Decision No. 30682

#### 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

#### Additional Appearance

Jackson W. Kendall, for Bekins Van Lines, Inc.

BY THE COMMISSION:

#### SEVENTH SUPPLEMENTAL OPINION

Further hearings in the above entitled proceedings were had at San Francisco on August 17 and September 15, 1937. Thereafter, on November 12, 1937, Examiner Mulgrew issued his proposed report. Exceptions were filed thereto. A further hearing was held on February 8, 1938.

During the hearings, various modifications of and additions to the minimum rates, rules and regulations heretofore established were proposed. A complete list of the proposals is contained in Appendix "A" hereof. Only such proposals as were supported by evidence of probative value will be discussed.

# Increases in Minimum Rates

The Draymen's Association of Alameda County (hereinafter called the Association), alleged that substantial increases in operating costs have been experienced by its members. It appears that wages of drivers and helpers were increased approximately \$1.00 per day, effective June 5, 1937, and that the cost of materials and supplies has materially advanced. Although Association witnesses claimed that these increased operating costs affected virtually all services, the proposed increases were confined to (1) charges for accessorial services, (2) class rates for the transportation of shipments weighing 20,000 pounds or over, and (3) hourly rates for transportation in vehicles having a capacity of 2500 pounds or less. The cost of performing these services in the opinion of Association witnesses has been nffected to-a relatively greater extent by the wage increases than have other services. The witnesses argued that the suggested increases should be authorized as an emergency measure until a more complete study of the entire rate structure could be made.

While the evidence of record is persuasive that labor expense has increased it fails to disclose the extent to which such increase has affected the total operating costs of the carriers. Furthermore, it has not been shown that the selection of but a few rates to bear the burden of generally increased operating expenses will not unduly burden such traffic. The proposed increases have not been justified.

Merchants Express Corporation urged that the established minimum rate of 3 cents per 100 pounds for Zone 1 movement of hypo-chloride solution of sodium (a bleaching compound) be increased to 3½ cents per 100 pounds; that the minimum tonnage requirement of 1,000 tons per month in connection with such rate be reduced to 6,000 tons per year subject to a minimum of 40,000 pounds per shipment; and that the description of the commodity be changed to hypo-chlorite solution of sodium. In support of the proposed changes a detailed study of operating costs and revenues was submitted indicating that the existing minimum rate is insufficient. In further justification of the sought modifications it was represented that the shipper has paid charges in excess of the minimum rate and on the sought basis since August 1, 1937; that due to changes in the distribution of this commodity a substantial reduction in the tonnage available to the carrier has occurred; that while a rate of 32 cents would fail to return full costs it would produce revenue in excess of out-of-pocket costs; that a rate no higher than that proposed is necessary to forestall diversion of the remaining traffic to competitive means of transportation; and that the revised description more accurately portrays the commodity being considered.

These proposals appear well supported by evidence of record and will be approved.

# Parcel City Delivery (Rotail)

V. Fred Jakobsen, operating a common carrier retail parcel delivery service under the name of the Special Delivery Service Company, requested the establishment of minimum rates for the transportation of parcels delivered from retail stores (hereinafter called retail parcel city delivery). He proposed that rates, rules and regulations be established on the basis provided in Special Delivery Service Company Tariff C.R.C. No. 5, modified by increasing the rates

The term "retail parcel city delivery" when used herein refers to the transportation of property from retail stores to consignees other than industries, jobbers, retailers or wholesalers; and to returned shipments of such property. The established minimum rates do not apply to such transportation.

set forth therein by approximately 18%, and by making minor modifications in the application of such rates.

Jakobsen stated that the manner in which retail parcel delivery rates are published in his tariff is peculiar to carriers engaged in this particular type of service and that although deviating
in many respects from general rate and tariff practices it was justified
by the specialized nature of the service rendered. In support of his
proposal that retail parcel city delivery rates should be established
at a level approximately 18% higher than the rates now provided in his
tariff, Jakobsen claimed that his existing rates are unremunerative,
that the rates he proposed were reasonable and that increased rates
were necessary to cover the cost of performing the service plus a
reasonable profit. He submitted an exhibit (No. 30) showing an operating loss of \$383.18 for the first six months of 1937. He further stated
that wage increases which had become effective subsequent to the period
covered by his study would further increase operating expenses.

