

SURFACE TRANSPORTATION BOARD ISSUES DECISION FINDING THAT SUPERIOR FAST FREIGHT IS NOT ENTITLED TO UNDERCHARGES

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued two decisions, embracing 25 cases, finding that Superior Fast Freight, Inc. (Superior) is not entitled to collect undercharges. The cases were originally referred to the Board by the United States Bankruptcy Court for the Central District of California. Superior had filed numerous cases before the bankruptcy court seeking undercharges. **Undercharges are the difference between the rates agreed to, billed, and paid by a shipper and the higher rates sought to be collected based on rates on file in a motor common carrier's tariffs.** from a variety of shippers. The bankruptcy court asked the Board to use one particular case - Infinity Systems, Inc.--Petition for Declaratory Order--Certain Rates and Practices of Superior Fast Freight, Inc., STB Docket No. 41911 (STB served July 2, 1997) (Infinity) - as the "lead" case for determining whether Superior ought to be entitled to undercharges.

In Infinity, the Board found that Superior was not entitled to undercharges for two reasons. First, Superior's services were determined to be those of a freight forwarder, rather than a motor common carrier. Freight forwarders do not file tariffs, and thus they are not entitled to undercharges. Second, even if it had been acting as a motor carrier, the Board found, Superior would not have been entitled to undercharges because it had no effective tariff on file, having failed to "adopt" the tariffs of the carrier whose license it took over.

After issuing its Infinity decision, the Board asked the parties to 25 similar administrative proceedings to show cause why those proceedings should not be found to be governed by Infinity. In response to the show cause order, Superior did not attempt to show that the facts of any of those other 25 cases were materially different from those in Infinity. Accordingly, the Board found that those cases are governed by Infinity and that, as a result, the shippers in those cases are not liable for undercharges. The Board directed that the proceedings be dismissed.

The Board's decisions were issued today in STB No. 41912, et al., ITT Snyder Company v. Superior Fast Freight, Inc., and STB No. 41909, et al., Muench-Kreuzer Candle Company--Petition For Declaratory Order--Certain Rates and Practices of Superior Fast Freight, Inc.

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