

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

PUBLIC SERVICE COMMISSION

INFORMAL REPARATION DOCKET CASES BEFORE COMMISSION

(By authority of Act No. 300 of the Public Acts of 1909, being S462.2 et seq. of the Michigan Compiled Laws)

R 460.1 Application for reparation.

Rule 1. The commission will entertain claims for applications for reparation, if filed with it within 2 years after the delivery of any shipment of freight at destination, under an informal docket when such applications are presented to it by the carrier, or carriers, which participated in the transportation of the property in which it is admitted that the rate charged was irregular or exorbitant, and supports such admission by a statement of the facts and uses as a basis for adjustment, a tariff which was subsequently published naming a rate lawfully applicable via the route over which the shipments moved. (See R 460.2.)

History: 1944 AC; 1954 AC; 1979 AC.

R 460.22 Informal reparation.

Rule 2. Informal reparation will be allowed in the following cases:

- (a) Reparation on account of error in publishing rate.
- (b) Reparation on account of the reestablishment of a rate formerly in effect, which rate was unintentionally omitted in a reissue of a tariff and the cancellation of which was overlooked when shipments moved.
- (c) Reparation on account of rate or charge as assessed (which rate was lawful at time shipment was moved), which rate is admitted by the carrier or carriers to be irregular or exorbitant, and should not have exceeded the rate subsequently established via the same route over which the shipments involved moved. (NOTE: Reparation will be allowed on this account only when the subsequently published rate was established to meet new traffic conditions, or circumstances, which the rate as assessed did not take into account or contemplate. This should not be construed to include cases in which a rate is reduced simply to meet competition or another carrier. Any regulation or rule which is used in connection with a rate or charge may be used as a basis for refund in informal reparation cases when such refund is sought on account of conditions or circumstances as outlined in subdivisions (a), (b), and(c) of this rule.)

History: 1944 AC; 1954 AC; 1979 AC

R 460.3 Application for informal reparation; form.

Rule 3. All applications for informal reparation must conform to the commission's standard form in such cases.

History: 1944 AC; 1954 AC; 1979 AC.

R 460.4 Extension of principle upon which informal reparation order based.

Rule 4. When an informal reparation order has been made by the commission, the principle upon which it is based shall be extended to all like shipments, but no refunds shall be made upon such like shipments except upon specific authority from the commission therefor.

History: 1944 AC; 1954 AC; 1979 AC.

R 460.5 Reparation award; assignment.

Rule 5. In awarding reparation, the commission will recognize an assignment by a consignor to a consignee or by a consignee to a consignor.

History: 1944 AC; 1954 AC; 1979 AC.

R 460.6 Order for refund.

Rule 6. The commission's order for refund on account of a reduced rate or changed tariff regulation will require the maintenance of such rates or regulation for at least 1 year as a maximum from the date on which the rates or rules sought to be applied became effective except that when refund is made, on account of error in publishing a rate or rule, the commission's order will not carry the 1-year clause. (NOTE: Attention is called to the fact that where carriers and shippers cannot agree in claims involving informal reparation, it is necessary under the statute in case the aggrieved person desires to submit the claim to the commission for adjustment, that the complaint be filed with this commission within 2 years after the delivery of the freight at destination.)

History: 1944 AC; 1954 AC; 1979 AC.

R 460.7 Applications; forms.

Rule 7. Applications on the commission's informal docket shall be made in the following form and all the requirements of this form must be complied with in every case:

INFORMAL DOCKET NO.

