

Decision No. 30010

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 of all Radial Highway Common Carriers and Highway Contract Carriers, operating motor vehicles over the public highways of the State of California, pursuant to Chapter 223, Statutes of 1935, for the transportation for compensation or hire of any and all commodities, and accessorial services incident to such transportation.

Case No. 4088

(Part "T")

Gwyn H. Baker, Richmond Navigation & Improvement Co., Bay Cities Transportation Co. and Berkeley Transportation Co.  
E. H. Hart and Reginald L. Vaughan, for Pacific Motor Tariff Bureau.  
E. E. Wedekind, for Southern Pacific Company, Pacific Motor Transport, and Pacific Motor Trucking Co.  
C. R. Bishop, for The Atchison, Topeka & Santa Fe Railway Company.  
Edward Stern, Railway Express Agency, Inc.  
J. F. Vizzard, Draymen's Association of San Francisco.  
T. G. Differding, Oakland Chamber of Commerce.  
Edward M. Berol by Reginald L. Vaughan, for Truck Owners Association of California.  
J. L. Amos, Western Pacific Railroad Co.  
F. P. Kensinger, for Loose-Wiles Biscuit Co.  
F. M. Mott for Merchants Express.  
E. H. Hart, for Draymen's Association of Alameda County.

The appearances listed above were entered during the hearing in Part "T". For reference to other appearances see Decision No. 29915 of July 1, 1937, (Part "Q").

BY THE COMMISSION:

O P I N I O N

This phase of the above entitled proceeding deals with the fixation of minimum rates, rules and regulations for the transportation of property by radial highway common carriers and highway contract carriers between San Francisco on the one hand and Oakland, Alameda, Albany, Berkeley, El Cerrito, Emeryville, Piedmont, Richmond

and San Leandro, hereinafter referred to as East Bay points, on the other hand, in lots of 4,000 pounds or more.<sup>1</sup> It was entered upon at the request of numerous interested carriers and carrier associations representing common carriers, city carriers, highway contract and radial highway common carriers. They contend that the minimum rates for the transportation of shipments of 4,000 pounds or over by radial highway common carriers and highway contract carriers should be established on a basis no lower than those maintained by common carriers between the same points.<sup>2</sup>

A public hearing was held at San Francisco before Examiner E. S. Williams.

In support of the contention advanced, the Bureau presented a study of the cost of transporting property in lots of 4,000 pounds or more between the points involved by the Merchants Express Corporation, one of the larger highway common carriers operating between these points.<sup>3</sup> It is said that these costs are repre-

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<sup>1</sup> Rates for shipments of less than 4,000 pounds were established by Decision 28761 of April 27, 1936, in Part "A" of Case 4088 (39 C.R.C. 732).

<sup>2</sup> The Pacific Motor Tariff Bureau, hereinafter referred to as the Bureau, represented that there was an immediate need for the establishment of minimum rates between the points involved by radial highway common and highway contract carriers to prevent these carriers from charging lower rates on shipments weighing in excess of 4,000 pounds than the uniform rates now being charged by common carriers between the same points which practice they believed responsible for the diversion of tonnage from common carriers. This diversion they claim has reached alarming proportions since the completion of the San Francisco-Oakland Bay Bridge.

<sup>3</sup> It was stated that the Merchants Express Corporation handles more transbay tonnage than any other highway common carrier, that this however represents but a minor portion of its total tonnage, the majority of such tonnage being transported between East Bay points. It is said that operating economies are effected by combining the pick-up and delivery service of its transbay and East Bay movements, thus materially increasing load and use factors of its equipment and

sentative of and in no event greater than the cost of performing similar service by radial highway common carriers and highway contract carriers.

This cost study sets forth in detail the costs of truck operation, the direct and indirect terminal costs, and the general overhead expenses of this carrier. The data used in the computation of the cost of handling various sized shipments is as follows:

Type of Equipment -	<u>Truck</u>	<u>Truck</u>	<u>Tractor</u>	<u>Semi-Trailer</u>
Capacity - in tons	5	6½	-	7½ - 10
Direct Mileage costs (per mile)	5.14¢	5.59¢	6.52¢	6.23¢
Direct Time costs (per hour)				
(Oakland)	\$1.257	\$1.324	\$1.5808	\$.47
(S.F.)	-	1.488	1.6358	.47

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Terminal costs per 100 pounds.	Direct	Indirect
Oakland	\$.0391	\$.0088
S. F.	.03099	.01276

- - - -

Overhead costs per 100 pounds - - \$.0443

The study included a physical check of shipments handled during a representative period. The volume of business during this period was shown to be slightly in excess of normal and therefore costs for that period it is claimed, would be no greater than normal costs. These shipments were grouped by size and the above costs were applied where appropriate,<sup>4</sup> resulting in average total costs

3 (concluded)

reducing the cost of tonnage handled over its Oakland terminal below that which would accrue if its operations were confined exclusively to the transportation of transbay tonnage. Due to the factors mentioned, it is claimed that the transportation and terminal expenses of this corporation are at least as low if not lower than those of other transbay highway common carriers operating between the same points.

