

with certain matters which may be disposed of without formal hearing.

Form of Written Agreement

Section No. 5 of the tariff contains rates designated as "unit rates," together with rules and regulations governing their application. The tariff provides that rates in this section do not alternate with rates in other sections of the tariff, and requires that the shipper notify the carrier of his election to ship at the unit rates prior to transportation of the property. Item No. 400 of the tariff prescribes a form of written agreement which must be executed and be attached to and become a part of the shipping order covering the transaction.

John J. Williams, an individual operating as a highway contract carrier and a city carrier, pointed out that this provision would require a separate agreement to be executed for each shipment to be moved at unit rates, and urged that the tariff be modified so as to enable the shipper to make one agreement covering the identified transactions for a definite period, without executing a new agreement to accompany each shipping order. He declared that some of his shippers make in excess of 400 shipments per day, and said that the present requirement would place an undue burden upon his shippers and upon himself.

Interstate Bakeries Corporation made substantially the same proposal and approved the tariff modification as suggested by Williams. No one opposed the proposed modification.

It appears that the requirement that an executed agreement must be attached to and become a part of the shipping document covering each transaction will under some circumstances be unduly burdensome to shippers and carriers. The requirement is apparently more stringent than is necessary to insure proper application of the unit rates, and will be modified in substantially the manner proposed.

Unit Rates on Shipments Weighing Over 500 Pounds

Item No. 410 of the tariff provides unit rates applicable to shipments weighing 500 pounds or less, and designates how the number of units shall be computed on such shipments. Unit rates are not provided for shipments weighing over 500 pounds.

Williams testified that his shippers frequently have quantities in excess of 500 pounds for movement at a single time, and, in order to increase the number of units shipped during the calendar month and thereby reduce the rate per unit, could and will under the tariff divide such quantities into smaller shipments weighing each 500 pounds or less. He declared that the extra labor required to prepare and handle the separate billings would be costly to shippers and carriers alike, and that neither would receive any benefit therefrom. He urged that the restriction that the shipment must not weigh over 500 pounds be removed from the application of unit rates, and that unit rates for heavier shipments be provided on the same basis as would result from dividing the property into separate shipments under the present tariff. He stated that this amendment would facilitate the handling of these shipments for both shipper and carrier, without injury to either.

No one opposed this proposal.

No benefit to shippers or carriers would appear to result from tariff provisions which would require shippers to divide a given lot of property for movement at a single time into two or

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The unit rates are established on a graduated scale dependent upon the number of "units" the carrier transports for a given shipment during a calendar month. The number of units in a shipment is determined by its weight in pounds, as follows: 50 or less, 1 unit; over 50 but not over 150, 2 units; over 150 but not over 300, 3 units; over 300 but not over 500, 4 units.

more smaller shipments in order to obtain the benefit of minimum transportation charges. While the suggested method of determining the number of units in the heavier shipments deviates from the general practice of decreasing the rate per pound as the number of pounds is increased, the record indicates that such deviation is of minor importance so far as the present proposal is concerned.³ Moreover, the proposed modification would apparently not in any way affect the charges applicable under the unit rates now contained in the tariff, but would merely eliminate the necessity of subdividing shipments weighing more than 500 pounds in order to obtain the benefit of such charges.

The tariff will be modified to provide unit rates for shipments weighing over 500 pounds, substantially as proposed.

Class Rate Level

Interstate Bakeries Corporation alleged that the class rates contained in Item No. 310 of the tariff are excessive, not based on proper and economical operating costs, not comparable with the rates named in Highway Carriers' Tariff No. 2, and not based on facts of logic or of practice; that their adoption has operated to the disadvantage of shippers and carriers; and that their continuance will result in increased proprietary operations.

The traffic manager of the corporation introduced an exhibit comparing certain class rates contained in the drayage tariff here involved with class rates named in Highway Carriers' Tariff No. 2 for greater distances.⁴ He pointed out that if the statewide

³ The record shows that relatively few shipments moving in routed parcel delivery service (for which the unit rates were primarily designed) weigh in excess of 500 pounds.

