

Decision No. 32504.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of
just, reasonable and nondiscriminatory
maximum or minimum or maximum and minimum
rates, rules, classifications and regu-
lations for the transportation of property
for compensation or hire over the public
highways of the City of Los Angeles.

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ORIGINAL

Case No. 4121

ADDITIONAL APPEARANCES

Preston W. Davis, for United Parcel Service of
Los Angeles, Inc.
Chas. G. Long, for Lyon Van & Storage Co.
Jackson W. Kendall, for California Van & Storage
Association.
H.J. Bischoff, for Certificated Highway Carriers, Inc.
Laurence Berger, for Reliable Delivery Service.

BY THE COMMISSION:

SUPPLEMENTAL OPINION

By Decision No. 32504 of October 24, 1939, in the above entitled proceeding and by supplemental orders, minimum rates, rules and regulations for transportation of property within the Los Angeles Drayage Area have been prescribed and incorporated in a tariff designated as City Carriers' Tariff No. 4 and Highway Carriers' Tariff No. 5. United Parcel Service of Los Angeles, Inc., (hereinafter for brevity referred to as "United Parcel") now seeks (1) to be relieved from observing the established minimum rates, rules and regulations in so far as they pertain to the transportation of merchandise for retail stores, or (2) to have said rates, rules and regulations made inapplicable to the transportation by any carrier of furniture and other home furnishings¹ from retail stores to customers or from customers to the stores.

¹ The effect under either alternative would be the same so far as petitioner is concerned, inasmuch as the tariff already exempts commodities weighing 100 pounds or less per package or per piece, delivered from retail stores, and the record shows that this exemption is broad enough to exclude all of petitioner's retail deliveries within the Los Angeles Drayage Area other than those of furniture and other home furnishings.

Evidence concerning this petition was received at a public hearing held at Los Angeles before Examiner Bryant.

Four witnesses called by petitioner testified in support of the petition.² From their testimony it appears that United Parcel specializes in the transportation of small packages, and does not ordinarily hold itself out to handle articles weighing more than 100 pounds each. However, in connection with service rendered for several retail department stores for which it acts as exclusive delivery agency, United Parcel includes in its operation the transportation of furniture and other home furnishings, and these sometimes weigh as much as 200 pounds per article. According to petitioner's general manager, no other transportation company is regularly engaged in delivering these commodities from retail stores in the Los Angeles area.

The record shows that the commodities here involved are transported by United Parcel without wrapping or packing protection of any kind. The articles are accepted from the stores only when polished, cleaned, and ready to be placed directly into the customers' homes. All unnecessary movement of the goods is discouraged in order to avoid the possibility of scratching wood-work or smudging upholstery. United Parcel handles most of the shipments through a special terminal devoted to this class of property, although on occasion deliveries are made direct from the stores. The terminal consists of a sorting and loading platform conveniently located on the ground floor of a downtown department store in which most of the furniture originates. Between 10 and 25 open-bodied trucks of various sizes are used in transporting this particular traffic, and a driver and helper are employed on

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They were W.M. Schlinger and Edward E. Sundmacher, general manager and delivery manager, respectively, of United Parcel Service of Los Angeles, Inc.; Jackson W. Kendall, a transportation cost engineer; and Frederick Simpson, transportation superintendent of the Broadway Department Store.

each vehicle to make deliveries. The shipments come into the terminal during the late afternoon, and loading of the vehicles at the terminal usually starts about 7:30 o'clock the following morning. The loading time averages approximately two hours, and the time consumed in delivering the load is about seven hours.

All of the witnesses asserted that the minimum rates provided in City Carriers' Tariff No. 4 and Highway Carriers' Tariff No. 5 were not appropriate for the particular transportation here involved, principally for the reason that these rates are based primarily upon the weight of the property transported.³ According to the witnesses, it is impracticable to weigh uncrated and unwrapped furniture and home furnishings, and even though weights were readily obtainable, rates based upon weight would not properly reflect variations in the cost of transportation.

With respect to the difficulties of obtaining weights, it was explained that the United Parcel furniture terminal is frequently congested,⁴ that it is not equipped with scales, that lack of space would preclude installation of a sufficient number of scales to weigh all of the articles within the time allowed, and that even though scales were made available, their use would inevitably result in scratches, smudges, and other damage to the furniture. It was asserted that the alternative of installing scales at some other location would not be feasible because of the added expense of handling to and from the scales, and because of the increased damage hazard. It was declared, moreover, that the time which would be spent in weighing the shipments would work an unnecessary hardship on petitioner (and indirectly upon the retail stores and the general public) because of the necessity of hiring additional employees and

³ The weight rates provided in the tariff vary in general according to the classification of the commodity, weight of the shipment, and zone or zones involved, although "unit" rates which depend only upon weight of the shipment and the number of shipments made per month are also named. In addition, the tariff provides hourly, weekly and monthly rates.

⁴ On an average day approximately 1000 pieces are handled through the terminal, and during rush seasons the number may run as high as 2500 pieces per day.

supplying extra equipment in order that the deliveries might be made on time.⁵ The witnesses were unanimous in their opinion that weighing of these commodities would be impracticable, and would serve no useful purpose to either the stores or the carriers.

