

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Appli-)	Application No. MR-976
cation of Ford Brothers Van)	
and Storage Co., Omaha,)	GRANTED AS MODIFIED
seeking authority to amend)	
Official Nebraska Household)	Entered: October 31, 2000
Goods Tariff 7-F.)	

BY THE COMMISSION:

By application filed May 1, 2000, Ford Brothers Van & Storage Company, Omaha, Nebraska ("Ford Brothers" or "Applicant") seeks to amend the Official Nebraska Household Goods Tariff 7-F as follows: 1) amending Item 720 (Pick Up and Delivery) by adding a provision for an extra pick up after the delivery (extraneous items for disposal); 2) amending Item 1060 (auxiliary Service Charges) by adding language and charges accommodating the extra pick up and delivery; 3) amending Item 260 (Declaration of Value-Liability Limitation) and adding provisions for Extraordinary Value Article Declaration; 4) adding a new item to rules and regulations providing for full value protection; 5) Adding a new item to rules and regulations providing for an inventory of items valued in excess of \$100 per pound per article; and 6) adding a new item to Section 1, Additional Services and Charges providing for full value protection charges. Notice of the application was published in The Daily Record, Omaha, Nebraska, on May 2, 2000, pursuant to Commission rules and regulations. A letter of protest was filed by Able Professional Movers on May 25, 2000; by Chieftan Van Lines, Inc. on May 22, 2000; and, by Two Men and a Truck on May 30, 2000.

On June 2, 2000, a Notice of Hearing was sent by this Commission via first-class mail to all interested parties. A hearing was held on July 12, 2000 in the Commission Hearing Room, Lincoln, Nebraska. Appearing for Ford Brothers was Eric Ford; Dennis Leslie appeared for Chieftan Van Lines; and, Mike Loeffler appeared for the Commission.

Eric Ford testified that his company was proposing a tariff amendment to allow for uniform charges when a moving company is requested to return to the destination of a move to pick up and remove the used moving boxes. These boxes, he testified, are not resold but are usually given away to movers involving private transferees. He testified that box pick up and removal requirements by a client are more common when dealing with national accounts. The current Nebraska tariff does not allow the mover to charge a customer for the pick up and removal of moving boxes. Their proposed amendment would allow a uniform charge based on labor and time consistent with charges allowed by other sections of the Nebraska tariff. These charges would, in effect, be governed

by the Auxiliary Charges allowed under the state tariff.

The second issue raised by the Applicant's amendment deals with declaration of value. The proposed amendment would allow movers to offer the option of full replacement insurance. Since this option is not now available to movers in Nebraska, Mr. Ford testified, he advises his customers to call their own insurance agents and take out an all-risk policy to cover potential losses from a move. Mr. Ford further testified that, nationally, it is fairly standard practice to offer full replacement insurance as an option to movers.

Mr. Ford explained that the proposed amendment providing for a declaration of items of extraordinary value is a method where the carrier is placed on notice that the shipper desires to move an item of unusual or extraordinary value. This would allow the carrier to inform the customer desiring to move the highly or unusual valued item that full replacement insurance was an available option. Mr. Ford also noted that the rate charge for full replacement insurance had been made a part of the proposed amendment.

Ed Schneider, of I-Go Van and Storage, testified that he generally concurred with testimony of Mr. Ford. Mr. Schneider also testified that the rates used for full value insurance protection reflected national interstate rates.

Mr. Dennis Leslie testified in opposition to the mandatory charges for pick up and removal of old boxes. He stated that such pick up and removal is already part of the entire package of service that he includes in his moves. He objects to the part of the tariff that would require a charge to be imposed for box pick up and removal. Mr. Leslie also testified that he objects to the provisions providing for full replacement value insurance, noting the potential high premiums and the fact the proposal was not consumer-driven.

Chris Fixley, president of Able Movers/Wheaton Van Lines, Omaha, testified he opposed full replacement insurance. He stated that he was concerned that, based on the weight formula generally used for valuations, the shipper might underestimate the value of the contents that were being moved. He also expressed a concern that the proposed amendments would lead to higher costs for customers. Customers who are paying the higher premiums of full replacement value insurance would be led, under the proposal, to more fully examine items for small nicks and scratches. He also raised his concerns about caps that might be placed on claims. He

stated that he believes that these additional customer disputes would eventually add to the overall cost of a move which, in turn, would lead to higher rates.

John Schmidt, Commission director, indicated, for the record, that the proposed amendment would apply only to the intrastate tariff and not to the intra city tariff.