Jakobsen stated that his retail parcel delivery service was competitive with similar services performed in the East Bay by the Delivery Service Company and the United Parcel Service Bay District (hereinafter called the United Parcel). He urged that in the absence

The proposal contemplates the establishment of three separate schedules of rates each for a particular type of delivery service. Schedule A general delivery rates are for a service involving not to exceed two deliveries daily within the entire territory involved in these proceedings. Schedule B general delivery rates are for a service involving three or more deliveries daily within a limited territory. Rates for both of these services vary according to the number of parcels or packages transported for one shipper or consignee during a monthly period. Another schedule of rates for an on-call service for immediate delivery direct from consignor to consignee is also provided.

The record shows that retail parcel city delivery is designed primarily to meet the needs of retail stores which do not provide their own delivery service. It is generally performed with special equipment and uniformed drivers. Schedules are arranged both as to time of pick-up and delivery and frequency thereof according to the needs of the merchants. Deliveries are generally to residences and usually consist of a single package of relatively small weight. This type of transportation service

of a showing by these carriers of their actual costs, his costs be considered as representative of the cost of rendering retail parcel delivery service. He pointed out that the annual report filed with the Commission by the United Parcel Service of Oakland for the year 1936 shows a net income of \$4,127.33. He stated, however, that if the expenses for labor in the United Parcel report were increased in the same percentage as the increase experienced by him, an additional expense of \$5,610.00 would have been incurred.

C. R. Becker, owner of the Delivery Service Company, engaged in a common carrier retail parcel delivery service in the East Bzy, supported the proposal of Jakobsen with certain exceptions. He requested that minimum rates for so-called Schedule B service for the delivery of meats and groceries be established on a basis approximately 18% higher than his existing rates. In support of his position he stated that such deliveries usually involve short hauls from neighborhood stores and that such services require special treatment. Based upon a study of his operations he estimated that new wage agreements would increase operating expenses approximately 14%. He stated that a rate increase of approximately 18% would be necessary to cover increased operating expenses plus a reasonable profit.

United Parcel asserted it was making a profit at rates substantially the same as those now charged by Jakobsen. It proposed that Jakobsen's existing rates be established for Schedule A general delivery service, contending that any appreciable increase in rates would tend to divert traffic to other forms of transportation, particularly to proprietary operations and parcel post service. United Parcel also expressed the fear that increased rates might induce its patrons to curtail

<sup>3 (</sup>concluded)

was represented as being materially different from that customarily rendered by the average drayman under city delivery rates heretofore established in these proceedings.

their delivery service with corresponding loss of revenues. Moreover, it opposed the use of Jakobsen's operating costs as a basis for establishing minimum rates for retail parcel delivery service generally. United Parcel claimed its operations differed from Jakobsen's in that it enjoyed approximately 90% of all retail parcel deliveries by forhire carriers under the general delivery classification; and that such business constituted the bulk of its traffic. Counsel for United Parcel argued that the experience of a carrier handling a relatively small proportion of the total volume of this class of delivery is entitled to little weight, particularly when different costs are experienced by the carrier handling the bulk of the business.

G.L. Malquist, Associate Engineer for the Commission testified that he had made a study of the United Parcel operations here in issue for the year 1957. He stated that his study showed that these operations were conducted at a substantial profit attributable largely to the heavy volume of movement enjoyed by the carrier. The study also indicates that the increase in wages of drivers experienced in June 1937 does not preclude the carrier from maintaining its operations upon a profitable basis.

T. G. Differding, Manager Transportation Department, Oakland Chamber of Commerce, testified that he had notified numerous stores using parcel delivery service of the increases proposed by Jakobsen and Becker. He stated that many of the concerns thus apprized of the proposals had failed to respond to this notification but that certain of the larger stores had informed him that they had no objection to offer.

