

Decision No. 28632

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of)
rates, rules, classifications and regu-)
lations for the transportation of prop-)
erty, exclusive of property transported)
in dump trucks, for compensation or hire,)
over the public highways of the City and)
County of San Francisco.)

ORIGINAL

Case No. 4084

BY THE COMMISSION:

Additional Appearances

Ware & Berol, by Marvin Handler; and Arthur Shapro,
for Bonded Messenger Service.
G. E. Walk and H. A. Lincoln, for Fibreboard Products
Corporation.

TWENTIETH SUPPLEMENTAL OPINION

Decision No. 28632, as amended, in the above entitled proceeding, established minimum rates, rules and regulations for transportation of property within the San Francisco drayage area by city carriers. At an adjourned public hearing held in San Francisco before Examiner E. S. Williams, evidence was received in support of petitions filed by Railway Express Agency, Incorporated, and Draymen's Association of San Francisco, seeking modification of the orders then in effect.

Handling and Distribution of Pool Cars

Charges are now provided in said Decision No. 28632, as amended, for handling and distribution of pool car shipments.¹

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A pool car shipment is defined as a lot of property consigned to (a) a carrier, with instructions for ultimate delivery to two or more sub-consignees, or to one sub-consignee at more than one delivery address, or (b) a consignee (other than a carrier), on which a carrier has instructions to make ultimate delivery to two or more delivery addresses of the consignee, or to one or more sub-consignees, or to a sub-consignee at more than one delivery address.

Several bases of charges are provided for the handling and distribution of pool car shipments, the volume of the charge depending

The Express Agency asked that these charges be cancelled in so far as they may apply to the handling and distribution of pool car shipments originating at points outside the state. It contended (1) that the traffic involved is interstate in character and therefore is not subject to the jurisdiction of this Commission, and (2) that traffic moving in interstate pool cars is similar to and competitive with traffic moving in interstate freight forwarders' cars, the unloading and distribution of which latter traffic is now specifically exempted from the established minimum rates.

The Association opposed the Express Agency's proposal. It claimed that the handling and distribution within San Francisco of property which moved into that point in interstate pool cars are intrastate operations but that even if such operations were held to be interstate in character, the handling and distribution of shipments received in interstate pool cars are services which may be regulated by the states in the absence of federal regulations. The Association denied, moreover, that traffic moving in pool cars is similar to traffic moving in freight forwarders' cars, claiming that there is a break in the continuity of pool car shipments at the point of destination of the pool car, whereas traffic moving in freight forwarders' cars usually moves under through billing and rates.

1 (Concluded)

on the nature of the service performed and the character and weight of the shipment. Where the carrier performs sorting and accessorial services and also transports the shipment, the charge is generally based on ratings and rates one class higher than those otherwise applicable, except that on shipments in minimum quantities of 20,000 pounds delivered to one address, no increase is provided for such combined service over that otherwise applicable for the transportation of such shipments. Where the carrier performs only the sorting and accessorial services and performs no transportation, the charge for such services is 50 per cent of that applicable for the combined handling and transportation services.

The determination as to whether traffic moves in intrastate or interstate commerce depends upon all of the facts and circumstances in connection with any given movement and cannot be predetermined. Under some circumstances, the traffic might fall into one category, while in other cases it might fall into the other. The facts here shown do not warrant a finding that traffic distributed from pool cars now covered by the order presently in effect should be excluded for the reason that it is beyond this Commission's jurisdiction.

Nor does it appear that traffic moving in interstate pool cars is similar to and competitive with traffic moving in interstate freight forwarders' cars. The circumstances attending the movement of these different types of traffic are entirely different² and only under certain conditions may shippers employing freight forwarders to transport their shipment utilize a pool car as an alternate method of transportation.³ No reason appears, therefore, for according

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The method of billing and handling, the basis of charges and the manner of their collection, and the shipper-carrier relationship in connection with pool car shipments differ materially from those in connection with shipments moved by freight forwarders. Pool car shipments are consigned to the shipper's representative or a carrier for distribution to two or more addresses or sub-consignees. The distribution thereof in San Francisco is for account of the shipper or consignee and the individual shipments are handled in similar manner to other drayage transportation. On the other hand, shipments handled by freight forwarders usually move under through billing and rates to the ultimate delivery address in San Francisco, the forwarding company in turn arranging for the consolidation and intermediate transportation in its own name and paying the transportation charges assessed by the transporting carriers. The distribution of such freight forwarder shipments is usually for account of the freight forwarding concerns and is usually performed by city carriers under contract with such freight forwarding concerns.

