IN THE MATTER OF

SHARP ELECTRONICS CORPORATION

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACTS

Docket C-2574. Consent Order, Oct. 9, 1974—Set Aside Order, Aug. 21, 1989

The Federal Trade Commission has set aside a 1974 consent order with Sharp Electronics Corporation, (84 FTC 743), because respondent satisfactorily demonstrated that changes in the law required such action, thus enabling respondent to maintain favorable relations with its full service dealers, and thereby develop and promote an efficient distribution system to compete more effectively with other electronic calculator manufacturers; as a result, consumers are likely to benefit.

ORDER REOPENING AND SETTING ASIDE ORDER ISSUED ON OCTOBER 9, 1974

On April 25, 1989, Sharp Electronics Corporation ("Sharp") filed a "Request To Reopen The Proceeding And Set Aside The Order" ("Request"), pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and Section 2.51 of the Commission's Rules of Practice and Procedure, 16 CFR 2.51. The Request asks the Commission to reopen the proceeding and set aside the order issued by the Commission on October 9, 1974, in Docket No. C-2574, 84 FTC 743. The order prohibits Sharp from restricting in any manner the territories in which, or the customers to whom, its dealers may sell Sharp electronic calculators. In support of its request, Sharp argues that the order should be set aside to reflect changed conditions of law and fact and "to promote considerations of fairness and the public interest." Request at 6, 9. Sharp's request was placed on the public record for thirty days, pursuant to Section 2.51(c) of the Commission's Rules. No comments were received.

For the reasons discussed below, the Commission has concluded that Sharp has made a satisfactory showing of changed conditions of law that require reopening the proceeding and warrant modifying the order in the manner requested by Sharp. The Commission has therefore determined to reopen the proceeding and set aside the order in its entirety.

I.

The Commission issued its complaint in this matter on October 9, 1974. 84 FTC at 743-45. The complaint alleged that Sharp violated Section 5 of the Federal Trade Commission Act, by, among other things, prohibiting its dealers from selling Sharp electronic calculators outside of their "allotted" territories, and imposing restrictions "as to the persons or classes of persons" to whom Sharp dealers may sell such calculators. 84 FTC at 744. Sharp's distribution practices, as alleged in the complaint, "actually hindered, restricted, restrained and prevented competition . . . ," and constituted "unfair acts . . . and methods of competition . . ." within the meaning of Section 5 of the FTC Act. *Id.*

The Commission's order, entered by consent, prohibits Sharp from imposing any territorial restrictions on its dealers, or defining the class of customers to whom they are permitted to sell Sharp electronic calculators. The order also prohibits Sharp from using any mandatory fixed schedules for the division of profit between any selling dealers and a dealer in whose territory the product is serviced that has the effect of restricting the territory in which electronic calculators may be sold. 84 FTC at 746.[1] However, the order explicitly permits Sharp to designate for its dealers geographical areas within which a dealer may agree to devote its best efforts to the sale of electronic calculators, engage in activities specifically rendered lawful by legislation enacted by Congress, require a dealer to undertake obligations of installation and warranty service, and require its dealers to comply with any voluntary profit passover program made available by Sharp. *Id.* at 746-47.

II.

Section 5(b) of the FTC Act, 15 U.S.C. 45(b), provides that the Commission shall reopen an order to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" require such modification. A satisfactory showing sufficient to require reopening is made when a request to reopen identifies significant changes in circumstances and shows that the changes eliminate the need for the order, bring the

[1] For a period that expired in 1979, paragraph 5 of the order prohibited Sharp from establishing mandatory fixed schedules for the division of profit between any selling dealer and a dealer in whose territory the product is serviced, regardless of effects. *Id.*

order into conflict with current law, or make continued application of it inequitable or harmful to competition. *Louisiana-Pacific Corp.*, Docket No. C-2956, Letter to John C. Hart (June 5, 1986), at 4. *See* S. Rep. No. 96-500, 96th Cong., 2d Sess. 9 (1979) (significant changes or changes causing unfair disadvantage); *Phillips Petroleum Co.*, Docket No. C-1088, 78 FTC 1573, 1575 (1971) (no modification for changes reasonably foreseeable at time of consent negotiations); *Pay Less Drug Stores Northwest, Inc.*, Docket No. C-3039, Letter to H. B. Hummelt (Jan 22, 1982) (changed conditions must be unforeseeable, create severe competitive hardship, and eliminate dangers that the order sought to remedy); *see also United States v. Swift & Co.*, 286 U.S. 106, 119 (1932) (modification warranted by "clear showing" of changes that eliminate reasons for order or such that the order causes unanticipated hardship).

