

Before The
Surface Transportation Board



SSM 118-2 204477

Section 5a Application No. 118 (Sub-No. 2), et al.
EC-MAC Motor Carriers Service Association, Inc., et al.

Reply of Southern Motor Carriers Rate Conference, Inc.
To Petitions For Reconsideration of National Small Shipments
Traffic Conference, Inc. and EC-MAC Motor Carriers
Service Association, Inc., et al.

Docket Number		
S5M	22	8
		204487
		204488
S5M	25	9
S5M	34	10
S5M	45	16
S5M	46	21
S5M	55	2
S5M	58	4
S5M	60	11
S5M	63	4
		204495
S5M	70	12
S5M	116	1
		204496
		204497

ENTERED
Office of the Secretary

JAN 22 2002

Part of
Public Record

John R. Bagileo
Law Office of John R. Bagileo
1101 30th Street, NW #300
Washington, DC 20007
(202) 944-3734

Counsel for Southern Motor Carriers Rate
Conference, Inc.

Due and Dated: January 22, 2002

Before The
Surface Transportation Board

Section 5a Application No. 118 (Sub-No. 2), et al.
EC-MAC Motor Carriers Service Association, Inc., et al.

Reply of Southern Motor Carriers Rate Conference, Inc.
To Petitions For Reconsideration of National Small Shipments
Traffic Conference, Inc. and EC-MAC Motor Carriers
Service Association, et al.

Southern Motor Carriers Rate Conference, Inc. (SMC), applicant in Southern Motor Carriers Rate Conference, Inc. Section 5a Application No. 46 (Sub-No. 21), which renewal request was consolidated in the above-styled proceeding, files this reply to the petition for reconsideration of the National Small Shipments Traffic Conference, Inc. (NASSTRAC), and to that part of EC-MAC Motor Carriers Service Association, Inc.'s, et al., petition regarding its interpretation of the application of the STB's Decision to CZAR-Lite, of the Surface Transportation Board's (STB) Decision served on November 20, 2001, and respectfully states as follows:

I.
Background

The NASSTRAC petition renews a contention properly rejected by the STB in its Decision served on November 20, 2001. In its Opening Comments in this proceeding, dated April 11, 2000, NASSTRAC argued that "continued rate bureau antitrust immunity should be conditioned by the adoption by all rate bureaus of automatic minimum

discounts that are sufficient to reflect the impact of competition on motor carrier rates.”

(At p. 18.) NASSTRAC went on to suggest that any such automatic minimum discount should “be at least 45%, and possibly 50%.” (At pp. 18-19.)

The STB fully considered NASSTRAC’s contention, and a similar argument made by the National Industrial Transportation League (NITL), and concluded that the imposition of automatic minimum discounts was not warranted and would be inappropriate. The STB stated that:

On further reflection, we do not believe we should require automatic minimum discounts for two reasons. First, throughout these proceedings, our objective has not been to prescribe rates, but rather to put into place a mechanism under which knowledgeable shippers and carriers can enter into arm’s length transactions that reflect actual market conditions. A minimum discount approach could place us in the position of prescribing rates.¹⁴

Moreover, we have no confidence that the levels of discounts suggested by NITL and the Shipper conferences would reflect market conditions and thus achieve our original objectives. The Shipper Conferences suggest a figure that they claim is an average discount figure. But in a market as diverse as the trucking industry, we would expect a broad range of rates and discounts.¹⁵ Moreover, the nature of any average figure is such that approximately half of the discounts offered by bureau members would be greater, and half less, than the average figure. Requiring that no discount be less than the average discount would thus give shippers of some traffic a windfall far beyond what they could expect in competitive market dealings between knowledgeable shippers and carriers.¹⁶ Moreover, such an approach would have a compounding effect over time, as average discounts would become even greater once all of the less-than-average discounts were brought up to the average. Thus, requiring minimum discounts at an average level would not be appropriate.¹⁷ (Decision, at pp. 7-8.)

