

Decision No. 36787

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of )  
maximum rates, classifications, rules, )  
and regulations of Radial Highway Common )  
Carriers and Highway Contract Carriers, )  
as defined in Chapter 223, Statutes )  
1935, as amended, for the transporta- )  
tion of property for compensation or )  
hire as a business. )

ORIGINAL

Case No. 4685

In the Matter of the Establishment of )  
maximum rates, classifications, rules, )  
and regulations of Carriers, as defined )  
in Chapter 312, Statutes 1935, as )  
amended, for the transportation of )  
property for compensation or hire as a )  
business. )

Case No. 4686

BY THE COMMISSION:

Appearances

A list of appearances in these proceedings  
is appended hereto as Appendix "A".

O P I N I O N

The Highway Carriers' and City Carriers' Act of 1935,  
as amended, direct this Commission to establish or approve maximum  
or minimum, or maximum and minimum rates to be charged for the  
transportation of property by radial highway common carriers, high-  
way contract carriers and city carriers. Minimum rates have been  
established in other proceedings; maximum rates have not as yet  
been prescribed. It having appeared that the impact of the war  
economy and inflationary trends coincident therewith threatened to  
force rates for the transportation of property beyond maximum reason-  
able levels, the Commission on June 9, 1943, instituted these pro-  
ceedings. Respondents were directed to appear and show cause, if  
any they had, why the Commission should not establish temporary maxi-  
mum rates of the same volume and effect as minimum rates heretofore  
prescribed, subject to the exception that carriers who regularly  
charged higher rates on or before September 15, 1942, might continue  
such rates upon making timely filing of appropriate tariffs.

At initial hearings held before Commissioners Sachse  
and Clark and Examiner Freas, evidence was directed to the question

of whether the Commission should establish temporary maximum rates on the indicated bases. That phase of the proceedings is ready for decision.<sup>1</sup>

An assistant rate expert of the Commission's staff suggested and explained methods and procedures by which the suggested temporary rates might in his opinion be best made effective. He described the methods in detail, proposed various modifications in the minimum rate orders for maximum rate purposes, and recommended an alternative basis of hourly rates to be made available under special circumstances when requested by the shipper. This witness did not urge the adoption of these general bases, nor express an opinion as to the reasonableness or propriety of the resulting rates.

The establishment of maximum rates in the manner indicated was generally opposed by carriers and shippers alike. As might be expected where several thousand carriers are involved, respondents were not of a single mind; but none of them recommended or supported the establishment of maximum rates upon the indicated bases. Carriers represented by The Truck Owners Association of California took the lead in opposition. This association offered evidence and argument designed to show that there was little, if any, necessity for the fixation of maximum rates by the Commission, and certainly no necessity which could be characterized as urgent; that if maximum rates were established, as proposed, the resulting charges would in many cases be unreasonably low; that essential traffic would be denied transportation; that the filing of tariffs would be a burdensome requirement which many of the carriers would be unable to meet; and that the procedures contemplated in these proceedings

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<sup>1</sup> Approximately 45 witnesses testified, several of them representing more than a hundred carriers or shippers. Hearings were held on July 1 and 2, and August 5, 6, 7 and 16, 1943, at Los Angeles; and on July 7, 21, 22 and 23 and August 30, 1943, at San Francisco.

were not within lawful bounds. Carriers represented by the Motor Truck Association of Southern California declared that maximum rates should be viewed as an unfortunate necessity under the existing circumstances, but that the indicated bases should not be prescribed without important and substantial revisions, some of which they recognized could not be made upon this record. Other carrier associations, as well as a number of individual operators, offered testimony and argument in opposition to the maximum rate plan.

