounts at issue, hired Trans Tech to perform an audit of Midland's freight bills. According to Petitioners, Trans Tech made several demands for payment of the difference between discounted freight charges that were billed by Midland and paid by the Petitioners and the carrier's full, undiscounted rates for those services. According to Petitioners, Trans Tech asserts that Petitioners were not entitled to discounts because Petitioners did not pay the original freight bill within the 15-day credit period set out in 49 CFR 377.203. Petitioners contend that, under the terms of the transportation agreements between Midland and the Petitioners' parent company, they were entitled to pay a discounted rate if the freight charges were paid within the first 60 days after the charges were billed.

The draft decision finds that it would be an unreasonable practice for Trans Tech and F&M Bank to collect additional charges based on the 15-day credit period because Petitioners and Midland had mutually agreed to the longer credit period. The draft decision also finds that Trans Tech and F&M Bank did not comply with the provisions of 49 U.S.C. 13710(a)(3)(A), which requires carriers to rebill within 180 days of the original bill to preserve the right to collect additional charges. The draft decision does not award Petitioners attorneys fees, expenses and costs because the Interstate Commerce Act does not provide for an award of these sorts of costs.

That concludes my statement. If you have any questions, we will be happy to answer them.