¹⁴A minimum discount provision—by setting a ceiling on the actual rate that a carrier could charge—would be quite different from our original proposal to roll

back class rates and then permit carriers to set the rates they actually charge as far above or below the "re-based" class rate as they chose.

¹⁵ See 49 U.S.C. § 13101(2)(D) (Federal policy is "to promote competitive and efficient transportation services in order to . . . allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping . . . public.") An appropriate minimum-discount level could vary for different commodities under different serve and market conditions.

¹⁶ As we said in our prior decisions, some shippers may be paying more than they would under a truth-in-rates regime, and thus the average discounts actually offered might be somewhat smaller than they would be under a system in which every shipper knows what all of its competitive options are. But even with every piece of available shipping information at their fingertips, not every shipper would be available to negotiate a discount as steep as the average discount offered today.

¹⁷ Nothing in this discussion, of course, precludes Southern and MCTA from adhering to the minimum 20% discount policy that those bureaus have voluntarily adopted, or the several other bureaus from applying the 35% default discount they adopted, in addition to applying the truth-in-rates notice that we are requiring here.

Significantly, the NITL did not seek reconsideration of any of those findings.

Importantly, NASSTRAC's petition does not address any specific "material error" in the STB's reasoning underpinning its decision not to mandate an automatic minimum discount. Instead, NASSTRAC attempts to revert to preliminary observations made by the STB in its December 18, 1998 Decision in this proceeding related principally to a proposed rollback of the class rates to a market level as a condition to the renewal of rate bureau agreements—a proposal vacated in the STB's Decision served on November 20, 2001 based on the record then before the agency. NASSTRAC argues, incorrectly, that "the record establishes that there are shippers, particularly smaller shippers, new companies without experience and expertise, and other shippers who lack knowledge,

leverage or the opportunity to negotiate.” (NASSTRAC Petition, at p. 8.) That self-serving allegation has no support in the evidence of record. Further, NASSTRAC justifies its request for reconsideration on preliminary statements in the STB’s 1998 Decision that class rates are “unrealistically high” and, therefore, “contrary to the public interest” (NASSTRAC Petition, at p. 1, et seq.)—assertions strongly contested by SMC as to its class rates with unrefuted record evidence. Nevertheless, irrespective of existing class rate levels, the STB correctly concluded that there is no rational or fair basis for imposing an across-the-board average discount as an automatic minimum discount—a finding conspicuously not contested by NASSTRAC. NASSTRAC, as explained further below, has presented no evidence demonstrating any “material error” on the STB’s part for refusing to impose an automatic minimum discount on collectively-established class rates.

The EC-MAC petition contends that as a result of the STB Decision, motor carriers participating in the formulation of the class rates identified in CZAR-Lite, a software product marketed by SMC³, could not continue to use such product without providing a truth-in-rates notice. (See EC-MAC, et al., Petition, pp. 8-9.) Whatever EC-MAC’s rationale may be for raising such issue at this time, SMC respectfully submits that the STB has already addressed this matter and has concluded that CZAR-Lite, and any other similar product in the marketplace, is not within the ambit of the regulatory issues or concerns involved in this proceeding. Hence, there is no basis, as EC-MAC suggests, for restricting or qualifying the ability of any party to use such pricing mechanisms.

II.
Response to NASSTRAC Petition

- A. No concrete evidence is of record establishing that any shippers, regardless of size, require protection "from anticompetitive motor carrier freight rates."

The spectre of smaller shippers having to pay undiscounted class rates is the central focus of NASSTRAC's request for reconsideration. It argues that the "current collective ratemaking practices do little or nothing to mitigate the adverse impacts of those practices on shippers that are small, lack knowledge or lack leverage."

(NASSTRAC Petition, p. 3.) At another point it argues that the STB should "condition rate bureau agreements to protect the most vulnerable shippers from anticompetitive motor carrier freight rates." (NASSTRAC Petition, p. 8.) Finally, it asserts that "the record establishes that there are shippers, particularly smaller shippers, new companies without experience and expertise, and other shippers who lack knowledge, leverage or the opportunity to negotiate. Those shippers are disserved by the bureau's continued price-fixing." (NASSTRAC Petition, p. 8.) These are very serious allegations and should not be casually made. Yet, a review of the record evidence establishes that there is not a single fact which substantiates those self-serving contentions.