⁴ Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended, in Case-No. 4246) establishes a statewide basis of rates for the transportation of general commodities by radial highway common and highway contract carriers.

rates were broken up into parts representing line-haul transportation and terminal delivery, the latter (which he referred to as "presumptive delivery rates") would necessarily be lower than those established in this proceeding for local drayage. He said that in his opinion, assuming the statewide rates to be reasonable, this comparison was sufficient to demonstrate that the drayage class rates were unreasonably high. He declared that they were in many cases prohibitive so far as his own company was concerned.

The class rates complained of were established upon the basis of evidence received at an extensive series of public hearings. This evidence included a number of detailed studies of the cost of performing the transportation service involved. The rates have been in effect without change for more than a year, and clearly should not be revised except upon the introduction of substantial evidence showing the proposed revision to be necessary or desirable. The witness for Interstate Bakeries Corporation offered no data whatever relative to the cost of performing the service, and did not even suggest a basis of class rates which he would substitute for those now in effect. Obviously a mere comparison of the local drayage rates with those established for statewide application by different carriers under entirely different circumstances can be of little value in determining the reasonableness of either rate level.

The proposal to revise the class rates contained in the tariff will not be adopted.

Computation of Time Under Hourly Rates

Item No. 420 of the tariff names rates in cents per hour, and provides that the time used to compute the charges shall be "the total of the loading, unloading and driving time computed from the arrival of carrier's equipment at point of origin, or first point of origin when more than one point of origin is involved, to the time unloading is completed at point of destination, or last

point of destination when more than one point of destination is involved." Three carriers engaged primarily in a specialized parcel delivery business joined in urging that the item be revised to provide that the time used to compute the charges shall be "the total time consumed from the time the carrier's equipment leaves carrier's terminal to the time that carrier's equipment returns to carrier's terminal."

A witness for one of these carriers stated that the method of computation provided in the tariff would apparently not compensate the carrier for nonproductive time required for the vehicle to reach the shipper's place of business and to return from the consignee's place of business to the carrier's terminal. He said that so far as his company was concerned the hourly rates were used only for "special deliveries," and he wished the privilege of charging for this nonproductive time. He readily conceded that he had given no thought to the effect which the proposed modification might have upon carriers engaged in the transportation of general freight.

Upon the suggestion being made that the tariff might be made permissive, so that either method of computation could be used in the discretion of the carrier and shipper involved, counsel for the three carriers here concerned stated that such an alternative application would satisfy their objections to the present rule.

The proposal that minimum hourly rates be based upon the total elapsed time from the time the vehicle leaves the carrier's terminal until it returns thereto has been previously considered and rejected by the Commission in this proceeding, principally because such a basis would favor some carriers against others, and would result in inequalities between shippers and between carriers. No

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In Decision No. 32504, supra, the Commission said, "The suggested use of nonproductive time in computing hourly rates would manifestly favor carriers most advantageously located to the particular job. Moreover, it seems apparent that such a basis would result in other inequalities, both between shippers and between carriers, since the work assignments of particular pieces of equipment prior and subsequent to the transportation rendered under hourly rates might be so arranged, at the option of the carrier, that the resulting hourly rates would be higher or lower according to the manner in which the carrier assigned its equipment to other work."

new justification has been advanced for adopting it at this time.

So far as the suggested alternative application is concerned, no reason appears why carriers should not be permitted to use the higher basis if that method is acceptable to the shipper. However, it does not appear that any modification of the tariff or of prior orders herein is necessary to accomplish this result. The rates, rules and regulations contained in the tariff are, of course, minimum in their application; maximum rates have not as yet been established. It is true that the sixth ordering paragraph of Decision No. 32504, supra, directs the carriers to abstain from "quoting, assessing, charging, collecting rates or accessorial charges based upon a unit of measurement different from that in which" the minimum rates and charges are stated. However, so long as the hourly rates are applied on an hourly basis it would appear that the same "unit of measurement" had been observed, and that no violation of the order on this account would result from computation of time in the manner suggested by the three parcel delivery carriers. 6

No change will be made at this time in the established method of computing time in connection with hourly rates.

