



The Comptroller General  
of the United States

Washington, D.C. 20548

Billard

## Decision

Matter of: Consolidated Freightways, Inc.--Rate  
Applicability--Shipment Charge

File: B-229023

Date: January 10, 1989

### DIGEST

Part II of a carrier's rate tender provided an exception shipment charge on shipments that moved in "a trailer" 29 feet or less in length. A shipment that could have been loaded in such a trailer was actually split between two trailers of less than 29 feet in length. While a technical argument could be made that therefore, Part II of the tender did not apply and, thus, the lower general, unrestricted rate in Part I of the tender did apply, this would be a strained interpretation of the tender. Therefore, the bill should be reaudited and rates from sources other than this tender applied, if available, which produce charges lower than the tender's Part II charge.

### DECISION

Consolidated Freightways, Inc. (CF), requests review under 31 U.S.C. § 3726 (1982) of a transportation audit action taken by the General Services Administration (GSA) which resulted in \$370.43 being deducted from amounts otherwise due CF because GSA determined that CF had used the wrong rate from its tender. We remand the matter to GSA for reaudit on a different basis.

### BACKGROUND

CF accepted a shipment of Freight All Kinds from the Defense Depot, Ogden, Utah, for transportation to Nebo, California.<sup>1/</sup> For the service performed the carrier billed the government a flat shipment charge of \$565, which applies regardless of the size or weight of the shipment but ". . . only when shipment is transported in a trailer of

<sup>1/</sup> The shipment moved under Government Bill of Lading T-2024504, on January 31, 1985.

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29 feet or less." That charge was derived from Part II of CF Tender 1452-A, Appendix A, an exception to Part I of the Tender. GSA's audit concluded that the exception was not applicable and that the charges should have been based on the \$6.02 per 100 pounds, any-quantity rate offered in Part I of that Tender. The difference of \$370.43 between the charges of Part II and Part I was collected by deduction.

GSA's audit position was based on the determination that since the shipment was actually transported in two trailers of 29 feet or less, the exception shipment charge offered in Part II was not applicable because they interpret the tender's language strictly to apply only to shipments transported in one trailer ("a trailer"). Although CF agrees that the shipment was split solely for its operating convenience and transported in two trailers instead of one, its position is that the Part II exception shipment charge would apply to any shipment that could have been legally and safely loaded into one trailer of not more than 29 feet in length. CF emphasizes that the shipment's total displacement was only 150.4 cubic feet and that each trailer used displaced in excess of 1,900 cubic feet.

We understand that the Ogden depot regularly tendered relatively small shipments to CF for transportation in 29-foot trailers in which several of such shipments may be loaded at one time.

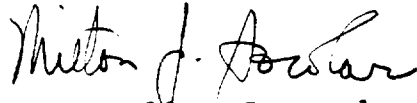
#### DISCUSSION

We understand it was the depot's practice to tender relatively small shipments to the carrier knowing they would be transported in trailers of 29 feet or less in length, and we do not think it is reasonable to now conclude that Part II of the tender is not applicable in this case solely because the carrier transported the shipment in two trailers rather than one for its operating convenience. However, it does not necessarily follow that the \$565 per shipment charge is applicable.

We understand that in other cases involving small shipments where the per shipment charge would be applicable if Tender 1452-A is used, GSA has applied rates from other tenders or tariffs which produce lower charges. GSA should reaudit

this bill on a similar basis and apply such lower charges if available.2/

Accordingly, the matter is remanded to GSA for further consideration and settlement consistent with this decision.

*for*   
Comptroller General  
of the United States

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2/ We also have informally discussed with a Military Traffic Management Command representative problems in applying this tender. He advised us they are aware of the problems and are taking remedial action.