FINDINGS AND OPINION

The proposed amendments to the Tariff 7-F can be reduced to three different proposals. The first proposal is to amend the tariff and to provide a charge when a carrier returns to the destination of a move and picks up and removes boxes that were used in the move. The Applicant states that this type of charge is standard on an interstate basis. Protestants argue that this pick up and removal service is part of the total service package that they provide. Based on the arguments and the evidence adduced, we find that since cartons are an unregulated commodity, the return of a carrier to the site of the destination of the customer's move for the removal and pick up of used boxes and cartons is, and should remain, an unregulated activity. As such, each individual carrier has the option of whether or not to provide this service and to price this service based on their cost, market demand, and value to their customers. Alternately, a carrier may elect to provide this service free of charge. We cannot find that this activity falls within the scope of regulation by this Commission. Accordingly, we decline to adopt any specific amendment to the tariff.

The second issue for Commission decision is the inclusion of the Declaration of Value that was submitted for adoption. The Applicant argues that the inclusion of such a declaration will provide carriers adequate and proper notice that the customer intends to ship an item of extraordinary or unusual value. This notification, they further argue, will prompt carriers to notify the customer that replacement value insurance is available for the customer's protection. We agree with this assessment which, we note, was uncontradicted at the hearing. Accordingly, we adopt the following amendment to Item 260 (Declaration of Value - Liability Limitation):

AMENDMENT ADOPTED

1. Amend Item 260 to include the following new language:

(F) Shippers who tender shipments which are released to a value greater than sixty cents (\$0.60) per pound per

article that include an article or articles that exceed one hundred dollars (\$100.00) per pound per article in value must, when properly notified of this requirement by the shipper, specifically notify the carrier in writing that an identified article or articles with a value greater than one hundred dollars (\$100.00) per pound are included in the shipment by execution of the following provision contained in the carrier's Bill of Lading, or in substitution thereof, the Order for Service:

EXTRAORDINARY (UNUSUAL) VALUE ARTICLE DECLARATION

I acknowledge that I have prepared and retained a copy of the "Inventory of Items Valued in Excess of \$100 per pound per Article" that is included in my shipment and that I have given a copy of this Inventory to the carrier's representative. I also acknowledge that the carrier's liability for loss of, or damage to, any article valued in excess of \$100 per pound for each pound of such lost or damage article (based on actual article weight), not to exceed the declared value of the entire shipment, unless I have specifically identified such articles for which a claim for loss or damage is made on the attached Inventory.

(signed) Shipper

Date

OPINION AND FINDINGS (Continued)

The next issue we address is whether this Commission should include a provision to the tariff that would allow customers an option of purchasing full value protection insurance coverage. The applicant argues that full value protection would more fully protect customers, is more consistent with national offerings, and would negate the need for Nebraska shippers to take out additional insurance policies to protect their articles of value which are shipped. The protestant argument is that full value protection insurance fails to protect customers by imposing artificial caps on protection and is costly to administer because of additional costs of pre-inspection and inventory and a potentially higher incidence of customer disputes. Based on the evidence adduced, we believe that consumers should be allowed this choice. We are not convinced that higher administration costs will lead to higher rates for movers. However, if the actions we take today result in increased costs and such costs can be documented and verified, the carriers have a remedy to offset those costs by petitioning the Commission for a change in tariff rates. Accordingly, we adopt the

Applicant's amendment as it relates to the option of allowing shippers the ability to purchase full protection insurance for their shipped valuables.

AMENDMENT ADOPTED

1. We amend Tariff F-7 by including the additional new language:

Item A: Full Value Protection

1. When full value protection is ordered in writing by the customer, the carrier will guarantee either (a) replacement of articles lost or damaged while in carrier's custody, reimbursement for full replacement cost as determined by market value, or (b) repairs, or the cost of repairs to any damaged item or items to the extent necessary to restore the item to the same condition as when received by the carrier from the shipper. Actual replacement articles, if any, shall consist of like kind and quality without deduction for depreciation or wear and tear.
2. Carrier's maximum liability shall not exceed the released or declared value on the shipment or the full cost of repair to the damaged property, whichever is less. The carrier shall have the option to repair or replace damaged articles.
3. All items which are replaced or for which the full current market value has been paid become the property of the carrier.
4. Provisions of this item are contractual limits of liability and are not to be construed as "insurance".
5. Full value protection will be subject to the shipment being declared or released at a minimum lump sum value of \$5000.00 or \$4.00 times the net weight of the shipment in pounds, whichever is greater. The stated valuation must be in the increments shown in Section 1, "Additional Services and Charges". If the Shipper declares or releases the shipment to a valuation that falls between the Valuation Amounts shown, the next higher valuation amount and the applicable charge associated therewith shall apply.