Commodity Rates for Paper and Related Articles

Item No. 380 of the tariff established commodity rates for the transportation of paper, paper articles and stationers' supplies. These rates are lower than those now in effect for carriers generally, but are substantially the same as those which Reader Transportation Service and eight other carriers had been authorized to assess under

6 It is understood, of course, that the charges assessed and collected must not in any event be less than those established as minimum, and that the carrier's shipping order and freight bill must contain all of the information required by orders of the Commission.

the provisions of Sections 10 and 11 of the City Carriers' Act and Highway Carriers' Act, respectively.⁷ These rates were included in the tariff principally upon the recommendation of an assistant rate expert from the Commission's staff, who testified at a previous hearing that the rates were already available to nine carriers and sixty-five shippers through the medium of Section 10 and 11 authorizations, and asserted that in his opinion the number of carriers and shippers involved was strongly indicative that any efficient carrier fortunate enough to enjoy such business would experience approximately the same costs as the carriers authorized to deviate from the established rates.

Reader Transportation Service now alleges that the rates provided in Item No. 380 of the tariff are unduly low, and will continue to be so unless conditioned with a number of restrictions which would eliminate light and bulky articles, remove the split delivery privilege, increase the minimum charges, and require a minimum tonnage of 200,000 pounds and a minimum revenue of \$250.00 in a period of thirty days.

A. R. Reader, the managing partner of Reader Transportation Service, testifying in support of the proposed restrictions, explained that his company specialized in the transportation of paper and related articles. He said that he was certain that the rates provided in the tariff would be less than compensatory to any carrier which undertook to apply them without restrictions such as he

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The Section 10 and 11 proceedings are as follows:
Application No. 22086, of A. R. Reader and Phil Reader,
- doing business as Reader Transportation Service
Application No. 22283, of F. Teskey
Application No. 22322, of Service Transportation Co. Inc.
Application No. 22334, of Cole McGee
Application No. 22336, of L. M. Pettit
Application No. 22381, of Goodman Delivery Service, Inc.
Application No. 22433, of Cooperative Delivery Service, Ltd.
Application No. 22450, of Joaquin Lopez
Application No. 22885, of John J. Williams

proposed. Reviewing the history of the paper rates, he pointed out that his company had been the first to obtain Section 10 and 11 authority for this transportation, and that identical authority had thereafter been accorded to other carriers upon formal application but without public hearing. He testified that he had seriously erred in the presentation of his own application, in that he included numerous light and bulky articles in his commodity description, and in that he failed to provide for tonnage and revenue requirements which he had intended to impose. He declared that his own errors had been reproduced in the rates subsequently authorized for other carriers, and had now been carried forward into the tariff for all carriers. He stated that although he had sought and secured permission to accord the reduced rates to some 38 shippers, he had actually applied the rates to only six or seven of the larger shippers who offered tonnage in sufficient volume to make the rates profitable. He said that all of his other shippers had been assessed the established minimum rates, and that in no case had he applied the reduced rates to the articles which he considered light and bulky.

He introduced a number of exhibits containing, among other things, a study of the costs experienced by his company in the transportation of paper and related articles during the month of April, 1938; a tabulation showing the effect which application of the reduced rates would have had on the revenue received from 104 shipments handled by his company in November, 1939; a proposed limited commodity description; and a detailed explanation of other suggested amendments to the tariff necessary to put the proposed restrictions into effect.

The modifications urged by Reader were opposed by two shippers, and by two carriers which are now authorized to charge the reduced rates. The Motor Truck Association of Southern

California, while neither opposing nor supporting the Reader proposal, argued that by extending to all carriers special commodity rates which were based upon evidence received in Section 10 and 11 proceedings, the Commission would be overlooking the plain legislative intent to authorize subnormal rates for carriers who enjoyed unusually favorable transportation conditions. The Association suggested also that the use of evidence received in Section 10 and 11 proceedings for the purpose of establishing rates in a general proceeding was perhaps inconsistent with orderly and valid administrative procedure.

