

Decision No. 35871**ORIGINAL**

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) Case No. 4084
 in dump trucks, for compensation or)
 hire, over the public highways of the)
 City and County of San Francisco.)

BY THE COMMISSION:

Additional Appearances

E. H. Hart, for Draymen's Association of Alameda County.
 Eugene A. Read, for Oakland Chamber of Commerce.
 J. E. Lyons, A. L. Whittle and Wm. Meinhold for Southern
 Pacific Company and Pacific Motor Trucking Company.
 Starr Thomas and George T. Hurst, for The Atchison, Topeka
 and Santa Fe Railway.
 Athearn, Chandler and Farmer and Preston W. Davis, for
 United Parcel Service and San Francisco and United
 Parcel Service Bay District.
 Frank B. Hartung, for Owens-Illinois Pacific Coast Company.
 L. R. Keith and C. J. Riedy, for California Packing Cor-
 poration.
 C. D. Penniman, for F. W. Woolworth and Company.
 Milton O'Donnell, for Johnson and Johnson.
 James L. Roney, for Cannery League of California.
 R. C. Fels, for Retail Furniture Association of California.
 H. A. Lincoln, for Fibreboard Products, Inc.
 W. A. Casselman, for Colgate Palmolive Peet Company.
 Robert A. Doherty, for A. Mattei.
 Hugh W. Hendrick, for American Stevedore Co. Inc., Hill
 & Morton, Inc., Lumber Terminal Company, Wholesale
 Lumber Distributors, Inc., John Cabral, Western
 Transport Co., Lawrence Luke, and Nicholas J.
 Melchior.

SUPPLEMENTAL OPINION

Minimum rates, rules and regulations for the transporta-
 tion of property within the City and County of San Francisco by
 for-hire carriers have been established by Decision No. 28632 (39
 C.R.C. 636), as amended, in this proceeding. This supplemental

opinion deals with various proposed modifications of the rates, rules and regulations so established which were submitted at public hearings had at San Francisco before Examiner Mulgrew.¹ It also deals with certain other matters which may be disposed of without formal hearing.²

Handling and Distributing Pool Cars

The rate established for handling and distributing pool-car shipments of new furniture is 35 cents per 100 pounds; rates established for like services in connection with shipments of other commodities are class rates one class higher than those otherwise applicable, except that rates for component parts of these latter shipments delivered to one address in minimum quantities of 20,000 pounds are not increased; and rates established for handling service (sorting and other accessorial service) by a drayman that does not also distribute (transport) the property are 50 per cent

1

Modifications proposed by the Draymen's Association of San Francisco relate to handling and distributing pool cars; accessorial service at delivery points; delays; marking packages; consignments received from other carriers consisting of two or more shipments; drayage from railhead points; towing vehicles; loading and unloading rail cars; rates on beans, cereal products and refrigerators; and minimum tonnage requirements for transportation for bagging houses. The Association and F. W. Woolworth and Co. proposed modification of rates for empty containers returning. A. Mattei requested adjustment of wine rates, and a witness from the Commission's Rate Division recommended clarification of minimum tonnage requirements. Evidence was also received at these hearings relative to proposals submitted by certain operators of so-called "straddle-type" equipment relating to rates on lumber and forest products. This latter proposal, however, also involved rates for drayage of lumber within and between East Bay cities and evidence relative thereto was also received in Cases Nos. 4108 and 4109 in which minimum East Bay cartage rates have been established. It will be disposed of in a separate decision.

2

They are the application of Thomas W. Gilboy and J. L. Frazier, seeking exemption of the transportation of motion picture films and motion picture theatre accessories and supplies from the established rates; and the petition of Parsons Ammonia Company, Inc. seeking modification of rates on ammonia in glass.

of those applicable to both services.³ Draymen's Association of San Francisco (hereafter referred to as the Association) proposed that the application of these rates be restricted to shipments which have been transported to San Francisco under carload rates.