This proceeding, and its related proceedings, span well over four years and, in SMC's case, includes the submission of over 193 shipper and 120 carrier statements strongly supporting SMC's collective ratemaking activities. Certainly, if the widespread harmful effects on shippers alluded to by NASSTRAC as resulting from the collective establishment of class rates existed, that support would not have been forthcoming from the transportation community.

It is also noteworthy that NITL and NASSTRAC are accepted as representatives of a broad class of shippers utilizing motor carriage in transporting their goods in commerce. Yet, at no point in this proceeding has either of those organizations come forward with shipper testimony substantiating any of the allegations made by NASSTRAC in its petition. That absence plainly evidences that NASSTRAC's contentions are based on pure conjecture and not, as alleged, "the record." Indeed, while alleging that shippers are being disadvantaged, NASSTRAC concedes that "the marketplace for motor carrier services today is competitive and efficient for all but a few shippers and shipments." (NASSTRAC Petition, p. 8.) Clearly, the picture NASSTRAC seeks to paint of the STB misconstruing the needs of shippers by not mandating automatic minimum discounts is wide of the mark.

Although not established on the record by NASSTRAC, or any other party to this proceeding, assuming that "a few shippers and shipments" do not receive discounts off various class rates, that result may well and reasonably be dictated by the transportation circumstances surrounding such traffic.¹ As was pointed out Daniel M. Acker, SMC's Vice President of Operations, many factors influence the rates a carrier is willing to offer to a shipper. Key elements in that pricing decision are the physical facilities a shipper has for loading or receiving freight, the location of those facilities, the number of shipments to be picked up or delivered on a daily basis, loading by the shipper and unloading by the consignee, freight shipped loose or on pallets, and numerous other differentials

¹The record is clear that no shippers moving traffic under SMC class rates fall into that category. A 20 percent discount continues to be provided to any shipper not having a higher discount available to it.

encountered in handling the freight which directly affect carrier costs and, concomitantly, the price offered to the shipper. (See D. Acker May 11, 2000 Reply Comments, pp. 35-36.) Obviously, a casual shipper of a small shipment normally will be offered higher rates because of the higher costs incurred by a carrier in offering its services, and also because of carrier consideration of the other market and competitive factors identified by the ICC in Georgia-Pacific Corp-Pet. For Declar. Order, 1 I.C.C.2d 103, 159 (1992). As will be discussed more fully below, class rates, developed in accord with ICC standards and subject to regulatory oversight, cannot summarily be determined to be unreasonably high. In fact, in Rules Governing Exceptions Ratings, 1 I.C.C.2d 4, 8 (1984), the ICC concluded that rates higher than the class rates would no longer be presumed to be unreasonable because the presumption was inconsistent with individual carrier-based costing and hampered carrier efforts "to change rates that reflect their costs, and their markets."

It is somewhat ironic that NASSTRAC, which is on record on behalf of its shipper members as praising motor carrier discounting practices,² here, on behalf of some unidentified and allegedly uninformed, small shippers argues that the STB should mandate automatic minimum discounts in the 45 to 50 percent range. Nowhere on this or any other record have the prevalent class rates established under the collective ratemaking process been found unreasonable, and no need has been shown or evidence presented that

²See Investigation Of Motor Car. Collective Practices, 1 I.C.C.2d 388, 425 at fn. 132 (1991).

small or any other group of shippers require the mandatory relief sought by NASSTRAC –a request already properly rejected by the STB.

B. The contention that collectively-established class rates are “artificially” or “unreasonably high” is unsubstantiated, and provides no basis for the extraordinary relief NASSTRAC seeks.