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Pool cars may be utilized only by those shippers who have sufficient tonnage moving to the same general territory to obtain the benefit of the carload rail rate and where such shippers employ an agent at the destination of the pool car to arrange for the distribution of such tonnage. Ordinarily freight forwarders are employed by shippers not having sufficient tonnage moving to the same general territory to permit economical utilization of the pool car.

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shipments handled and distributed from pool cars the same treatment as is now accorded shipments unloaded and distributed from freight forwarders' cars. The proposal will be denied.

Property Transported in Special Messenger Service

Property transported in special messenger service is now specifically exempted from the established minimum rates. A request was made by the Association that this exemption be eliminated, and that the minimum rates heretofore established for other types of transportation be made applicable to this class of traffic.

Since the hearing the Western Union Telegraph Company filed a petition in which it takes no exception to the elimination of the present exemption of property transported in special messenger service but urges that if the proposed elimination be approved there be substituted for the existing exemption the following item:

"Directories, social, business and professional books, registers, periodicals, services, pamphlets, rating books and advertising matter, including such articles as samples, displays, blotters, pads, premiums, books, circulars, pamphlets and periodicals when transported in conjunction with uniformed messenger delivery."

In view of this petition disposition of this matter will be deferred until after the next hearing in this proceeding now scheduled for September 26, 1939. At that hearing Western Union Telegraph Company should present evidence in support of its petition.

Extension of Inhaul Rates

At present, "inhaul" rates apply to movements from public warehouses to wholesalers but do not apply for transportation from wholesalers to public warehouses or between wholesalers.⁴ The Association asked that such rates be extended to apply also to transportation from wholesalers to public warehouses and between wholesalers, in connection with shipments of 7,500 pounds or more. In justification, the Association's witness pointed out that rates provided for inhaul transportation were predicated on the greater volume of traffic and larger sizes of shipments usually moving from railroad depots and steamship docks than is ordinarily obtained in other types of transportation and are generally on a lower basis. He stated that the type of shipments here sought to be embraced in the inhaul definition usually move in large lots from wholesalers to public warehouses for storage and later distribution, and that, likewise, large lots of merchandise frequently move from one wholesaler to another wholesaler. He asserted that the transportation characteristics attending the movement of large shipments of the character here involved do not differ materially from those for which inhaul rates apply.

The low volume of the inhaul rates was predicated not only upon the larger sizes of shipments but, also, upon the more favorable

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The term "inhaul" is defined in outstanding orders as follows:

"Inhaul means the transportation of property received from another carrier at a depot, dock, wharf, pier or landing, originating beyond the limits of the City and County of San Francisco, also the transportation of property from public warehouses to wholesalers."

use factors made possible by the heavy volume of available traffic. Petitioner has not shown that similar favorable use factors are obtainable in connection with traffic moving between wholesalers, nor has it shown wherein the latter transportation differs from transportation of like quantities in "shipping" or "city delivery" services, for which similar rates are not proposed. Approval of this proposal will be denied.