A witness for the Association asserted that in establishing rates for pool-car distribution the Commission had recognized that this type of service involved carload or quantity shipments consisting of separate lots combined for transportation to point of distribution as single shipments in order to obtain carload or quantity rates lower than those applicable to smaller separate shipments (Decision No. 28731 of April 20, 1936, in this proceeding). He also asserted that the drayage rates for smaller pooled-lot shipments, those transported to San Francisco under less-carload or any quantity rates, were excessive and that the ordinary cartage rates were suitable for the handling and distributing of such shipments. The proposal contemplates that the draymen determine whether or not shipments moved under carload rates from the other carriers' billing. The witness conceded that rail, truck and vessel carriers did not maintain uniform carload minima for the same commodities. On the other hand, he said that, because of wide variations in carload minimum weights for the numerous commodities transported in pool cars, it was not feasible to limit the application of drayage rates for the distribution of these shipments by establishing one minimum weight for all commodities.

³ These rates are applicable to any "lot of property consigned to (a) a carrier (San Francisco drayman) 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."

It was not contended, nor does the record suggest, that the size of the pooled-lot shipments changes the character of the service rendered by the draymen. In the handling and distribution of these shipments, regardless of their size, the draymen evidently perform accessorial services not performed in connection with other cartage operations. Under the established rates, compensation for these added services is derived from the differences between the ordinary drayage rates and the higher rates prescribed for pool-car distribution. These higher rates apparently are not related to or influenced by the rates maintained by the carriers transporting the property to San Francisco. Except for the mere assertion that the ordinary cartage rates are suitable and the pool-car rates excessive for the handling and distribution of less-carload shipments, the record is devoid of any evidence tending to establish the reasonableness of the former rates and unreasonableness of the latter. This assertion has little, if any, probative value. At best, it casts as much doubt upon the propriety of the normal drayage rate level as upon the pool-car rate level. Moreover, the fact that carload minimum weights observed by rail, truck and vessel carriers for transportation of the same commodities are not uniform, demonstrates that adoption of the Association's proposal would establish different drayage rates for identical service. The proposal has not been justified.

Accessorial Service at Delivery Points

The established drayage rates include pickup and delivery service within 20 feet from the carrier's equipment. Additional charges are required to be assessed, when in order to effect pickup

or delivery, it is necessary to perform service not conforming with this limitation. The additional charges, for traffic transported under class rates, are determined by increasing the rates to the next higher class; for traffic transported under commodity rates they are on the basis of a rate of \$1.25 per man per hour. No additional charges are now required to be observed for other accessorial services. The Association represented that in certain instances consignees had required the draymen to perform various services, such as segregating packages by the sizes of the inner containers and by the grade of the merchandise. For these accessorial services proposed rates were submitted ranging, in connection with transportation under class rates, from 5 cents per 100 pounds for articles classified first class or higher to 2½ cents for articles classified fourth class or lower, and ranging, in connection with transportation under commodity rates, from \$4.40 per hour for vehicles having a capacity of more than seven and one-half tons to \$2.20 per hour for vehicles having a capacity of one ton or less. The hourly rates were proposed to be applied on the basis of the capacity of the equipment which would accommodate the shipment and on the basis of the time devoted to accessorial services other than delivery service.

According to the Association's witness it is only recently that draymen have been requested to supply these services; previously they were performed by the consignees' warehousemen or porters. The proposed rates while admittedly not based on specific cost studies were said not to exceed reasonable costs based on the additional time the draymen's employees and their equipment would be required for these services. The proposed rates were also said to be necessary as demurrage or penalty charges. It was explained that the

draymen did not consider rendition of the services in question normal cartage operations; that they had begun to perform these services only upon the insistence of their patrons; that the establishment of provisions requiring that added charges be assessed for such services was necessary in order to lessen the demand therefor; and that this was essential to keeping an adequate amount of equipment available for regular cartage service. In connection with class rate traffic, it was claimed, the proposal also gives effect to the value of the service as reflected by the classification ratings on which the charges would be based; and in connection with commodity rate traffic, it was pointed out, the rates are the same as those applicable to transportation for which hourly rates have been established.

