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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Request for Review of GSA Settlement Action]

FILE: B-199805

DATE: December 29, 1980

MATTER OF: Yellow Freight System, Inc.

DIGEST:

1. Definition of less than truckload, "LTL," as published in National Motor Freight Classification, controls interpretation of "LTL rate or class" in quotation, since quotation is expressly governed by Classification.
2. Abbreviation, "LTL," under "scale" column of tariff's rate table means quantity of freight of less than 500 pounds; "LTL," as well as other weight groups, expressly made subject to LTL classes.
3. Applicability of quotation, referring to "currently applicable class 55 LTL rates" in tariff, not limited to class 55 LTL rates on "LTL" weight line of rate table but extends to class 55 LTL rates corresponding to any weight scale of less than truckload quantity.
4. GSA properly based deduction action on quotation which offers rates on all less than truckload quantities, as term is defined in governing Classification.

Yellow Freight System, Inc. (Yellow Freight), initially requested review of settlement action taken by the General Services Administration (GSA) on 36 less than truckload (LTL) shipments of Government property which were transported between points listed in item 3860 of U.S. Government Quotation ICC RMB Q15-D (Quotation RMB 15). See 49 U.S.C. 66(b) (1976) and 4 CFR 53 (1979). By letter of November 3, 1980, the carrier amended its request by adding 88 bills.

In its audit of Yellow Freight's transportation bills the GSA determined that the carrier collected overcharges in the total amount of \$3,296.42 on the 36 LTL shipments. GSA's report, which recommends that its action be sustained, represents that the circumstances

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and issue involved in Government bill of lading K-4495333 are the same in all material respects as those in the other shipments.

The record shows that Yellow Freight collected \$360.35 in August 1978 for the transportation of a shipment of books, NOI, from Seal Beach, California, to Indianapolis, Indiana. The shipment, which was received by the carrier on July 25, 1978, weighed 3,312 pounds. The GSA determined that the applicable charges were \$341.80, and issued a Notice of Overcharge for \$18.55. When the carrier declined to pay the overcharge, the GSA caused the deduction to be made. (The carrier states that \$11,570.63 in overcharges was deducted on the 88 additional bills.)

The source of GSA's audit determination is item 3860 of Quotation RMB 15. Item 3860 provides for specific commodity rates on books, NOI, the article shipped, (plus other printed matter, and paper articles, paper and boxes). The item does not contain the rates. Instead, for rates, it refers to Note 1 thereof which in turn refers to the currently applicable class 55 LTL rates published in specified Rocky Mountain Motor Tariff Bureau, Inc., tariffs, including Tariff ICC RMB 521-Series (Tariff 521). For shipments transported between Western and Eastern points, section 8 of Tariff 521 (item 3860) contains published rates, in cents per 100 pounds, arranged by columns under the various commodity classes, and by lines, extending from various weight scales. Organization of the rate table, showing, to the extent necessary, the intersecting columns and lines, follows, as it appears on the 9th revised page 472 of the tariff:

C L A S S E S							
SCALE*	100	* * *	85	* * *	70	* * *	55
LTL	2490		2117		1743		1370
5C							
1M							
2M	1745		1483		1222		960
5M							
10M							
20M							

(1) TL

(2) TL

*"C" means hundred pounds; "M" means thousand pounds, and "TL" means truckload.

The GSA applied the \$9.60 rate (adjusted to \$10.32 per 100 pounds to reflect a general increase in rates), which appears in the class 55 column and on the fourth line which extends from the 2,000-pound weight scale. That scale was selected because the shipment weighed 3,312 pounds.

There is apparent agreement that the rate would be selected from the class 55 column; the controversy is over the proper line. The parties urge different interpretations of the abbreviation, "LTL," as it appears in the pertinent clause of Note 1:

"the currently applicable class 55 LTL rate. . . ."

Yellow Freight contends that "LTL" refers only to the first line under the "Scale" column inasmuch as it contains the same abbreviation, "LTL;" that line covers shipments weighing less than 500 pounds. That position would result in application of the \$13.70 rate (before adjustment for the rate increase). The GSA contends that "LTL" means less than truckload, as generally understood, and that the class 55 rates on any line, except those marked "TL" (truckload) are available, depending on the weight of particular shipments.