<sup>4</sup>

Where shipments were not handled over terminals, no direct terminal expense was included.

between representative points as follows:

Between San Francisco	AND	Oakland, Alameda, Berkeley, Piedmont, Emeryville, Albany
Size of Shipments (in Pounds)		Total Cost of Shipments (in cents per 100 pounds)
Less than 4,000		38.7
4,000 to 8,000		26.0
8,000 to 10,000		25.5
10,000 to 20,000		20.14
Over 20,000		16.5

A further analysis was made to determine the percentage of class mixture in the various tonnage groups which were as follows: <sup>5</sup>

Class	201 to 4000 Pounds	4001 to 8000 Pounds	Over 8000 Pounds
1st	12.4%	16.6%	13.3%
2nd	13.9	14.0	11.6
3rd	10.8	5.4	15.0
4th (1)	62.9	64.0	60.1

(1) Includes also tonnage moving under commodity rates on drugs, groceries, hardware and other articles included in the same items.

Pursuant to current rate practice of highway common carriers of establishing second, third and fourth class rates at 85%, 70% and 60% respectively of first class rates for shipments of 20,000 pounds or less and at 90%, 80% and 75% for shipments of over 20,000 pounds, rates for the transportation of the four classes of freight for the various weight groups were projected on the costs and the percentage mixtures developed above and a comparison made with the existing rates:

5

It was pointed out that the actual percentage mixture of fourth class freight as determined by this check was substantially in excess of that considered in establishing uniform rates for common carriers for the transportation of property between San Francisco and East Bay points by Decision No. 28519, dated January 20, 1936, in Cases Nos. 3845, 4014 and 4029 (39 C.R.C. 551), wherein the Commission had before it evidence showing the percentage mixture of freight moving under class rates to be as follows: 12% first class, 17% second class, 30% third class and 41% fourth class.

as follows:

Rates in cents per 100 pounds

Class	4001 to 8000 lbs.		8001 to 10000 lbs.		10001 to 20000 lbs.		Over 20000 lbs.	
	Pro-jected on	Present highway carrier	Pro-jected on	Present highway carrier	Pro-jected on	Present highway carrier	Pro-jected on	Present Highway carrier
	Costs	Rate	Costs	Rate	Costs	Rate	Costs	Rate
1st	35	37	36.6	31	28.8	27	20.4	20
2nd	30	31	31	25	24.5	22	18.4	18
3rd	24.5	26	25.5	22	20	19	16.3	16
4th	21	22	22	18	17.3	17	15.1	15

Cost studies submitted by Eastbay Drayage and Warehouse Company, United Transfer Company and Kellogg's Express and Draying Company purporting to corroborate the assertion of these carriers that their costs of transportation between the points involved would be no lower than those of the Merchants Express Corporation were based only in part on the actual experience of these carriers and in part on costs developed by the Merchants Express Corporation. These studies were incomplete though in part they substantiated the figures of the Merchants Express Corporation.

Cost studies of record were based on labor costs existing prior to May 4, 1937. Witnesses testified however that anticipated wage increases involving operations of all types of highway carriers in both San Francisco and the East Bay cities, would increase the total costs of operation of these carriers from 12½ to 16-2/3 per cent.

Witnesses for the Bureau pointed out that the present carload rail rate between industries served by railroad spur track facilities in San Francisco on the one hand and industries similarly situated in the East Bay on the other hand is 3-1/2 cents per 100 pounds, with a minimum charge of \$15.00 per car. This carload movement entails additional cost to the shipper and/or consignee for loading, unloading, bracing and blocking, stated as varying from 25

to 80 cents per ton. Rail service at this rate is said to be considerably slower and less flexible than transportation by highway carriers. Despite the disadvantages mentioned, these witnesses claim that the lower charges frequently resulting under this rate attract large shipments, particularly shipments weighing in excess of 20,000 pounds where the time element is unimportant and where there is a substantial rate differential under the pick-up and delivery rates of highway common carriers.

