

Decision No. 29217

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of)
maximum or minimum, or maximum and mini-)
mum 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.)

ORIGINAL

Case No. 4108

In the Matter of the Investigation and)
Establishment of rates, charges, classi-)
fications, 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 TRANS-)
FER COMPANY and WEST BERKELEY EXPRESS &)
DRAYING COMPANY, operating as Highway)
Common Carriers, for transportation of)
property, for compensation over the pub-)
lic highways of the State of California,)
between the cities of Oakland, Albany,)
Alameda, Berkeley, Emeryville and Pied-)
mont, in the County of Alameda, and for)
accessorial services incident to such)
transportation.)

Case No. 4109

BY THE COMMISSION:

Additional Appearance

Ware and Berol, by Edward M. Berol, for
Morris Draying Co.

THIRTEENTH SUPPLEMENTAL OPINION

Decision No. 29217 of October 26, 1936, as amended, in these proceedings, established minimum rates, rules and regulations for the transportation of property within the East Bay drayage area. At adjourned public hearings held in San Francisco before Examiner Mulgrew, evidence was received relative to proposals seeking

modification of the minimum rates, rules and regulations so established. None of these proposals was opposed.

Modification of Furniture Rates for "Shipping" Movements.

Minimum commodity rates for new furniture and parts, ranging from 50 cents per shipment for shipments weighing 50 pounds or less to 25 cents per 100 pounds for shipments weighing over 2,000 pounds, applicable throughout the drayage area, are provided by outstanding orders for traffic designated therein as "inhaul and city deliveries (exclusive of pool car distribution)."¹ The Draymen's Association of Alameda County proposed that these rates be made applicable also to drayage embraced by the designation "shipping."²

An Association witness pointed out that in "shipping" movements the property involved was subject to classification ratings ranging from third class to double first class; that minimum rates predicated upon such ratings varied with the weight of the shipment and with the location of the points between which it was transported;

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Inhaul drayage is "the transportation of property received from another carrier at a depot, wharf, pier, or landing originating beyond the limits of the territory covered by this appendix (the East Bay drayage area) and delivered at one address to the consignee shown on the bill of lading of the carrier from which the shipment is received, or the transportation of property from public warehouses when delivered to one wholesaler consignee at one address."

City delivery drayage is "transportation of property to retail stores or direct consumers of the property transported when the shipment originates within the territory covered by this appendix (the East Bay drayage area) at other than a carrier's depot, dock, wharf, pier or landing."

A pool car is "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."

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Shipping movements are defined as the "transportation of property to another carrier when destined beyond the territory covered by this appendix (the East Bay drayage area)."

and that these rates ranged downward from the rates per shipment provided for shipments weighing 15 pounds or less, varying from \$.70 to \$2.00 for articles classified at double first class and from \$.35 to \$1.00 for third class articles, to the rates stated in cents per 100 pounds for shipments weighing 20,000 pounds or more, varying from 25 to 35 for double first class articles and from 7½ to 11 for third class articles. The witness testified that no material difference existed in conditions surrounding the transportation of this property in inhaul, city delivery and shipping movements and that prior to the establishment of minimum rates the carriers had voluntarily maintained identical rates for the three types of operation. He claimed, moreover, that at the initial hearings there was no intention on the part of the carriers to disturb the rate parity then existing but that through oversight or misunderstanding shipping rates of the same volume as the inhaul and city delivery rates had not been proposed.

The proposal was endorsed by the Retail Furniture Association of California, said to represent the shippers of more than 90 per cent of the traffic involved.

The record shows that in the drayage of new furniture and parts in shipping movements the transportation characteristics of the traffic are similar to those encountered in inhaul and city delivery transactions. Nothing in the record suggests that the established minimum rates for the latter types of operation are improper. Therefore, these rates will be extended to shipping movements.

Modification of Rates for Pool Car Distribution of New Furniture

In connection with pool car distribution of new furniture and parts, the Draymen's Association proposed (1) that the rates established for sorting or other accessorial services when performed by a carrier other than the one transporting the shipment, be reduced from 20 to 17½ cents per 100 pounds; and (2) that the clause reading

"by a carrier other than the one transporting the shipment" be changed to read "by a carrier other than the one transporting the shipment to ultimate delivery address of consignee and/or sub-consignee."