M.B. Geary, Vice President of United Parcel, testified that while wage increases to the level of the wages now paid by Jakobsen had been made by his company, the actual increase in operating costs was less than that experienced by Jakobsen for the reason that United Parcel had formerly paid greater compensation than other carriers.

L.B. Hughes, Assistant General Traffic Manager of Montgomery Ward Company, testified that his company was an extensive user of the general retail parcel delivery service of Jakobsen and had no objections to the increases proposed by that carrier.

The value of retail parcel delivery is dependent in a large measure upon the frequency of the deliveries. Carriers were in substantial agreement that a departure from the usual method of stating rates should be made and that several schedules of rates should be provided, the volume thereof to be dependent upon the number of daily deliveries. Three schedules of rates will be established. The first (Schedule A) will be limited to instances where not more than two daily deliveries are rendered. The second (Schedule B) will apply where three or more daily deliveries are made. The third schedule will be provided to apply for on-call service involving immediate delivery direct from consignor to consignee. The Schedule A rates will be based upon the rates now maintained by Jakobsen. While this respondent has demonstrated that his increased operating expenses justify an advance of approximately 10% in his existing rates, such a showing when viewed in the light of the experience of United Parcel whose operations were shown to be profitable at rates substantially the same as his existing rates will not justify the adoption of such increased rates as miniman for other carriers.

Schedule B rates will be established on a basis somewhat lower than that suggested by Jakobsen. A deviation from the general Schedule B rates appears to be necessary for the delivery of groceries and meats, however. Rates for these commodities will be established at a level approximately 10% higher than rates now maintained by Becker for these services. Rates for immediate special delivery service within a restricted area will be established on a basis approximately 10% higher than Jakobsen's existing rate for the same service. The evidence

of record does not support the wide difference between the rate proposed for application within the restricted area and that proposed for deliveries outside of such area. The rate found justified for application within the restricted area will be established as minimum for the entire territory.

The rates herein established should afford some measure of relief to the carriers affected. Although the several proposed increases have not been granted in full, it may be that upon a more comprehensive record some modifications or enlargements of the schedules herein established will be required. The findings herein are without prejudice to any other or different conclusions the Commission may reach in these or in subsequent proceedings.

#### FINDINGS

Upon consideration of all the facts of record, we are of the opinion and find that Decision No. 29217, and as amended, should be further amended to the extent shown in Appendix "B" hereof; that respondent V. Fred Jakobsen, doing business as Special Delivery Service Company, should be authorized to publish and file rates for Schedule A service as defined in said Appendix "B" not in excess of 110% of the rates set forth herein for such service and that all other proposals herein made have not been justified.

#### QRDER

Public hearings having been held in the above entitled proceedings,

IT IS HEREBY ORDERED that Appendix "A" of Decision No. 29217 of October 26, 1936, and as amended, in the above entitled proceedings, be and it is hereby further amended, effective ten (10) days from the effective date of this order, to the extent shown in Appendix "B" attached hereto and hereby made a part hereof.

IT IS HEREBY FURTHER ORDERED that all common carriers respondents in Case No. 4109, in so far as they may engage in the transportation involved herein, be and they are hereby ordered and directed to establish, effective ten (10) days from the effective date of this order on not less than five (5) days' notice to the Commission and to the public, rates, rules and regulations no lower in volume and effect than those established in and by said Decision No. 29217, as amended by prior orders and by this order.

IT IS HEREBY FURTHER ORDERED that respondent V. Fred Jakobsen, doing business as Special Delivery Service Company, be and he is hereby authorized to publish and file, effective not earlier than ten (10) days from the effective date of this order, on not less than five (5) days' notice to the Commission and the public, rates for Schedule A service as defined in Appendix "B" hereof, not in excess of 110% of the rates herein established for such service, which authority shall be void unless the rates are published and filed within ninety (90) days from the effective date hereof.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 29217, as amended, shall remain in full force and effect.