Complainant	vs.	Complainant's No. _____
Defendant		Co. Claim No. _____
		Co. Claim No. _____
		Co. Claim No. _____
		Request for authority to pay \$ _____

To Michigan Public Service Commission:

The \_\_\_\_\_ company respectfully requests an order herein authorizing the payment to the above-named claimant, of \_\_\_\_\_, state of \_\_\_\_\_, of the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), as special reparation in connection with the following shipment:

Commodity \_\_\_\_\_

Number of shipments or carloads \_\_\_\_\_, aggregate weight \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_

(Point of origin) (Destination)

Consignor \_\_\_\_\_ Consignee \_\_\_\_\_

Bill of lading issued by \_\_\_\_\_ Co., at \_\_\_\_\_

(Use initials)

Date \_\_\_\_\_, 19\_\_\_\_. Shipment moved as follows:

\_\_\_\_\_ Co., from \_\_\_\_\_ to \_\_\_\_\_, via \_\_\_\_\_

\_\_\_\_\_ Co., from \_\_\_\_\_ to \_\_\_\_\_, via \_\_\_\_\_

\_\_\_\_\_ Co., from \_\_\_\_\_ to \_\_\_\_\_, via \_\_\_\_\_

Aggregate freight charges actually collected, \$ \_\_\_\_\_, date paid \_\_\_\_\_, 19\_\_

By whom paid to carrier \_\_\_\_\_ Date of delivery \_\_\_\_\_, 19\_\_

Give reference to previous cases which involved the same rate situation \_\_\_\_

\_\_\_\_\_  
(If combination rate legally applicable, show each factor thereof.)

Rate legally applicable \_\_\_\_\_ per or \_\_\_\_\_ ton  
carload min. \_\_\_\_\_ for \_\_\_\_\_ ft. car  
cwt.

Tariff authority \_\_\_\_\_ M.P.S.C. No. \_\_\_\_\_, page \_\_\_\_\_, effective \_\_\_\_\_

Rate sought \_\_\_\_\_ ton carload  
To be applied \_\_\_\_\_ per or \_\_\_\_\_ min wt. \_\_\_\_\_ for \_\_\_\_\_ ft. car  
cwt.

Tariff authority \_\_\_\_\_ M.P.S.C. No. \_\_\_\_\_, page \_\_\_\_\_, effective \_\_\_\_\_

Aggregate freight charges at claimed rate would be \$ \_\_\_\_\_.

(Insert here such explanation as the case may require. If shipment was reconsigned, state date of reconsigning order, point of reconsignment, and tariff authority for reconsignment. If shipment was misrouted by carrier, state routing instructions given by consignor, and the proper route in detail; with specific admission that misrouting was caused by carrier's agent.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It is admitted that the rates or rules legally applicable at the time and over the route shipment moved were, under all circumstances and conditions then existing, irregular and exorbitant.

It is agreed that the order of the commission authorizing refund herein may require that the published tariff rates and rules upon which adjustment is based shall be maintained (as maximum) for a period of not less than one year from the date on which the rates or rules sought to be applied became effective.

The undersigned who makes this application in the name of his company certifies that he has familiarized himself with all the facts and figures upon which this application for reparation is made and knows the same to be correct.

Respectfully submitted,

\_\_\_\_\_ company

Defendant

\_\_\_\_\_, \_\_\_\_\_, By \_\_\_\_\_

(City) (state) (Personal signature)

\_\_\_\_\_, 19\_\_\_\_\_

Its \_\_\_\_\_

The undersigned companies join in the foregoing application:

\_\_\_\_\_ company

Defendant

By \_\_\_\_\_

(Personal signature)

\_\_\_\_\_ company

Defendant

By \_\_\_\_\_

(Personal signature)

The foregoing application must be personally signed by an executive or general officer of the accounting or traffic department, and not a subordinate.

I, \_\_\_\_\_, have carefully read the foregoing application and certify that the facts as therein set forth have been verified by a check against the accounts affected as audited under my direction, and I now certify that the records of this company show:

1. That the aggregate weight was \_\_\_\_\_ pounds.
2. That the aggregate freight charge actually collected and retained was \$ \_\_\_\_\_.

3. That the amount of the refund to which the above-named complainant is/are entitled, on the basis of the reduced rate, is \$\_\_\_\_\_ and that the present weight is \$\_\_\_\_\_ per ton/cwt.

4. The attached statement of billing, exhibit 1, corresponds to the checked billing of the auditing department.

\_\_\_\_\_  
(Personal signature)

\_\_\_\_\_  
(Comptroller or general auditor)

This certificate must be personally signed by the comptroller or the accounting officer in charge of freight revenue accounts, and not by a subordinate.