Representatives of shipper interests conceded that draymen are entitled to compensation for added services performed and for delays to equipment incidental thereto. They contended, however, that the proposed charges would be confusing and difficult to apply; that there is no justification for different bases of charges for the same service dependent upon whether the shipment moves under class rates or under commodity rates; and that charges for these accessorial services should be commensurate with operating costs.

From the showing made it appears that the foregoing proposals, in so far as they relate to hourly rates, lack that definiteness and certainty which are necessary in a rate schedule which must be applied strictly according to its terms. For example, the computation of time and the estimate of the size of the equipment needed would be left to the judgment of the carrier. It seems inevitable that under such circumstances differences in opinion would be reflected in the assessment of different rates for comparable services. Moreover, the evidence of record fails to provide

adequate justification for the assessment of different accessorial charges depending upon whether the transportation charges are determined under class or commodity rates. In addition, the showing made is not convincing that either the proposed hourly or weight rates would provide charges which would be reasonably related to the cost of performing service. It does appear, however, that the services in question are such that some provision should be made for the assessment of appropriate added charges. The Association's proposal will, therefore, be denied without prejudice to the conclusions the Commission may reach upon a more comprehensive record.

Delays

A rate of \$2.20 per hour has been established for delays at docks, warehouses or stores which exceed one-half hour and for which the carrier is not responsible. This rate applies regardless of the capacity of the equipment employed by the drayman. It was proposed by the Association that this uniform rate be replaced by rates ranging from \$2.20 per hour for vehicles of one ton capacity or less to \$4.40 per hour for vehicles of more than seven and one-half tons capacity, and that the one-half hour free time be eliminated. As in the case of the accessorial services at delivery points previously discussed, the capacity of the equipment that would accommodate the shipment would control the charge to be made.

The proposed rates, the Association's witness pointed out, are the same as those prescribed for transportation under hourly rates. Although the latter are based upon costs which include running expenses, the witness asserted that, due to the relatively

short distances involved in San Francisco drayage, those expenses have a relatively minor effect upon total operating expenses. Delays had been frequently experienced, he said, particularly at steamship docks, and this, he claimed, had resulted in operations involving these delays being conducted on a noncompensatory basis.

The record tends to show that rates more closely related to the added costs of the draymen than the present uniform rate may well be justified. However, as in the case of the proposal relating to accessorial service at delivery points, the hourly rates proposed have not been shown to be reasonably related to the cost of performing service. Under both proposals, moreover, the size of the equipment required would be left to the judgment of the carrier at the expense of definiteness and certainty. Approval of the sought basis will be denied without prejudice.

Marking Packages

Under the established rates, the charge for marking packages is one-half cent per package, minimum charge 10 cents, for two-line stencils or marks, and one cent per package, minimum charge 15 cents, for three lines or more. It was proposed by the Association that these charges be adjusted to one cent per package, minimum charge 10 cents, for three lines or less, and one and one-half cents per package, minimum charge 15 cents, for four lines or more.

The witness for the Association said that the existing charges were below the "going" rates for this service and that the proposed charges were the same as those provided in California Warehouse Tariff Bureau Tariff No. 1-E, C.R.C. No. 83 of L. A. Bailey, Agent. The public utility warehousemen participating in that tariff, he said, regularly engage in rendering the service in question.

The warehouse tariff above referred to provides a rate of one cent per package, minimum charge 15 cents, for "stenciling, marking or tagging packages (ordinary shipping size)," without regard to the number of lines. The warehousemen's basis thus provides a minimum charge of 5 cents higher than that proposed by the Association for stencils or marks of three lines or less and a rate one-half cent lower than that proposed for four lines or more. The proposal is not justified on the grounds advanced in its support and will be denied.

Consignments Consisting of Two or More Shipments Received from Other Carriers

When two or more shipments are delivered to or received from other carriers, the established drayage rate structure provides, by rule, that the freight covered by each bill of lading or freight bill of the connecting carrier shall be considered a separate drayage shipment and charges assessed accordingly. The Association proposed that these provisions be amended so that the property covered by each dock receipt or permit would likewise be considered a separate shipment.

