

ORIGINAL

Decision No. 35917

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment)
of maximum or minimum, or maximum and)
minimum rates, rules and regulations)
for the transportation of property,)
for compensation or hire, over the)
public highways, by all Radial High-)
way Common Carriers and Highway Con-)
tract Carriers between, and by all)
City Carriers within the cities of)
Oakland, Emeryville, and Piedmont, in)
the County of Alameda.)

Case No. 4108

In the Matter of the Investigation)
and Establishment of rates, charges,)
classifications, rules, regulations,)
contracts and practices, or any)
thereof, of East Bay Drayage & Ware-)
house Co., Haslett Warehouse Company,)
Inter-Urban Express Corporation,)
Kellogg's Express and Drayage Co.,)
Merchants Express Corporation,)
Peoples Express, Special Delivery)
Service Co., United Parcel Service,)
United Transfer Company, and West)
Berkeley Express & Drayage Company,)
operating as Highway Common Carriers,)
for transportation of property, for)
compensation, over the public high-)
ways of the State of California, be-)
tween the Cities of Oakland, Albany,)
Alameda, Berkeley, Emeryville and)
Piedmont, in the County of Alameda,)
and for accessorial services inci-)
dent to such transportation.)

Case No. 4109

BY THE COMMISSION:

Additional Appearances

- 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 of 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 Corporation.
C. D. Penniman, for F. W. Woolworth and Company.
Walter A. Rohde, for San Francisco Chamber of Commerce.
James L. Roney, for Cannery League of California.
H. A. Lincoln, for Fibreboard Products, Inc.
W. A. Casselman, for Colgate Palmolive Peet Company.
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

By Decision No. 29217 of October 26, 1936, as amended, in these proceedings, minimum rates, rules and regulations have been established for the transportation of property within the East Bay drayage area by for-hire carriers. Draymen's Association of Alameda County (hereinafter referred to as the Association) proposed that the rate structure thus prescribed be modified by the establishment (1) of charges for handling and collecting loss and damage claims, and (2) of commodity rates for the transportation of empty gas cylinders and carbide drums.¹ Evidence relative to these proposals was received at public hearings held at San Francisco before Examiner Mulgrew.

The Association urges that the following rule be established as the basis of charges for services rendered by the draymen in connection with the collection of loss and damage claims:

¹ Modification of the rates, rules and regulations established for the transportation of lumber and forest products was proposed by certain operators of so-called "straddle-type" equipment. Their proposal, however, also involved San Francisco drayage operations. It will be disposed of in a separate decision.

"COLLECTION OF LOSS AND/OR DAMAGE CLAIMS

A minimum charge of \$1.00 will be made for the handling and collection of loss and/or damage claims against another carrier when the amount involved exceeds \$100.00. When the amount involved is \$100.00 or less, 1% of the amount involved will be charged subject to a minimum of 25 cents."

According to witnesses for the Association, East Bay draymen frequently transport shipments which were damaged or of which parts were lost while in the possession of a connecting carrier. The filing, prosecution and collection of claims in connection with such shipments is performed by the draymen without charge. In rendering this service they incur a considerable expense for clerical help, administration, postage and stationery. Clerical expense alone is said to exceed the revenues which would be derived from the proposed charges. Although the proposed charges would not be fully compensatory, the witnesses stated that they would offset the cost of the necessary supplies and assist in meeting the clerical and administrative expense. They also stated that the draymen perform these services for their patrons as an accommodation, that the number of claims has increased sharply, and that the proposed rule has been applied to similar services in connection with San Francisco drayage for many years.

A representative of the Oakland Chamber of Commerce said that the proposed basis might be interpreted as applying to claims in connection with shipments which the draymen handle under pickup or delivery rates of connecting carriers and that some clarification of the proposed rule should be made to remove any question of its applicability. A representative of F. W. Woolworth and Company recommended that the rule be revised so that it would be clear that it would be inapplicable in instances where a shipper desired to

handle his own claims. Counsel for the Association stated that it had no objection to revision of its proposal along those lines should the Commission deem such action advisable or necessary. Except as above indicated no one objected to the adoption of the proposed rule.

It is not disputed, and the record establishes, that additional charges should be made for the accessorial services in question. Under outstanding orders, accessorial services not authorized to be performed under the transportation rates, and for which specific rates are not otherwise provided, are required to be charged for at the rate of \$1.50 per man per hour, minimum charge 25 cents. It is apparent, however, that assessment of charges on this basis is not as well suited to the character of the services in question as the proposed basis under which the charges vary in proportion to the amounts involved in the claims. While it is not shown that charges on the latter basis would be fully compensatory, their establishment as minima seems preferable to the maintenance of hourly rates. The proposed rule, modified in accordance with the Woolworth recommendation, will be adopted. The modification proposed by the Chamber of Commerce does not appear necessary inasmuch as under the general provisions governing the applicability of the established rates, rules and regulations, this rule in common with all others will not apply to pickup and delivery shipments transported at through rates.