The language of Section 5(b) plainly anticipates that the burden is on the petitioner to make the requisite satisfactory showing of changed conditions to obtain reopening of the order. The legislative history also makes clear that the petitioner has the burden of showing, other than by conclusory statements, why changed circumstances require that the order should be modified.[2] If the Commission determines that the petitioner has made the necessary showing, the Commission must reopen the order to consider whether modification is required and, if so, the nature and extent of the modification. The Commission is not required to reopen the order, however, if the petitioner fails to meet its burden of making the satisfactory showing required by the statute. The petitioner's burden is not a light one given the public interest in the finality of Commission orders. *See Federated Department Stores, Inc. v. Moitie*, 425 U.S. 394 (1981) (strong public interest considerations support repose and finality).

III.

Based on the information provided by Sharp and other available information, the Commission has determined that Sharp has made a satisfactory showing that changes in law require reopening the proceeding and warrant setting aside the order. Having reopened and set aside the order on the basis of change of law, the Commission does

[2] The Commission may properly decline to reopen an order if a request is "merely conclusory or otherwise fails to set forth specific facts demonstrating in detail the nature of the changed conditions and the reasons why these changed conditions require the requested modification of the order." S. Rep. No. 96-500, 96th Cong., 1st Sess. 9-10 (1979).

not reach the issue whether reopening is also warranted based upon the changes of fact or the public interest considerations asserted by Sharp.

In 1974, when this consent order was issued, all vertical restraints were considered *per se* unlawful, based on *U.S. v. Arnold Schwinn & Co.*, 388 U.S. 365 (1967). Three years after the order was issued, the Supreme Court overruled *Schwinn* in *Continental T.V., Inc. v. GTE Sylvania, Inc.*, 433 U.S. 36 (1977), stating that territorial restrictions and other nonprice vertical restraints are not inherently anticompetitive, and should be analyzed under the rule of reason.[3] The Court said that nonprice vertical restraints had the potential to "promote interbrand competition by allowing the manufacturer to achieve certain efficiencies in the distribution of his products." 433 U.S. at 54. One such efficiency that the Court expressly recognized was the use of such restraints to permit suppliers "to induce retailers to engage in promotional activities or to provide service and repair facilities necessary to the efficient marketing of their products." *Id.* at 55. Subsequent cases have reaffirmed that nonprice vertical restraints, in the absence of further agreement on price or price levels to be charged by distributors, are to be analyzed under the rule of reason. *See Business Electronics Corp. v. Sharp Electronics Corp.*, 108 S. Ct. 1515 (1988); *Monsanto Co. v. Spray-Rite Service Corp.*, 465 U.S. 752, 762-63 (1984).

Sharp has identified *Sylvania* as a change in the law of nonprice vertical restraints from a *per se* to a rule of reason analysis. However, this showing alone, without a further showing that the order's prohibitions cannot be justified under current law, would be insufficient to require reopening. This is because the challenged vertical restrictions, although not *per se* unlawful, may nonetheless be unreasonable. If so, the order's prohibitions would be consistent with existing law.

The Commission has previously relied upon *Sylvania* to conclude that only nonprice vertical restraints having "a probable adverse effect on *interbrand* competition" at either the manufacturer or dealer level are unlawful.[4] The Commission has also stated that "[w]hen the exercise of market power in a properly defined relevant market is unlikely, the Commission considers non-price vertical

[3] *Sylvania* did not change the *per se* rule against resale price maintenance.

