



Comptroller General
of the United States

Washington, D.C. 20548

154526

Decision

Matter of: T.F. Boyle Transportation, Inc.

File: B-259452

Date: June 15, 1995

DIGEST

Under the Military Traffic Management Command's Freight Traffic Rules Publication No. 1A, a carrier has no basis for claiming duplicate additional charges for Dual Driver Protective Service, Satellite Motor Surveillance Service, and Expedited Service merely because the shipper ordered both van and dromedary service in the same shipment. Both the van and the dromedary were drawn at the same time by one tractor, and one set of drivers controlled and reported on the entire shipment.

DECISION

T.F. Boyle Transportation, Inc., requests that we review the General Services Administration's (GSA) settlement affirming the Department of Defense's (DOD) prepayment audit action on government bill of lading (GBL) D-0,298,579.¹ DOD rejected \$1,297.72 of T.F. Boyle's original charges because it billed twice for Dual Driver Protective Service (DD), Satellite Motor Surveillance Service (SM), and Expedited Service (EX). The parties ask us to decide whether T.F. Boyle may bill for these accessorial services only once as the government contends, or twice, once on the van and once on the dromedary, the "per vehicle" basis advanced by T.F. Boyle. In the circumstances involved here, we find that the carrier may bill only once for these services. We affirm GSA's audit action.

The shipment involved the February 1994 movement of five pallets of explosives from Virginia Beach, Virginia, to Killeen, Texas. The description of the articles on the GBL suggests that some of the lading had to be segregated from other portions of the lading.²

¹GSA's administrative report notes that our decision here may effect two other potential claims under GBLs G-1,742,934 and D-0,303,413.

²The Hazardous Materials Regulations, 49 C.F.R. Parts 171 through 177, describe such segregation requirements. See, for example, 49 C.F.R. § 177.848.

Thus, to assure segregation within the shipment, the shipping activity ordered van service and a dromedary box.³

In its initial correspondence to GSA,⁴ T.F. Boyle argued that the van and the dromedary constituted two separate shipments and that charges for accessorial services applied on each. In later correspondence, the company emphasized that there were two "vehicles" (the dromedary container on the tractor, and the van) and that charges for each accessorial service applied to each vehicle. T.F. Boyle argues that it was separately responsible for security on the dromedary container and the van, and to demonstrate the separate nature of this responsibility, it argues that "some military installations offer safe parking for trailers only - but not power units [tractors] that have munitions in the dromedary." The record indicates that the same tractor which carried the dromedary also pulled the trailer van. GSA contends that there was one vehicle and one shipment.

To address the merits of T.F. Boyle's claim, we should describe such terms as "shipment," "vehicle," and the focus and basis of each accessorial service and applicable charge. Item 1001 of MFTRP 1A defines a shipment as a quantity of freight tendered for transportation by one shipper at one point on 1 day on one bill of lading for delivery to one consignee at one site at one destination. There is no indication that this shipment varied in any way from the parameters of this definition.⁵

Item 35 of MFTRP 1A describes Dual Driver Protective Service (DD) as the continuous responsibility, attendance, and surveillance of a shipment through the use of two (dual) qualified drivers in the same line-haul vehicle, and includes the maintenance of a DD Form 1907. Under Item 35 and T.F. Boyle's individual tender, DD charges of \$.06 applied on a per mile per vehicle or dromedary service basis. Item 47 of MFTRP 1A

³Item 1001 of the Military Traffic Management Command's (MTMC) Freight Traffic Rules Publication No. 1A (MFTRP 1A), the rate publication which applied to this shipment, described a dromedary box as a freight box carried on and securely fastened to the chassis of a truck tractor or flatbed trailer which is demountable, protected by a Plymetal shield, and equipped with doors on each side that can be padlocked and sealed.

⁴Letter from James P. Matteodo dated June 7, 1994.

⁵The carrier contends that DOD used one GBL and one signature and tally record, DD Form 1907, for its own convenience. However, where freight is tendered as one shipment and accepted and moved as such, established legal precedent indicates that one GBL is proper even when more than one vehicle is involved. See Pacific Intermountain Express Co., B-179944, Aug. 8, 1974, and the cases cited therein. In fact, DOD's own rules favor the use of one GBL and require the use of cross-referencing to the extent that it is not feasible to use one GBL. See para. 32-11 of the Defense Traffic Management Regulation, July 31, 1986.

describes Satellite Motor Surveillance Service (SM) as a service which provides truck location reports, in-transit status changes, and emergency situation notifications to DOD. Under Item 47 and T.F. Boyle's individual tender, SM charges of \$.22 per mile applied subject to a minimum charge was \$160 per vehicle or dromedary service. Item 110 of MFTRP 1A described Expedited Service (EX) as the immediate dispatch of a shipment in continuous line-haul service to meet the shipper's/consignee's required delivery schedule. Under Item 110 and T.F. Boyle's individual tender, EX charges of \$.60 per mile applied.

Item 35 refers to two qualified drivers "in the same line-haul vehicle." MFTRP 1A contains no definition of "vehicle." Our research indicates that there are situations in which "vehicle" refers only to the van (without the tractor), but the important point is the context in which the term "vehicle" is used. See Milne Truck Line, Inc., 325 I.C.C. 128, 135 (1965). Obviously, the drivers are not "in" the van or "in" the dromedary box, but they are in the tractor which pulls an entire load, including the dromedary box.

In reporting on the status of a "truck," Item 47 appears to have a similar focus. There is no indication that a dromedary container is a "truck." The word "truck" appears to be equivalent to "vehicle" in Item 35. Expedited Service under Item 110 appears to be even broader, involving the entire shipment.

Previously, we considered a carrier's claim that each extra stop at origin or destination constituted two stops because one of two vehicles in a shipment stopped. In rejecting this claim, we noted that a carrier should be compensated for one stop to the extent that a driver stopped and actually loaded or unloaded one vehicle. See B-177326, May 22, 1973. Thus, we rejected a claim for duplicate additional charges for accessorial services when the carrier expended no additional effort on the second vehicle, and the government accrued no benefit with respect to the duplication of the charge. In the present case, two drivers protected all of the lading which was tendered, moved, and delivered at one time on one unit, no matter how the lading was distributed among the various components of equipment constituting that unit. It is clear that such a unit was the "vehicle" referenced in Item 35. The drivers also reported on the status of all of the lading. We agree with GSA that the true nature of this transaction was one shipment and one vehicle, and we find no basis for duplicate charges for any of the accessorial services.

We affirm GSA's settlement.

/s/ Seymour Efros
for Robert P. Murphy
General Counsel