Many shipper witnesses took the position that no maximum rates should be established at all, or that they should not be prescribed upon particular traffic in which the witnesses were interested. Others declared that whether or not maximum rates were desirable, they should in no event be fixed upon the temporary plan outlined in the orders to show cause. Witnesses pointed out numerous instances and examples in which they believed such rates would be too low to move the traffic under existing conditions; other shippers cited cases in which the rates would be excessive, and expressed the fear and belief that if the higher levels were established as maxima they would be promptly adopted by the carriers for general application.<sup>2</sup> Almost without exception the few witnesses who favored the immediate establishment of maximum rates were frankly motivated by a desire to remove certain alleged conflicts between rates and jurisdictions of the Commission and the Office of Price Administration. Virtually no assertions were made that rates assessed by the respondent carriers had advanced beyond maximum reasonable levels.

The Office of Price Administration urged the Commission to proceed with the establishment of maximum rates with all practicable dispatch. Without expressing any opinion as to the feasibility

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Instances in which the rates would be high are found particularly in connection with traffic for which no minimum rates have been prescribed.

ity of the particular plan here considered, executives of the federal agency testified that contract carriers had in some cases charged rates higher than necessary; that the Office of Price Administration lacks jurisdiction over common carrier rates; that serious inequalities frequently flow from partial and incomplete control of prices; that state commissions should collaborate with the federal government to develop a uniform program of price control and that it is dangerous to wait until prices have risen before establishing a price control.

### Conclusions

The question here considered is whether the Commission should now establish maximum rates upon the bases indicated in the orders to show cause. The rate plan outlined in the orders is, of course, a stop-gap method by which temporary maximum rates might be expeditiously established pending the institution and completion of detailed investigations. The record shows conclusively that the temporary plan, even with various modifications recommended by the Commission's rate witness and by others, would produce certain harmful results. In some cases the resulting rates would be below the cost of performing the service; in others the rates would be so high as possibly to abet rather than restrict inflationary tendencies. There was shown to be a danger that the flow of essential traffic would be impeded. Clearly, rates subject to such disadvantages, even though temporary, should not be established in the absence of a conclusive showing of urgent need for emergency action.

This record does not disclose any real necessity for the immediate establishment of maximum rates by the Commission. That is not to say that no excessive charges have been collected or that there is no need for further inquiry concerning the establishment of maximum rates. However, no conditions have been disclosed on

this record which would warrant imposition of the temporary rate bases which thus far have been advanced in these proceedings. Accordingly, the orders to show cause will be dismissed. The investigations will be otherwise continued for the purpose of receiving such further evidence as may be available from time to time, and for the purpose of establishing such maximum rates as may appear necessary. A further inquiry will be made into the rates and practices of carriers engaged in the transportation of used household goods, personal effects and related articles, and a hearing for receipt of additional evidence relative thereto will be scheduled. Hearings directed to other traffic will be held as additional evidence becomes available or as it appears that carriers are assessing unreasonable rates.

O R D E R

Public hearings having been held in the above entitled proceedings, and based upon the evidence received at the hearings and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the orders to show cause why the Commission should not establish temporary maximum rates, classifications, rules and regulations, as more fully set forth in the third ordering paragraphs of the Orders Instituting Investigation and Orders to Show Cause in these proceedings, be and they are hereby dismissed.

IT IS HEREBY FURTHER ORDERED that the Commission shall have and it does hereby retain jurisdiction of these proceedings for the purpose of establishing or approving just, reasonable and nondiscriminatory maximum rates to be charged and collected, and classifications, rules and regulations to be observed, by any or

all carriers as defined in Chapter 312, Statutes 1935, as amended, and by any or all radial highway common carriers and highway contract carriers as defined in Chapter 223, Statutes 1935, as amended, for the transportation of property for compensation or hire as a business over any public highway in the State of California, and for accessorial services incident to such transportation, by any or all of the aforesaid carriers.

This order shall become effective thirty (30) days from the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of December, 1943.