The first of these proposals was represented as being designed to provide equality with the San Francisco rate. The Association's witness explained that by Decision No. 31516 of December 5, 1938, in Case No. 4084, In Re, Establishment of rates *** for the transportation of property *** over the public highways of the City and County of San Francisco, a rate of 17½ cents per 100 pounds was established for similar services performed in San Francisco. He asserted that the distribution of pool cars of furniture to points in the San Francisco Bay area and contiguous territory could often be accomplished either through San Francisco or through an East Bay city; and that, in such cases, the rate differential of 2½ cents per 100 pounds in favor of San Francisco distribution would tend to divert to San Francisco the distribution of pool cars involving deliveries in that city as well as in the East Bay drayage area. The witness also pointed out that when the same carrier performed both the transportation and accessorial services the rate in effect for the combined services (35 cents per 100 pounds) was the same in San Francisco and in the East Bay cities.

In regard to the proposed change in the language governing the application of the rate, the witness stated that it was designed merely to remove any doubt that might arise as to the class of service to which the proposed rate of 17½ cents would apply. He explained that under the present wording it was not clear whether the term "other than the one transporting the shipment" referred to the carrier distributing the pool car or the carrier who transported the pool car shipment into the distribution point.

The foregoing proposals were endorsed by the Retail Furniture Association of California.

The record shows that pool cars of new furniture and parts are distributed in such a manner that certain traffic is competitive between East Bay and San Francisco carriers. It also shows that when both transportation and accessorial services are performed by the same carrier, the rate within East Bay cities is the same as the rate in San Francisco. The showing made is thus persuasive that the rate for accessorial services alone, like the rate for the complete service, should be at the same level as in San Francisco. The sought rate of 17½ cents will be established. The description of the conditions under which this rate will apply will be rephrased in the interest of clarity, as urged by the Draymen's Association.

Ratings on Tobacco and Cigarettes

The Draymen's Association urged that the first class ratings provided for cigarettes and for cut or granulated chewing or smoking tobacco be reduced to third class. The sought basis was represented as being justified from a comparison with rates for like transportation in other drayage areas and with similar commodities in the East Bay drayage area, and to be necessary to forestall diversion of traffic to proprietary operations.

A witness for the Association presented studies of the traffic handled for one shipper showing that the established rates for the transportation of the commodities under consideration, based on the existing first class ratings, were materially higher than rates contemporaneously in effect for transportation of the same commodities in the San Francisco and Los Angeles drayage areas; and that the charges predicated upon the present rates exceeded those which would accrue under hourly rates for transportation in the East Bay drayage area of "shipments not reasonably susceptible to handling on a weight

basis."³ The witness also pointed out that a rating of third class was in effect for mixed shipments of the commodities in issue with drugs, medicines and chemicals when the weight of the former did not exceed 20 per cent of the total weight of the mixed shipment.

In regard to the competitive situation the witness testified that a carrier engaged in transporting a substantial volume of these commodities for an individual shipper had been informed that that shipper planned to acquire and operate its own equipment unless rates comparable with the expense of operating proprietary trucks were made available.

The record shows that intrazone East Bay drayage rates, applied to particular shipments of a single shipper, result in charges materially higher than those which would have accrued had the same shipments been transported in San Francisco or Los Angeles intrazone drayage. It was not shown, however, that other shippers of the same commodities are similarly affected by the established rates, or that conditions surrounding this type of transportation in the three⁴ drayage areas are substantially the same.

3. According to the studies, the average intrazone rate for transportation of cigarettes and tobacco for the shipper in the East Bay drayage area was 32.6 cents per 100 pounds, as compared to average intrazone rates of 22.2 and 20.2 cents per 100 pounds applicable to transportation of the same kind and quantity of property within the San Francisco and Los Angeles drayage areas, respectively. The studies also show that the hourly rate applicable to vehicles with a capacity of 2500-4500 pounds would amount to \$6.31 per day per truck, whereas estimated revenues under the existing rates would amount to \$10.14 and, under the proposed rates, to \$7.325.

4. As a matter of fact, the record made in these proceedings, as well as the records developed in the San Francisco and Los Angeles drayage cases (Cases Nos. 4084 and 4121, respectively) are replete with evidence concerning transportation conditions peculiar to the drayage area under consideration. Many such local conditions are reflected in each of the drayage rate structures. For example, the matter of zoning has been dealt with exhaustively in each drayage case and the zoning arrangements prescribed designed to accord proper recognition to conditions prevailing in each area so zoned.

The comparison with hourly rates is similarly not indicative of the reasonableness of the sought basis, since it was not shown that the hourly rates apply to comparable transportation or that the time which it was estimated would be consumed in performing the transportation here under consideration was reasonably accurate. The showing made in regard to the rates on the shipments studied exceeding those that would have accrued at hourly rates on "shipments not reasonably susceptible to handling on a weight basis" is based upon an hourly rate of \$2.50 per hour, applicable to vehicles of not over 4,500 pounds capacity. On several days during the period studied (April 17 to May 31, 1939), the weight of the property transported exceeded 4,500 pounds. The record fails to disclose whether in such instances equipment of greater capacity was furnished or two or more trips made with a smaller unit. Likewise, neither the number of trips per day nor the method of computing time was shown in the studies or explained by the witness. Inasmuch as time for computing charges under hourly rates is determined "from time vehicle leaves carrier's stand (place of business) until it arrives back at said stand" and inasmuch as the rates are subject to a minimum charge of 1 hour, such information is clearly necessary.

