

**PART 1139—PROCEDURES IN MOTOR CARRIER REVENUE PROCEEDINGS**

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AUTHORITY: 49 U.S.C. 721, 13703.

**Subpart A—Common Carriers of General Commodities**

SOURCE: 47 FR 49577, Nov. 1, 1982, unless otherwise noted.

**§ 1139.1 Application.**

(a) Upon the filing by the tariff publishing agencies named hereinafter on behalf of their motor common carrier members, or by such other agencies as the Board may by order otherwise designate, of agency tariff schedules which contain (1) proposed general increases in rates or charges on general freight where such proposal would result in an increase of \$1 million or more in the

annual operating revenues on the tariff affected by the proposal, or (2) a proposed general adjustment with the objective of restructuring the rates on a wide range of traffic, involving both increases and reductions in rates and charges, where such proposal would result in a net increase of \$1 million or more in annual operating revenues, the motor common carriers of general freight on whose behalf such schedules are filed shall, concurrently with the filing of those tariff schedules, file and serve, as provided hereinafter, a verified statement presenting and comprising the entire evidential case which is relied upon to support the proposed general increase or rate restructuring. Carriers thus required to submit their evidence when they file their schedules are hereby notified that special permission to file those schedules shall be conditioned upon the publishing of an effective date at least 45 days later than the date of filing, to enable proper evaluation of the evidence presented. Data to be submitted in accordance with §§ 1139.2 through 1139.5 of this part represent the minimum data required to be filed and served, and in no way shall be considered as limiting the type of evidence that may be presented at the time of filing of the schedules. If a formal proceeding is instituted, the carriers are not precluded from updating the evidence submitted at the time of filing of the schedules to reflect the contemporary situation.

(b) The motor common carriers of general freight which are subject to the provisions of this section are those which are members of the following tariff publishing agencies:

- Central and Southern Motor Freight Tariff Association, Inc.
- Central States Motor Freight Bureau, Inc.
- The Eastern Central Motor Carriers Association, Inc.
- Middle Atlantic Conference
- Middlewest Motor Freight Bureau
- The New England Motor Rate Bureau, Inc.
- Pacific Inland Tariff Bureau, Inc.
- Rocky Mountain Motor Tariff Bureau, Inc.
- Southern Motor Carriers Rate Conference

(c) Upon the filing of tariff schedules other than those described hereinabove, the carriers or their tariff publishing agencies shall be required to comply with such procedures as the

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Board may direct in the event an investigation is instituted. In any proceeding involving a proposed rate restructuring which would produce additional net revenue of less than \$1 million the carriers will be required to submit only the data sought in §§1139.2 and 1139.3. Nothing stated in this part shall relieve the carriers of their burden of proof imposed under the Interstate Commerce Act.

### § 1139.2 Traffic study.

(a) The respondents shall submit a traffic study for the most current 12-month calendar year available, which shall be referred to as the "base-calendar year—actual." This year shall be the calendar year that has ended at least 7 months prior to the published effective date of the tariff schedules. If the effective date is less than 7 months following the end of the preceding calendar year, than the second preceding calendar year shall be considered at the "base-calendar year—actual." The study shall include a probability sampling of the actual traffic handled during identical time periods for each study carrier.

(b) The study carriers shall consist of those carriers subject to the requirements for allocation of expenses between line-haul and pickup and delivery services, as provided in Part 1207 of this chapter, Instructions 27 and 9002, which participate in one of the motor carrier industry's Continuous Traffic Studies, and which derive either \$1 million or more in annual operating revenues from this issue traffic or 1 percent or more of the total annual operating revenues of all carriers from the issue traffic. A list of such carriers and the appropriate revenue data shall be submitted to corroborate the selection of the study carriers. "Issue traffic" consists of those shipments on which the freight rates or charges would be affected by the rate proposal.

(c) Respondents shall take a sample of the traffic handled by the study carriers according to acceptable standards of probability sampling principles and practices, and shall explain and evaluate the probability sample from the standpoint of: Purpose, sample design (including explanation of estimation procedure and disclosure of sampling

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errors for derived characteristics), quality control aspects involved in processing and tabulating data and any statistical analysis performed on the sampled data.<sup>4</sup>

(d) For cost and revenue purposes, the "carried" tariff basis shall be used. "Carried" tariff means the issue traffic handled solely by the study carriers, either single-line or interline. Estimates of current revenues applicable to the issue traffic should reflect all rates and charges in effect no later than 45 days prior to the date of tariff filing.

### § 1139.3 Cost study.

(a) The respondents shall submit a cost study. Highway Form B may be used for this purpose. Service unit-costs shall be developed for each individual study carrier, adjusted by size of shipment and length of haul, and shall be applied to respective individual carrier's traffic service units as developed from its traffic study. Operating ratios shall be determined for the issue traffic handled by the study carriers on the "carried" basis by individual weight brackets included within the rate proposal, for: (1) The traffic study year, that is, the "base-calendar year—actual," as hereinbefore defined, (2) a "present proforma year" reflecting conditions prevailing on a date no later than 45 days prior to the date of the tariff filing, and (3) a "restated proforma year" based on conditions anticipated on the effective date of the proposed rates, with a separation indicating projected operating ratios on two bases, namely, "based on current revenues," and "based on proposed revenues". Operating ratios shall also be shown for all other traffic not affected by the rate proposal for the same weight brackets as shown for the issue traffic, but only for the period indicated in paragraph (a)(1) of this section.

(b) In addition to the operating ratios, the cost study shall also be used to develop and provide the revenue-to-cost comparisons required in Appendix

<sup>4</sup>Although not adopted by the Board, attention is called to a staff report, "Guidelines for the Presentation of the Results of Sample Studies," February 1, 1971, available from the Superintendent of Documents.