[4] *TEAC Corp. of America*, 104 FTC 634, 635 (1984) (emphasis in original), citing *Beltone Electronics Corporation*, 100 FTC 68, 208 (1982).

restraints to be efficiency-enhancing in purpose and effect, and therefore lawful, without further inquiry."[5]

In its request, Sharp has shown that, under the rule of reason analysis that the Commission applies to nonprice vertical restraints, there is no basis for continuing the order's prohibitions. Competitive conditions in the electronic calculator industry today make it unlikely that nonprice vertical restraints could be used to create or enhance market power or facilitate collusion. Today, more than twenty major calculator suppliers compete in the United States, none of which appears to have a controlling share of the market.[6] The structure of the distribution and retailing segments appears to be even more diffuse. There also appear to be no significant impediments to entry into the market for the supply of electronic calculators. Sharp has shown that, since 1974, at least ten new suppliers have entered the calculator market. Similarly, there is no evidence of impediments to entry into the distribution or retailing of electronic calculators. In general, the market today appears to be competitive. The number of available model types has increased substantially, and retail prices[7] and supplier profit margins have decreased, since the order was issued.[8] Given existing levels of concentration, the absence of significant entry impediments, and the apparent competition in the sale of electronic calculators, it appears unlikely that Sharp's use of nonprice vertical territorial or customer restraints would significantly restrict interbrand competition and reduce output. Therefore, Sharp has made a sufficient showing to justify reopening the order.

As to relief on the merits, the Commission is not aware of any facts or of any public interest considerations that weigh against setting aside the order in this matter. The petitioner has demonstrated that

[5] *TEAC Corp. of America*, 104 FTC 634, 635-36 (1984).

[6] Assuming the United States electronic calculator industry to be a relevant market, Sharp's estimated current share is less than twelve percent; its largest competitor is estimated to have no more than fifteen percent of such a market. Maul Affidavit at ¶ 6.

[7] The prices of Sharp's calculators ranged from $500 to $1,000 in 1972, and from $150 to $300 in 1982 when it became involved in the *Business Electronics* litigation. *Business Electronics Corp. v. Sharp Electronics Corp.*, 780 F.2d 1212, 1221 n.2 (5th Cir. 1986), *aff'd*, 108 S. Ct. 1515 (1988).

[8] These changes in the market were acknowledged in Judge Jones' concurring opinion in *Business Electronics* as follows:

> Only atavistic devotees of the abacus or slide rule could fail to recall the remarkable history of the electronic calculator market during the last fifteen years. The range of available models, variety of functions that can be performed, and myriad optional enhancements have multiplied rapidly while the average prices have plummeted. The number of competing manufacturers has increased. To maintain their market position and profitability, manufacturers like Sharp have obviously been required to react quickly and imaginatively to changes in the marketplace.

780 F.2d at 1221.

relief is appropriate. Elimination of the order's prohibitions will enable Sharp to maintain and promote an efficient distribution system. Sharp's inability to ban transshipping and to require its dealers to observe territorial restrictions could cause Sharp significant competitive injury by, among other things, lessening the efficiency of Sharp's distribution system and discouraging it from making necessary investments to promote sophisticated products and provide application support and training to potential customers.[9] Setting aside the order will allow Sharp to compete more effectively with other electronic calculator manufacturers, and consumers are likely to benefit.

IV.

Accordingly, *it is ordered*, that this matter be reopened and that the Commission's order in Docket No. C-2574, issued on October 9, 1974, be, and it hereby is, set aside, as of the date of service of this order.

Commissioner Strenio did not participate by reason of absence.

[9] According to Sharp, its competitors are able to prevent free-riders from "disturbing the orderly distribution of their products" by full service dealers through such restraints as prohibiting mail order sales and sales to

IN THE MATTER OF

MOTOR TRANSPORT ASSOCIATION OF CONNECTICUT, INC.

FINAL ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9186. Complaint, Sept. 18, 1984—Final Order, Aug. 25, 1989

This final order dismisses the complaint against the respondent, which represents approximately 585 competing motor carriers and files collective rates for its common carrier members with the state regulatory agency.

Appearances

For the Commission: *Michael E. Antalics, Phoebe D. Morse, Jerry A. Philpott* and *John H. Seesel.*

For the respondent: *Gerald A. Joseloff, Joseloff, Joseloff & Cramer,* Wethersfield, Ct.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Motor Transport Association of Connecticut, Inc., a corporation, hereinafter sometimes referred to as "respondent," has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

For the purposes of this complaint the use of the present tense includes the past tense and the following definitions apply:

"*Carrier*" means a common carrier of property by motor vehicle.

"*Intrastate transportation*" means the pickup or receipt, transportation and delivery of property for compensation wholly within any state of the United States by a carrier authorized by that state to engage therein.

"*Tariff*" means a publication and any supplements thereto stating the rates of a carrier for the intrastate transportation of property, excluding general rules and regulations.