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6. The weight used for determining the minimum valuation will be the actual net weight of the shipment.
7. Carrier's maximum liability and the charges for Full Value Protection are as provided in Section 1, "Additional Services and Charges".
8. Shippers who tender shipments that include an article or articles that exceed one hundred dollars (\$100) per pound per article in value must specifically notify the carrier in writing that an identified article or articles with a value greater than one hundred dollars (\$100) per pound are included in the shipment provided that the shipper has been given proper notice of this requirement by the carrier. Such notification shall be by execution of the following provision contained in the carrier's Bill of Lading, or in substitution thereof, the Order for Service:

EXTRAORDINARY (UNUSUAL) VALUE ARTICLE DECLARATION

I acknowledge that I have prepared and retained a copy of the "Inventory of Items Valued in Excess of \$100 per Pound per Article" that are included in my shipment and that I have given a copy of this Inventory to the Carrier's representative. I also acknowledge that the carrier's liability for loss of or damage to any article valued in excess of one hundred dollars per pound will be limited to one hundred dollars per pound for each pound of such lost or damaged article (based on actual weight), not exceeding the declared value of the entire shipment, unless I have specifically identified such articles for which a claim for loss or damage is made on the attached inventory.

(Signed) Shipper

Date

I have been informed by the carrier of the availability of full value insurance protection. I understand that full value protection insurance would insure that any item that is lost or damaged would result in its full replacement and that failure to purchase this insurance will result in limited liability to the carrier for any loss or damage. By signing or initialing below, I hereby indicate that I have declined to purchase full value protection insurance.

A shipper's failure to notify the carrier that an article or articles having a value that exceeds one hundred dollars (\$100) per pound will be included in the shipment will restrict the carrier's maximum liability to one hundred dollars (\$100) per pound for each pound of any lost or damaged article (based on actual article weight), not to exceed the declared value of the entire shipment, provided that the carrier has given the shipper adequate notice of the requirements of such notification.

2. Add the following new language and number as appropriate:

Item B. Inventory of Items Valued in Excess of \$100 per Pound per Article

When transportation is performed under the provisions of Item 260(F) or Item A (as adopted herein) of this tariff, a high value inventory form shall apply in conjunction with the Bill of Lading, or in substitution thereof, the Order for Service, which form shall contain the following information:

HIGH VALUE INVENTORY FORM

(CARRIER NAME)

(Carrier address and telephone number)

All items included in your shipment that are considered to be of extraordinary or unusual value must be specifically identified and the carrier must be advised that they are included in the shipment. Items of extraordinary value are defined as those items having a value greater than one hundred dollars (\$100) per pound. Typical household goods that frequently have a value in excess of one hundred dollars (\$100) per pound are: currency, coins, jewelry, precious metals, precious or semi-precious stones or gems, gold, silver or platinum articles including silverware and service sets, china sets, crystal or figurines, fur or fur garments, antiques, Oriental rugs or tapestries, rare collectible items, objects of art, computer software programs, manuscripts, or other rare documents. Of course, other items may also fall into this category and must be identified as well.

The purpose of this inventory is to assist you in identifying articles of extraordinary or unusual value in order that the carrier will be aware of those items which require special handling and protection. Failure to identify such articles will result in limited carrier liability.

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<u>Item No.</u>	<u>Description of Articles Exceeding \$100 per pound Per Article</u>
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(more lines as needed)

Owner (shipper) agrees that any claim for loss or damage must be supported by proof of value and understands settlement will be based upon the information furnished on this inventory form and the declaration of value contained on the accompanying Bill of Lading, or in substitution thereof, the Order for Service, the Bill of Lading Terms and Conditions, the tariff in effect at the time of shipment, the household goods descriptive inventory, and all other pertinent information available to the carrier. If you have not listed articles having a value in excess of one hundred dollars (\$100) per pound per article on this inventory, your signature below attests to the fact that such articles are not included in your shipment. If through inadvertence or any other cause, items having a value in excess of one hundred dollars (\$100) per pound per article are included in your shipment and you fail to list those items on this inventory or fail to sign this inventory, you expressly agree that the carrier's liability for loss or damage to those items will be limited to no more than one hundred dollars (\$100) per pound per article (based on the actual article weight). Further, you indicate that you understand that such valuation may be appraised at the item's depreciated value.