Rates substantially the same as those now provided in the tariff have been available to the paper shippers for more than a year, through the services of Reader and the eight other carriers heretofore mentioned. No objection was raised to such rates until it was proposed that they be made applicable to carriers and shippers generally. On the record as it now stands it seems quite probable that for general application the prescribed rates may prove to be somewhat low in particular instances and under certain conditions. However, Reader's proposals are not supported by cost or other evidence which would in any way justify imposition of the various suggested restrictions upon shippers generally, or upon other carriers. Moreover, the proposed restrictions contain a number of provisions which would make their application uncertain and ambiguous, and which would apparently require shippers and carriers to maintain several separate and different records of all shipments handled. For these reasons

8

As a matter of fact as late as September 20, 1939, and after a year's experience under those rates Reader sought their continuance for an indefinite period without restrictions such as he has here proposed. He then alleged that rates similar to those he has here assailed were, and would be for the immediate future, just and reasonable for the service performed; that his operations were virtually identical with the operations conducted at the time he was first granted authority to charge less than the minimum rates; and that his costs of operation had not materially changed.

the proposals will not be adopted. As previously indicated it may well be that the paper rates will require some adjustment. An early opportunity to present evidence in support of such adjustment as may be deemed necessary or advisable will be afforded any interested party who notifies the Commission of his readiness to proceed in the matter.

Attention has been directed to the inadvertent omission of Zone 11 from the territorial application of the paper rates. The item will be corrected.

Common Carrier Rates

By petition for reconsideration, Real Transportation Co., Inc., a highway common carrier, sought the adoption of the following additional finding in Decision No. 32504, supra:

"That common carriers subject to the Public Utilities Act, in order to meet competition furnished by highway contract carriers, and radial highway common carriers who have been, or who in the future may be, authorized to charge less than minimum rates herein prescribed, should be authorized to publish upon not less than 5 days' notice to the Commission and to the public, rates and charges, and rules and regulations governing the same, equal in level and effect to the rates which may have been, or may hereafter be, authorized under Section 11 of the Highway Carriers' Act."

In support of its petition, it alleged that in the matter of lowering rates to meet the competition created by granting radial highway common and highway contract carriers authority to charge less than the established minimum rates, its remedies are, and will continue to be cumbersome, costly and ineffectual.

Section 11 relief is ordinarily confined to instances in which the applicant's operation differs in its inherent characteristics from the operations of carriers subject to the minimum rates. The extension of such authorities to other carriers would only be justified in instances where the same circumstances and conditions prevail. It would not appear proper, therefore, to grant continuing relief to common carriers to meet Section 11 rates. The petition will be denied.

Minimum Weights on Sugar

Item 390 of the tariff fails to show that the numbers heading the individual rate columns refer to the minimum weights in pounds to which the respective columns are subject. Appropriate amendment will be made by the order herein.

O R D E R

Adjourned public hearings having been held in the above entitled proceeding, and based upon all of the evidence heretofore received and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that City Carriers' Tariff No. 4 and Highway Carriers' Tariff No. 5 (Appendix "A" of Decision No. 32504) as amended, be and it is hereby further amended by substituting for the corresponding pages now contained therein, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

First Revised Page 35 cancels Original Page 35

First Revised Page 37 cancels Original Page 37

First Revised Page 39 cancels Original Page 39

IT IS HEREBY FURTHER ORDERED that in all other respects the petitions of John J. Williams; Interstate Bakeries Corporation; Cooperative Delivery Service Ltd.; 20th Century Delivery Service and Reliable Delivery Service; Real Transportation Co., Inc.; and Reader Transportation Service, referred to in the preceding opinion,

be and they are and each of them is hereby denied.

In all other respects said Decision No. 32504, as amended, shall remain in full force and effect.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 2nd day of January, 1940.