Minimum Weight in Connection with Ratings
on Certain Described Property

Property as described in Note 1 of the item appearing on page 2 of Appendix "B" to Decision No. 29902, as amended, in this proceeding, is now rated at 80 per cent of fourth class, subject to a minimum weight of 6,000 pounds. The Association renewed its proposal made at a prior hearing in this proceeding that the minimum weight in connection with this rating be increased to 7,500 pounds. While relying in general on the same character of evidence it introduced in support of this proposal at the prior hearing,⁵ the Association also submitted a comparison of the daily revenue which would be received

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The testimony and evidence in support of this proposal submitted at the prior hearing was summarized in Decision No. 31952 as follows:

"Its witness testified that the rating involved was adopted by the Commission upon evidence of the Association indicating that this rating was proper for shipments when moving in truckload lots and that a shipment of 6,000 pounds was equivalent to a small truckload. He asserted that further experience had shown this minimum to be too low, and that a minimum weight of 7,500 pounds was necessary to provide revenue sufficient to permit such shipments to be handled profitably. In support of these assertions the witness showed that the revenue which would accrue on a shipment of 6,000 pounds under the existing rating and rates would be considerably less than would accrue under the hourly truck unit rates applicable for the transportation of so-called 'unusual shipments.' He pointed out also that the charge for a shipment of 6,000 pounds applied as maximum on a shipment of the same commodity of lesser weight and thus had the effect of nullifying higher charges resulting under the class rates applicable to shipments weighing less than 6,000 pounds, which charges he deemed proper for shipments of less than 6,000 pounds."

under the present rates with the daily revenue which would be received at the hourly truck unit rates, applicable under certain unusual circumstances.⁶ Based on a vehicle having a capacity of over 2½ tons and not over 3½ tons, the type of vehicle said to be ordinarily used to transport traffic of the kind here under consideration, the hourly rate of \$2.75 would produce a daily revenue of \$22.00⁷ for 8 hours' operation, as compared with daily revenue of from \$13.20 to \$16.50 which applicant estimated would be received for the transportation of shipments weighing 6,000 pounds under the rating and specific rates here involved.⁸

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The circumstances under which the hourly truck unit rates apply are described in Decision No. 31952, supra, as follows:

"Hourly truck unit rates apply for transportation of 'unusual shipments,' which term is defined as being shipments on which no actual or estimated weight can be secured; where there is neither a definite point of destination, nor specific time for loading or unloading and for releasing the vehicle. Under these hourly rates the charge for transportation in a vehicle having a capacity of 6,000 pounds would be \$2.75 per hour. It was estimated by the witness that to unload a shipment of the commodities involved, transport such commodities for even a short distance, and unload them at destination, would require a minimum of one and one-half hours. On the basis of this estimate the charge for transporting the commodities involved at said hourly rate would be \$4.13, as compared with the charge of \$3.30 now applicable on a shipment of 6,000 pounds when moving within Zone 1 under the existing rating and class rates."

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While the Association used the figure of \$20.00, this figure appears to have been the result of an error in calculation.

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It was stated that under studies now being made the average unproductive time involved in the use of trucking equipment in general transportation within the San Francisco Drayage Area is from 3 to 3½ hours per vehicle per day. Deducting this time from the daily period of 8 hours would leave not to exceed 5 hours daily productive time. At the average time of 1½ hours estimated to be required to transport a shipment of the commodities involved weighing 6,000 pounds, not more than 4 loads could be transported. The estimates of daily revenue under the rating and specific rates now applicable were based on the transportation of 4 and 5 loads, respectively, daily.

As heretofore stated by the Commission in refusing to adopt a similar proposal submitted at a prior hearing in this proceeding the mere comparison of the existing class rates with hourly rates for the transportation of unusual shipments does not establish that the class rates, subject to their governing minimum weights, are unduly low. This applies equally to the comparison of the daily revenues under these rates submitted here. Presumably, transportation of unusual shipments subject to hourly rates is more expensive to perform than is ordinary drayage transportation and it is to be expected, therefore, that the latter rates would produce less revenue. In any event the disparity between the daily revenues for shipments of the existing minimum weight at the compared rates would still exist under the higher minimum weight proposed for the reason that a larger truck unit would be required for handling shipments of the increased minimum weight. The renewed proposal has not been justified.