In so far as proprietary competition is concerned, no evidence was introduced to indicate that the shipper for whose benefit the reduction was particularly designed could operate trucks at a cost less than or approximating the charges which would accrue under the sought basis.

It is concluded that the present ratings on cigarettes and tobacco have not been shown to be unreasonable or improper or that a lower rating is necessary to prevent a diversion of the traffic to proprietary carriage.

Rates for Iron and Steel Articles

The Draymen's Association urged the adoption of commodity rates for certain iron and steel articles, its proposed rates ranging from 6½ cents per 100 pounds for shipments of over 6,000 pounds to 12½ cents per 100 pounds, minimum charge 50 cents for shipments of 2,000 pounds and under. These rates are proposed for application throughout the drayage area but are limited to inhaul, shipping and city delivery traffic. They are subject to a minimum tonnage requirement of 1,500 tons per year.

In justification of the sought adjustment, an Association witness presented a cost study showing that during May and June, 1939, 742.57 tons of iron and steel articles were handled by one carrier for one shipper at direct operating costs amounting to \$.672 per ton, as compared to the lowest proposed rate of \$1.25 per ton. He explained that the costs experienced reflected the heavy density of the commodities and the high load and use factors resulting from the volume of available traffic. He also stated that the carrier whose operation was covered by the study was faced with proprietary competition.

The record indicates that when not less than 1,500 tons per year of the commodities involved are transported by one carrier it is possible to obtain unusually favorable load and use factors and that, under these conditions, the sought rates will be reasonable and compensatory. They will be adopted.

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The commodities to which the rates were proposed to apply were billets; fence material, viz.: fencing, gates, post fixtures, posts, fence or wire stretchers, fence ratchets, tubular steel fence post drivers; ingots; nails; rods; staples; tacks; wire, including barbed wire. For the most part, these commodities are now subject to zoned rates, which vary from 6½ cents per 100 pounds at 20,000 pound minimum to \$1.00 per shipment for shipments of 15 pounds or less.

Rates for Canned Goods and Dried Fruit

By petition, Morris Draying Co. sought amendment of the existing rates for the transportation of canned goods and dried fruit in quantities of 20,000 tons or more per year. It proposed that rates be established for movements between points not covered by the present rate item and that the existing rates be increased for some of the movements already covered by the item. It also sought reduction of the minimum annual tonnage requirement from 20,000 to 10,000 tons.

It was alleged in the petition that this traffic had been lost to rail switching movement and that the proposed changes would provide a competitive rate basis. In support of these allegations studies were submitted purporting to show that revenues under the proposed basis would exceed the cost of performing the service and that such revenues would be approximately the same as those which would be returned under existing monthly truck unit

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The proposed additions and increases are shown in the following tabulation:

Rates in Cents per Ton						
And	Between	Zone B	Zone C	Zone E	Zone H	Zone O
Zone A		90	90	-	-	-
Zone B		-	90	90	(1)70 (2)80	80
Zone C		90	75	90	-	-
Zone D		113	90	125	-	-
Zone E		90	90	75	(1)65 (2)80	-
Zone H		-	-	(1)65 (2)80	75	90
Zone O		-	-	-	90	-

(1) Existing Rates

(2) Proposed Rates

All other rates are additions

rates.⁷ It was stated that the volume of available traffic was fairly constant throughout the year and that the total trip mileage was relatively low, rarely exceeding 11 miles. It was claimed that these circumstances permitted equipment to be used with maximum efficiency.

Petitioner's loss of this traffic to rail carriers was said to have been occasioned by market conditions which do not require the handling of 20,000 tons annually in the type of operation here contemplated and by the lower rates available to the shipper for rail switching service. The latter service was asserted to be not readily adaptable to shipper needs in connection with a substantial volume of tonnage and was being employed only because of the wide disparity in rates. An interested shipper indicated that it would be enabled to use truck service by approval of the sought basis and that its traffic would consist mainly of shipments which could be handled more satisfactorily by truck than by railroad switching service.