In support of this proposal it was explained that the documents in question were used instead of bills of lading or freight bills in connection with ex-vessel drayage, that only one dock receipt or permit is issued for each shipment, and that adoption of the proposal is necessary to clarify the application of the rule by including the documents actually used in connection with the service in question.

It appears that the proposal merely enlarges the current provisions so as to embrace documents customarily involved in connection with ex-vessel drayage. The sought change in these provisions is justified and will be established.

Drayage from Railhead Points

Drayage of property received from a carrier at a depot, dock, wharf, pier or landing, and drayage of property from a public warehouse to a wholesaler are operations described as "inhaul" transportation. For this transportation specific rates, generally lower than the rates otherwise applicable, are provided in the drayage rate structure. It was proposed that the "inhaul" rates be extended to drayage from all so-called "railhead" points, i.e. points "at which facilities are maintained for the loading of property into or upon, or the unloading of property from, rail cars or vessels" and including the "truck loading facilities of plants or industries located at such rail or vessel loading or unloading points."⁴

The Association's witness testified that inhaul transportation rates did not apply to the drayage of freight received from another carrier at all railhead points, although this drayage from the excepted points was substantially similar to other service performed under those rates. Approval of the proposal, he said, would provide the rate equality justified by this similarity.

It appears that drayage from all railhead points should be accorded the same rates as those now in effect from the points from which inhaul rates apply. The Association's recommendation will be adopted.

Towing Vehicles

Rates for the transportation of vehicles containing the means for their own propulsion are now the same whether these vehicles

⁴ The points covered by the term "railhead" are those embraced by the above quoted definition of that term from Highway Carriers' Tariff No. 2, Appendix "D" of Decision No. 31606, as amended, in Case No. 4246, in re Rates of Common and Highway Carriers.

are moved in or on the drayman's equipment or towed by that equipment. For towing operations the Association proposed that a rate of \$1.50 per vehicle be prescribed in lieu of the rates now applicable.

The witness for the Association said that its members had not regularly engaged in performing towing services but that occasionally they had been called upon to tow automobiles. He asserted that towing differed from other drayage and that the regular rates which range from 21 cents per 100 pounds for intrazone hauling to 26½ cents for interzone hauling of automobiles produced excessive charges when applied to towing service. Automobile unloading companies charge only \$1.50 per automobile.

It seems clear that the existing charges for the towing of automobiles of average size or smaller are unduly high and that the proposed charge is reasonable for that service. For larger vehicles, it may well be that charges somewhat higher than that proposed would be more appropriate. However, the record does not show the extent to which higher charges may be necessary, and in order that the draymen may not be required to make excessive charges for the smaller vehicles the proposed charge will be established as a minimum for all vehicles. It will be expected that the draymen will not dissipate their revenues by observing this minimum charge when the nature of the towing service requires that higher charges be assessed.

Loading or Unloading of Rail Cars

As previously stated herein in connection with the discussion relating to accessorial service at delivery points, charges in addition to those produced by the drayage rates have been established for pickup or delivery more than 20 feet from the carrier's

equipment but not for other accessorial services rendered in connection with these operations. The Association proposed the establishment of a rate of 3 cents per 100 pounds for loading and unloading rail box cars.

In support of this proposal it was claimed that revenues derived from the existing rates were not sufficient to return drayage costs, including loading and unloading of these cars. A witness for the Association testified that while for many years prior to the present war vessel carriers had enjoyed the handling of from 90 to 95 per cent of the traffic destined to San Francisco, that proportion of the traffic is now arriving by rail. The transfer of freight from rail box cars to trucks, the witness asserted, involves substantially greater expense than the transfer of similar freight from steamship docks to trucks. According to the witness, removal of the bracing and blocking securing the freight in the box car and the handling of the freight from the cars to the trucks is a more difficult and more lengthy operation than that involved in handling like cargo from the floors of the steamship docks to the trucks. On the docks, he said, low-bed equipment is ordinarily backed directly to the stacked freight and loading costs are generally about the same as those experienced in other cartage operations. The witness stated that the draymen had formerly recognized and given effect to the additional cost of unloading cars, as evidenced by the charge of $2\frac{1}{2}$ cents per 100 pounds for loading and unloading rail cars set forth in the Association's tariff in effect prior to 1922. He also pointed out that car loading and unloading companies maintained a rate of 53 cents per ton for loading or unloading box cars and that Consolidated Freight Classification No. 14 provided a charge of 3 cents per 100 pounds for the loading and unloading of carload freight by rail carriers.