Rating on Old Magazines and Newspapers

A rating of fourth class is now provided for waste paper including old newspapers and magazines. A proposal was made by the Association that this rating be reduced to 80 per cent of fourth class by including these commodities, when shipped in compressed bales in minimum quantities of 6,000 pounds per shipment, in the list of articles in Note 1 of the item appearing on page 2 of Appendix "B" to Decision No. 29902, supra, as amended. Its witness stated that these commodities are of low value and heavy density; that there is a large and regular movement thereof; and that, in general, the transportation characteristics attending the movement of these commodities are comparable to those of many of the commodities on which the 80 per cent of fourth class rating is now

provided.⁹ He stated further that the large volume and regular movement of these commodities within the San Francisco drayage area makes this traffic favorable for transportation by proprietary trucks, and that a low basis of rates is necessary to prevent its diversion from for-hire carriage.

In view of the showing that the transportation characteristics of old magazines and newspapers in compressed bales, when moving in minimum quantities of 6,000 pounds, are similar to those attending the transportation of the commodities for which the sought rating is now provided, the proposed rating will be approved.

Commodity Rate on Green Coffee and Raw Spices

The Association proposed the establishment of a commodity rate of 4½ cents, minimum weight 10,000 pounds per shipment, minimum tonnage requirement 5,000 tons per calendar year, for the transportation of green coffee and raw spices. In support of the proposed rate, the vice president of Walkup Drayage and Warehouse Company, testified that the proposed rate was primarily intended to apply to transportation performed for A. Schilling & Co., which company has two plants located in San Francisco. He stated that the raw spices handled by this firm consist of pepper and raw mustard; that both the raw spices and the green coffee are shipped in sacks, the weight per sack of both commodities being approximately the same; that these commodities are shipped to San Francisco by vessel for further refining at that point; and that the drayage transportation involved is from the steamship docks to the plants operated by

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The witness stated that old magazines and newspapers, in compressed bales, displace from 48 to 60 cubic feet, compared with displacements of from 46 to 62 cubic feet taken by beans; burlap bags, in compressed bales; burlap; green coffee; flour; rice; seed; and sugar now taking the sought rating.

the Schilling company. He asserted that he had made a study of the cost of performing the transportation involved and was of the opinion that the proposed rate would be profitable for such transportation. He presented a cost and revenue study based on the tonnage shipped by A. Schilling & Co. for the months of March, April and May, 1939. This study estimates that revenue at the proposed rate would have been materially in excess of the estimated expense.

No one opposed the adoption of the proposed commodity rate.

The cost showing submitted in support of the proposed rate has many deficiencies. However, the latitude between the estimated revenues and estimated costs as shown by the Anderson study, appears to allow sufficient margin to compensate for factors not taken into consideration in computing such costs and on the whole indicates that the proposed rate would be compensatory and reasonable for the transportation involved. Inasmuch as the transportation described is in the nature of "inhaul" the rate will be authorized as an inhaul rate only.

Commodity Rate on Property Transported
for Wholesale Hardware Houses

A proposal was made by the Association that the commodity rate provided for city delivery and inhaul transportation of commodities for wholesale hardware houses be increased from $7\frac{1}{2}$ cents to $7\frac{3}{4}$ cents; that the minimum tonnage requirement in connection therewith be changed from 1,000 tons per calendar month to 9,000 tons per calendar year; and that this rate, subject to the proposed minimum tonnage requirement, be extended to apply to "shipping" and

"returned city delivery" transportation.

In support of this proposal the Association witness stated that the higher rate sought is justified by the lower minimum tonnage requirement and the more extensive application of the rate to apply to city delivery, inhaul, shipping and returned city delivery transportation; that it is approximately the same as the rate which would have applied under the horizontal 10 per cent increase authorized by Decision No. 29902 in this proceeding had it not been for the operation of the rule for disposition of fractions employed in applying the horizontal increase¹¹ and is the same as that which Walkup Drayage and Warehouse Company was authorized to charge for similar transportation except that the Walkup rate is subject to a higher minimum tonnage requirement.¹²

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The terms "Shipping" and "City Delivery" are defined in outstanding orders as follows:

"Shipping means transportation of property to another carrier when destined beyond the limits of the City and County of San Francisco."

"City Delivery or City Deliveries means the transportation of property to retail stores or direct consumers of the property transported when the shipment originates within the City and County of San Francisco at other than a carrier's depot, dock, wharf, pier or landing."