Ray L. Rice
James R. Miller
Robert A. [unclear]
H. L. [unclear]
Justin J. Cooney
Commissioners.

First Revised Page....35
 Cancels
 Original Page.....35

CITY CARRIERS' TARIFF NO. 4
 HIGHWAY CARRIERS' TARIFF NO. 5

Item No.	SECTION NO. 4 - COMMODITY RATES (Concluded) In cents per 100 pounds						
*380-A Cancels 380	FREIGHT, as described in Items Nos. 370 and 371 series, subject to Note 1:						
	Minimum Weight	COLUMN A			COLUMN B		
	100 pounds	(1) 15			(1) 17		
	500 pounds	13			15		
	2,000 pounds	10			12		
	4,000 pounds	9			10		
	10,000 pounds	8			9		
	20,000 pounds	7			8		
	30,000 pounds	6½			7½		
	COLUMN A rates apply: Between or within Zones 1-A, 1-B, 1-C or 1-D, or within but not between Zones 10, 11, 12 or 17, as described in Items Nos. 30, 31, 32 and 33 series.						
COLUMN B rates apply: Between Zones 1-A, 1-B, 1-C, 1-D, 10, 11, 12 or 17 on the one hand and Zones 10, 11, 12 or 17 on the other, as described in Items Nos. 30, 31, 32 and 33 series.							
NOTE 1.-The rates named in this item will not apply:							
(a) To shipments consisting exclusively of commodities described under the heading of "Stationers' Supplies, viz.:" in Items Nos. 370 and 371 series.							
(b) To mixed shipments when the weight of the commodities described under the heading of "Stationers' Supplies, viz.:" in Items Nos. 370 and 371 series exceeds 15 per cent of the total weight of the shipment.							
(1) For rates on shipments weighing less than 100 pounds see Item No. 320 series.							
SUGAR:							
*390-A Cancels 390	Rate Basis	Minimum Weight in Pounds					
		(1) 100	500	2,000	4,000	10,000	20,000
	A	16	14	11	9	4	4
	B	21	16	14	11	4	4
	C	25	20	16	13	6	5
(1) For rates on shipments weighing less than 100 pounds see Item No. 320 series.							
*Change, Decision No.							
EFFECTIVE							
Issued by The Railroad Commission of the State of California, San Francisco, California.							
Correction No. 5							

First Revised Page....37
 Cancels
 Original Page.....37

CITY CARRIERS' TARIFF NO. 4
 HIGHWAY CARRIERS' TARIFF NO. 5

Item No.	SECTION NO. 5 - UNIT RATES, RULES AND REGULATIONS
*400-A Cancels 400	<p style="text-align: center;">RULES AND REGULATIONS (Items Nos. 400 and 401 series)</p> <p>(a) Rates named in this section are subject to Items Nos. 10 and 11 series, Definition of Technical Terms, Items Nos. 30, 31, 32 and 33 series, Application of Tariff-Territorial, Item No. 40 series, Application of Tariff-Commodities, Item No. 150 series, Collect on Delivery (C.O.D.) Shipments, and Item No. 160 series, Collection of Charges. They are not subject to other rules and regulations provided by Section No. 1.</p> <p>(b) Rates named in this section apply only when the property is transported by one carrier for one shipper.</p> <p>(c) Prior to the transportation of the property, the shipper must enter into a written agreement with the carrier to ship at rates no lower than those provided in this section, stating specifically the class of service desired. No single agreement shall cover shipments transported over a period in excess of 31 days. The agreement shall be in substantially the following form, and the original or a copy thereof shall be retained and preserved by the carrier, subject to the Commission's inspection, for a period of not less than three (3) years from the date of its issuance.</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p style="text-align: right;">Date.....</p> <p>In accordance with the provisions of Item No. 400 series of City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 (Appendix "A" of Decision No. 32504, as amended, in Case No. 4121), I hereby elect to have(identify transaction)..... transported by(carrier)..... from(point of origin)..... to(point of destination)..... at the rate of(see note)..... under the rates and provisions of Item No.(see note)..... series of said tariff.</p> <p>Shipper..... By..... (name in full) (name in full)</p> <p>Confirmed: Carrier..... By..... (name in full)</p> <p>NOTE.-In the event shipper and carrier agree to a basis higher than that provided by the Item, but in the same unit or units of measurement in which the minimum basis is stated, the agreed basis may be stated in place of the Item Number.</p> </div> <p style="text-align: center;">(Concluded on page 36)</p>
<p>*Change, Decision No.</p>	
<p style="text-align: center;">EFFECTIVE</p>	
<p style="text-align: center;">Issued by The Railroad Commission of the State of California, San Francisco, California.</p>	
<p>Correction No. 6</p>	