Studies of the cost of unloading cars containing various commodities were submitted in support of the proposed 3-cent rate. According to these studies the cost of this operation, exclusive of supervision, insurance and overhead expenses, ranges from 2.5 cents to 16.75 cents per 100 pounds.

Representatives of shipper interests pointed out that the present rates include the loading of the draymen's equipment; and that the costs of record here are those experienced in loading the draymen's trucks from rail box cars, not the added cost of that operation as compared with other loading operations. They contended that it was apparent that at least some of the expense of transferring freight from cars to trucks, as disclosed by the Association's showing, was already reflected in the existing rates. Additional charges for such service, they argued, should not be established on a record which failed to demonstrate the added expense of the operations in question.

Although the record tends to show that the handling of freight from rail cars is attended by somewhat greater expense than the handling of like traffic from steamship docks, it fails to show that the existing rates are unreasonably low for the operations involved. The showing made is not convincing that additional charges based upon a 3-cent rate are justified. The Association's proposal will, therefore, be denied without prejudice to the conclusions which may be reached on a more comprehensive record.

Classification of Dried Beans

The Association proposed that the package requirement of the 80 per cent of fourth class rating established for the drayage of dried beans, in minimum quantities of 6,000 pounds, be changed from "in bags" to "in sacks." Its witness testified that only beans

in burlap containers had formerly been transported under this rating but that some movement of beans in paper bags had recently developed. He also testified that the paper containers were more difficult to handle than the burlap containers and that this more difficult handling had been reflected in higher drayage costs. On the other hand, the fourth class rating for shipments in paper bags which he said would result from adoption of the proposed change would, he asserted, establish a reasonable difference between rates for cartage of beans in burlap and in paper containers.

The justification offered in support of this proposal demonstrates that the proposed increased rating should be established for shipments of beans in paper containers. The package requirement in question will be modified accordingly.

Classification of Cereal Products

Prepared cereals, other than flaked, are classified 80 per cent of fourth class in minimum quantities of 6,000 pounds and fourth class in smaller quantities. Flaked cereals are classified first class, regardless of the quantity. It was proposed that the classification of puffed and shredded cereals be changed to first class.

In support of this reclassification, the Association's witness testified that the densities of puffed, shredded and flaked cereals were much less than those of other cereals and that because of their greater bulk, rates for the puffed, shredded and flaked cereals, when on a weight basis, must be substantially higher than the rates for heavier cereals in order to reflect properly transportation costs and in order to provide appropriate rate relationships.

From the showing made, it appears that the cartage of puffed and shredded cereals is comparable to the cartage of flaked cereals.

The uniform classification rating recommended by the Association will be established.

Rates on Refrigerators

Commodity rates for the delivery of refrigerators have been prescribed on the basis of their storage capacity. For capacities of 6 cubic feet or less the rate is \$3.30; for capacities of over 6 but not over 9 cubic feet the rate is \$4.40; and for larger refrigerators the rate is \$1.40 per man per hour. These rates include the installation of the refrigerators and accessorial services rendered in connection therewith. The same rates, however, apply to deliveries when installation services are not performed. The Association recommended that the application of these rates be limited to the transportation of shipments in connection with which the drayman also installs the refrigerators.

A witness for the Association stated that installation of refrigerators involved a considerable amount of accessorial service and that in instances where this service was not rendered costs were considerably less. For cartage not involving these accessorial services, he said, the ordinary drayage rates would be suitable and proper.