"*Member*" means any carrier or other person that pays dues or belongs to Motor Transport Association of Connecticut, Inc., or to any successor corporation.

"*Rate*" means a charge, payment or fixed price according to a ratio, scale or standard for direct or indirect transportation service.

"*Collective rate*" means any rate or charge established under any contract, agreement, understanding, plan, program, combination or conspiracy between two or more competing carriers, or between any carrier and respondent.

PARAGRAPH 1. Respondent, Motor Transport Association of Connecticut, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of Connecticut, with its office and principal place of business located at 508 Tolland Street, East Hartford, Connecticut. Respondent publishes and issues tariffs containing rates for the intrastate transportation of property on behalf of its member carriers.

PAR. 2. Carriers engaging in intrastate transportation of property within Connecticut do so under certificates of public convenience and necessity granted by the Connecticut Department of Public Utility Control. Such carriers are subject to rate regulation by the Department and are required to charge just and reasonable rates. Carriers in Connecticut are required to charge the rates filed once they have been accepted by the Department.

PAR. 3. The statute which provides for regulation of carriers engaged in the intrastate transportation of property within Connecticut does not compel, command, authorize or otherwise provide for the establishment, operation or continuation of collective rates among carriers or others on their behalf.

PAR. 4. Except to the extent that competition has been restrained as herein alleged, respondent's members are now in competition among themselves and with other carriers.

PAR. 5. Respondent's membership consists of approximately 360 carriers engaging in intrastate transportation of property within Connecticut. Respondent's members are entitled to and do, among other things, vote for and elect the officers and directors of respondent. The control, direction and management of respondent are vested in the Board of Directors, which employs a general manager who acts as chief administrative officer of the corporation with direct charge of and supervision over the affairs of the corporation.

PAR. 6. The acts and practices of respondent set forth in paragraph

eight are in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, and respondent is subject to the jurisdiction of the Federal Trade Commission. Respondent's acts and practices:

(A) Affect the flow of substantial sums of money across state lines from businesses and other private parties to respondent's members for rendering intrastate transportation services;

(B) Affect respondent's members' purchase and use of equipment and other goods and services which are shipped across state lines; and

(C) Are supported by the receipt of dues and fees which are sent across state lines.

PAR. 7. Shippers use the intrastate services of respondent's members to transport property from warehouses and distribution centers in Connecticut to customers in Connecticut, which property was originally shipped into Connecticut from other states. For such intrastate deliveries of property from warehouses and distribution centers, carriers charge shippers or shippers' customers the intrastate rates published by respondent. These intrastate shipping charges are factors which influence the prices of such property. The intrastate delivery services of these carriers are an essential and integral part of the interstate business transactions of such shippers. Thus, the activities of these carriers have a substantial and direct effect upon interstate commerce.

PAR. 8. Respondent, its members, officers, directors, and others are engaging in a combination, conspiracy, agreement, concerted action or unfair and unlawful acts, policies and practices, the purpose or effect of which is to unlawfully hinder, restrain, restrict, suppress or eliminate competition among carriers engaged in the intrastate transportation of property within Connecticut.

Pursuant to and in furtherance thereof, respondent, its members and others engage in the following acts, policies and practices, among others:

(A) Initiating, preparing, developing, disseminating, and taking other actions to establish and maintain collective rates for the intrastate transportation of property within Connecticut;

(B) Participating in the collective rates; and

(C) Filing collective rates with the Connecticut Department of Public Utility Control.

PAR. 9. The acts and practices of respondent, its members and others as alleged in paragraph eight have the effect of:

(A) Fixing, stabilizing, raising, maintaining, or otherwise interfering or tampering with the rates charged by carriers for the intrastate transportation of property within Connecticut;

(B) Restricting, restraining, hindering, preventing or frustrating rate competition among carriers for the intrastate transportation of property within Connecticut;

(C) Depriving shippers patronizing carriers for intrastate transportation of property within Connecticut of the benefits of free and open competition in the provision of said services; and

(D) Depriving consumers in Connecticut of the benefits of free and open competition in the intrastate transportation of property.

PAR. 10. The acts, policies and practices of respondent, its members and others, as herein alleged, are all to the prejudice and injury of the public and constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

INITIAL DECISION BY

JAMES P. TIMONY, ADMINISTRATIVE LAW JUDGE

JANUARY 9, 1987

I. INTRODUCTION

Respondent Motor Transport Association of Connecticut, Inc., ("MTAC") is a rate bureau[1] engaged in collective ratemaking for its motor carrier members. It submits to the Connecticut regulatory agency joint rate proposals on trucking prices for hauls within Connecticut of four types of commodities: general commodities, household goods, bulk commodities in dump trucks and liquid bulk products in tank trucks.

