

Decision No. 29780.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of maximum or minimum, or maximum and minimum rates, rules and regulations for the transportation of property, for compensation or hire, over the public highways, by all Radial Highway Common Carriers and Highway Contract Carriers between, and by all City Carriers within the cities of Oakland, Albany, Alameda, Berkeley, Emeryville and Piedmont, in the County of Alameda.

Case No. 4108

In the Matter of the Investigation and establishment of rates, charges, classifications, rules, regulations, contracts and practices, or any thereof, of EAST BAY DRAYAGE & WAREHOUSE CO., HASLETT WAREHOUSE COMPANY, INTER-URBAN EXPRESS CORPORATION, KELLOGG'S EXPRESS & DRAYING CO., MERCHANTS EXPRESS CORPORATION, PEOPLES EXPRESS, SPECIAL DELIVERY SERVICE CO., UNITED PARCEL SERVICE, UNITED TRANSFER COMPANY, and WEST BERKELEY EXPRESS & DRAYING COMPANY, operating as Highway Common Carriers, for transportation of property, for compensation over the public highways of the State of California, between the cities of Oakland, Albany, Alameda, Berkeley, Emeryville and Piedmont, in the County of Alameda, and for accessorial services incident to such transportation.

Case No. 4109

APPEARANCES

In addition to the appearances shown in Decision No. 29217 and Decision No. 29594 (unreported) the following appearances have been entered in these proceedings:

- E. H. Hart, for Draymen's Association of Alameda County and Pacific Motor Tariff Bureau.
- Hyland Hinman, for Haslett Warehouse Co. and Peoples Express Co.
- G. C. Holtwick, for Alameda County Draymen's Association, Merchants Express Corporation and Pacific Motor Tariff Bureau.
- E. D. Rapp, for F. W. Woolworth Co.
- L. F. Friedman, for Kellogg Express & Draying Co.

DEVLIN, Commissioner:

FIFTH SUPPLEMENTAL ORDER

By Decision No. 29217, dated October 26, 1936, in the above entitled proceedings the Commission approved and established minimum rates, rules and regulations for the transportation of property within and between the cities of Oakland, Alameda, Albany, Berkeley, Emeryville and Piedmont. Thereafter, by appropriate supplemental orders, the Commission approved various modifications of and established certain additions to such rates, rules and regulations.¹

A further hearing was had in San Francisco on March 23, 1937, for the purpose of considering what, if any, additional modifications or changes in these rates, rules and regulations had become necessary. During the course of this hearing the Draymen's Association of Alameda County, hereinafter referred to as the Association, submitted two proposals. They are:

1. An exception sheet rating of 4th class for "shipping" transportation within Zone 1 on sole leather, in rolls or bundles, minimum weight 300 tons per year in lieu of the current classification rating of 2nd class.
2. The establishment of a so-called "grasshopper scale" of commodity rates for "inhaul" transportation of freight, regardless of classification, furniture and furniture parts, radios and trunks excepted, minimum weight 125 tons per year, and applicable only when the person or firm desiring to use such rates agrees in writing to ship via one carrier all of his or its inhaul shipments as may be controlled by such person or firm.

No other modifications were suggested.

¹ Decisions Nos. 29249 of November 4, 1936, 29312 of November 24, 1936, and 29594 of March 15, 1937, contain all changes thus far authorized.

With respect to the first proposal the Association contends a lower basis of rates than that now provided for the general transportation of sole leather is justified for "shipping" movements within Zone 1 in the minimum quantities suggested due to the lower transportation costs resulting from the unusually favorable conditions attending such transportation. In support of this contention a witness for the Association testified that the principal volume of sole leather movement is from the plant and warehouse of Manasse Block Tanning Company to rail depots, a distance of approximately four blocks. This traffic is delivered to the tailgate of the carrier's truck equipment by chute, thereby expediting loading and, according to the witness, is usually moved at carrier's convenience, thereby permitting the utilization of truck equipment during the slack period of the day.

The Association asserts the second proposal is necessary to forestall the larger department and chain stores, for whom said rates are primarily intended, from transporting their inhaul shipments in their own trucks, and is justified by operating economies resulting from the concentration of a large number of shipments of miscellaneous freight that may be picked up at one stop and transported to the consignee with but one delivery. It points out that under the present class and commodity rates the shipper must classify each item tendered for transportation, whereas by using proprietary trucks as well as under the proposed all-freight rates this allegedly burdensome practice would be unnecessary.