It appears that shippers not furnished installation service should not be required to pay rates based upon the rendition of such service. The Association's request has been justified and will be granted.

Tonnage Requirement for Transportation for Bagging Houses

The Association proposed that the minimum tonnage requirement of 750 tons per calendar month prescribed in connection with the commodity rates established for drayage for bagging houses be reduced to 500 tons.

In support of the proposal it was testified that the bulk of this traffic consisted of ex-vessel cargo and that disruption of vessel service and other difficulties encountered in securing bagging arising from the present war had changed the character of this drayage from a regular to a spasmodic movement. It was also testified that some bagging which had formerly been forwarded to San Francisco by vessel had been diverted to rail movement and that this diversion had reduced the aggregate volume of drayage because deliveries of rail shipments were made on the bagging house's spur track. The ex-vessel traffic still handled, the witness said, usually consisted of consignments of greater weight than the average consignment formerly handled. This assertedly permitted the drayman to enjoy better than normal load factors and would enable compensatory operations to be maintained under the proposed reduced monthly minimum.

The showing made establishes that ex-vessel cartage has not been adversely affected by changed conditions. However, no evidence was offered with respect to other cartage operations embraced by the commodity rates in question. Moreover, the charges which would result from the application of rates not subject to a monthly tonnage minimum to the traffic in question was not disclosed. Under the circumstances, and particularly in view of the sharp reduction recommended in the tonnage minimum, the bare assertion that operations as a whole under the reduced minimum would be compensatory falls far short of being convincing that this would be the case. The proposal has not been justified by the record made.

Empty Containers Returning

The Association and F. W. Woolworth & Co. proposed that specific commodity rates be established for the transportation of knocked down paper cartons and of set up wooden cases not exceeding

10 cubic feet in capacity, secondhand returning or shipped for return paying load. The rates proposed are 9 cents per 100 pounds between Zone 1 points, 10 cents between Zone 1 and Zone 2 points, and 11 cents between Zone 1 and Zone 3 points. A minimum charge of 55 cents per shipment was recommended.

According to the record, Woolworth's shipments from its San Francisco warehouse to its retail stores were transported in either the original fibre board cartons or in repacked cartons, none of which were returned to the warehouse, until production of fibre board containers was recently curtailed and restrictions placed on the strength of the containers permitted to be manufactured. These changed circumstances were said to have made it necessary that cartons be reused for packaging drayage traffic and that this packaging be supplemented by the use of wooden cases. It was pointed out that the aggregate weight of the property and containers shipped from the warehouse to the stores has thus been increased in the case of those shipments handled in the wooden containers and that the draymen now enjoy a return haul of either the knocked down cartons or the wooden containers. It was alleged that the established minimum rates are not suitable for the transportation of the packages in question and that the proposed reduced rates are sufficient to enable the draymen to handle this freight on a compensatory basis. It was also pointed out that for line-haul traffic the property in question would be transported at rates one-half of 4th class and that the proposed rates are materially higher than the one-half of fourth class drayage rates.

Although the record tends to show that recent developments have caused a material change in the handling of the interested shipper's traffic, little or no showing was made from which a determination can be reached with respect to the reasonableness and

propriety of the proposed basis. In this connection, a statement that these rates would be compensatory, standing alone, has little, if any, probative value. In regard to the comparisons with line-haul rates, the Commission has established 16 cents or the actual fourth class rate, whichever is lower, as the minimum rate for that transportation in less-carload lots. (See Decision No. 31606, 41 C.R.C. 671, as amended.) These minimum rates for quantities of less than 10,000 pounds, are generally substantially higher than those here sought. The proposal has not been justified.

Rating on Wine in Glass

A. Mattei urged that the rating on wine, in glass, be reduced from first to third class. In support of this proposal he claimed that the first class rates were so high that they were prohibitive in connection with small shipments and that the volume of these rates had prevented him from competing with other wine dealers who make their own deliveries. He also claimed that a first class rating is maintained for the delivery of so-called "hard liquors" having a greater value than wine, and that a fourth class rating generally prevails throughout the country for the transportation of wine.