In support of its position that only the higher rates on the "LTL" (first) line apply, Yellow Freight refers to the title page of section 8 of Tariff 521. On 2nd revised page 469 (the title page), the following appears:

"APPLICATION OF SCALE LTL, 5C, 1M, 2M, 5M,
10M, 20M OR TL RATES SHOWN IN THIS SECTION
Scale LTL - Less than truckload, subject to
LTL classes; or AQ classes.

* * * * *

The carrier argues that since the provision specifically ties "less than truckload" to the "Scale LTL" line, it follows that no other scale can be considered as "LTL" within the meaning of Note 1 of Item 3860. Yellow Freight states that the LTL scale was intended to provide an

exception (lower than tariff) rate for small shipments, generally, 500 or 1,000 pounds, and some shipments weighing 2,000 pounds, but none greater.

We believe that well-established principles of tariff construction control disposition of this case. See 56 Comp. Gen. 529 (1977). Whatever may have been the intentions when tariff items are framed, tariffs must be construed according to their language, and the framer's intentions are not controlling. See B-174445, April 25, 1972. In the interpretation of a tariff, its terms must be taken in the sense in which they are generally used and accepted; and it must be construed in accordance with the meaning of the words used. See Penn Central Co. v. General Mills, Inc., 439 F.2d 1338, 1340 (8th Cir. 1971).

We agree with Yellow Freight that "LTL" means less than truckload; however, the sense in which the term is generally used extends beyond the scope of 499-pound shipments. In its usual sense, "LTL" is considered as a quantity that is below the carrying capacity of a vehicle. In other words, it covers all weights less than the truckload minimum. This is the meaning adopted by the National Motor Freight Classification, ICC NMFC 100. Section 6(c) thereof defines less than truckload (LTL) rates or classes as those applicable to a quantity of freight less than the volume or truckload minimum specified in the Classification for the same article. See Merchandise, Southwest Freight Lines, Inc., 51 M.C.C. 112, 115 (1949).

The Classification governs Quotation RMB 15 through item 100-1 thereof which refers to U.S. Government Quotation ICC RMB 20 and the publications set forth in item 100 of that quotation. Item 100 specifically refers to the Classification as a governing publication. See B-197183, June 26, 1980.

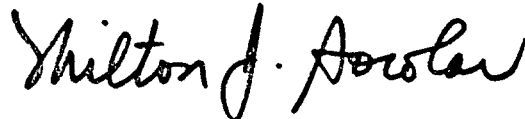
Items 161560 and 161580 in the Classification, which provide class ratings on books, NOI, name minimum weights of 30,000 pounds for the truckload rating. With reference to the "scale" column of weights it is clear that all weight groups from the first line (LTL) to the "20M" (20,000 pounds) line are considered LTL within the meaning of that term in Note 1, item 3860 of Quotation RMB 15 because they represent quantities of less than 30,000 pounds, the truckload minimum for books, NOI, specified in the Classification.

We view the "LTL" scale simply as another weight group, as the 2,000 and 5,000 etc., groups. A notable difference, though not material here, is that the "LTL" scale has no stated minimum, as the other weight scales do, viz. 2,000 pounds. See General Increases, Less Than Truckload, Pacific Northwest, 310 I.C.C. 307, 313 (1960).

It should be noted also that Item 3860 in Note 1 contains the statement: "Rates in this item apply only on shipments which weigh 500 pounds or more which are rated at 500 pounds." Thus the item is restricted to shipments covered by weight Scale 5C through weight Scale 20M. And weight Scale LTL is specifically exempted from application to shipments weighing in excess of 500 pounds.

Yellow Freight fails to distinguish between an "LTL" rate or class and an "LTL" quantity of freight. Note 1 speaks in terms of rates, whereas the scale column of the rate table in Tariff 521 pertains to quantities, and the "LTL" scale is only one. The title page of section 8, relied on by the claimant, defeats the carrier's argument. It expressly states that it is subject to LTL classes, or any quantity, which clearly points out the distinction between rates and quantities. Therefore, in its audit GSA properly applied the class 55 LTL rate corresponding to the 2,000-pound weight scale.

Accordingly, GSA's settlement action is sustained.



For the Comptroller General
of the United States