Witness Mott, on behalf of the Bureau, urged that rates for the transportation of shipments where delivery was demanded on the day of pick-up be established at a somewhat higher level than where such expedited service is not rendered; that rates on shipments of over 20,000 pounds to and from industries served by railroad spur track facilities be established at the carload rail rate plus a charge for any accessorial service not furnished by the rail carrier and that the rates on shipments of over 20,000 pounds to points not served by railroad spur tracks be established at the railroad rates between industries served by railroad spur tracks plus local drayage rates.

No one opposed the carriers' proposals.

To the extent that costs are to be considered as an element in fixing minimum rates the record justifies the establishment of rates for radial highway common carriers and highway contract carriers on a basis no lower than those now being charged by common carriers. No contention was advanced that the traffic will not freely move at such rates or that if they are established traffic will be diverted to proprietary trucks.

The record is persuasive that consideration must be given to the accessorial services of loading and unloading where such services are performed by the carrier transporting the shipment and not covered by the common carrier rate. However, in the absence of evidence of probative value relative to costs for specific commodities the Commission has no alternative in a minimum rate proceeding but to prescribe rates for these services in connection with the handling of all classes of property which will be no higher than the cost of handling the commodity which is susceptible to handling at the lowest cost. It is concluded, therefore, that a rate of  $\frac{1}{2}$ ¢ per 100 pounds should be established for each loading or unloading service.

Evidence of record is not convincing that the proposed combination of railroad and drayage rates advocated for shipments of over 20,000 pounds transported from and/or to points not served by railroad spur tracks should be approved.

Neither has it been demonstrated that different rate levels should be prescribed predicated upon the time shipments are in transit.

Nothing in this record indicates that there is any need to disturb the minimum rates heretofore prescribed for the transportation of used household goods and related articles; sand, rock, gravel, etc., when transported by dump truck; and commodities moving in tank vehicles.

Petition filed prior to the hearing by Irene Shannon requesting the temporary exclusion of telephone directories in all phases of Case No. 4088, appears to justify exclusion herein until such time as special consideration is given to this specialized transportation.

Upon consideration of all the facts of record we find that

the rates, rules and regulations provided by Appendix "A" attached to the order herein are justified and should be established as the just, reasonable and non-discriminatory minimum rates, rules and regulations for the transportation by radial highway common carriers and highway contract carriers between San Francisco on the one hand and Oakland, Alameda, Albany, Berkeley, El Cerrito, Emeryville, Piedmont, Richmond and San Leandro on the other hand, of shipments of property weighing 4,000 pounds or more and also for shipments of property weighing less than 4,000 pounds to the extent indicated in said Appendix "A".

For record and administrative purposes, the necessity of requiring the use and preservation of a shipping order or freight bill is apparent. Carriers should be required to preserve an adequate record of their operations.

Hearings are now being had in Part "U" of Case No. 4088 involving rates for the transportation of property by radial highway common carriers and highway contract carriers between points in California generally north of Gaviota Pass and the Tehachapi Mountains and embracing the territory here involved. Upon a more comprehensive record it may well be that other and different conclusions will be reached. The findings herein, therefore, are without prejudice to any other or different conclusions the Commission may reach in Part "U" of this case or in a subsequent proceeding, and the rates established herein are to this extent temporary or interim rates.



## O R D E R

A public hearing having been held in the above entitled proceeding and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the rates, rules and regulations provided by Appendix "A" attached hereto and hereby made a part hereof be and they are hereby established effective ten (10) days from the effective date of this order as the just, reasonable and non-discriminatory minimum rates, rules and regulations to be charged, collected and observed by any and all radial highway common carriers and highway contract carriers as defined in the Highway Carriers' Act (Chapter 223, Statutes of 1935) for transportation and accessory services for which rates are provided in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that all radial highway common carriers and highway contract carriers be and they are hereby ordered to cease and desist on or before ten (10) days from the effective date of this order and thereafter abstain from charging, collecting or observing rates, rules and regulations lower in volume and effect than those provided by said Appendix "A".

IT IS HEREBY FURTHER ORDERED that the rates, rules and regulations herein established shall supersede any and all rates, rules and regulations heretofore established when in conflict.

IT IS HEREBY FURTHER ORDERED that every radial highway common carrier and highway contract carrier shall issue to the shipper for each shipment received for transportation a freight bill in substantially the form set forth in Appendix "B" attached hereto and hereby made a part hereof but may include in said freight bill, in addition to the provisions appearing in said form, such other reason-

able and lawful provisions as may be deemed proper and shall retain and preserve a copy of said freight bill for a period of not less than three (3) years from the date of its issuance.