From the showing made it appears that charges on wine, in glass, based on the existing first class rating are not properly related to the charges on other commodities. Correction of this maladjustment in the manner proposed has been justified by the reasons advanced, except in connection with the transportation of wine having a declared value of more than \$2 per gallon. Transportation of wine of that value, under the rates prescribed by the Commission for line-haul traffic in re Rates of Common and Highway Carriers, is subject to higher rates than those applicable to wine of lesser value, and it appears that the lower rating here proposed should be restricted

in a similar manner. In other respects the proposal will be adopted.

Minimum Tonnage Requirements

Rates subject to monthly or annual tonnage requirements apply only when the carrier is furnished with a satisfactory guarantee that the minimum tonnage requirement will be shipped, or when the required tonnage has been transported. When the actual weight transported under these guarantees is less than the minimum requirement and more than one rate is involved, a witness from the Commission's Rate Division pointed out, the provisions in question do not specifically state which of the rates shall be applied to the weight deficit in order to determine the applicable charges. The witness said that this question had been before the Commission in Case No. 4569, in re Investigation into the operations, rates, etc. of S. Brizzolara Draving Co. He referred to Decision No. 34792 of November 25, 1941, in that proceeding, in which it was held that charging for the deficiency in weight at the lowest of the rates applicable to the transportation in question satisfied the minimum tonnage requirements. The witness proposed that this basis of charging for weight deficiencies be incorporated in the minimum tonnage provisions of the established rate structure for the sake of clarity.

It appears that the proposed change does not affect the applicable charges and that its adoption is justified for the reasons advanced.

Transportation of Motion Picture Films and
Motion Picture Theatre Accessories and Supplies

By Application No. 25115, filed under Section 10 of the City Carriers' Act, Thomas W. Gilboy and J. L. Frazier, individuals doing business as Gilboy Company and Film Messenger Service, respectively, sought exemption from the rates established in this proceeding for the transportation of motion picture films and motion picture theatre accessories and supplies. They alleged that their facilities and methods of distribution were necessarily highly specialized because of the type of service demanded by their patrons and that the traffic handled was in no way comparable to or competitive with other drayage operations. They also alleged that the highly specialized nature of their operations required different rate treatment from that accorded ordinary cartage service and that charges under the established rates would produce higher charges than those contemporaneously maintained by Gilboy for like transportation from San Francisco to points as far distant as San Jose, Davis and Vacaville.

For reasons substantially similar to those above stated the transportation of the commodities in question has been exempted from the statewide minimum rates prescribed for highway carriers by Decision No. 31606 (41 C.R.C. 671), as amended, and from the minimum rates prescribed for cartage operations within the Los Angeles drayage area by Decision No. 32504 (42 C.R.C. 239), as amended. It appears that any carrier engaged in performing this type of service in San Francisco should likewise be permitted to establish rates adaptable thereto rather than be required to observe the established rates. This traffic will be exempted from the prescribed San Francisco drayage rates pending the establishment of rates based upon conditions peculiar to the service in question.

Rating on Ammonia in Glass

By petition, Parsons Ammonia Company, Inc. sought reduction of the rating on ammonia, in glass, from 2nd to 4th class. Subsequently, however, it requested that its petition be dismissed without prejudice. The request for dismissal should be granted.

Upon consideration of all the facts of record we are of the opinion and find that Decision No. 28632, as amended, in this proceeding should be further amended to the extent shown in the order herein; and that in all other respects requested modifications of the aforesaid Decision No. 28632, as amended, have not been justified on this record.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Exhibit "A" of Decision No. 28632 of March 16, 1936, as amended, in the above entitled proceeding be and it is hereby further amended as follows:

Rule 5 - Application of Rates

Add to the "Note" in paragraph (a) the following:

"12. Accessories and supplies, motion picture; film, motion picture."