Throughout its petition NASSTRAC attempts to justify a reversal of the STB’s rejection of the creation of a mandatory automatic minimum discount by reliance on unsubstantiated assertions regarding the level of the collectively-made class rates. SMC, as indicated in its petition for reconsideration pending in this proceeding, takes issue with the belief that class rates can be determined to be unreasonably high because of a comparison of those collectively-established rates reflecting industry average costs and revenue needs with individually determined rates which are offered to certain shippers based on an individual carrier’s costs and competitive considerations. Nevertheless, NASSTRAC’s reliance on that ill-founded contention does not demonstrate any error in the reasons provided in the STB’s Decision as justification for refusing to so condition collectively-established class rates.

Other than reciting observations primarily made by the STB in the 1998 Decision, NASSTRAC offers no evidence of any nature showing that bureau class rates, in general, or SMC class rates, in particular, are in any way “artificially” or “unreasonably” high.

That failure is especially relevant because as the STB pointed out in the 1998 Decision:

In the past, the ICC would have been able to identify competitive rate levels by viewing a variety of information at its disposal. As Congress sought to make the motor carrier industry more competitive, however, it reduced the Government’s presence to a point where virtually no rate information is now available to us, and therefore, public input would be

necessary before we could determine how the class rate structure can be amended sufficiently so that bureau agreements could pass muster. (STB December 18, 1998, Decision, p. 8.)

In response to that request, SMC demonstrated through the comparison of some 3,699 class rates applicable between 411 market comparisons within SMC's ratemaking territories, that SMC's class rates were significantly lower than those of 8 major non-member motor carriers operating in those same territories by, on average, 20 percent. Moreover, those non-member carrier, individually established class rates went as high as 113.8 percent above SMC class rates.³ (See April 11, 2000 and May 11, 2000 Comments of James Ridley, SMC's Senior Data Analyst.) Unequivocally, there is no basis for concluding that SMC's class rate structure is "artificially" or "unreasonably" high.

SMC's December 31, 2001 petition for reconsideration discusses why class rates and individually determined discounted carrier rates, i.e. market-driven rates, cannot rationally be compared as indicators of rate reasonableness. Those factors will not be repeated here. However, it is pointed out that the comments of Daniel M. Acker, SMC's Vice President of Operations, detailed the manner in which class rates have been constructed in accord with prescribed regulatory standards, and the regulatory oversight that has been exercised over those class rates throughout the years. (See Daniel M. Acker

³NASSTRAC's contention that "the fact that equally high rates may be imposed with legal impunity by carriers that are not rate bureau members is no reason for the Board to withhold the relief it is authorized to provide under 49 U.S.C. §13703(c)," obviously is utterly without force with respect to SMC's unrefuted evidence regarding the level of SMC class rates. (See NASSTRAC Petition, p. 9.) This is particularly true when consideration is given to the fact that all SMC class rates are subject to an additional 20 percent reduction, which is not necessarily provided by the compared non-member class rate structures.

April 11, 2000 Comments, pp. 14-17; and May 11, 2000 Reply Comments, pp. 25-26.) (See also, LTL COR Rates—Between East and Territories West, 326 I.C.C. 174 (1977); Rules to Govern Assembling & Presenting Cost Evidence, 337 I.C.C. 298 (1970); and New Procedures In Motor Carrier Rev. Proc., Ex Parte No. MC-82-339, I.C.C. 324 (1971), and 351 I.C.C. 1 (1975), for reference to the cost justifications class rates have been subjected to as a condition to agency approval.)

So too, the STB is well aware that both it, and the ICC, have always had regulatory oversight over the reasonableness of collectively-established class rates. Indeed, those class rates were designed to be the highest reasonable rates applicable on interstate shipments, and a presumption was long applied that any rates higher were unreasonable unless specially justified. That presumption was rescinded only after it was concluded by the ICC that the new competitive environment should permit carriers in line with their individual costs and markets to establish even higher rates. (Compare Rules Governing Publication of Exceptions Ratings, 351 I.C.C. 716 with 1 I.C.C.2d 4.)

