



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Yowell Transportation Services, Inc. -- Combined
Line-Haul and Exclusive-Use-Of-Vehicle Charges

File: B-230873

Date: November 21, 1988

DIGEST

Where a carrier's tender supplement that was in effect when a particular shipment moved provided that "shipments accorded exclusive-use-of-vehicle service" will be "rated" under an identified rate table, the intent of the supplement was to combine rate factors for both line-haul and exclusive-use services into one charge. This intent is made clear by the fact that a subsequent supplement of the same tender provided specifically that such shipments "will be rated at an additional charge." Yowell Transportation Services, Inc., B-225014, Sept. 30, 1987, distinguished.

DECISION

Yowell Transportation Services, Inc., requests review of action taken by the General Services Administration (GSA). GSA disallowed Yowell's supplemental bill for additional exclusive-use-of-vehicle charges. We sustain GSA's action.

BACKGROUND

This case raises the question of whether a separate additional charge for exclusive-use-of-vehicle service was applicable to the transportation of a government shipment. Yowell received the shipment, weighing 1,945 pounds, on February 13, 1985.^{1/} The charges of \$590 that Yowell originally billed and collected were computed by applying a \$5.00 per 100-pound rate to a minimum (constructive) weight of 10,000 pounds. In January 1988, nearly 3 years later, Yowell presented a supplemental bill for an additional

^{1/} The shipment was tendered to Yowell at Pittsfield, Massachusetts, on Government Bill of Lading S-5559674, for delivery to West Deptford, New Jersey, a distance of 162 miles.

043965/137380

\$847.50, which was computed by applying a \$5.65 per 100-pound rate to a minimum weight of 15,000 pounds.

Yowell argues that the original charges were for basic line-haul transportation service only, so the supplemental bill for \$847.50 was for exclusive-use service. The carrier based its claim on our decision in Yowell Transportation Services, Inc., B-225014, Sept. 30, 1987, which, the carrier states, distinguished line-haul from exclusive-use service and charges. In Yowell we held that, in addition to applicable line-haul charges under Tender 13, the carrier's supplemental bill for exclusive-use charges was also for allowance under Rule 27 of Rules Tender 14 which was then in effect.

GSA disallowed the claim,^{2/} contending that the tender provision applied in the Yowell decision was not in effect in February 1985 when this shipment moved, and the charges originally collected by Yowell were based on tender provisions that were in effect. GSA argues that the provisions which were in effect and upon which Yowell originally billed this shipment included charges for exclusive use.

DISCUSSION AND CONCLUSION

As recognized in the Yowell decision, line-haul and exclusive-use are distinct services for which carriers often assess separate identifiable charges for their respective performance. See Trans Country Van Lines, Inc., B-190624, Aug. 29, 1978. However, it does not follow that carriers' tenders always provide for the assessment of separate identifiable charges, as was the case in the Yowell decision. Two tenders, Rate Tender 13 and Rules Tender 14, are involved here, as they were in the Yowell decision. There is no dispute that Tender 13, which contains basic line-haul rates, is governed by Tender 14, which provides for accessorial services, such as exclusive-use service.

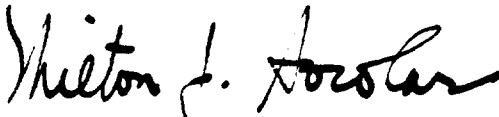
Rule 27 of Rules Tender 14, Supplement 6 was the technical basis for the Yowell holding. It stated that:

"shipments accorded exclusive use of vehicle service will be rated at an additional charge of \$.90 per tariff mile per vehicle used." (Emphasis added.)

^{2/} Settlement Certificate S-5559674, dated February 8, 1988.

Supplement 6, however, did not become effective until January 10, 1986. As GSA pointed out the shipment involved here was transported before Supplement 6 became effective and no other basis is cited as support for the carrier's claim. As GSA found, prior to the effective date of Supplement 6, exclusive use shipments weighing less than 10,000 pounds were to be rated on the basis of the applicable rate for 10,000 pounds as Yowell originally billed this shipment. That was an exception to the 15,000-pound rate. Yowell now seeks to charge in addition to its original charges. Neither our decision in the Yowell case concerning the new \$0.90 per mile additional charge nor any other basis supports Yowell's claim here.

Accordingly, we sustain GSA's settlement disallowing Yowell's claim for additional exclusive-use charges.

for 
Comptroller General
of the United States