The requirement that the person or firm using the proposed all-freight rates agrees to ship all of his or its inhaul traffic via one carrier is said to be essential to avoid abuses

and the depletion of carrier revenues resulting from the transportation of a shipper's high class freight under the proposed all-freight rates and low class freight under lower class and specific commodity rates.

Four witnesses, representing large department and chain stores in the East Bay, endorsed this proposal. They testified that unless these rates were authorized they would seriously consider the use of plant facility trucks for the more profitable hauls and route their other shipments from points of origin in the east to their store-doors via consolidators or freight forwarders, thereby eliminating their "inhaul" shipments. One of these witnesses stressed the high transportation charges resulting from the application of class and specific commodity rates now in effect on "inhaul" traffic and also cited the increased clerical expense occasioned by the necessity of separately classifying the many different articles merchandised by his firm as reasons for considering the use of proprietary trucks.

No one opposed the Association's proposals.

Commodity rates proposed by the Association for the transportation of articles for retail and/or wholesale stores were approved by the Commission in its original decision in these proceedings largely upon the representation that this form of rates had been in effect for many years and was the only practical means of providing rates that were necessary to discourage proprietary competition. At a subsequent hearing in these proceedings a witness from the Commission's rate division pointed out numerous objections to the form in which such rates were stated² and suggested in lieu

2

They were characterized as indefinite, uncertain and difficult to apply under all conditions; at variance with customary rate practices; resulted in different rates for different shippers without a difference in transportation service; and impractical for publication in tariffs of common carriers.

thereof all-freight rates, subject to a given minimum tonnage requirement. The Association strongly condemned this plan as impractical, contending it would break down the class rate structure and materially reduce carrier revenues. Instead it proposed that the retail and/or wholesale store "inhaul" commodity rates be eliminated entirely, vigorously urging that such rates, which it asserted were originally adopted by the carriers during a period of depressed business conditions and unrestrained competition, were unduly depressed and that class rates were proper for such transportation. No one offered any evidence in opposition to the Association's showing. Accordingly its proposal was approved (Decision No. 29594 of March 15, 1937).

In volume the rates now proposed are substantially the same as those which the Association itself condemned. It now argues that subsequent investigation develops that class rates are too high for the for-hire carriers to retain the business as against proprietary competition. However, it offered no evidence to show that the proposed rates will be sufficient in volume to return to the carriers the cost of performing the service. In view of these circumstances rates as low as those proposed cannot be approved.

On the other hand, the record is convincing that unless a more favorable basis of rates than that now applicable to the transportation of inhaul freight is established this traffic may be largely lost to respondent carriers. If the rates proposed, in the instances where they are lower than 4th class rates, be increased to a basis no lower than 4th class they should place the carriers in a position to hold the business as against plant facility trucks. While this basis is somewhat higher than that proposed it is materially lower than that now in effect and is as low as this record justifies.

The Commission's attention has been directed to the need for correcting certain inadvertences in Decision No. 29594 dated March 15, 1937, in these proceedings. The commodity "paper napkins" was unintentionally omitted from the list of paper and paper articles for which a third class rating was established, as set forth on page 11 of Appendix "A" of said decision. In revising the item naming rates for the transportation of commodities transported for account of dog and cat food manufacturers the minimum of 500 tons per week formerly applicable in connection with such rates was inadvertently omitted. The order herein will make the necessary corrections.

Upon careful consideration of the record, I am of the opinion and find that the minimum rates heretofore established in this proceeding should be modified to the extent indicated in the order herein.

I recommend the following form of order:

O R D E R

A public hearing having been held in the above entitled proceedings,

IT IS HEREBY ORDERED that Appendix "A" of Decision No. 29217, dated October 26, 1936, as amended by Decision No. 29249, dated November 4, 1936, Decision No. 29312, dated November 24, 1936, and Decision No. 29594, dated March 15, 1937, be and it is hereby further amended as follows:

Add to page 10 of Appendix "A" of Decision No. 29594 the following exception to current classification:

"Leather, sole, in rolls or bundles, shipping
within Zone 1 only. Minimum 300 tons per year. 4th"

Add to page 18 of Appendix "A" of Decision No. 29217 the following:

"Freight, 'Inhaul' subject to note (see exception).

Exception: Will not apply on furniture and furniture parts as described under headings 'Furniture' and 'Furniture Parts' in current Classification, radio receiving sets or radio receiving sets and talking machines combined and trunks (empty).