Returned City Delivery while not specifically defined refers to shipments which have been returned after previously having been transported under rates applicable for city delivery transportation.

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The application of a straight 10 per cent increase to the rate of 7 cents in effect prior to Decision No. 29902 would have made the rate 7.7 cents. However, through the rule covering the disposition of fractions used in that decision, the rate was made 7½ cents.

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By Decision No. 29905 of June 28, 1937, in Application No. 20520, Walkup Drayage and Warehouse Company was granted permission pursuant to the terms of Section 10 of the City Carriers' Act to assess and collect rates no lower than the following:

Commodities transported for wholesale hardware houses in quantities of not less than 12,000 tons per calendar year:

City deliveries, Inhaul, Shipping and returned
City Deliveries, \$1.55 per ton.
Minimum Charge, \$0.35 per shipment.

In justification of the proposed change in the minimum tonnage requirement the witness stated that only two shippers in San Francisco have drayage tonnage of anything near the amount of the minimum tonnage requirement; that at the time the rate was originally published both were shipping much more than the minimum amount required to obtain the benefit of the low commodity rate, but that since 1937, due to various circumstances, the amount of the tonnage available to draymen has greatly diminished. Moreover, he asserted, it is frequently not possible to make up the required minimum tonnage during certain months, thus resulting in higher charges on the tonnage shipped during that month, even though the following month might have produced tonnage greatly in excess of the monthly minimum tonnage requirement. The proposed reduced minimum tonnage requirement applicable on a yearly basis will, he stated, enable the rate to be applied on tonnage transported for account of firms for which the rate was originally published to apply.

No one opposed the proposal.

The proposed increase in the rate applicable for carriers generally appears to be justified by the more extensive application of the rate and the lower minimum tonnage requirement. The lower minimum tonnage requirement itself appears justified by the circumstances shown. Moreover, the changes will provide an equality of rates for all carriers. In view of these circumstances the proposed changes will be adopted.

Upon careful consideration of all the facts of record, the Commission is of the opinion, and finds, that the changes and modification sought are justified to the extent shown in the order herein, and that all other proposals have not been justified on this record.

O R D E R

An adjourned 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 opinion which precedes this order,

IT IS HEREBY ORDERED that Exhibit "A" of Decision No. 28632, dated March 16, 1936, as amended, in the above entitled proceeding, be and it is hereby further amended to the extent shown in Appendix "A" attached hereto and hereby made a part hereof.

IT IS HEREBY FURTHER ORDERED that, in all other respects, said Decision No. 28632, 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 19th day of September, 1939.

Robert J. Casper
Frank J. Baker
Carl J. Rice
W. H. Baker
Justin J. Casper
Commissioners.

APPENDIX "A"

Ratings, rules and regulations provided in Exhibit "A" of Decision No. 28632, as amended, are hereby further amended as follows:

1. Classification Rating on Old Magazines and Newspapers.

Add to Note 1 of item appearing on page 2 of Appendix "B" of Decision No. 29902, which item reads, in part, as follows: "Property, as described in Note 1 below, in lots of 6,000 pounds or more," as amended, the following:

"Magazines and Newspapers, old."

2. Commodity Rate on Green Coffee and Raw Spices.

Add under heading "Commodity Rates" a new item reading:

"Coffee, green, in sacks
Spices, viz.: Pepper in sacks
Mustard, ground, in sacks
Inhaul only 4½ cents per 100 pounds.
Minimum weight 10,000 pounds per shipment,
Minimum 5,000 tons per year."

3. Commodity rate on property transported for wholesale hardware houses.

Substitute for commodity rate item established in Decision No. 28753 reading, in part, "Commodities transported for wholesale hardware houses in quantities of not less than 1,000 tons per calendar month," as amended, a new item reading as follows:

"Commodities transported for wholesale hardware houses
City Delivery, Inhaul, Shipping and
returned City Deliveries
Minimum 9,000 tons per year.
..... 7-3/4 cents per 100 pounds.
Minimum charge 30 cents per shipment."