Francis D. Havenner

Justus J. Casper  
Arthur K. Ketchum  
Wm. W. Owen  
Commissioners

APPENDIX "A"

List of Appearances

- AHL, ELMER, in propria persona.  
 AMOS, J. L. JR., for Western Pacific Railroad Company, Sacramento Northern Rail-  
 way, Tidewater Southern Railway Company and Delta Finance Company.  
 ARTURO, P. J., for Swift & Company.
- BAILEY, L. A., for California Warehousemen's Association.  
 BAKER, GWYN H., for Thomas W. Gilboy, J. M. Atthowe, Bay Cities Transportation  
 Company and Larson Traffic Service.  
 BARKER, J. W., for United Van and Storage Association, Inc. and California Van  
 and Storage Association.  
 BARRY, E. J., for Pacific Inland Tariff Bureau.  
 BEELER, J. L., for Southwestern Motor Tariff Bureau.  
 BENNETT, RICHARD, for Seaboard Transportation Company, Incorporated.  
 BEROL & HANDLER, by EDWARD M. BEROL, for Truck Owners Association of California  
 and Tank Truck Operators Association.  
 BEY, LESTER A., for Wm. Volker & Company, Western Shade Cloth Company, and Los  
 Angeles Traffic Managers Conference.  
 BISCHOFF, H. J., for Southern California Freight Lines, Southern California  
 Freight Forwarders, Direct Delivery System, Ltd., and San Diego Truck  
 & Warehouse Association.  
 BLAINE, HAROLD J., for California Van and Storage Association and United Van  
 & Storage Association.  
 BOYDSTRUM, L. C., for Coast Line Truck Service, Incorporated.  
 BOYER, CHARLES R., for Southwestern Portland Cement Company.  
 BROWN, A. W., for The Paraffine Companies, Incorporated.  
 BRUCE, W. A., for Armour & Company.
- CARLEY, E. L., JR., for Carley & Hamilton, Incorporated.  
 CARROLL, JOHN E., for Signal Trucking Service, Ltd.  
 CASSELMAN, WM. M., for Colgate Palmolive Peet Company.  
 CHARTRAND, JOHN W., for Bell Oil and Refining Company.  
 COE, H. H., for Carl Ingalls Trucking Company.  
 COLLINCE, E. B., for Progressive Transportation Company, Ltd.  
 COLVIN, MARTIN C., for Belyea Truck Company.  
 CONNORS, J. M., for Tidewater Association Oil Company.  
 CORNALL, WALDON, in propria persona.  
 COSTELLO, J. B., for Sperry Flour Company and Ira P. Lamb.  
 CRAIL, EDWIN P., for Crail Brothers, Incorporated, Ltd.
- DANA, E. L., for Holly Sugar Corporation.  
 DARTT, J., for California Portland Cement Company.  
 DAVIS, PRESTON W., for United Parcel Service of Los Angeles, Incorporated,  
 United Parcel Service of San Francisco, United Parcel Service Bay  
 District and Red Arrow Bonded Messenger Corporation.  
 DESCH, JOHN M., for Pacific Southwest Freight Tariff Bureau.  
 DEUEL, J. J., for California Farm Bureau Federation.  
 DONALDSON, C. E., for Shell Oil Company, Incorporated.  
 DOOLEY, A. W., for Motor Truck Association of Southern California.  
 DUVAL, R. W., for Pacific Gas & Electric Company.
- ENCELL, HARRY A., for C. L. Conrow.  
 ENRIGHT, JOSEPH T. and GILLETTE, WALDO A. by JOSEPH T. ENRIGHT, for Monolith  
 Portland Cement Company.
- FELS, R.C., for Retail Furniture Association of California Incorporated and  
 Western Traffic Conference.  
 FESSENDEN, W. E., for California Warehouse Company.  
 FITES, L. M., for The Glidden Company and Durkee Famous Foods

FITZGIBBON, F. C. and R. L. MAGILL, for Mutual Orange Distributors.  
FOLEY, ARIEL, for Foley Transfer Company.  
FOLLENDORE, C. E., for Follendore Trucking Company.  
FORMAN, E. J., for Pillsbury Flour Mills-Globe Mills Division, Los Angeles Grain Exchange and California Hay, Grain & Feed Dealers Association.