II. SUMMARY OF PROCEEDINGS

On September 18, 1984, the Commission issued its complaint charging respondent, its members, and others with an unlawful

[1] For a general description of the nature of the industry, see *Southern Motor Carriers Rate Conference, Inc. v. United States*, 105 S.Ct. 1721 (1985); and *Massachusetts Furniture & Piano Movers, Inc.*, 102 FTC 1176, 1209 (1983), *rev'd on other grounds*, 773 F.2d 391 (1st Cir. 1985), (referred to herein as "*Mass. Movers*").

combination involving the developing and filing of collective rates with the state regulatory agency.

Respondent's answer dated October 31, 1984, admitted certain corporate facts but denied all jurisdictional facts and substantive allegations of the complaint. In addition, respondent raised thirteen defenses to the complaint. Respondent moved to amend its Answer to add a fourteenth defense but the motion was denied on May 1, 1985.

Complaint counsel moved to stay this matter pending the disposition of *Mass. Movers,* and the motion was granted on June 17, 1985. This case was assigned to me on October 1, 1986. By order dated October 9, 1986, trial was set for January 5, 1987. Respondent moved to stay proceedings pending the disposition by the Commission of *New England Motor Rate Bureau, Inc.,* Docket No. 9170. The motion was denied on November 18, 1986. The parties thereafter agreed to stipulate the record, filing a stipulation of facts and exhibits. The trial was therefore cancelled and the record closed. Order of November 24, 1986. **[3]**

III. Findings of Fact

A. *Respondent*

1. Motor Transport Association of Connecticut, Inc., is a corporation organized, existing and doing business under the laws of the State of Connecticut. Stipulation filed November 17, 1986, paragraph number 1.[2]

2. MTAC's members engage in the intrastate transportation of property by motor vehicle in Connecticut. (S. 2)

3. MTAC has approximately 585 competing motor carrier members. Answer ¶¶ 9, 10.

4. Intrastate common carriers of property by motor vehicle in Connecticut operate under certificates of public convenience and necessity granted by the State of Connecticut. (S. 3)

5. MTAC was formed in 1920 and incorporated in 1930. Its purpose was to promote and preserve the advantage of highway transportation; promote economical and efficient service by motor truck; promote safety of operation on the highways; promote and support necessary and beneficial legislation; and engage in any other activities that will benefit the welfare of highway transportation and the public generally. (S. 4)

[2] The stipulation will be referred to as "S." followed by a number designating the paragraph of the stipulation.

6. MTAC issues tariffs and supplements thereto ("MTAC tariffs") in which it publishes intrastate rates on behalf of some of its motor common carrier members engaged in intrastate transportation of property within the State of Connecticut. (S. 5)

7. Any motor carrier may become an active member of MTAC. (S. 6)

8. MTAC's active members are entitled to, and do, among other things, vote for and elect the directors of MTAC. The control, direction and management of MTAC is vested in its Board of Directors. The President is the chief executive officer of MTAC. (S. 7)

9. At its annual meeting MTAC's membership approves and ratifies the actions of MTAC, its directors and officers, since the last annual membership meeting. (S. 8) **[4]**

10. Officers and directors of MTAC must be representatives of active members. (S. 9)

11. MTAC's President is John E. Blasko. Prior to becoming President, Mr. Blasko was Executive Vice President and General Manager of MTAC for 16 years. His duties in all three capacities were the same: complete control of MTAC's office, employees, records, and property; managing the day-to-day operations of MTAC; and lobbying for the industry. (S. 10)

B. *FTC Jurisdiction*

12. MTAC does not possess a certificate of public convenience and necessity from the Interstate Commerce Commission. (S. 22) MTAC does not engage in the transportation of goods. (S. 23)

13. MTAC actively promotes the economic benefit of its members. (Findings 25-39)[3]

C. *Commerce*

14. Seventy-five to 100 of MTAC's active members are located outside the State of Connecticut. The majority of these are motor carriers. (S. 11)

15. MTAC renders its out-of-state members services for which it charges a fee. (S. 12)

16. MTAC's out-of-state members pay substantial amounts of money for dues and for fees for services performed by MTAC. These monies are transmitted across state lines to MTAC's offices in Connecticut. (S. 13)

[3] Findings are referred to herein as "F." followed by the number of the finding.

