

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. RR 999

RELEASED RATES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Digest:¹ This decision denies a petition requesting an advisory opinion and a new released rates order.

Decided: January 16, 2024

On May 30, 2023, the Small Business in Transportation Coalition (SBTC), a nonprofit trade organization representing small business motor carriers, independent truckers, freight brokers, and other transportation professionals, petitioned the Board for an advisory opinion declaring that motor carriers of household goods (moving companies or movers) may offer hourly rates in their tariffs for interstate moves where the distance between the point of origin and the point of destination is under 100 miles. (SBTC Pet. 2, 7-8.) SBTC also requests a new released rates order raising the per-pound minimum value for full-protection rates from \$6.00 to \$8.00 to account for inflation. (Id. at 2, 8.) As discussed below, the Board will deny SBTC’s petition.

BACKGROUND

The Board’s released rate decisions permit moving companies to offer two types of tariff rates for interstate household goods (HHG) moves, imposing different levels of liability on the moving company in the event of loss or damage. Under the lower, “released” rate, customers are reimbursed for loss or damage at a rate of 60 cents per pound per article. Under the higher, full-protection rate, the moving company is liable for the full replacement value of goods that are lost or damaged, up to the full value of the shipment. If a customer opts for the full-protection rate but does not declare a value for the shipment, the total value for the shipment is deemed to be either \$6.00 times the weight of the shipment in pounds, or \$6,000, whichever is higher. Released Rates of Motor Common Carriers of Household Goods, RR 999 (Amend. No. 5), slip op. at 9 (STB Served Jan. 21, 2011) (Released Rates 2011), aff’d Released Rates of Motor Common Carriers of Household Goods, RR 999 (Amend. No. 5), slip op. at 9 and n.24 (STB served Jan. 12, 2012) (Released Rates 2012). Since 2006, the Board has permitted moving companies to make optional annual adjustments to the minimum per-pound value based on the Bureau of Labor Statistics’ Consumer Price Index—All Urban Consumers (All Items) (CPI-U).

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

Released Rates of Motor Common Carriers of Household Goods, RR 999 (Amend. No. 4), slip op. at 2 (STB served July 26, 2006).

For interstate moves, moving companies are required by law to provide prospective customers with a written estimate of charges for the move, which may be either binding or non-binding. 49 U.S.C. § 14104(b)(1). If the moving company provides a non-binding estimate, the final charges must be based on “the actual weight of the individual shipper’s shipment and the carrier’s lawful tariff charges,” 49 U.S.C. § 14104(b)(1)(c)(iii), and the moving company must relinquish the goods once the customer pays not more than 110% of the non-binding estimate. 49 U.S.C. § 13707(b)(3)(A)(ii). In 2012, the Board clarified that the charges actually billed to the customer for a move under a non-binding estimate must be based on weight, consistent with 49 U.S.C. § 14104(b)(1)(C)(iii), even if the estimate was based on something other than weight, such as cubic feet. Released Rates 2012, RR 999 (Amend. No. 5), slip op. at 9 and n.24. If the moving company provides a binding estimate, the charges need not be based on the weight of the shipment, 49 U.S.C. § 14104(b)(1)(C)(ii), but in accordance with 49 U.S.C. § 13707(b)(3)(A)(i), the binding estimate represents the full cost to be charged for the move. (Id. at 9.)

In support of its request for an advisory opinion, SBTC argues that allowing movers to charge an hourly rate for short-distance interstate HHG moves, “as if the moves were local intrastate moves,” is in the public interest and consistent with the National Transportation Policy’s objective of efficiency.² (Pet. 3.) SBTC proposes a maximum distance of 100 miles between origin and destination for such hourly-rate interstate moves. (Id. at 5-6.) According to SBTC, the commercial zone exemption found in 49 C.F.R. § 372.241 is burdensome to apply and does not provide sufficient relief for short-distance moves.³ (Id.)

Regarding its request for a new released rates order, SBTC acknowledges that movers are already authorized to adjust the minimum per-pound value for inflation but claims that “there is no uniformity within the industry to do so.” (Id. at 7.) SBTC speculates that most movers who wish to adjust the \$6.00 minimum per-pound value for inflation have been deterred from doing so due to confusion over whether the \$6,000 lump sum value may be adjusted. (Id. at 8-9.) SBTC adds that because most HHG movers use pre-printed forms, they are unlikely to adjust the \$6.00 minimum per-pound value “without a clear and decisive order from the Board giving them that right.” (Id. at 9.)

On June 22, 2023, the American Trucking Associations’ Moving and Storage Conference (ATA-MSA), a national trade association for the professional moving and storage industry, urged the Board to dismiss SBTC’s petition. (ATA-MSA Comment 1-2.) ATA-MSA argues that 49 U.S.C. § 14104 does not allow for hourly rates for HHG shipments made under a non-binding estimate and that federal regulations at 49 C.F.R. § 375.401(b)(2) and Released Rates 2012 require charges for HHG moves under a non-binding estimate to be based on the weight of the

² See 49 U.S.C. § 13101.

³ A commercial zone is roughly equivalent to the local metropolitan area of a city or town. Individual commercial zones are defined in 49 C.F.R. § 372, subpart B. Moves that take place within a single commercial zone are not regulated as interstate moves, even if the move is from one state to another. See Released Rates 2011, RR 999 (Amend. No. 5), slip op at 2 n.4.

shipment. (*Id.*) ATA-MSA also contends that amending the released rates regime to adjust the minimum per-pound value for inflation is unnecessary because the Board has authorized individual movers to independently and optionally index this value for inflation since 2006, and ATA-MSA believes that many moving companies have done so. (*Id.* at 2.)