Under the established rate structure the charges on shipments of acetylene and oxygen gas cylinders and carbide drums, empty, returning, are based upon 4th class rates which vary with the weight of the shipment and with the location of the points of origin and destination. The 4th class rates range from \$1 per shipment for interzone transportation in quantities of 15 pounds or less to 6½

cents per 100 pounds for intrazone transportation in minimum quantities of 20,000 pounds. The Association proposes that cylinders and drums, empty, returning, be included in the following commodity item naming rates (in cents per 100 pounds) for the transportation of gases, carbide and other commodities:

"Gases, in steel cylinders, viz.: Acetylene; Oxygen; Calcium, Carbide of, in steel drums; Welding Equipment, in boxes, bundles or cartons, viz.: Welding Bars, Rods or Wire, iron or steel; Gas Regulators; Torches, cutting or welding, with or without equipment of tips.

	<u>RATE</u>	<u>MINIMUM WEIGHT</u>
Shipping and Inhaul ²	4½	500 tons
City Deliveries	6½	per month

Applies within and between all Zones."

When these rates were first established they applied to all commodities transported for manufacturers of welding equipment, carbide, acetylene and oxygen. Their application was restricted at the request of the Association and in order to remove objectionable features. (See Decision No. 29594 of March 15, 1937, in these proceedings.) It is now claimed that the omission of gas cylinders

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Inhaul is "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."

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

City delivery 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."

and carbide drums returning from the proposed revised list of commodities then submitted to the Commission was an inadvertence; that their elimination from the rate item pursuant to that proposal was not necessary to cure the defects of the item; and that their reinstatement will restore rates for this transportation to a proper level.

Although there are several manufacturers producing the gases and carbide in question in plants situated in the East Bay drayage area, a witness for the Association testified that only one of them moves 500 tons per month within that area by a for-hire carrier. The other manufacturers, the witness said, transport the bulk of their drayage traffic in their own trucks and use the services of for-hire draymen only to supplement the proprietary hauling. But one carrier and one shipper are thus directly affected by the proposal. The change here proposed is said to be satisfactory to both of them.

It was also testified that under established trade practices producers of acetylene and oxygen gases require their customers to return an empty cylinder for each filled cylinder purchased; that these cylinders, unlike other returned shipping containers, weigh almost as much empty as they do filled;³ and that because of

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Approximate weights of the cylinders follow:

	<u>Filled</u>	<u>Empty</u>
Acetylene:		
Large	225	213
Small	109	102
Oxygen:		
Large	148	136
Small	95	89

these favorable circumstances abnormally high load and use factors are experienced. The carbide and empty drums are component parts of shipments consisting chiefly of gases and empty cylinders, respectively, and are handled without difficulty by the same equipment that transports the gases and empty cylinders. Adoption of the proposed uniform rates for all of these commodities, it is claimed, would not impair the drayman's ability to conduct the operations in question on a compensatory basis.

No one opposed the establishment of the rates sought.

The showing made demonstrates that circumstances peculiar to the transportation involved justify the reinstatement of the empty containers in question in the rate item under consideration. The proposal will be adopted.

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 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 December 1, 1942, as follows:

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Add a new rule as follows:

"COLLECTION OF LOSS AND/OR DAMAGE CLAIMS

A minimum charge of \$1.00 shall be made for the handling and collection of loss and/or damage claims against another carrier when the amount involved exceeds \$100.00. When the amount involved is \$100.00 or less, not less than 1% of the amount involved shall be charged subject to a minimum of 25 cents. This accessorial service shall not be rendered except upon the shipper's or consignee's request."

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Substitute for the item naming rates on acetylene and oxygen gases; carbide of calcium; and welding equipment, the following item:

"Calcium, Carbide of, in steel drums,) Gases, viz.: Acetylene or Oxygen, in) steel cybinders,) Welding equipment, in boxes, bundles) or cartons, viz:) Welding bars, rods or wire, iron) or steel,) Gas regulators,) Torches, cutting or welding, with) or without equipment of tips.)	Rates in Cents per <u>100 pounds</u>
	(1) 4½
	(2) 6½
Cylinders, steel, acetylene or oxy-) gen gas,) Drums, steel, carbide of calcium.)	(3)

- (1) Rate applies to Inhaul and Shipping.
- (2) Rate applies to City Deliveries.
- (3) Rates provided for outbound movement of the gas or carbide of calcium shall apply to cylinders or drums, empty, returning, via the same carrier that handled the outbound loaded movement.

Minimum weight 500 tons per month."

IT IS HEREBY FURTHER ORDERED that the tariff publications required to be made by common carrier respondents in Case No. 4109 as a result of the further amendment herein of the aforesaid Appendix "A" of Decision No. 29217, as amended, shall be made effective on December 1, 1942, on not less than three (3) days' notice to the Commission and to the public; and that tariff publications which are not required to be made but which are herein authorized may be made effective not earlier than December 1, 1942, and on not less than three (3) days' notice if published to become effective on that date.

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 twenty (20) days from the date hereof.

Dated at San Francisco, California, this 5th day of November, 1942.

Justus J. Grauer
M. J. K. K.
Frank R. Stevenson
Richard L. Backer
Commissioners