17. MTAC purchases goods and services from people or firms located outside Connecticut. (S. 14)

18. MTAC holds some of its conventions of its membership outside Connecticut and expends funds for that purpose. (S. 15)

19. Carrier members of MTAC transport substantial numbers of shipments that originate and terminate within Connecticut for private shippers or receivers with headquarters and principal places of business located outside Connecticut. The rates charged for these shipments are governed by MTAC tariffs. (S. 16)

20. Some of MTAC's carrier members transmit bills for intrastate transportation services to private shippers or receivers at their headquarters and principal places of business outside Connecticut. (S. 17)

21. The private shippers or receivers for whom property is transported within Connecticut by carrier members of MTAC under rates in MTAC tariffs, which shippers or receivers have their headquarters and principal places of business outside Connecticut, transmit to said carrier members of MTAC substantial sums of money in payment for the intrastate transportation services rendered. (S. 18)

22. MTAC members located in Connecticut transport substantial quantities of general commodities of property from warehouses and distribution centers located within Connecticut to customers located within Connecticut, which property had been transported from origin points outside Connecticut to such warehouses and distribution centers for distribution within Connecticut or distribution in other states. In many cases MTAC members charge shippers or shippers' customers the intrastate rates contained in the MTAC tariffs for the intrastate transportation of these general commodities of property from warehouses and distribution centers. (S. 19)

23. Some MTAC members located in Connecticut purchase substantial amounts of equipment and other goods for use in their transportation business, including their intrastate transportation business, from private businesses with headquarters and principal places of business located outside of Connecticut, and the equipment and other goods are transported into Connecticut. (S. 20)

24. Some MTAC members located in Connecticut transmit substantial sums of money in payment for equipment and other goods purchased for use in their transportation business, including their intrastate transportation business, to private businesses from whom the equipment and other goods were purchased, whose headquarters

and principal places of business are located outside Connecticut. (S. 21)

D. *Conduct*

25. MTAC files proposed tariffs with the Connecticut Department of Public Utility Control ("DPUC") on behalf of its members. (S. 24) **[6]**

26. Subsequent to DPUC approval, rates published in a MTAC tariff are charged for intrastate shipments within Connecticut to shippers using the services of MTAC members that participate in that MTAC tariff. (S. 28)

27. MTAC acts on behalf of its members pursuant to written powers of attorney. DPUC requires that a carrier desiring to have an agent issue and file its tariffs execute a document citing such appointment. (S. 29; Joint Exhibit 1)[4]

28. MTAC files four different tariffs: (1) the Local and Joint Tariff of Class and Commodity Rates Applying Between Points in Connecticut ("General Commodities Tariff"), which the New England Motor Rate Bureau, Inc. ("NEMRB"), issues and files in conjunction with MTAC; (2) the Local Commodity Tariff Applying On Transportation of Liquid Commodities in Bulk, in Tank Trucks, Between All Points In Connecticut ("Bulk Liquid Tariff"); (3) the Motor Freight Tariff of Local Commodity Rates Applying On Dump Truck Service Between Points Within Connecticut ("Dump Truck Tariff"); and (4) the Motor Freight Tariff of Local Commodity Rates Applying On Household Goods Between All Points in Connecticut ("Household Goods Tariff"). (S. 30; JX 2, JX 3, JX 4, JX 5)

29. The Bulk Liquid Tariff, Dump Truck Tariff and Household Goods Tariff are issued by MTAC without the involvement of NEMRB. (JX 3a, JX 4a, JX 5a)

30. At all relevant times, two or more members of MTAC have participated in the rates set by each of the MTAC tariffs. (S. 31)

31. In general, each MTAC tariff sets out rules and definitions for computing the rates applicable to any given movement of freight covered by the tariff, contains tables standardizing distance computations, and contains tables of rates applicable to movements and to ancillary services. For example, a rule in the General Commodities Tariff defines what collection and delivery services are included in the basic movement rates and specifies a minimum charge and a per

[4] The Joint Exhibits attached to and incorporated by reference into the Stipulation filed November 17, 1986 are referred to herein as "JX" followed by the exhibit number.