It should be recognized that the market cluster analysis developed to deal with the unique circumstances presented to the ICC in Georgia-Pacific Corp. Pet. For Declar. Order, *supra*, involving negotiated but unfiled rates, should not have the same application in this proceeding. There, the agency was determining the reasonableness of the motor carrier rates which should be applied to “past shipments.” In that limited context it was concluded that the application of undiscounted class rates for past transportation services would be unreasonable because of the rates available in the marketplace which were being charged for similar transportation services, and which could have moved the

involved shipments. The present issue regarding the level of class rates is substantially different. Their reasonableness should be determined by the standard of whether their levels reflect industry average costs and revenue needs of the participating motor carriers. SMC submits that, given the compliance of its class rates throughout their regulatory history with ICC standards and, more recently, as justified by SMC's Carrier Cost Index, the current levels of its class rates are reasonable. Merely because there are in the marketplace individually determined discounted rates below those levels is not a valid measure of the reasonableness of the class rates with respect to their relationship to industry average costs and revenue need—especially where the reasonableness of those drastically reduced rates driven by competitive considerations have never been tested by any reasonableness standard.

This proceeding was initiated with the purpose of determining whether class rates should be rolled back. The record did not support such radical action. Failing in that effort, an incorrect assessment regarding the reasonableness of class rates cannot result in any mandatory reduction in the collectively made class rates by an automatic minimum discount.

C. NASSTRAC has not shown any material error in the STB's reasoning rejecting any automatic minimum discount.

NASSTRAC's petition never comes to grips with the reasons for concluding that an automatic minimum discount off the collectively-established class rates was not warranted. First, the agency correctly pointed out that this proceeding was not directed to rate prescription and, patently, that would be the result of mandating an across-the-board

discount. Other than general observations about class rates, which the record refutes, NASSTRAC can point to no evidence establishing that any collectively-established class rates are unreasonable, or to what extent, if any, extant class rates are “artificially high.” NASSTRAC, therefore, has presented no rational basis which would permit the STB to find that a rate prescription is necessary or justified.

Additionally, NASSTRAC does not take issue with the STB’s conclusion that the average automatic minimum discounts it has suggested would not be appropriate, and would result in an unwarranted windfall for some shippers. Also, as the STB recognized, the automatic discount approach “would have a compounding effect over time, as average discounts would become even greater once all of the less-than-average discounts were brought up to the average.” (STB Decision, p. 7.) Further, NASSTRAC has no response to the STB’s comment that an automatic minimum discount would be even more onerous than the originally contemplated, but abandoned, rollback of class because it would set “a ceiling on the actual rate that a carrier could charge” (STB Decision, p. 7, fn. 14)—an unjustified interference with the pricing freedom intended for motor carriers under the Interstate Commerce Commission Termination Act of 1995, and preceding legislation.

NASSTRAC challenges as “unrealistic” the STB’s finding that shippers can protect themselves from paying undiscounted class rates on returned goods by selecting the carrier to be used if there is a customer return. (See STB Decision, p. 8, fn. 18.) NASSTRAC engages in a series of self-serving contentions, unsubstantiated, as to why that common sense proposal won’t work (NASSTRAC Petition, p. 6.) Significantly, neither NITL, a party throughout this proceeding, nor any other shipper participant, has

sought reconsideration of the STB's proposed solution to that concern. Even assuming, arguendo, that such solution would not resolve an alleged problem for NASSTRAC, that difficulty does not overcome the STB's findings that rate prescription is not justified and that requiring minimum discounts at an average level would not be appropriate. If, for whatever reasons, not now apparent NASSTRAC shippers are unable to implement the STB's solution after having made a good faith effort to do so, NASSTRAC certainly can seek the assistance of the STB in crafting another approach. Nevertheless, this record is clear that the mandating of an automatic minimum discount is not the proper recourse in any event.