GILMORE, A. L., for Lacey Trucking Company.  
GISSLER, WILLIAM, SR., for Eureka Freight Lines.  
GLICKMAN, AARON H., for Clark Bros. Motor Transport System, Coast Line Express, Santa Cruz Motor Express, Incorporated, Security Truck Line, Johnson Truck Lines, Atlas Freight Lines, J. G. Bastain, Pescadero Farms Association Drayage, Produce Express and M. & W. Truck Line.  
GUTERRA, LLOYD R., for Western Truck Lines, Ltd., and Cartlay & Tanzola, Incorporated (Independent Freight Lines Division).  
GUNGE, WALTER A., for Seaboard Transportation Company, Incorporated.  
GUTHRIE, WILLIAM, for California Portland Cement Company.

HAST, E. H., for Draymen's Association of Alameda County and Pacific Motor Tariff Bureau.  
HARTUNG, FRANK B., for Owens-Illinois Pacific Coast Company.  
HEIFERICH, HARRY, for American Fruit Growers, Incorporated.  
HELIN, PAUL O., for Calavo Growers of California.  
HENDERSON, R. A., for Pioneer-Flintkote Company.  
HENNESSY, J. E., for The Western Pacific Railroad Company and Sacramento Northern Railway.

HIGGINS, E. R., for Rosenberg Brothers & Company.  
HIGGINS, WILLIAM G., for Santa Cruz Portland Cement Company.  
HOLT, E. B., for Bekins Van & Storage Company.  
HOLTWICK, GLEN C., for Bigge Drayage Company.  
HOOVER, G. W., for Fidelity Van & Storage Company.  
HURST, GEORGE T., for Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company.  
HUTCHERSON, ROBERT, for Tide Water Associated Oil Company.

JACOBSON, PHIL, for Oilfields Trucking Company, Carl Ingalls Incorporated, Willard Johnson, dba Willard Transportation Company, Lacey Trucking Company, Daigh & Stewart Trucking Company, Morgan Brothers, Ventura Transfer & Storage Company, Citizens Truck Company and Lamb Transportation Company.

JOHANSEN, R. L., for California Prune & Apricot Growers Association.

KEARNEY, HENRY, for League of Highway Carriers.  
KELLER, N. E., for Pacific Portland Cement Company.  
KENSINGER, F. P., for M.J.B. Company and Western Can Company.  
KERN, H. A., for Bekins Van & Storage Company.  
KERRIGAN, F. W., for Kraft Cheese Company.

LABAGE, P. STEELE, for California Packing Corporation.  
LEIBOLD, FRED C., for Consolidated Freightways, Incorporated.  
LINDEMAN, F. FAY, in propria persona.  
LOCKHART, ARCHIE, in propria persona.  
LOVE, W. H., for Union Pacific Railroad Company.  
LYONS, IRVING F., for Cannery League of California.  
LYONS, J. E., for Southern Pacific Company and Pacific Motor Trucking Company.

MAHER, E. A., for Automotive Council of Orange County.  
MATHEWS, L. P., for Poultry Producers of Central California.  
McCURDY, JOHN E., for John Breuner Company.  
McDONALD, A. V., by R. C. FELS, for Los Angeles Furniture Manufacturers Association.

McSWEENEY, E. J., for Pacific Freight Lines.  
MERRIFIELD, A. M., for Merrifield Trucking Company.  
MEYER, MALCOLM, for Certain-teed Products Corporation.



MEYERS, A., for Western Transportation Company.  
 MILLER, F. F., for California Milling Corporation.  
 MITCHELL, R. B., for Henry Cowell Lime & Cement Company.  
 MONRO, J. E., for Lawrence Moving & Storage Company, Electric Transfer & Storage Company, Acme Transfer & Storage Company and Boone's Transfer and Storage Company.  
 MOORE, DON H., for Ashbury Transportation Company.  
 MOORE, PAUL H., for Gilmore Oil Company.  
 MURCH, JOHN V., for American Transportation Company.  
 MURPHEY, W. H., for Rail-Truck-Inland Waterways Transportation Committee.  
  
