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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20540**

FILE: B-191258

DATE: July 7, 1978

MATTER OF: Yellow Freight System, Inc.

DIGEST:

Tariff rules require arbitrary charge on shipment subject to capacity load rule to be computed on truckload minimum weight and not on actual weight of shipment.

Yellow Freight System, Inc. (Yellow Freight), by letter dated February 7, 1978, O/C 11051289, requests the Comptroller General of the United States to review the deduction of \$33.30 by the General Services Administration (GSA) to satisfy the overcharge stated against the shipment transported under Government bill of lading K-5508559, issued on November 6, 1975. Review of the settlement action is authorized by section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66(b) and by 4 C.F.R. 53.2 and 53.3.

The shipment consisted of a rail conveyor system which weighed 6,910 pounds and occupied the full capacity of the transporting trailer. The lading originated at Glasgow Air Force Base, Montana, and was delivered to New Cumberland Army Depot, Pennsylvania. For the services rendered, Yellow Freight billed and was paid charges of \$1,497.60, computed by the application of an arbitrary charge of 30 cents per hundred pounds to Glasgow, Montana, and 594 cents per hundred pounds beyond to destination, both based on a minimum weight of 24,000 pounds.

In its audit GSA reduced the charges paid by \$33.30. The lesser charges were computed by applying a 56-cent arbitrary charge to the actual weight of 6,910 pounds contained in the shipment.

Yellow Freight contends that the arbitrary charge should be based on a minimum weight of 24,000 pounds. In support of that contention, the carrier invites attention to Rocky Mountain Motor Tariff ICC RMB 127 (Tariff ICC RME 127) which contains the arbitrary charge on this shipment. Item 997 of that tariff provides in part:

"Except as otherwise provided in individual items, the minimum weight on articles moving under arbitrary rates in section 8 of this tariff subject to truckload classes in NMF [National Motor Freight Classification] 100, will be as follows (subject to Note 1) [Not here applicable];

"(1) When any article in NMF 100 is subject to a single truckload class and minimum weight factor, the minimum weight will be as provided in table A of NMF 100 item 997, except that if the minimum weight in table A of NMF 100 item 997 is greater than 24,000 pounds, the minimum weight will be 24,000 pounds."

By item 100 of Tariff ICC RMB 127 the rates published therein are made subject to Rocky Mountain Motor Tariff ICC RMB 120 (Tariff ICC RMB 120), which in item 610-5 provides in part:

"(1) When any shipment that is subject to LTL, volume, or truckload rates is rendered to the carrier and occupies the full visible capacity of one or more vehicles, the minimum charge for that quantity of freight loaded in or on each vehicle will be the charge based on the truckload or volume minimum weight, at the truckload or volume rate applicable."

The arbitrary charges are published in item 3660 of Tariff RMB 127, which provides a varying scale of rates based on the weight of the shipment. The arbitrary charge applies on shipments moving to and from the Glasgow Air Force Base, and is added to the line-haul rate applying to or from Glasgow, Montana. The line-haul rates are not in dispute.


Bill of Lading K-5508559 shows that the rail conveyor system fully loaded trailer BN-7974 which was used for the transportation. Under item 610-5 of Tariff ICC RMB 120, a vehicle loaded to capacity is ratable as a truckload. Item 997 of Tariff ICC RMB 127 provides a maximum truckload minimum weight of 24,000 pounds for articles moving under the arbitrary rates in section 3 of Tariff ICC RMB 127, which applies on this shipment. Application of the 30-cent per

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hundred pounds arbitrary rate which applies to the minimum weight of 24,000 pounds, produces an arbitrary charge of \$72, or \$33.30 more than now paid to the carrier. Accordingly, Yellow Freight is due the \$33.30 claimed on this shipment.

GSA has advised our Office that a claim for \$33.30 will be processed for payment.


James A. Atwood
Comptroller General
of the United States