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

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Commissioners

APPENDIX "A" LIST OF PROPOSALS BY THE ASSOCIATION: Increases in minimum rates as follows: (a) From \$1.25 to \$1.50 per man per hour for pick up and delivery or for stacking, sorting or other accessorial services, as provided in "Application of Rates." (b) Through elimination of class rates provided for shipments in lots of not less than 20,000 pounds allowing rates heretofore established for ship-ments of not less than 10,000 pounds to apply. (Increase involved approximately 9%.) (c) From \$2.00 to \$2.50 per hour for vehicles N.O.S. having a capacity of 2,500 pounds or less. 2. Elimination of commodity rate of 62 cents per 100 pounds for the inhaul and shipping transportation of groceries and grocers supplies in minimum quantities of 125 tons per month. 3. Establishment of commodity rates for city delivery transportation of freight except furniture and furniture parts, radios and trunks on the same basis and subject to the same conditions as the rates for the inhaul transportation of such freight heretofore established by Decision No. 29780 in these proceedings. 4. Establishment of a reduced classification rating of third class, also a commodity rate of \$1.50 per ton for lots of 5 tons and over, for the transportation of Batteries, storage, assembled, N.O.I.B.N. as described under that heading in the current Classification, for transportation within Zone 1, subject to a minimum tonnage requirement of 300 tons per year. BY MERCHANTS EXPRESS CORPORATION: Revision of the commodity rate item for the bleaching compound described as Hypo-chloride solution of sodium; by amendment of the description to Hypo-chlorite solution of sodium, by changing the minimum tonnage requirement from 1,000 tons per month to 6,000 tons per year subject to a minimum of 40,000 pounds per shipment, and by increasing the rate from 3 to 32 cents per 100 pounds. BY MORRIS DRAYING COMPANY: Reduction of minimum tonnage requirement from 20,000 to 14,000 tons per year in connection with commodity rates on Conned Goods and Dried Fruit. -1-

# BY SPECIAL DELIVERY SERVICE COMPANY:

Establishment of minimum rates, rules and regulations for retail parcel city delivery on the basis of existing rates for such service not provided in Special Delivery Service Company Tariff C.R.C. No. 5, on file with the Commission, modified (1) by increasing the transportation rates therein set forth by approximately 18.5 per cent, (2) by amending the item providing rates for the transportation of parcels or packages containing property from drug stores by removing the limitation to such stores, thus making the item applicable to transportation for all shippers, and (3) by restricting the separate schedules of rates therein set forth and as proposed to be modified, by specifying the character of service to which each shall apply.

APPENDIX "B" Rates, rules and regulations provided in Appendix "A" of Decision No. 29217 and as amended, are hereby further emended as follows: Page 1: Eliminate from Note 1 of the Exceptions in the item providing application of rates: "(f) Parcels delivered from retail stores (Parcel City Delivery)" Page 13: Substitute for the item naming a commodity rate on "Hypochloride solution of sodium" the following item: Hypo-chlorite solution of sodium, in glass packed in cartons or crates, minimum tonnage 6,000 tons per year, minimum weight 40,000 pounds per shipment \* 35 cents per 100 pounds \* Applies only between points in Zone 1 and when loading is performed by the shippor. Page 22: Add a new item as follows: Parcel City Delivery (Retail) APPLICATION OF RATES (a) Rates named in this item apply for Parcel City Delivery (Retail) transportation of property from retail stores to consignees, other than industries, jobbers, retailers or wholesalers and to returned shipments of such property. (b) Except as otherwise provided herein, rates are subject to the rules and regulations contained elsewhere in Appendix "A" of Decision No. 29217, and as amended. (c) Rates are not subject to the provisions of Appendix "A" of Decision No. 29217, and as amended, set forth in paragraphs (a) and (b) under heading "Application of Rates" or under heading "Charges for service at other than regular working hours," "C.O.D. shipments" and "Delays in Delivery." (d) Rates include the collection and return of money on C.O.D. shipments when amount is shown by shipper on address tag and also listed by shipper on carrier's C.O.D. waybill form. In the handling of C.O.D. shipments the carrier shall, immediately upon the collection of any and all moneys, and in no event later than ten (10) days after delivery to the consignee, unless consignor in writing instructs otherwise, remit to the consignor all moneys collected by it on such shipments. -1-

