

Decision No. 31012

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

ORIGINAL

Additional Appearances

R. C. Fels, for Retail Furniture Association of California, Inc.  
Milton O'Donnell, for Allied Drug Distributors Association, and Johnson & Johnson.

BY THE COMMISSION:

EIGHTE SUPPLEMENTAL OPINION

A further hearing was had in these proceedings at San Francisco before Examiner Mulgrew. The following modifications in the established minimum rates were proposed by the Draymen's Association of Alameda County:

1. To increase the present minimum rate of 34 cents per ton minimum charge \$7.20 per shipment on property transported between water carriers' docks, piers or wharves on the one hand and warehouses and industries directly served by railroad spur track facilities on the other to 37 cents per ton, minimum charge \$7.92 per shipment.
2. To establish an accessorial charge of 20 cents per 100 pounds minimum charge 50 cents per shipment for the performance of unloading, sorting or other accessorial services in connection with the distribution of pool cars of furniture and furniture parts, children's vehicles, bicycles, games and toys, when such services are performed by a carrier other than the one transporting the property from the pool car.

In justification of the first proposal it was represented by the Association that the existing minimum rates are substantially lower than normal minimum rates and were originally authorized only in order to enable highway and city carriers to meet comparable rates maintained by rail lines for switching carloads between the same points. It was pointed out that competing rail lines, pursuant to authority granted in Decision No. 30784, dated April 11, 1938, in Application No. 21603, (In re Increases in Rates, Fares and Charges, etc., 41 CRC 215) had recently increased their rates for this service to the basis now sought by the Association. In view of these circumstances the Association alleged that a rate lower than 37 cents per ton, minimum charge \$7.92 per shipment, was no longer necessary to meet competition and therefore not justified as a departure from the normal level of minimum rates.

In support of the second proposal it was pointed out that, whereas accessorial charges were provided in connection with minimum rates for the distribution of pool car shipments generally, none had been established in connection with the distribution of furniture, furniture parts, children's vehicles, bicycles, games and toys when such services are performed by a carrier other than the one transporting the property from the pool car and that the failure to provide a basis for such accessorial services had caused considerable

difficulty in determining proper charges for the performance of accessorial services by carriers other than those distributing the traffic. The proposed charges were said to be the same as those voluntarily observed by the carriers for many years prior to the prescription of minimum rates and were alleged to be sufficient to provide reasonable compensation for the various accessorial services rendered. The Retail Furniture Association of California, Inc., whose members were said to handle approximately 90 per cent of the pool car distribution of the property in issue, endorsed the proposal.

Neither proposal was opposed.

The disparity between the minimum rates established for transportation of property in competition with rail switching and the minimum rates prescribed for the transportation of property generally is adequate evidence of the subnormal nature of the existing 34 cent minimum rate which the Association proposes be increased to 37 cents. It has been demonstrated that specific charges for accessorial services in connection with pool car distribution of furniture, furniture parts, children's vehicles, bicycles, games and toys are necessary. The proposed rate was in effect for a long period of time. It is satisfactory to both shippers and carriers. Both proposals will be given effect.

#### 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 of October 26, 1936, and as amended, in the above entitled proceedings, be and it is hereby further amended, effective five (5) days from the effective date of this order, to the extent shown in Appendix "A" attached hereto and hereby made a part hereof.

IT IS HEREBY FURTHER ORDERED that all common carriers respondents in Case No. 4109 insofar as they may engage in the transportation involved herein be and they are hereby ordered and directed to establish on or before five (5) days from the effective date of this order on not less than three (3) 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 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.

Dated at San Francisco, California, this 20<sup>th</sup> day of June, 1938.

Malcolm Maclean  
Leon C. Whittell  
George R. Healey  
Robert W. Field  
Ray S. Kelly  
Commissioners.

APPENDIX "A"

Rates, rules and regulations provided in Appendix "A" of Decision No. 29217, and as amended, are hereby further amended as follows:

Page 7 - Handling and Distribution of Pool Cars

Substitute the following for sub-paragraphs (a) and (b) of paragraph (1):

(a) When the property is transported by the carrier performing the sorting or other accessorial services, charges shall be assessed at the commodity rates specifically provided for pool car distribution; or when such rates are not specifically provided at class rates one class higher than the ratings otherwise applicable.

(b) When the property is transported by a carrier other than the one performing the sorting and other accessorial services, charges for such sorting and accessorial services shall be assessed at the commodity rates specifically provided for such services; or when such rates are not specifically provided at rates amounting to 50% of the rates for transportation and pool car distribution provided in paragraph (a) hereof.

Page 18 - Item naming rates on furniture and furniture parts

For the Pool Car Distribution rate of "35 cents per 100 pounds, minimum charge per shipment 75 cents" substitute the following:

Handling and Distribution of Pool Cars. (Refer to Page 7 of this Appendix for definition of the term Pool Car.)		
Description of Services	Rates in cents per 100 pounds	Minimum charges in cents
Transportation and sorting or other accessorial services performed by the same carrier	35	75
Sorting or other accessorial services performed by a carrier other than the one transporting the shipment	20	50

Page 23 - Item naming rates for vehicles, children's; bicycles, N.C.I.B.N.; and games or toys.

Eliminate Note 2 and references thereto.

For the rate of "25 cents per 100 pounds, minimum charge per shipment .50 cents" substitute the following:

Rates named in this item apply only to the handling and distribution of pool cars. (Refer to Page 7 of this Appendix for definition of the term Pool Car.)		
Description of Services	Rates in cents per 100 pounds	Minimum charges in cents
Transportation and sorting or other accessorial services performed by the same carrier	25	50
Sorting or other accessorial services performed by a carrier other than the one transporting the shipment	20	50

Page 24 - Item naming rates for the transportation of property between water carriers' docks, piers or wharves on the one hand and warehouses and industries directly served by railroad spur track facilities on the other hand.

In the paragraph reproduced below:

"34 cents per ton, minimum charge \$7.20 per shipment, plus a charge equal to the carloading charge on shipments transported from water carriers' docks, piers or wharves and car unloading charge on shipments transported to water carriers' docks, piers or wharves as provided by Note 1. (See Note 2.)"

Change the clause reading "34 cents per ton, minimum charge \$7.20 per shipment," to read "37 cents per ton, minimum charge \$7.92 per shipment."