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**BEFORE
THE
SURFACE TRANSPORTATION BOARD**

**STB EX PARTE NO. 656
MOTOR CARRIER BUREAUS—
PERIODIC REVIEW PROCEEDING**

**JOINT PETITION OF MIDDLEWEST MOTOR FREIGHT
BUREAU, INC. AND PACIFIC INLAND TARIFF BUREAU,
INC. FOR MODIFICATION OF
EFFECTIVE DATE**

**ENTERED
Office of Proceedings**

MAY 30 2007

**Part of
Public Record**

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and Pacific Inland Tariff
Bureau, Inc.**

Dated: May 30, 2007

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Come now Middlewest Motor Freight Bureau, Inc. (MWB) and Pacific Inland Tariff Bureau, Inc. (PITB), hereinafter jointly referred to as “Bureaus” or “Petitioners”, and, pursuant to 49 C.F.R. § 1115.5, petition the Board to modify and extend the September 4, 2007, effective date of its decision served in this proceeding on May 7, 2007. Petitioners respectfully request that the effective date of the Board’s decision be modified and extended to and including September 4, 2008. In support thereof, Petitioners respectfully states as follows:

MWB operates pursuant to a collective ratemaking agreement approved in Middlewest Motor Freight Bureau, Inc. – Agreement, STB Section 5a Application No. 34. PITB operates pursuant to a collective

ratemaking agreement approved in Pacific Inland Tariff Bureau, Inc. – Agreement, STB Section 5a Application No. 22. Both Agreements are embraced by the Board's May 7, 2007, decision in this proceeding. In accordance with the provisions of their respective Agreements, MWB and PITB publish and maintain collectively established tariffs on behalf of their participating motor carriers licensed by the Federal Motor Carrier Safety Administration (FMCSA). These carriers are parties to their respective Bureau Agreements.

For over a half century, MWB and PITB carriers have relied on the collective ratemaking process conducted under their approved Agreements as the most expedient and efficient means to meet their statutory tariff responsibilities to cover the broad range of transportation services they provide to the public. Notwithstanding this decades of service to the shipping public, the September 4, 2007, effective date of the Board's decision will require the dismantling and replacement of the current tariff system in a period of only 120 days. Petitioners submit that this time frame is wholly inadequate to ensure compliance with applicable legal requirements through an orderly transition to an individual carrier tariff system.

As the Board is well aware, although no longer required to file tariffs, most regulated interstate motor carriers of property and the shipping public continue to rely on and enjoy the benefits of published tariffs containing rates, charges, rules and regulations governing the transportation of property in interstate and foreign commerce. Elimination of collective ratemaking antitrust immunity will not affect the benefits of a tariff system that has served the public well since the advent of federal regulation of motor carriers. The elimination of collective ratemaking will, however, require each bureau tariff participant to develop and implement a new individual tariff system to meet its and its customers' requirements.

The first order of business for the Bureaus, of course, will require a thorough legal analysis of operating in a new environment in order to define the parameters of permissible conduct and activities that are prohibited under the antitrust laws. Such guidance will be essential to each carrier's determination of the course it will take in developing and implementing a new pricing system. This is no small feat. Petitioners' bureau tariff participants have for years relied and depended on the collective ratemaking process and bureau expertise in meeting their tariff requirements. In addition to the advice they will obtain from the Bureaus, individual carriers must consult with their regulatory compliance, pricing, operations, sales,

information technology, administrative, and executive departments to formulate and implement a course of action. This will not only entail the development of new individual tariffs, it will also require that steps be taken to revise shipment estimating, rating and billing procedures which, in turn, will require changes in the carriers' software systems that drive carrier revenue and accounting systems. Bureau carriers will also be required to develop and institute extensive training programs to retrain those personnel involved in regulatory compliance, pricing, sales, operations and administration functions.

In addition, the by-laws and rate procedures that comprise MWB's and PITB's collective ratemaking agreement must be reviewed and revised to remove all language that authorizes or suggests any agreement among carriers to engage in conduct prohibited by the antitrust laws. The amended by-laws must then be submitted for approval by their respective Boards of Directors.

Due to their limited resources, many Bureau tariff participants today rely extensively on the Bureau staff to assist them with tariff compilation issues. Undoubtedly these same carriers will rely on the Bureau staff to assist them in developing and establishing their individual tariffs thus taxing

the workloads of staff under the tight time constraints resulting from the current effective date of the Board's decision.

In addition to developing new rate tariffs, Bureau carriers must address their requirement for a commodity classification system. Carriers participating in the Bureaus' class rate tariffs also rely on and participate in the National Motor Freight Classification. The corresponding elimination of antitrust immunity for the NMFC now requires individual carriers to determine how to fulfill their requirement for a classification. On May 18, 2007, the National Motor Freight Traffic Association and National Classification Committee filed a petition to modify the effective date to and including November 4, 2008. That petition sets forth a timeline for a number of actions to be taken by the NCC with a view toward possible structural changes and alternative classification-making procedures in order to develop a classification that can continue in the absence of antitrust immunity. Bureau carriers that rely on the NMFC have a vital interest in ascertaining what course of action will be adopted for the National Classification in order to assess their individual options. Consequently, Petitioners submit that a modification of the effective date is also necessary to allow for resolution of classification-related issues.

CONCLUSION

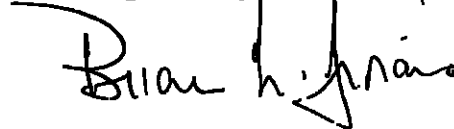
Given the scope of the multiple issues to be addressed and the tasks to be undertaken, it should be apparent that the allotted 120-day period is insufficient to accomplish this work. Petitioners submit that the requested modification of the effective date of the Board's decision is both essential and reasonable considering the magnitude of the changes dictated by elimination of a tariff system that has operated with antitrust immunity for over half a century. In this connection, it is significant to note that the European Competitiveness Council of the European Union recently repealed antitrust immunity for ocean carriers on trade to and from the EU and granted the affected carriers a 2-year transition period.¹ In the instant case, the Board has consumed more than 2-1/2 years since it heard oral argument on October 27, 2004, to issue a decision that clearly recognizes that its ruling will dismantle the existing tariff system and require the establishment of a completely new tariff structure for the motor carrier industry in just 120 days. Without serious question; the time allowed to "adjust to a new environment" (STB Decision, p.2) is insufficient. In view of these circumstances, Petitioners submit that a one year extension is entirely

¹ The decision was issued on September 25, 2006, with an effective date of October 18, 2008. See VIP White Paper, November 2006, published by The Howland Group and the Delaware River Maritime Enterprise Council.

reasonable and absolutely essential to complete the transition to the new environment acknowledged by the Board.

For all of the foregoing reasons, Petitioners respectfully request that the effective date of the Board's decision in this proceeding be modified and extended to and including September 4, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian L. Troiano", written over a horizontal line.

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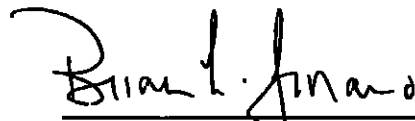
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Bureau, Inc.

Dated: May 30, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of May, 2007, served the foregoing Joint Petition of Middlewest Motor Freight Bureau, Inc. and Pacific Inland Tariff Bureau, Inc. for Modification of Effective Date upon all parties of record in this proceeding by first class mail, properly addressed with postage prepaid.



Brian L. Troiano