# APPLICATION OF RATES (Concluded)

(a) Unit rates apply, except as otherwise provided, on parcels or packages weighing each 40 pounds or less and not exceeding 100 united inches (length and girth combined) exterior measurement. Parcels or packages weighing each more than 40 pounds or the dimensions of which exceed 100 united inches will be charged an additional unit rate for each 25 pounds or fraction thereof in excess of 40 pounds or for each 30 inches, or fraction thereof, in excess of 100 united inches, whichever results in the higher charge.

SCHEDULE A SERVICE - (Applicable only when shipper requests and carrier furnishes no more than two daily deliveries) (Subject to Note 1).

NOTE 1.- Rates will not apply for immediate special deliveries.

	Month	y V	olume	<u>:</u> :											in Cents Per Unit
	10	uni.	ts or	les	s .			•	•	•	•	•	•	•	30
Over		but	not	OVEI		20	units	•	٠	•	•	•	٠	٠	25
#	20	177	#	177		40	17		•	•	•	•	•	•	20
π	40	#	ŦŤ.	17		400	Ϋ́	•	•	•	•	•	-	•	15
17	400	#	17	π	ı.	,200	77	•			٠			•	14
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SCHEDULE 3 SERVICE - (Applicable only when shipper requests and carrier furnishes three or more daily deliveries) (Subject to Note 2).

NOTE 2.- Rates will not apply for immediate special deliveries.

Monthly Volume:	in Cents Per Unit 38-1/2
49 units or less	22
Ag but not over100 units	
# 100 # # # 600 # · · · · ·	18-1/2
	16-1/2
600 units.	•

GROCERY DELIVERY RITES - (Applicable on Groceries and Grocers'
Supplies in packages as described in Note 4, when shipper
requests and carrier furnishes three or more daily deliveries). (Subject to Note 3.)

NOTE 3.- Rates will not apply for immediate special deliveries.

Rates include return of empty containers.

# GROCERY DELIVERY RATES (Continued)

# Per Week

Unit rates shown below apply for a delivery to one consignee at one destination of not more than two shipping containers with a total weight of contents not over 40 pounds. Shipments weighing more than 40 pounds or consisting of more than two shipping containers shall be charged one unit rate for each 40 pounds or each two shipping containers, or fraction thereof, whichever results in the higher charge.

Weekly	۷o.	lumo											in Cents Per Unit
First 10	00	units	•				•				•		15-1/2
Second	π	**						•			_ '		14-1/2
Third	77	, <b>T</b>										_	13
Fourth	17	M.			_	_				_	_	•	12
Fifth	*	177	_	_		•	•	_		_	-	•	īī
Over 50	<b>0</b>	Ĭ,	•	•	•	•	•	•	•	•			10

NOTE 4.-GROCIRIES AND GROCERS' SUPPLIES in stendard open top shipping containers not exceeding 12 inches deep, 14 inches wide and 17 inches long, with contents not exceeding above top of container, viz.:

Bakery Goods, Baking or Yeast Powder, Beans, Beverages (Non-alcoholic) in barrels, boxes or crates, or in boxes or crates without covers, Beverage Preparations (Nonalcoholic), in boxes, barrels or crates, or in boxes or crates without covers, Bird Food, Seed and Gravel, Biscuits, dog, Bleaching Compounds, Bluing, Laundry. Boracic Acid, Borax (Sodium Borate), Brooms, Brushes, Butter, Butter Substitutes, Candles, Candy or Confectionery, Canned Goods, Pickles and Preserves,