In support of the contention that rates based upon weight are not responsive to the cost of transporting the traffic here involved, the witnesses testified that furniture and other home furnishings are in general light and relatively bulky, and vary widely in the amount of space occupied by a given weight. They declared that for this reason the cost of transporting property of this nature is dependent upon cubic displacement of the articles rather than upon their weight. Petitioner's general manager explained that his company had used and desired to continue the use of a modified cubic-foot basis, and introduced exhibits for the purpose of showing that the basis sought to be applied would return greater revenue on the whole than would accrue from application of the minimum rates heretofore established by the Commission.⁶

Representatives of Certificated Highway Carriers, Inc., California Van and Storage Association, Cooperative Delivery Service, Williams Transfer Company and Reliable Delivery Service agreed with petitioner's witnesses that rates based upon weight of the shipment were unsound and impracticable for transportation of uncrated furniture and home furnishings, but objected to the issuance of any order which would grant special exemption to United Parcel. They were not opposed, however, to granting of the petition by excluding furniture and home furnishings transported for

⁵ It was estimated that it would take at least one minute per article to weigh the shipments, plus the time which would be spent by the drivers in recording the weights on shipping documents.

⁶ Under petitioner's cubic-foot basis, each article is assigned one or more units according to its size, and rates are assessed in cents per unit.

retail stores from the established minimum rates for all carriers, pending establishment by the Commission of rates which they would consider more appropriate.

The record is persuasive that the minimum rates, rules and regulations now provided in City Carriers' Tariff No. 4 and Highway Carriers' Tariff No. 5 are not well adapted to the transportation of furniture and other household furnishings from retail stores to customers, or from customers to the stores. While the volume of the established minimum rates has not been criticised and, in fact, petitioner intends to assess rates which will result in higher charges the testimony shows that application of the established rates in connection with these particular commodities is unduly burdensome. It is clear from the record that, because of the character of the commodities and the special services which they require, accurate determination of weights would be difficult, expensive, and generally impracticable, and could not be accomplished without seriously interfering with delivery schedules. The evidence shows, moreover, that the cost of transporting these commodities bears little relationship to their weight, and that shippers and carriers alike are desirous of using rates for this transportation on a basis which would not require weighing of the shipments. Under the circumstances, it is concluded that the petition of United Parcel should be granted by adding the particular commodities here involved to those previously exempted from the tariff.⁷

Upon consideration of all of the evidence of record, the Commission is of the opinion and finds that the tariff, designated as Appendix "A" of Decision No. 32504, dated October 24, 1939, in this proceeding, should be amended as shown in the revised page

⁷ For the purpose of clarification, reference in the same tariff item to used property and to commodities transported in dump trucks will be amended to make reference to outstanding orders of the Commission in which such rates are provided.

attached to and made a part of the order herein, and that in all other respects said Decision No. 32504, as amended, should remain in full force and effect.

O R D E R

An adjourned public hearing having been held in the above entitled proceeding, and based upon the evidence there 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 therein to become effective April 20, 1941, Second Revised Page 13 (Cancels First Revised Page 13), attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that tariff publications herein authorized to be made by common carriers may be made effective not earlier than April 20, 1941, and on not less than five (5) days' notice if published to become effective on that date.

IT IS HEREBY FURTHER ORDERED that 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 twenty (20) days from the date hereof.

Dated at San Francisco, California, this 25th day of March, 1941.

W. Baker
Car & P. Rice
Justice J. Quinn
Frank L. Havenner
Commissioners.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>40-A Cancels 40</p>	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES</p> <p>Rates in this tariff apply for the transportation of all commodities except the following:</p> <p>Accessories and Supplies, motion picture, Baggage, viz.: personal baggage and baggage containing sample merchandise, transported from or to a depot, dock or other point where passengers are discharged or received by common carriers, Buttermilk, in milk shipping cans or in bottles in cases or crates, Carriers (used packages), empty, returning from an outbound paying load, or being forwarded for a return paying load of traffic for which rates are not provided in this tariff (Subject to Rule No. 130 series of the Exception Sheet), Commodities weighing 100 pounds or less per package or per piece, delivered from retail stores, Commodities transported in bulk in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles, Commodities picked up or delivered for common carriers as defined in the Public Utilities Act, or for radial highway common or highway contract carriers as defined in the Highway Carriers' Act when the property is in the custody of such carriers for transportation from or to points not included in the zones described in Items Nos. 30, 31, 32 and 33 series, under rates which include pickup or delivery at points within the said zones, *Commodities when transported in dump trucks, for which rates are provided in Decision No. 32566 of November 14, 1939, as amended, in Cases Nos. 4246 and 4434. Cream, in milk shipping cans or in bottles in cases or crates, Directories, telephone, Film, motion picture, *Furniture, household appliances and other home furnishings, transported from retail stores where they have been sold at retail by a retail merchant, or transported from retail customers to retail stores, Live stock, Milk, in milk shipping cans or in bottles in cases or crates, *Used property, viz.: household goods, office and store fixtures and equipment, as described in and for which rates are provided in City Carriers' Tariff No. 3, Highway Carriers' Tariff No. 4, (Appendix "A" of Decision No. 32629 of December 7, 1939, or as amended, in Cases Nos. 4246 and 4434), and used property as described therein transported for the United States, state, county or municipal governments, Voting Booths, ballot boxes, election tents and election supplies when transported from or to polling places.</p>
	<p>*Change, Decision No.</p>
	<p style="text-align: right;">EFFECTIVE APRIL 20, 1941</p>
<p>Correction No. 20</p>	<p style="text-align: right;">Issued by The Railroad Commission of the State of California, San Francisco, California.</p>