ORIGINAL

Decision No. 31224

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, Highway Contract Carriers and City Carriers, as defined in Chapters 223 and 312, respectively, Statutes of 1935, operating motor vehicles over public highways of the State of California, for the transportation for compensation or hire of household goods, furniture and personal effects, office and store fixtures and equipment, and for accessorial services incident to such transportation.	Case No. 4086
In the Matter of the Investigation and Establishment of rates, charges, classifications, rules, regulations, contracts and practices, or any thereof, of Argonne Van & Storage Company, Baker Transfer and Storage Company, Bekins Van Lines, Inc., C.A. Buck, City Transfer Company, Dowd's Fashion Stables, Electric Transfer and Storage Company, Griggs Van Lines, Chas. Kuppinger Company, Liberty Van Line, Lyon Van Lines, Inc., Nickell Transfer Company, Stockton Transfer Company, Triangle Transfer and Storage Company, and U.C. Express and Storage Company, operating as Highway Common Carriers for compensation, over the public highways of the State of California, of household goods, furniture and personal effects, office and store fixtures and equipment, and for accessorial services incident to such transportation.	Case No. 4099

ADDITIONAL APPEARANCES

Jackson W. Kendall and C. Harold Sexsmith, for United Independent Van and Warehousemen's Association

C. Harold Sexsmith, for Southern Division of California Van and Storage Association

DEVLIN, Commissioner:

FIFTH SUPPLEMENTAL OPINION

Following previous hearings in these proceedings the Commission prescribed minimum rates for the transportation by common carriers, radial highway common carriers, highway contract carriers and city car-

riers throughout California of used household goods.[1] Thereafter, a further public hearing was had at San Francisco for the purpose of affording interested parties an opportunity to propose such modifications as they might deem necessary or desirable in the established minimum rates.

Numerous modifications were recommended by the United Independent Van and Warehousemen's Association and California Van and Storage Association. A complete list of the proposals advanced is contained in Appendix "A" hereof. Only those which were supported with evidence of probative value will be discussed.

A proposal was made seeking the subdivision of metropolitan Los Angeles into two zones and the establishment of higher inter-zone rates for the transportation of crated property between freight docks, piers, wharves, stations and depots on the one hand and commercial warehouses on the other hand. This proposal is identical with one advanced at a prior hearing which, by Decision No. 30482, was found not justified. In that decision it was stated that the rates sought were higher than corresponding rates of common carriers which, under the alternative application rule contained in the order, could not be exceeded. The proponents of the proposal have sought here to answer that objection by pointing out that common carriers require prepayment of freight charges whereas contract carriers make no such requirement. However, the lower common carrier rates still remain as important competitive influences and it has not been made to appear that the differential which would exist between the common carrier rates and the contract carrier rates as proposed to be increased is representative of the value to the shipper of having shipments accepted without prepayment or that the higher rates are in and of themselves justified. The proposal should be rejected.

It was proposed also that the term "lift van" be re-defined

[1] See Decision No. 29891 of June 28,1937 (40 C.R.C.533), as amended.

so as to include all shipping containers in excess of 250 cubic feet capacity. It was asserted that boxes of such size are used by the carriers for substantially the same purposes as are lift vans, have similar transportation characteristics and are handled by the carriers in substantially the same manner. It appears that shipping containers displacing more than 250 cubic feet, as used in household goods moving, are comparable to lift vans from a transportation standpoint and that the term "lift van" should be re-defined as suggested.

It was further proposed that accessorial charges now provided for unpacking lift vans be eliminated. It was pointed out that although rates for local moving of household goods in lift vans include inside delivery it is usually not possible to carry a lift van inside a residence. As a result, lift vans must ordinarily be unpacked at the curb and the property carried inside the residence by the piece or in its inner containers. It was asserted that the rates provided for local moving in lift vans are sufficient to cover the cost of unpacking as well as the cost of transportation, and that they contemplated that such service would be performed without additional charge. It was stated further that the majority of lift van shipments are interstate in character, that the carriers propose to adjust their interstate rates to the basis here proposed and that rate uniformity between intrastate and interstate traffic is desirable. While it is apparent that lift vans must ordinarily be unpacked outside residences, the performance of this service manifestly increases the carrier's costs above those which would accrue were it able to effect inside delivery of the lift van with its contents intact. No cost evidence was introduced to show that present transportation rates are sufficient to cover the added cost of unpacking lift vans nor, aside from the bare assertion to that effect, has it been shown that the established transportation rates, or the cost evidence upon which they were based, contemplated that the unpacking service would be performed without additional charge. The proposal

has not been justified and should not be adopted.

The present rule for intermediate application of point-to-point rates was objected to as being indefinite. It was stated that certain carriers are applying such rates over routes which were alleged to be unduly circuitous. It was proposed that a restriction be inserted limiting the intermediate application of point-to-point rates to routes where the distance via the circuitous route between the point of departure from and the point of return to the direct route does not exceed 125 per cent of the distance between such points over the direct route. This proposal contemplated further that authorized circuitous routes be limited to highways of "hard-surfaced construction." It was not shown to what extent the present rule was being misinterpreted or misapplied or that the rates resulting from use of the present rule were unreasonably low. Moreover, the proposal to place a percentage limitation on the authorized circuity contains the same infirmities which the present rule is asserted to possess, in that what is a "direct" route remains indefinite. The recommendation should not be adopted.

Another of the sought revisions was a readjustment of the rates established for transportation of uncrated property between points in metropolitan Los Angeles on the one hand and points outside that area but within a radius of 100 miles of the Los Angeles City Hall. It was contended that in many instances the established minimum rates for this transportation are non-compensatory and prejudicial to the carriers. In support of this contention it was pointed out that present rates are lower than those formerly in effect under Decision No. 28810 of May 11, 1936 (vacated and set aside by Decision No. 29891, supra) and it was argued that they are departures from the general mileage

plan used in other territories. It was recommended that metropolitan Los Angeles be divided into fifteen zones and that from and to the proposed zones, rates graduated according to distance be established.