As a last suggestion NASSTRAC proposes alternatively that should the automatic minimum discount not be implemented that the STB require carriers to provide "the distribution of discounts," in addition to the range of discounts. (NASSTRAC Petition, p. 9.) Apparently, the "distribution" referred to by NASSTRAC relates to an earlier contention that motor carriers should be required to reveal what "the distribution of discounts is among shippers with discount programs." (NASSTRAC April 11, 2000 Opening Comments, p. 18.) That proposal was intended by NASSTRAC to determine what the automatic minimum discount should be. Given the STB's denial of automatic minimum discount, such distribution is not necessary. Moreover, any such information could seriously interfere with the marketplace and place in the public domain information which shippers would not want competitors to know. Also, in addition to the undue burden the carrier would confront in developing that information from its multitude of customer transactions, it would require the divulging of specific pricing information

which both shippers and carriers deem proprietary and confidential. NASSTRAC's suggestion would not benefit the transportation community and would be harmful to the pricing relationships between carriers and their shippers.

III.

Response to EC-MAC, et al., Petition

EC-MAC contends that it appears from "the November 20 Decision that the member carrier relying on collectively made rates set forth in the same CZAR-Lite type publication, or similar bureau publications, would have to provide the [truth-in-rates] notice." (EC-MAC Petition, p. 9.) That interpretation is neither required by the STB's Decision nor consistent with the STB's previously expressed views on such publications.

Importantly, in the STB's Decision served on May 20, 1997, the lack of involvement of CZAR-Lite in the issues surrounding the renewal of motor carrier collective ratemaking agreements was specifically addressed. In response to the concern that CZAR-Lite, or other such similar products, might require antitrust immunity, the STB stated that "it does not appear to us that antitrust immunity is necessary or appropriate for the publication and dissemination of rates, in either paper or electronic form." (Decision, pp. 3-4.) It was further stated by the STB that "... it does not appear to us that antitrust immunity is needed to perform information-providing functions such as those associated with CZAR-Lite." (Decision, p. 4.) Importantly, the STB concluded that "as a general proposition, we do not believe that the publication by a rate bureau (or any other party) of information about rates that have been lawfully set by any motor carrier or rate bureau poses any antitrust or other regulatory concerns." (Decision, pp. 3-

4, fn. 9.) Notwithstanding the STB's request for comments, no party filed comments contradicting or challenging those findings.

The regulatory concern under consideration in this proceeding is clear. The stated intent of the agency is to ensure that the rate bureau process is not used to impose collectively set class rates onto shippers unaware of the substantial discounts potentially available to others. Initially, CZAR-Lite is not established through collective activity and, as the STB has recognized, has as its purpose the compilation of lawfully established class rates to be used as an information-providing mechanism in rate negotiations. Thus, consistent with the STB's stated objective in this proceeding CZAR-Lite is "a mechanism under which knowledgeable shippers and carriers can enter into arm's length transactions that reflect actual market conditions." (STB Decision, p. 7.)

Appended are the exhibits regarding CZAR-Lite which were submitted to the STB in SMC's December 19, 1996 filing in the related proceeding which was the subject of the cited STB's Decision served on May 20, 1997. The role of CZAR-Lite is apparent. Its purpose is to provide "transportation professionals access to a single common base rate from which to conduct business." The diskette system "records rate information and tracks discounts on an individual account or carrier basis." It is intended for use by "shippers, motor carriers and third-party providers" and provides "the base rates in transportation agreements and annual bids." It also is offered as a "valuable tool" for logistics analysis, benchmarking and other transportation projects requiring "a generic LTL rate." Plainly, the design of CZAR-Lite is not to facilitate the imposition of

undiscounted class rates on unsuspecting or unsophisticated shippers but is intended and facilitates a “better understanding of net rates.” (See Attachment.)

As also seen from the rating screens which comprise CZAR-Lite, the existence and application of discounts is an integral part of the rating process of that software. (See Attachment.) Rather than imposing undiscounted class rates that system is designed to facilitate the determination of the discounts being provided or offered to a shipper. Thus, it is obvious why the STB so early concluded that CZAR-Lite is not subject to the regulatory concerns involved in this proceeding. Manifestly, as the STB intends, CZAR-Lite “facilitates . . . the dissemination of rate options to shippers.” (STB Decision, p. 4.)