On June 29, 2023, SBTC responded to ATA-MSA's comment. SBTC argues that the Board should exempt interstate moves of up to 100 miles from the laws and regulations cited by ATA-MSA because Congress intended moving companies to have flexibility in weighing shipments. (SBTC Reply 7.) SBTC contends that requiring movers to weigh their trucks during interstate moves is burdensome and causes delays, and it characterizes ATA-MSA's opposition to the request as an attempt to drive up costs and unreasonably restrain trade for smaller competitors. (*Id.* at 7-8.) Regarding its request to adjust the minimum per-pound value for inflation, SBTC argues that small businesses cannot reasonably be expected to properly calculate and implement an inflation adjustment without a new released rates order due to confusion about their authority to self-adjust. (*Id.* at 12.)

DISCUSSION AND CONCLUSIONS

I. Request For Advisory Opinion

SBTC asks the Board for an advisory opinion declaring that moving companies may offer hourly rates in their tariffs for interstate moves where the distance between the point of origin and the point of destination is under 100 miles. (Pet. 2, 7-8.) SBTC primarily argues that movers would benefit from avoiding the burdensome obligation to weigh their trucks during those moves. (See *id.* at 5-6, Reply 7-8.)

The Board is not persuaded by SBTC's argument because weighing the shipment is already often necessary in order to comply with federal consumer protection laws, administered primarily by the U.S. Department of Transportation (DOT)'s Federal Motor Carrier Safety Administration (FMCSA). As noted above, 49 U.S.C. § 14104(b)(1)(c)(iii) requires the final charges for an interstate move under a non-binding estimate to be based on the shipment's weight, and the weight of the shipment is also used to determine the mover's maximum liability if the entire shipment is lost or damaged beyond repair. In Released Rates 2012, the Board clarified that moving companies are required to have the shipment's weight recorded on a certified scale if the customer selects full-value protection but does not declare a total value, even for binding estimate moves. RR 999 (Amend. No. 5), slip op. at 10. The consumer-protection regulations that govern interstate HHG moves, which can be found at 49 C.F.R. part 375, subpart B,⁴ also require movers to determine the weight of the shipment for all HHG moves made under a non-binding estimate, 49 C.F.R. § 375.507, and to base the charges for these moves on the shipment's weight. 49 C.F.R. § 375.401(b)(2).

SBTC's remaining arguments are unpersuasive as well. SBTC claims that its proposal will benefit consumers, but in support it merely asserts that allowing interstate moves under

⁴ These regulations were transferred to DOT after the enactment of the ICC Termination Act of 1995 (ICCTA), Pub. L. No 104-88, 109 Stat. 803 (Dec. 29, 1995), and are now administered by FMCSA.

hourly rates would allow consumers to secure “lower cost moves, additional pricing options and choices, and better competitive rates.” (Reply 8.) SBTC does not explain how hourly rates would produce these results, or why they could not be achieved using the existing rate options. In requesting an exemption, SBTC also misinterprets 49 U.S.C. § 14104(c). (*Id.* at 7.) While this provision encourages the Secretary of Transportation to provide movers with “the maximum possible flexibility in weighing shipments,” (*id.*), that flexibility pertains to *how* to weigh shipments, not *whether* to do so. 49 U.S.C. § 14104(c). Additionally, although SBTC asserts that the existing commercial zone exemptions do not provide sufficient flexibility, it does not explain why a cutoff of 100 miles is “reasonable.” (Pet. 8.)

Because granting SBTC’s request would be inconsistent with federal consumer protection laws and regulations, and the Board is not persuaded by SBTC’s arguments in favor of its proposal, SBTC’s request for an advisory opinion will be denied.⁵

II. Request For New Released Rates Order

SBTC requests a new released rates order that raises the per-pound minimum value for full-protection rates from \$6.00 to \$8.00 to account for inflation. (Pet. 2.) However, SBTC’s arguments are not persuasive. SBTC suggests that moving companies are unlikely to raise the minimum per-pound rate without “a clear and decisive order from the Board giving them a clear green light.” (Pet. 9.) Such an order, however, is already in place. In Released Rates 2012, the Board reiterated that all moving companies are permitted to increase the minimum per-pound value annually based on the CPI-U. RR 999 (Amend. No. 5), slip op. at 6. The Board also stressed that annual adjustment of the \$6.00 per pound value is not mandatory, stating that “[t]his annual indexing has always been optional and will remain so.” (*Id.*) A new released rates order adjusting the minimum per-pound value for inflation would require the entire industry to adjust the per-pound value, in contravention of the Board’s longstanding policy. The Board will therefore deny SBTC’s request for a new released rates order. However, because SBTC asserts that uncertainty regarding their authority to adjust the \$6,000 lump sum value for inflation deters HHG movers who wish to adjust the \$6.00 minimum per-pound value from doing so, the Board clarifies that movers are permitted, but not required, to index the \$6,000 minimum lump sum value for inflation according to the same rules that apply to the \$6.00 minimum per-pound value.

It is ordered:

1. SBTC’s petition is denied.
2. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

⁵ SBTC states that Board staff previously provided “an informal non-binding advisory opinion” that movers may publish hourly charges in their interstate tariffs as an alternative to weight-distance rates if the distance cut-off in the tariffs is “reasonable.” (Pet. 7.) SBTC is reminded that the Board is not bound by informal staff guidance (*see, e.g.*, 49 C.F.R. § 1013), and that official opinions of the STB may only be obtained through a formal proceeding.