Item No.	SECTION NO. 5 - UNIT RATES, RULES AND REGULATIONS (Continued)																																										
	<p>FREIGHT, regardless of classification, transported between or within the zones described in Items Nos. 30, 31, 32 and 33 series, subject to Notes 1, 2 and 3:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Minimum Units per calendar month or any portion thereof</th> <th style="text-align: right;">Rates in cents per unit</th> </tr> </thead> <tbody> <tr><td>Any Quantity</td><td style="text-align: right;">30</td></tr> <tr><td>250</td><td style="text-align: right;">27½</td></tr> <tr><td>750</td><td style="text-align: right;">25½</td></tr> <tr><td>2,000</td><td style="text-align: right;">23½</td></tr> <tr><td>4,000</td><td style="text-align: right;">21½</td></tr> <tr><td>6,000</td><td style="text-align: right;">20</td></tr> <tr><td>8,000</td><td style="text-align: right;">18½</td></tr> <tr><td>10,000</td><td style="text-align: right;">17</td></tr> <tr><td>12,500</td><td style="text-align: right;">16</td></tr> <tr><td>15,000</td><td style="text-align: right;">15</td></tr> </tbody> </table> <p>*410-A Cancels 410</p> <p>NOTE 1.-When the charge accruing at the actual number of units exceeds the charge computed upon a rate based upon a greater number of units, the latter shall apply.</p> <p>NOTE 2.-The weight of each shipment shall be the gross weight thereof. No allowance shall be made for the weight of containers.</p> <p>NOTE 3.-The number of units shall be computed as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Weight of shipment in pounds</th> <th style="text-align: right;">Number of units</th> </tr> </thead> <tbody> <tr><td>50 or less</td><td style="text-align: right;">1</td></tr> <tr><td>Over 50 but not over 150</td><td style="text-align: right;">2</td></tr> <tr><td>Over 150 but not over 300</td><td style="text-align: right;">3</td></tr> <tr><td>Over 300 but not over 500</td><td style="text-align: right;">4</td></tr> <tr><td>‡ Over 500 but not over 550</td><td style="text-align: right;">5</td></tr> <tr><td>‡ Over 550 but not over 650</td><td style="text-align: right;">6</td></tr> <tr><td>‡ Over 650 but not over 800</td><td style="text-align: right;">7</td></tr> <tr><td>‡ Over 800 but not over 1,000</td><td style="text-align: right;">8</td></tr> <tr><td>‡ Over 1,000</td><td style="text-align: right;">(See Below)</td></tr> </tbody> </table> <p>To determine the number of units on shipments weighing over 1,000 pounds, use same method of computation as provided above for first 1,000 pounds.</p>	Minimum Units per calendar month or any portion thereof	Rates in cents per unit	Any Quantity	30	250	27½	750	25½	2,000	23½	4,000	21½	6,000	20	8,000	18½	10,000	17	12,500	16	15,000	15	Weight of shipment in pounds	Number of units	50 or less	1	Over 50 but not over 150	2	Over 150 but not over 300	3	Over 300 but not over 500	4	‡ Over 500 but not over 550	5	‡ Over 550 but not over 650	6	‡ Over 650 but not over 800	7	‡ Over 800 but not over 1,000	8	‡ Over 1,000	(See Below)
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