<u>Shipments Weighing</u>							<u>Rate in cents per shipment</u>
100 pounds and under							40
Over 100 pounds to and including 200 pounds							65
"	200	"	"	"	"	300	70
"	300	"	"	"	"	500	85
"	500	"	"	"	"	750	110
"	750	"	"	"	"	1000	150
							<u>Rate in cents per 100 pounds</u>
Over 1000 pounds							15

NOTE: Rates in this item shall apply only under the following conditions:

1. The person or firm for whom the transportation is performed shall agree to ship by a single carrier during the effective period of said agreement, all "inhaul" freight upon which he or it controls the routing, and in no event less than 125 tons during one year.

2. A written agreement in the following form shall be executed not less than one day prior to the effective date of said agreement and shall be filed with the Railroad Commission of the State of California forthwith:

"Minimum Tonnage Guarantee

Date _____

"In consideration of _____ according to
(name of carrier)
the traffic referred to herein, the rates on

freight shown on page _____ of Decision No. _____,
dated _____, in Cases Nos. 4108 and 4109 of
the Railroad Commission of the State of California,
_____ agrees to ship by _____
(name of shipper) (name of
_____ all inhaul freight on which he (or it)
carrier)
controls the routing, moving within the territory law-
fully served by carrier and covered by the decision
above mentioned.

" This agreement shall become effective _____
and shall continue in effect until 125 tons of such
inhaul freight shall have been tendered by shipper to
carrier for transportation, and shipper shall tender
said 125 tons within a period of one year from said
date.

Submitted for filing

Shipper

By _____

Carrier

By _____ "

3. In the event the person or firm for whom the trans-
portation is performed shall fail to tender to the
carrier any freight required under the terms of such
agreement charges shall be assessed at the rates
named in this item on such portion of the traffic as
may have been transported plus a charge for the
deficit tonnage based upon the lowest rate named in
this item, but in no event shall the total charges thus
computed exceed those that would have accrued under
rates otherwise established for the same transporta-
tion provided the shipper furnishes the carrier with
certified copies of invoices or other satisfactory
evidence of the nature and description of the freight
shipped.

Add to item providing a rating of 3rd class on paper and
paper articles appearing on page 11 of Appendix "A" of Decision No.
29594

"paper napkins"

Add to item providing rates on Feed Animal, etc., on page 12 of Appendix "A" of Decision No. 29594

"Minimum 500 tons per week"

IT IS HEREBY FURTHER ORDERED that East Bay Drayage & Warehouse Co., Haslett Warehouse Company, Inter-Urban Express Corporation, Kellogg's Express & Draying Co., Merchants Express Corporation, Peoples Express, Special Delivery Service Co., United Parcel Service, United Transfer Company, and West Berkeley Express & Draying Company be and they are hereby ordered and directed to establish effective June 10, 1937, on not less than five (5) days' notice to the Commission and to the public, rates, rules and regulations no lower in volume or effect than those set forth in the first ordering paragraph herein, which amended rates, rules and regulations are hereby found to be reasonable and sufficient.

IT IS HEREBY FURTHER ORDERED that the amended rates, rules and regulations set forth in the first ordering paragraph herein, be and they are hereby approved and established effective June 10, 1937, as the just, reasonable and non-discriminatory minimum rates to be charged, collected and observed by any and all radial highway common carriers and highway contract carriers as defined in Chapter 223, Statutes of 1935, and by carriers as defined in Chapter 312, Statutes of 1935, for the transportation of the commodities for which rates are provided in said first ordering paragraph herein, over the public highways between the cities of Oakland, Alameda, Albany, Berkeley, Emeryville and Piedmont and between all points in each of said cities.

IT IS HEREBY FURTHER ORDERED that all respondents in these proceedings be and they are hereby ordered to cease and desist

IT IS HEREBY FURTHER ORDERED that the Commission shall, and it does hereby, retain jurisdiction of these proceedings for the purpose of establishing or approving the just, reasonable and non-discriminatory maximum or minimum, or maximum and minimum rates, charges, classifications, rules and regulations to be charged, collected and observed by radial highway common, highway contract and city carriers, both for transportation service hereinabove described and for such other transportation and accessorial services as may from time to time appear proper in the light of other or further evidence received herein and for the purpose of establishing and prescribing such rates as will provide an equality of transportation rates for the transportation of the articles and commodities here involved between all competitive agencies of transportation.

This order shall become effective June 5, 1937.

Dated at San Francisco, California, this 24th day of

From ~~admiral~~
Hill & Hill
Rastvalubus
Car & Riley
Commissioners.