

Last Chance to be Part of an Era

On September 4, 2007 the Surface transportation board ruling to end antitrust for carrier rate bureaus and the National Classification Committee will signal an end of the regulation era. So what did you miss all these years, and what will you have to learn to survive the new antitrust era? NMFTA, NCC, NMFC, a lot of “N” names, check out the web page www.nmfta.org.

Here is what these “N” names did.

Since the 1940s, motor carriers have been permitted to collectively determine rates and practices that apply to the transportation they provide. Under the Reed-Bulwinkle Act (Reed-Bulwinkle), now codified (as to motor carriers) at 49 U.S.C. 13703, motor carriers acting collectively could be immunized from the antitrust laws by submitting the agreements governing their collective activities to the Interstate Commerce Commission (ICC) (and now to the Surface Transportation Board) for approval.

Most collectively set rates are for Less than Truckload (LTL) movements established in conjunction with the National Classification Committee (NCC) classification procedures. Classification, which involves the grouping of commodities with similar transportation characteristics into categories, or “classes,” does not involve the actual setting of rates but is a part of the motor carrier ratemaking process. Every commodity that can be shipped by truck is placed into a class with other commodities with similar transportation characteristics, and each class is assigned a number, which increases as transportability becomes more difficult. In order to reach a final price, carriers using the classification typically apply a rate to the class into which the commodity transported falls. Under the current regulatory framework, a carrier on its own may determine the rate applied to the class, or a motor carrier rate bureau may set it collectively.

The NCC, whose agreement was approved by the ICC in 1956, is the predominant classification body in the motor carrier industry. After the Motor Carrier Act of 1980 (the 1980 Act) had substantially reduced Federal motor carrier regulation in order to promote competition, the ICC investigated the activities of the NCC to determine whether they conformed to the aims of the new legislation. The ICC found that continuing the NCC’s antitrust exemption was consistent with the new, pro-competitive National Transportation Policy, but only if the classification process were modified so that it focused on only four factors related solely to transportability: density, stowability, liability, and difficulty of handling.

So we have a group of carriers that determine class rates (NCC), and a group of carriers that agree on carrier rates to apply to these classes, with antitrust. Did you realize as a shipper you were not allowed to be a part of this process? Now comes September 4, 2007. How do your current contracts (I assume you have contracts, if not www.motorcarriercontracts.com.) deal with the new changes?

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My personal feelings are that contracts rule, period! You should review your contract with your carriers and realize that the 800 pages plus NMFC can go away, along with Item 360, the bill of lading. You will have some of the following things to consider and come to agreement with your carriers:

- Shipping document to use.
- Claim procedures.
- Payment terms
- OSD (over, short, damage) terms.
- Insurance and release value.
- Density or cube or old NMFC pricing, or a combination of all.
- Discount levels.
- Auto bill and audit.
- When discounts apply (daily, weekly, by lane, commodity)
- Inbound/outbound discounts by State, Zip, Zip plus 4, Zone.
- Multiple minimum discounts.
- Weight break amounts, cube break amounts, density break amounts.
- Fuel charges by week, month, and quarter, frozen.
- Fuel charges by region to match region rate pricing.

All of the above examples are just a few of the changes that will help carriers and shippers to make visible the cost of moving shipments. You now have the chance to be a real partner with your supply chain providers.

It can be dangerous out there, so be careful, and get creative. You have waited long enough, and earned it. If you still have some fear of the risk, give us a call, 678-566-0849, or visit our web page www.thevisibilitygroup.com. We have solutions.