Aside from unsupported assertions, there is no evidence of record to indicate that present rates for transportation between points in metropolitan Los Angeles on the one hand and points within a radius of 100 miles of the Los Angeles City Hall on the other hand, do not return to the carriers the cost of performing the service. Moreover, the contention that this territory is accorded different and less favorable treatment than is accorded other territories fails to take into consideration the fact that numerous metropolitan areas throughout the state have been similarly grouped for rate making purposes.[2] The proposal has not been justified.

Another proposal involved the establishment of a requirement that public weighmasters' certificates be secured on shipments weighing in excess of 1,000 pounds, the requirement to be waived when connecting carriers show actual weights or when public scales are not available either on the direct route or on a deviation from the direct route of not more than 10 per cent of the through distance. In justification it was represented that approximately 75 per cent of long distance moving involves shipments of 1000 pounds or greater, that this requirement would tend towards more effective enforcement, that such certificates are required by the Texas Railroad Commission, and that it would be a safeguard to shippers and carriers alike.

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[2] In addition to the metropolitan Los Angeles area, there are the following groupings: (1) metropolitan Oakland, including Alameda, Oakland, Emeryville, Piedmont, Berkeley, Albany, El Cerrito, Richmond and San Leandro; (2) metropolitan San Diego, comprising San Diego, La Mesa, El Cajon, Coronado, National City and Chula Vista; (3) the Imperial Valley group, consisting of El Centro, Calexico, Imperial, Holtville and Brawley; (4) the San Rafael group, consisting of San Rafael, Mill Valley Belvedere, Corte Madera, Larkspur, Ross, San Anselmo and Fairfax; (5) San Francisco, Daly City, San Bruno and South San Francisco; (6) San Jose and Santa Clara; (7) Sacramento and North Sacramento; (8) San Bernardino, Colton and Rialto; and (9) Yreka and Montague.

Why under the circumstances here such a provision is necessary and how it would safeguard either carriers or shippers has not been made clear. Common carriers are required by the Public Utilities Act (Section 17(a) 2) to observe the charges specified in their tariffs without deviation therefrom. To the extent these charges are predicated upon weight such carriers are of course obligated to determine the weight of each shipment transported. Radial highway common and highway contract carriers are required by outstanding orders to observe charges no lower than those accruing at the rates and bases for rates provided in such orders. It seems clear that these carriers also must determine accurately the weight of each shipment in so far as their minimum rates are based upon weight. The requirement has not been shown to be necessary.

An increase from $1.50 to $2.50 in the established minimum charge per shipment was advocated. It was testified that shipments subject to the minimum charge are picked up and delivered by small trucks and that not less than one half hour is required to effect either pick-up or delivery. Thus, it was asserted, the minimum charge should be more nearly related to the hourly charges provided for local moving. No cost evidence was submitted. In view of the fact that the proposal would result in a substantial increase it does not appear justified on this record. The proposal should not be adopted.

Findings

Upon consideration of all the facts of record, I am of the opinion and find that Decision No. 29891 of June 28, 1937, as amended, in the above entitled proceedings should be further amended to the extent indicated in this opinion and set forth in the order herein; that all other proposed changes are not justified on this record; and that Decision No. 29891, as amended, should in all other respects remain in full force and effect.

The following form of order is recommended:

O R D E R

Further public hearings having been held in the above entitled proceedings and based upon the evidence received at the hearings and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Appendix "A" of Decision No. 29891 of June 28, 1937, as amended, in the above entitled proceedings, be and it is hereby further amended, effective twenty (20) days from the effective date of this order, as follows:

Substitute the following for paragraph (1) under "Definition of Technical Terms":

> "(1) Lift Van means any shipping container or any vehicle body designed to be removed from the vehicle's chassis and used as a shipping container, having an inside cubic measurement in excess of 250 cubic feet."

IT IS HEREBY FURTHER ORDERED that all common carrier respondents in Case No. 4099, in so far as they may engage in the transportation involved herein, be and they are hereby authorized to establish, effective not earlier than twenty (20) 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 or effect than those established in and by said Decision No. 29891, as amended by prior orders and by this order.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 29891, as amended, shall remain in full force and effect.

The effective date of this order shall be thirty (30) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of August, 1938.

Commissioners

APPENDIX "A"

The following are the proposed modifications of Decision No. 29891, as amended, in Case No. 4086 and Case No. 4099:

1. That rates for the transportation of crated property between freight docks, piers, wharves, stations and depots in metropolitan Los Angeles on the one hand and commercial warehouses in that area on the other hand, be revised by subdividing the territory into two zones and establishing a higher schedule of rates for inter-zone application.

2. That additional charges be prescribed for transportation involving the use of toll bridge or ferry facilities.

3. That the term "lift van" be re-defined so as to include all shipping containers in excess of 250 cubic feet capacity.

4. That accessorial charges for unpacking of lift vans be eliminated.

5. That the rule for intermediate application of point-to-point rates be clarified and their application over indirect routes limited to circuities of not more than 25 per cent.

6. That point-to-point rates for transportation within a radius of 100 miles from Los Angeles be readjusted.

7. That rates between metropolitan Oakland and Stockton be revised.

8. That a rule be established requiring that shipments weighing 1000 pounds and over be weighed by a public weighmaster.

9. That the minimum charge per shipment be increased from $1.50 to $2.50.

10. That uncrated property rates be made applicable to mixed shipments of crated and uncrated property.