The foregoing certificate by the accounting officer of the applicant carrier must be used in every case and must show the aggregate charges on the shipments. But if the charges, or part of the charges were collected

by another carrier or carriers, the following certificates will also be used, and in that event the above certificate, so far as the charges collected are concerned, will be understood to be based on and qualified by the assumed correctness of the following certificates.

If the applicant carrier did not collect the freight charges, the carrier which made the collection will use the following supplemental certificate; and if a third carrier collected part of the charges, the special certificate will also be used, and the supplemental certificate will be understood to be based on and qualified by the assumed correctness of the special certificate.

#### SUPPLEMENTAL CERTIFICATE

I, \_\_\_\_\_, the \_\_\_\_\_ of the \_\_\_\_\_ Rail \_\_\_\_\_ company, have carefully read the foregoing application and now certify that the records and accounts of this company, as audited under my direction, show:

1. That the aggregate weight was \_\_\_\_\_ pounds.
2. That the aggregate freight charge, actually collected and retained, was \$\_\_\_\_\_.
3. That the attached statement of billing, exhibit 1, corresponds to the checked billing of the auditing department of this company.

\_\_\_\_\_  
(Comptroller or general auditor)

This certificate must be personally signed by the comptroller or the accounting officer in charge of freight revenue accounts, not by a subordinate.

When a carrier, other than the applicant and not the carrier using the supplemental certificate, has collected any part of the charges, the following special certificate will also be used:

#### SPECIAL CERTIFICATE

I, \_\_\_\_\_, the \_\_\_\_\_ of the \_\_\_\_\_ Rail \_\_\_\_\_ company, have carefully read the foregoing application and now certify that the records and accounts of this company, as audited under my direction, show:

1. That the aggregate weight was \_\_\_\_\_ pounds.
2. That additional freight charges were collected by this company to the amount of \$\_\_\_\_\_, no part of which has been refunded.

\_\_\_\_\_  
(Personal signature)

\_\_\_\_\_  
(Comptroller or general auditor)

This certificate must be personally signed by the comptroller or the accounting officer in charge of freight revenue accounts, not by a subordinate.

COMPLAINANT'S CERTIFICATE

I hereby certify that charges of \$\_\_\_\_\_ on the shipments involved herein were paid and borne as such by \_\_\_\_\_ Co., and by no other.

By \_\_\_\_\_ Its \_\_\_\_\_.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_.  
(Seal) Notary Public \_\_\_\_\_

\_\_\_\_\_  
Instructions--Read carefully

1. Under section 10G of Act No. 300, Public Acts of 1909, as amended, and as interpreted by the commission, all claims for reparation are absolutely barred if not filed within 2 years from the date property was delivered.

2. This application should be accompanied by the original paid freight bills, which will be returned by the commission after the claim has been acted upon.

3. The commission will authorize payment only to the party who paid and bore the charges and not to an assignee. Where the application is for authority to refund to the consignee when the paper shows that the charges were paid by the consignor, or vice versa, the commission requires that a stipulation be filed with the application signed by the consignor, by the consignee, and by an executive or general officer of the carrier in substantially the following form:

Title. (Here insert names of complainant and defendants as in application to which stipulation relates.)

The undersigned \_\_\_\_\_, the consignor of the following described shipments (here insert date, car number, commodity, and points of origin and destination) and \_\_\_\_\_, the consignee thereof, and the undersigned \_\_\_\_\_ Rail \_\_\_\_\_ Company, stipulate and agree that any order entered in the above-entitled informal complaint for a refund on account of the excessive freight charges collected on said shipment shall be in favor of (here insert name of consignor or consignee, as case may be).

\_\_\_\_\_ (Signature of cosignor,) \_\_\_\_\_

\_\_\_\_\_ (Signature of cosignee,) \_\_\_\_\_

\_\_\_\_\_ Rail \_\_\_\_\_ Co. \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

History: 1944 AC; 1954 AC; 1979 AC.