AT ORIGIN:

CARRIER BILL OF LADING:

Signature of Shipper Date
or Shipper's authorized
representative

Carrier's representative Date

Shipment Origin (City, State)

FINDINGS AND OPINION (Continued)

The final issue we address is the Full Value Protection Charges, that is, the premiums that will be due for a shipper electing to purchase full value protection. The Applicant

presented to the Commission a chart which details the premiums for full value protection. Mr. Schneider, representing the protestant, also presented the Commission with a chart detailing the premium charges with a slight difference. He represented that the second chart was more consistent with the rates on a national level and were more congruous. Based on the evidence, we find that the following rate chart should be adopted as an amendment to the state's moving tariff.

AMENDMENT ADOPTED

1. Amend the following new section into the tariff, numbering the sections appropriately:

Item C: Full Value Protection Charges

Carrier's maximum liability and the charges for Full Value Protection are as follows:

<u>Maximum Valuation</u>	<u>Option A No Deductible</u>	<u>Option B \$250 Deductible</u>	<u>Option C \$500 Deductible</u>
<u>\$5000.00</u>	<u>\$90.00</u>	<u>\$40.00</u>	<u>\$29.00</u>
<u>10,000.00</u>	<u>135.00</u>	<u>72.00</u>	<u>48.00</u>
<u>15,000.00</u>	<u>165.00</u>	<u>101.00</u>	<u>67.00</u>
<u>20,000.00</u>	<u>190.00</u>	<u>135.00</u>	<u>86.00</u>
<u>25,000.00</u>	<u>225.00</u>	<u>153.00</u>	<u>102.00</u>
<u>30,000.00</u>	<u>271.00</u>	<u>184.00</u>	<u>121.00</u>
<u>35,000.00</u>	<u>315.00</u>	<u>201.00</u>	<u>137.00</u>
<u>40,000.00</u>	<u>360.00</u>	<u>227.00</u>	<u>155.00</u>
<u>50,000.00</u>	<u>450.00</u>	<u>396.00</u>	<u>254.00</u>
<u>60,000.00</u>	<u>540.00</u>	<u>462.00</u>	<u>292.00</u>
<u>75,000.00</u>	<u>675.00</u>	<u>529.00</u>	<u>345.00</u>
<u>100,000.00</u>	<u>900.00</u>	<u>653.00</u>	<u>433.00</u>
<u>125,000.00</u>	<u>1,125.00</u>	<u>800.00</u>	<u>524.00</u>
<u>150,000.00</u>	<u>1,350.00</u>	<u>854.00</u>	<u>621.00</u>

<u>175,000.00</u>	<u>1,575.00</u>	<u>980.00</u>	<u>721.00</u>
<u>200,000.00</u>	<u>1,800.00</u>	<u>1,125.00</u>	<u>831.00</u>
<u>225,000.00</u>	<u>2,025.00</u>	<u>1,275.00</u>	<u>944.00</u>
<u>250,000.00</u>	<u>2,250.00</u>	<u>1,425.00</u>	<u>1,063.00</u>
<u>over 250,000</u>	<u>See Note 1</u>	<u>See Note 1</u>	<u>See Note 1</u>

Note 1: The charge for valuation in excess of \$250,000.00 will be the charge for the first \$250,000.00 plus \$0.60 for each \$100.00 or fraction thereof in excess of \$250,000.00. This rate calculation applies to Options A, B, and C.

Note 2: On shipments requiring storage-in-transit, the following valuation charge will apply in addition to the above charges:

For each storage period of thirty (30) days or fraction thereof, an additional valuation rate of ten percent (10%) of the applicable storage-in-transit charge provided for in Item 1320.

Note 3: When Full Value Protection applies to a shipment that includes one or more motor vehicles, including, but not limited to, automobiles, vans, pick-up trucks, or sport utility vehicles, the carrier's maximum liability for the vehicle or vehicles shall be either:

- A. The value stated in the current issue of the National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guide for such vehicle or vehicles, adjusted for mileage and other factors considered in the Guide; or,
- B. The appraised value of the vehicle or vehicles, whichever is less.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application MR-976 be, and it is hereby, granted as modified herein.

MADE AND ENTERED in Lincoln, Nebraska on this 31st day of October, 1999.

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Frank E. Lands

Frank E. Lands
Chairman

Ann E. Boyle

ATTEST:

Teal Johnson

A. S. Pollock
Executive Director

//s//Frank E. Lands
//s//Daniel G. Urwiller

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