

words "or tariff reconciliation" after the words "Special Docket" in the second sentence, and by adding a new paragraph (g) to read as follows:

**§ 1130.2 When damages sought.**

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(g) *Tariff reconciliation proceedings for motor common carriers—(1) Petitions to waive collection or permit payment.*

Pursuant to 49 U.S.C. 11712, subject to Commission review and approval, motor common carriers (other than household goods carriers) and shippers may resolve, by mutual consent, overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed-upon rates, rules or classifications in compliance with 49 U.S.C. 10761 and 10762. Under section 11712, the Commission may approve any departure from the filed rate when the shipper and carrier agree, and the departure is needed for the reason(s) stated in section 11712. Petitions for appropriate authority may be filed by either the carrier, shipper or consignee on the Commission's tariff reconciliation docket by submitting a letter of intent to depart from the filed rate. The petitions will be deemed the equivalent of an informal complaint and answer admitting the matters stated in the petition. Petitions shall be sent to the

Special Docket Board, Interstate Commerce Commission, Washington, DC 20423. The petitions shall contain, at a minimum, the following information:

- (i) The name(s) and address(es) of the payer(s) of the freight charges;
- (ii) The name(s) of the carrier(s) involved in the traffic;
- (iii) An estimate of the amount(s) involved;
- (iv) The time period when the shipment(s) involved were delivered or tendered for delivery;
- (v) A general description of the point(s) of origin and destination of the shipment(s);
- (vi) A general description of the commodity(ies) transported;
- (vii) A statement certifying that the carrier(s) and shipper(s) participating in the shipment(s) or the payer(s) of the freight charges concur(s) with the intent to depart from the filed rate; and
- (viii) A brief explanation of the incorrect tariff provision(s) or billing error(s) causing the request to depart from the filed rate.

(2) *Public notice and protest.* Tariff reconciliation petitions (letters of intent) shall be served on all parties named in the petition by the party who files the petition and will be made available by the Commission for public inspection in the Special Docket Board Public File, Interstate Commerce Commission, Washington, DC 20423. Any interested person may protest the granting of a petition by filing a letter of objection

with the Special Docket Board within 30 days of Commission receipt of the petition. Letters of objection shall identify the tariff reconciliation proceeding, shall clearly state the reasons for the objection, and shall certify that a copy of the letter of objection has been served on all parties named in the petition. The Commission may initiate an investigation of the petition on its own motion.

(3) *Uncontested petitions.* If a petition is not contested, and if the Commission does not initiate an investigation of the petition on its own motion, approval is deemed granted without further action by the Commission, effective 45 days after Commission receipt of the petition.

(4) *Contested petitions.* If a petition is contested or the Commission initiates an investigation of the petition on its own motion, 15 days will be allowed for reply. The 15-day period will commence on the date of service of the objections or, if the Commission initiates an investigation on its own motion, on the date of service of the decision initiating the investigation. After the period for reply has expired, the Commission will issue a decision approving or disapproving the petition, or requesting further submissions from the parties, and then will issue a decision based on the further submissions.

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