Rule 15 - Definition of Shipment

Substitute the following rule:

"Unless otherwise provided, rates named herein apply to single shipments of property. A single shipment of property is a lot received from one shipper, at one pickup address, on one shipping order or one bill of lading, at one time, for one consignee, to one delivery address. Two or more single shipments shall not be combined and billed as one shipment, but must be carried as separate shipments, and at rates not less than the established minimum rates for each shipment.

"When shipments are delivered to or received from other carriers, each bill of lading, freight bill, dock receipt or dock permit shall be considered as a separate shipment and charges assessed accordingly."

Rule 75 - Explanation of Technical Terms

Substitute the following for paragraph (f):

"(f) Inhaul means the transportation of property received from another carrier at a depot, dock, wharf, pier, landing or other point at which facilities are maintained for the loading of property into or upon, or the unloading of property from rail cars or vessels, or received from another carrier at truck loading facilities of plants or industries located at such rail or vessel loading or unloading point, when originating beyond the limits of the City and County of San Francisco; and also means the transportation of property from public warehouses to wholesalers."

Rule 85 - Guarantee of Minimum Tonnage

Substitute the following rule:

"Rates based upon monthly or annual tonnage requirements shall apply:

- (1) When not less than the required minimum tonnage has been transported, or
- (2) When less than the required minimum tonnage has been transported under the shipper's guarantee to ship not less than said minimum tonnage. The deficiency between the actual weight of the commodities transported and the minimum tonnage requirement shall be charged for at the lowest rate in the item or items naming the applicable rates subject to monthly or annual tonnage requirements."

Classification of Articles

Substitute for classification ratings reading "Cereals, Flaked, prepared....1"; "Cereals, Prepared other than flaked: requiring cooking ...4"; and "Cereals, Prepared other than flaked: Not requiring cooking...4" the following:

"Cereals, prepared, flaked, puffed, or shredded ...1; and Cereals, prepared, N.O.S.....4."

Add the following entry:

"Wine, in glass in boxes....3."

Exceptions to Classification

In the item headed "Property as described in Note 1 below in lots of 6,000 pounds or more, 80% of 4th class" the entry reading "Beans, dried, N.O.S., in bags," to read "Beans, dried, N.O.S., in bags other than paper bags"; and the entry reading "Cereals, Prepared, other than flaked, requiring cooking" to read "Cereals, prepared, other than flaked, puffed or shredded."

Item 110 - Commodity Rate on Refrigerators

Substitute the following item:

"REFRIGERATORS, equipped with cooling or refrigerating apparatus of either mechanical or gas, gasoline or oil flame type.

City Delivery: (Not subject to Rule 5(b) and applies only in connection with shipments of one refrigerator installed by the carrier at point of delivery. Charges otherwise provided shall apply on shipments in connection with which installation service is not rendered and on shipments of more than one refrigerator, except that the aggregate charge so computed for a shipment of two or more refrigerators in City Delivery shall not be less than the highest charge provided in this item for a shipment of one refrigerator).

Storage capacity 6 cubic feet or less.....\$3.30

Storage capacity Over 6 cubic feet and not over 9 cubic feet..... 4.40

Storage capacity Over 9 cubic feet..... 1.40 per man per hour."

Commodity Rates

Add under heading "Commodity Rate" a new item as follows:

"Vehicles containing the means for their own propulsion.....\$1.50 per vehicle."

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 28632, as amended, shall remain in full force and effect.

IT IS HEREBY FURTHER ORDERED that petitions of Draymen's Association of San Francisco, in so far as they relate to accessorial service at delivery points, delays, and loading or unloading of rail cars, be and they are denied without prejudice; that petitions of said Draymen's Association, in so far as they relate to other matters discussed in the foregoing supplemental opinion, be and they are hereby denied, except to the extent shown in the first ordering paragraph hereof; and that the petition of Parsons Ammonia Company, Inc., relative to the rating on ammonia in glass, be and it is hereby dismissed without prejudice.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at Los Angeles, California, this 20th day of October, 1942.

Justin F. Galloway
Ray R. Rice
W. H. Baker
Francis R. Havens
Richard L. Clarke

Commissioners