



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Consolidated Freightways, Inc. - Minimum Charge
Applicability

File: B-230345

Date: June 2, 1989

DIGEST

A carrier disputes the General Services Administration's deduction action with respect to four shipments of class C explosives. The carrier's Freight All Kinds tender refers specifically to a minimum charge as a percentage of a charge stated in one tariff and also states that the tender is governed by a rules tariff which contains a higher minimum-charge basis applicable to class C explosives. The minimum charge specifically referred to by the tender is applicable to shipments thereunder, rather than the minimum charge arrived at indirectly through the rules tariff reference. Thus, GSA's action is sustained.

DECISION

Consolidated Freightways, Inc. (Consolidated) requested the Comptroller General to review deduction action taken by the General Services Administration (GSA) to recover transportation overcharges. We sustain GSA's actions.

BACKGROUND

Consolidated's Tender 1075-F, offering reduced rates to the United States for the transportation of Freight All Kinds, is an example of the rate tenders that applied to four relatively small government shipments of class C explosives.^{1/} GSA's deduction action was based on the minimum-charge provision referred to specifically in Appendix A of the tender, which states that:

^{1/} Three tenders are involved. The covering Government Bills of Lading are S-6053143, S-6175653, S-6431208, and S-8015680.

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"The rates to apply will be 80% of the current LTL class 50 rate as published in RMB 583. The applicable minimum charge will be 85% of the minimum charge as published in RMB 583."2/

The preprinted portion of block 16 of the tender states:

"Governing Publications:

The rates, charges or services shown herein are subject to publications listed below:

ICC RMB 583

ICC CFWY 110-A (RULES)

ICC CFWY 1053-B (POINTS)"

Consolidated contends that the rates in Tender 1075-F are governed by the 1,000 pounds minimum charge provision for shipments containing class C explosives published in Rules Tariff 110-A, since that tariff is shown in block 16 of the tender as a governing publication.

GSA's position, that the tender's rates are not governed by the minimum charge provision published in Rules Tariff 110-A, is based on the general principle that the function of rules tariffs is to provide for services or charges not specifically provided for in rate tenders, and not to alter their specific provisions. In this case, the specific provision for the minimum charge is contained in Rate Tender 1075-F and Tariff RMB 583.

DISCUSSION

The issue here is which of the two minimum charge provisions governs computation of the freight charges on these shipments. By the rate tender's specific reference to the applicable minimum charge as 85 percent of the minimum charge in RMB 583, the intention is clear to make that an integral part of the rates "shown herein," within the meaning of block 16 of the tender. The general reference in block 16 of the tender to the rules tariff, which, among other things, also contains minimum charges, in our view does not make those charges, arrived at indirectly, applicable to the exclusion of the minimum charge specifically stated by the tender itself. Cf. Trans Country Van Lines, Inc., B-190624, Aug. 29, 1978.

2/ The rate provision is contained in Items 13A & 13B of Appendix A of the tender. RMB 583 is a tariff published by the Rocky Mountain Motor Tariff Bureau, Inc., for general application.

Accordingly, we sustain GSA's action.

Milton F. Fowler

Acting Comptroller General
of the United States