Caps, Covers, Rings, Stoppers, or Tops for bottles, demijohns, jars, or jelly glasses,
Cereals,
Cereal Products,
Cheese,
Chewing gum,
Chocolate,
Chocolate Coating,
Clothes pins,
Cocoa,
Cocoanut,
Coffee,
Coffee Substitutes,
Colorings, confectioners',
Compounds, cleaning, scouring,
sweeping, or washing,
Compounds, Food Curing,
Food Seasoning or Food
Preserving,
Cordage,
Dessert Preparations,
Hggs,

# GROCERY DELIVERY RATES (Continued)

Eggs, shelled (egg albumen, whites or yolks, or whites and yolks together) frozen in metal cans, loose tops securely fastened, Extracts, Feed, animal or poultry, Fish, other than fresh, Flour, Fly Swatters, Fondant, candy (Candy filler), Food Preparations, Fruit, Fruit, condied, crystallized, glazed or stuffed, Fruit juice, Fruit syrups, Gelatine, Glassware, other than cut, Gloves, cotton, Glucose, Grain, Grain Products, Honey, Hops, Horseradish, Insecticides, Fungicides, Insect Repellents, Vermin Exterminators, agricultural, also other than agricultural having petroleum base, Lard, Lard Compounds or Substitutes, Liquors, Malt, viz.: Ãle, Beer, Beer Tonic, Porter, Stout, in boxes, barrels or crates without covers, Liquors, vinous, containing not more than 3.2% alcohol: by weight, in glass, earth-enware or metal, boxed or in bulk in barrels, Macaroni, Malt Syrup, Matches, Meal, Meat, other than fresh, Mops or mop parts, Mustard, Noodles, Nuts, edible, including Nut Meats, plain, salted, or sweetened, Oil, cooking, Oil, edible,

Onions, Paper, viz.: Boxboard, Cardboard, Chipboard, Fruit Wrapping, Paper, Paperboard, Pulphoerd, Tape, Tissue, Toilet, Toweling, Towels, Tray paper, Wall paper, Waxed, Wrappers, Wraggang, Paper Articles, viz.: Bags, Baskets, nested, Blankbooks, Boxes, Cans, Cortons, Covers, box, Cups, nested, Dishes, Doilies, Excelsiór, in machine pressed bales, Fillers, box, Fly or Insect Paper, Labels, Liners, Milk Bottles, Nepkins, Pads, Pails, flat or nested, Plates, flat or nested, Sheathing, fibreboard, Paraffine, Paste, alimentary, Paste, confectioners', or icings, Paste, fig, Peas, dried, Popcorn, Potatoes, Potato Chips, Pottery, value declared in writing by the shipper or agreed upon in writing as the released value of the property not exceeding \$20.00 per 100 lbs. Rice, Sago, Salt,

# GROCERY DELIVERY RATES (Concluded)

Sauerkreut juice, Seeds, Sheet Iron or Steel Ware, tinned (tinware), enameled, galvanized, painted or plain, viz.: Buckets, Cooking utensils, Cups, Dishpans, Pails, Washbasins, Washtubs, Shoe polishes, dressing or blacking, Shortening, Soap, Sodium (Soda), viz.: Bicarbonate of, Salsoda, Soda Ash,	Sulphur, Syrup, Tags:     Cloth, or cloth and paper     combined, in boxes,     Paper, in boxes or in     cartons in crates, Tapioca, Tea, Tobacco, plug, Toothpicks, Twine, Vegetables, Vermicelli, Vard Stocks, Yeast.
furnishes three or more to Note 5.)	to meet, fish and poultry and thereof, fresh, dried, smoked, shipper requests and carrier daily deliveries). (Subject apply for immediate special
weighing each 15 pounds of 16 weighing more than 15 pounds rate for each 15 pounds or 12	ess. Percols or packages
Weekly Volume  First 100 units  Second " "  Third " "  Fourth " "  Over 400 "  IMEDIATE SPECIAL DELLVERY - (Appendix to consist to c	delimery direct Per Unit