

(FEDERAL MARITIME COMMISSION)
(SERVED NOVEMBER 13, 1989)
(EXCEPTIONS DUE 12-5-89)
(REPLIES TO EXCEPTIONS DUE 12-27-89)

FEDERAL MARITIME COMMISSION

SPECIAL DOCKET NO. 1708

APPLICATION OF FRITZ TRANSPORTATION INTERNATIONAL
FOR THE BENEFIT OF COSTCO WHOLESALE CORP.

Application for permission to waive \$58,850.00 (corrected amount)
of the applicable freight charges, granted.

INITIAL DECISION¹ OF CHARLES E. MORGAN,
ADMINISTRATIVE LAW JUDGE

By application timely mailed on February 9, 1989, Fritz Transportation International (Fritz), a non-vessel operating common carrier, for the benefit of Costco Wholesale Corp. (Costco), seeks permission, pursuant to Rule 92(a) of the Commission's Rules of Practice and Procedure, 46 CFR 502.92(a), and section 8(e) of the Shipping Act of 1984, (the Act), to waive a total of \$58,600.00² of the applicable freight charges on

¹ This decision will become the decision of the Commission in the absence of review thereof by the Commission (Rule 227, Rules of Practice and Procedure, 46 CFR 502.227).

² Applicant's counsel in his letter of October 31, 1989, revised the \$56,705.00 sought in the original application to the incorrect figure of \$58,600.00.

thirty-seven shipments of electrical goods and parts, in sixty-eight containers (nine 20-foot and fifty-nine 40-foot containers) from Taiwan, Korea, Japan, and Hong Kong, to Seattle and Tacoma, Washington, and Oakland, California, bills of lading dates August 23, 1988, through November 12, 1988, and sailing dates August 14, 1988, through November 12, 1988.

The applicable basic rates on Electrical and Electronic Goods and Components and Parts, N.O.S., including Transformers, N.O.S., herein from Hong Kong was \$2,000.00 per 20-foot container. On one such container the applicable basic charges were \$2,000.00. The applicable basic rate herein from Taiwan also was \$2,000.0 per 20-foot container. On two such containers the applicable basic charges were \$4,000.00. The applicable basic rate herein from Korea was \$1,820.00 per 20-foot container. On three such containers, the applicable basic charges were \$5,460.00. The applicable basic rate herein from Japan was \$2,030.00 per 20-foot container. On three such containers the applicable basic charges were \$6,090.00.

The applicable basic rate herein from Hong Kong was \$2,950.00 per 40-foot container. On nine³ such containers, the applicable basic charges were \$26,550.00. The applicable basic rate herein from Taiwan also was \$2,950.00 per 40-foot container. On fourteen such containers, the basic applicable charges were

³ As per letter dated October 31, 1989, from applicant's counsel, two containers, nos. 36 and 57 moved from Hong Kong rather than from Korea, as first listed. These were 40-foot containers, sailing dates, respectively, September 30, 1988, and November 4, 1988.

\$41,300.00. The applicable basic rate herein from Korea was \$2,700.00 per 40-foot container. On thirty such containers, the basic applicable charges were \$81,000.00. The applicable basic rate herein from Japan was \$2,850.00 per 40-foot container. On six such containers, the basic applicable charges were \$17,100.00.

The total basic applicable charges on nine 20-foot containers were \$17,550.00; and on fifty-nine 40-foot containers were \$165,950.00. On all sixty-eight containers the total applicable basic charges were \$183,500.00.

Also applicable was a document transfer fee of \$25.00 per shipment (not per container). Each such shipment contained one or more containers. On the total of thirty-seven shipments herein the applicable document transfer fees were \$925.00. The total applicable charges on all of the shipments herein were \$184,425.00.

The sought basic rates herein on Electrical Goods & Parts including Television, Microwave Oven, VCR, Compact Discs & Radio from Hong Kong/Taiwan/Korea are \$1,500.00 per 20-foot container and \$1,875.00 per 40-foot container; and from Japan are \$1,525.00 per 20-foot container and \$1,950.00 per 40-foot container, as shown in Fritz Transportation International Freight Tariff No. 7, from Far East Ports to U.S. Atlantic & Gulf Pacific Ports & Hawaii, 7th revised page 134A, effective December 17, 1988.

The sought basic charges on a total of six 20-foot containers from Hong Kong, Taiwan and Korea are \$9,000.00; on three 20-foot containers from Japan are \$4,575.00; on a total of

fifty-three 40-foot containers from Hong Kong, Taiwan and Korea are \$99,375.00; and on six 40-foot containers from Japan are \$11,700.00. Total sought basic freight charges on all containers are \$124,650.00. Also sought are the document transfer fees, as shown above. Total sought charges including the fees above are \$125,575.00. The amount of freight charges actually collected were \$125,500.00. On the basis of the sought charges herein, the shipper underpaid \$75.00.

The difference between the total applicable charges of \$184,425.00 and the total sought charges \$125,575.00 is \$58,850.00, the corrected amount sought to be waived herein.

On June 17, 1988, Fritz quoted the sought rates to the shipper. These quoted rates were accepted by Costco in June, 1988. Because of a miscommunication between Fritz's Seattle office and Fritz's Carson, California, office, the agreed rates were not published in the Fritz tariff.

On October 13, 1988, Mr. Chris Sinn, the General Manager of Fritz, realized that the agreed rates had not been published in Fritz's tariff. Instead, the dollar amounts of the intended agreed rates were published under Kitchenware, rather than under Electrical Goods & Parts. The intended agreed rates on Electrical Goods & Parts, including Television, Microwave Oven, VCR, Compact Discs & Radio later were published effective December 17, 1988.

Because of the statutory 180-day limit for filing applications, the tariff mistake herein may be remedied back only to August 13, 1988. Thus the critical period herein is from August 13, 1988, through December 16, 1988.

Applicant states that there were no other shipments of the same or similar commodity made by it during the critical period.

The statutory requirements have been met. It is concluded and found that there was an error of an administrative or clerical nature made by Fritz in failing to have published timely the intended agreed rates; that the intended agreed rates were made effective after the shipments herein moved and prior to the mailing of this application; that the application was mailed timely; and that the authorization of a waiver will not result in discrimination among shippers, ports, or carriers.

Fritz Transportation International is authorized to waive a total of \$58,850.00 of the applicable freight charges on the shipments herein. The applicant Fritz shall collect \$75.00 from the shipper, the amount underpaid on the sought basis of charges.

It is hereby ordered that Fritz Transportation International file the following notice in its pertinent tariff, Freight Tariff No. 7, to the effect that:

Notice is given, as required by the decision of the Federal Maritime Commission in Special Docket No. 1708, that effective August 13, 1988, and continuing through December 16, 1988, the rates on Electrical Goods & Parts including Television, Microwave Oven, VCR, Compact Discs, & Radio from Hong Kong/Taiwan/Korea to United States Pacific Ports are \$1,500 per 20-foot container and \$1,875.00 per 40-foot container; and from Japan to United States Pacific Ports are \$1,525.00 per 20-foot container and \$1,950.00 per 40-foot container. This notice is effective for purposes of refund or waiver of freight charges on any shipments of the

commodities described which may have been shipped during the specified period of time.

C. E. Morgan
Charles E. Morgan
Administrative Law Judge

Washington, D. C.
November 9, 1989