Additionally, any concern regarding the protection of “unsophisticated shippers” is not applicable with respect to CZAR-Lite. Initially, the principal users of CZAR-Lite are shippers and logistics and third-party providers, many of whom require their carriers to use that rating system. Plainly, their awareness of discounting and the complimentary role CZAR-Lite plays in enabling those users to identify “net rates” is apparent. Moreover, the availability of CZAR-Lite is a “useful tool” which would aid any “unsophisticated shipper” to achieve a fuller understanding of the role of discounting in carrier pricing procedures.

While SMC agrees with EC-MAC that truth-in-rates has serious pitfalls, it disagrees that CZAR-Lite falls within the member motor carrier collective ratemaking activities the November 20 Decision addresses. CZAR-Lite accomplishes the dissemination of rates in electronic form and is designed to provide information to the entire transportation community. As such, and as the STB has concluded, antitrust

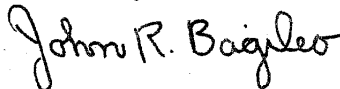
immunity is not required for that activity, which activity is not encompassed within the regulatory concerns addressed in this proceeding. Manifestly, the dissemination and use of CZAR-Lite is not a collective ratemaking activity requiring antitrust immunity and is not designed or has as its purpose the imposition of undiscounted class rates on unsophisticated or unsuspecting shippers. Rather, it is a pricing tool having widespread support in the shipper and carrier community in effectuating competitive rate negotiations. CZAR-Lite facilitates so-called truth-in-rates and is not, by function, intent or application, a pricing mechanism which needs to be subjected to regulatory oversight.

IV.

Conclusion

For the foregoing reasons SMC submits that NASSTRAC has not shown any material error in the STB's refusal to impose an automatic minimum discount on collectively-established class rates. Further, SMC submits that EC-MAC's assumption that CZAR-Lite is affected by the truth-in-rate requirement described in the STB's decision is in error.

Respectfully submitted,



John R. Bagileo
Law Office of John R. Bagileo
1101 30th Street, NW #300
Washington, DC 20007
(202) 944-3734

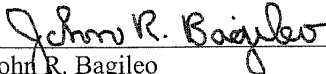
Counsel for Southern Motor Carrier Rate
Conference, Inc.

Due and Dated: January 22, 2002

Certificate of Service

I hereby certify that I have served a true and correct copy of the foregoing Reply by first class mail, postage prepaid, upon all previous parties of record to this proceeding.

Dated this 22nd day of January 2002.



John R. Bagileo

Attachment A

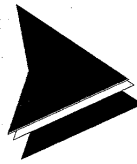


The National Standard
© A Licensed Product of Southern Motor Carriers

CZAR-Lite is a nationwide LTL level of rates developed from regional rate level studies. The products' zip code-based data is utilized for both interstate and intrastate applications, and provides transportation professionals access to a single common base rate from which to conduct business.

The CZAR-Lite diskette system records rated information in spreadsheets and tracks discounts on an individual account or carrier basis. The ease of use, as well as the quality of data obtained has aided CZAR-Lite in becoming one of the most widely accepted rating tools for the transportation industry.

CZAR-Lite is used by shippers, motor carriers and third-party providers all over North America for providing the base rates in transportation agreements and annual bids. It is also a valuable tool for logistics analysis, benchmarking and other transportation projects requiring a generic LTL rate.



Main Benefits

Eliminates dealing with multiple LTL rate levels.
Provides better understanding of net rates.
Widely accepted as the industry's base-rate standard.
Available for multiple platforms in several formats such as:

UNIX
AS400
IBM Mainframe
DOS
Windows
Mainframe Tape or Diskette
ASCII, EBCDIC



Nationwide
Application

The National Standard

for **WINDOWS**

Press Any Key to Continue

For Software Support, call 800-272-3425

SMC Web Page: <http://www.transportlink.com/smc>

Origin ZIP :	GA	Class	Weight	Rate	Charge
	30301	100	1250	23.50	293.75
Destination ZIP :	IL	65	750	17.18	128.85
	60601	50	1500	14.64	219.60
Discount :	55.00	Deficit	1500	14.64	219.60
MC Floor :	75.00	Gross	5000		861.80
Accessorial :	0.00	Discount	55%		-473.99
		Net			387.81