Petitioner's estimate of revenues and expenses under the proposed rates indicate that on shipments weighing not less than

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It was pointed out that in a study introduced in the original hearing in this proceeding the cost of operating the type of equipment suitable to accommodate this traffic was estimated to be 58.1 cents per mile; and that, based on a typical load of 14,000 pounds, revenue under the sought rates would be substantially in excess of the aforesaid estimated cost.

These estimates also show that two units of equipment having a capacity of over 10,500 but not over 15,500 pounds each could handle the movement within the limitations of the 50 miles per day per unit of equipment, and during regular working hours, and that on the basis of the established monthly vehicle unit rate for equipment of this capacity (\$400 per month), annual revenue would be \$9,600. Annual revenue would assertedly range from \$9,500 to \$10,000.

10,000 pounds, the proposed rates would develop revenues exceeding the cost here of record for the transportation involved, but that on shipments of lesser weights revenues would not cover the estimated costs. Under these circumstances, it appears that the proposed rates should be authorized, subject, however, to a minimum weight of 10,000 pounds per shipment. Neither the revenue nor the cost estimates used were related to or dependent upon a large volume of annual tonnage and, therefore, it does not appear that the authorized rates should be made subject to minimum annual tonnage requirements. The petition will be granted to the extent indicated and in all other respects will be denied.

Upon consideration of all the evidence, the Commission is of the opinion and finds that the changes and modifications sought are justified to the extent shown in Appendix "A" hereof, and that, in all other respects, said changes and modifications have not been justified on this record.

O R D E R

Adjourned 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 opinion which precedes this order,

IT IS HEREBY ORDERED that Appendix "A" of Decision No. 29217 of October 26, 1936, 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 "A" attached hereto and hereby made a part hereof.

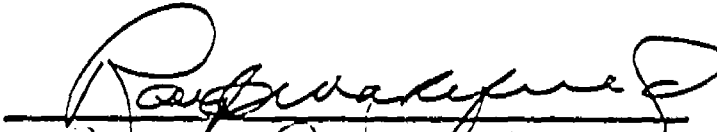
IT IS HEREBY FURTHER ORDERED that the petition of Morris Draying Co., be and it is hereby granted to the extent indicated in the preceding paragraph; and that in all other respects said petition be and it is hereby denied.


IT IS HEREBY FURTHER ORDERED that all common carrier respondents in Case No. 4109, in so far as they may engage in the transportation involved herein, be and they are hereby authorized to publish and file, effective not earlier than ten (10) days from the effective date of this order, on not less than three (3) days' notice to the Commission and to the public, rates 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, which authority to publish on less than full statutory notice 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 January 15, 1940.

Dated at San Francisco, California, this 27th day of December, 1939.









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 16 - Item naming rates on Canned Goods and Dried Fruit

Amend commodity description to read:

"Canned Goods, Pickles, Preserves, in earthenware, glass or metal cans, boxed, or in pails or tubs, crated, or in bulk in barrels or kegs as described under that heading in 'Exceptions to Current Classification' page 9 of this appendix.

"Fruit, dried, in boxes or sacks."

Substitute the following rates for those shown between lettered zones:

		Rates in Cents per Ton									
Between		ZONE									
And		A	B	C	D	E	F	G	H	O	RR
Zone B		90	-	90	113	90	-	-	80	80	100
" C		90	90	75	90	90	-	-	80	90	100
" E		90	90	90	125	75	-	-	80	80	100
" H		90	80	80	105	80	125	125	75	90	100
" D		90	80	90	113	80	125	135	90	-	100

Amend the minimum weight of "20,000 Tons per year" to "5 Tons per shipment."

Page 18 - Item naming rates on Furniture and Furniture parts

Amend provision restricting the rates to "Inhaul and City Deliveries (exclusive of Pool Car Distribution)" to restrict the rates to "Inhaul, Shipping and City Deliveries (exclusive of Pool Car Distribution)."

For "Handling and Distributing of Pool Cars" 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 carrier transporting the shipment to ultimate delivery address of consignee or sub-consignee.	17½	50

Page 19 - Add the following:

Iron and Steel Articles, viz.:	
Billets, Fence Material, viz.: Drivers, fence post, tubular steel, Fencing, Fixtures, post, Gates, Posts, Ratchets, fence, Stretchers, fence or wire, Inhaul, Shipping and City Deliveries Minimum 1,500 tons per year, subject to provisions of "Guarantee of Minimum Tonnage", page 7 of this appendix.	Ingots, Nails, Rods, Staples, Tacks, Wire, including Barbed Wire.
Minimum Weight	Rates in Cents per 100 Pounds
Any Quantity	(1) 12½
2,000 Pounds	10
4,000 "	7½
6,000 "	6½
(1) Minimum charge 50 cents per shipment	

(END OF APPENDIX)