IT IS HEREBY FURTHER ORDERED that the Commission shall have and it does hereby retain jurisdiction of these proceedings for the purpose of establishing or approving the just, reasonable and non-discriminatory maximum and minimum or maximum or minimum rates, charges, classifications, rules and regulations to be charged, collected and observed by radial highway common carriers and highway contract carriers both for transportation service hereinabove described and for such other transportation and accessorial service 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 competing agencies of transportation.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 9<sup>th</sup> day of August, 1937.

*W. L. ...*

*James K. ...*

*Robert ...*

*Carl ...*  
Commissioners

#### APPENDIX "A"

1. Except as provided in paragraph 4 hereof, minimum rates provided by this appendix apply for the transportation of shipments of property between San Francisco on the one hand and Oakland, Alameda, Albany, Berkeley, El Cerrito, Emeryville, Piedmont, Richmond and San Leandro on the other hand.

2. For the transportation of shipments weighing 4,000 pounds and over, apply the lowest common carrier intrastate rate lawfully in effect for the same transportation of the same shipment of property from the same point of origin to the same point of destination plus an additional charge of not less than 1/2 cent per 100 pounds for the service of loading and 1/2 cent per 100 pounds for the service of unloading, where such service is performed by the carrier transporting the shipment and not covered by the common carrier rate.

3. Rates provided by this appendix shall apply to shipments of less than 4,000 pounds when the charges resulting from the rates provided by paragraph 2 hereof for shipments of 4,000 pounds are lower than the charges heretofore established for shipments of less than 4,000 pounds.

4. Rates provided by this appendix shall not apply upon-

- (a) Used property, viz., household goods, personal effects, furniture, musical instruments, radios, office and store fixtures and equipment.
- (b) Sand, rock, gravel, road building material, excavated material, building materials, asphaltic concrete, decomposed granite, and stabilizing materials, when transported by dump truck.
- (c) Commodities transported in tank trucks, tank trailers or tank semi-trailers, or a combination of such highway vehicles.
- (d) Telephone directories.

5. The following terms when used in this appendix are defined as follows:

(a) POINT OF ORIGIN means the precise location at which property is picked up or to be picked up and loaded in or on equipment of the carrier for transportation.

(b) POINT OF DESTINATION means the precise location at which property is discharged or to be discharged from the equipment of the carrier.

(c) SHIPMENT means a lot received from one shipper on one shipping order or one bill of lading at one point of origin at one time for one consignee at one destination.

(d) THE SAME TRANSPORTATION means transportation via any type of carrier for compensation of like kind and quantity of property between the same points.



common carriers between the same points.

- Gwyn E. Baker, Richmond Navigation & Improvement Co., Bay-Cities Transportation Co. and Berkeley Transportation Co.
- E. E. Hart and Reginald L. Vaughan, for Pacific Motor Tariff Bureau, the contention advanced, the Bureau presented.
- R. E. Wedekind, for Southern Pacific Company, Pacific Motor and Transport, and Pacific Motor Trucking Co.
- C. R. Bishop, for The Atchison, Topeka & Santa Fe Railway Company, the points involved by the Merchants Express.
- Edward Stern, Railway Express Agency, Inc.
- J. W. Vizzard, Draymen's Association of San Francisco operating.
- T. G. Differding, Oakland Chamber of Commerce.
- Edward M. Berol by Reginald L. Vaughan, for Truck Owners Association of California.

J. L. Amos, Western Pacific Railroad Co.

- R. F. Kensinger, for Loose-Wiles Biscuit Co. established by Dec. 17, 1936, for Merchants Express, Part 147 of Case 4033, 33 C.R.C. 103.
- E. Hart, for Draymen's Association of Alameda County.

The appearances listed above were entered during the hearing in Part 147. For reference to other appearances see Bureau Decision No. 29915, of July 1, 1937, (Part 107) by radial highway common and highway contract carriers to prevent these carriers from charging lower rates on shipments weighing in excess of 100 lbs. BY THE COMMISSION, the uniform rates now being charged by common carriers between the same points which practice they believed responsible for the diversion of tonnage from common carriers. This diversion they claim has reached alarming proportions since the completion of the San Francisco-Oakland-Piedmont-Alameda-Northern

Merchants Express Corporation handles more than this phase of the above entitled proceedings deal with the transbay tonnage which is a portion of its total tonnage, the fixation of minimum rates, rules and regulations for the transportation of such tonnage. The economic are affected by combining the pick-up and delivery services of radial highway common carriers and highway contract carriers between San Francisco on the one hand and Oakland,

Alameda, Albany, Berkeley, El Cerrito, Emeryville, Piedmont, Richmond

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