Enter Origin ZIP Code : Discount: SINGLE Bureau Rbno : 750 SMC50104

Completed Rating Screen

CZAR-Life - July 1996 Run Discounts Options View Help

Origin ZIP: **30301** GA
Destination ZIP: **60601** IL

Rate Charge

Multiple Discounts	
Constant Discount %	
L5C	55.00
M5C	55.00
M1M	55.00
M2M	55.00
M5M	55.00
M10M	55.00
M20M	55.00
M30M	.00
M40M	.00
MC	55.00
MC Floor	65.00

OK Cancel

Bureau Rbno: 750 SMC50104

Multiple Discounts Window

Run

Help

CZAR-Lite - July 1996

HEADLINE ZIP

30301

DIRECTION

☐ Inbound

☒ Outbound

☐ Between

SIDELINE ZIPS

☒ All Valid Zip Codes

☐ 3 Digit Zip Codes

☐ 5 Digit Zip Codes

All Valid Zips

☐ Do NOT Range Zips

CLASSES

All

Clear

☐ 500

☐ 400

☐ 300

☐ 250

☐ 200

☐ 175

☐ 150

☐ 125

☐ 110

☐ 100

☐ 92

☐ 85

☐ 77

☐ 70

☐ 65

☒ 60

☐ 55

☐ 50

DISCOUNTING

☒ Off

☐ Single

☐ Multiple

☐ Custom

OUTPUT

☐ Screen

☐ Printer

☒ File - Text Format

Rate Adjustment Factor:

1.0000

☐ Enter Heading for Price Sheet

WEIGHTS

All

Clear

☒ MC

☒ L5C

☒ M5C

☒ M1M

☒ M2M

☒ M5M

☒ M10M

☒ M20M

☒ M30M

☒ M40M

Select Direction of Movement

PriceSheet Screen

Origin ZIP :	Class	Weight	Rate	Charge
30301	GA			
Destination ZIP :				
60601	IL			

Charge

Hybrid

85810

Destination ZIP: 60601
Rate Block Display - 750 SMC50104

MC: 0658

OK

	L5C	M5C	M1M	M2M	M5M	M10M	M20M	M30M	M40M
500	289.77	240.49	182.56	147.77	104.32	76.63	44.17	44.17	44.17
400	233.52	193.81	147.13	119.09	84.07	61.75	35.66	35.66	35.66
300	178.78	148.38	112.64	91.17	64.36	47.28	27.32	27.32	27.32
250	156.69	130.04	98.72	79.90	56.41	41.43	23.95	23.95	23.95
200	122.03	101.28	76.89	62.23	43.93	32.27	18.63	18.63	18.63
175	109.98	91.28	69.29	56.09	39.60	29.08	16.76	16.76	16.76
150	94.41	78.36	59.48	48.15	33.99	24.97	14.46	14.46	14.46
125	80.35	66.69	50.62	40.98	28.93	21.25	12.33	12.33	12.33
110	69.81	57.94	43.98	35.60	25.13	18.46	10.82	10.82	10.82
100	65.29	54.18	41.13	33.29	23.50	17.26	10.11	7.84	6.82
92	61.77	51.27	38.92	31.50	22.24	16.33	9.76	7.57	6.58
85	57.25	47.52	36.07	29.20	20.61	15.14	9.40	7.29	6.34
77	53.23	44.18	33.54	27.15	19.16	14.08	9.14	7.09	6.16
70	50.22	41.68	31.64	25.61	18.08	13.28	8.87	6.88	5.98
65	47.71	39.60	30.06	24.33	17.18	12.62	8.78	6.81	5.92
60	45.70	37.93	28.79	23.31	16.45	12.08	8.69	6.74	5.86
55	43.19	35.84	27.21	22.02	15.55	11.42	8.60	6.67	5.80
50	40.68	33.76	25.63	20.74	14.64	10.76	8.52	6.60	5.74

Rate Block Display	Discount: SINGLE	Bureau Abno : 750 SMC50104
--------------------	------------------	----------------------------

Rate Block Display