 NARRY, W. O., for Richfield Oil Corporation.  
 NASON, FRED, for Beverly Hills Transfer and Storage Company.  
 NEILL, ROBERT C., for California Fruit Growers Exchange.  
  
 O'DONNELL, MILTON, for Johnson & Johnson and Allied Drug Distributors Association.  
 O'NEIL & MYERS, by L. M. WRIGHT, for Riverside Cement Company.  
 OTT, WILLIAM H., JR., for Kraft Cheese Company.  
  
 PARSONS, LEWIS A., for Calaveras Cement Company.  
 PATTON, A. E., for Richfield Oil Corporation.  
 PAUL, W. E., for Union Oil Company of California.  
 PAXTON, A. D., for Paxton Truck Company and DeLair Truck Company.  
 PHILLIPS, THOMAS R., for Western Growers Association.  
 POE, ARLO D., for Motor Truck Association of Southern California.  
 PORTER, ATEAHA, for Santa Fe Transportation Corporation Company, Rex Division.  
 POTTS, R. T., for Shell Oil Company, Inc., and Shell Chemical Company.  
  
 RYAN, E. A., for Oakland Chamber of Commerce.  
 REARDON, J. D., for Union Oil Company of California.  
 REBEAN, F. J., for American Crystal Sugar Company.  
 REHWICK, E. C., for Union Pacific Railroad Company.  
 REYNOLDS, FLORENCE, for California Dump Truck Owners Association.  
 ROBERTSON, JOSEPH, in propria persona.  
 ROEDE, WALTER A., for San Francisco Chamber of Commerce.  
 RONEY, JAMES L., for S. & W. Foods, Incorporated.  
 RUSSELL, A. L., for Sears Roebuck & Company.  
  
 SANOSTER, R. D., for Los Angeles Chamber of Commerce.  
 SCHEMPF, LEONARD F., for California Dump Truck Owners Association.  
 SCHULZ, CARL R., for Garden City Transportation Company, Incorporated.  
 SCHWARZ, L. L., for Pacific Gas & Electric Company.  
 SEARS, G. C., for Tide Water Associated Oil Company.  
 SHACKELFORD, R. F., for Lamb Transportation Company.  
 SHEARER, DAVID, G., for The Trucking Industry, Incorporated.  
 SIDONS, L. P., for Holly Sugar Corporation.  
 SLOSS, FRANK H., for Prentiss M. Brown, Administrator, Office of Price Administration.  
 SMITH, GEORGE C., for Smith Transportation Company.  
 SMITH, LE ROY W., for Arthur E. Glanz.  
 SMITH, LE ROY W., for Loretz and Shannon.  
 SMITH, MORTON C., for Southern Pacific Company and Pacific Motor Trucking Company.  
 SOMMERFIELD, A. W., for Morgan Brothers.  
 SOMMERS, J. C., for Stockton Port District and Stockton Chamber of Commerce.  
 SPEAKMAN, THOMAS R., for Owens-Illinois Pacific Coast Company.  
 STERN, EDWARD, for Railway Express Agency Incorporated.  
 STEWART, L. E., for California Cotton Oil Corporation, Pacific Mountain Oil Company and J. G. Boswell Company.  
 STEWART, WM. H., for Daigh & Stewart Trucking Company.  
 STONE, W. G., for Sacramento Chamber of Commerce.  
 STRATTON, C. C., for Western Milk Transport.

TALBOTT, W. J., dba MINICK TRANSFER & STORAGE COMPANY, in propria persona.  
TERRAMORSE, FRANK F., for Seaboard Transportation Company, Incorporated.  
TERRAMORSE, FRED, for Seaboard Transportation Company, Incorporated.  
THOMPSON, ROY B., for Truck Owners Association of California.  
TURCOTTE, F. W., for Carmichael Traffic Corporation.

VALENTINE, A. H., for Interstate Bakeries Corporation.  
VANCE, W. E., for Berkeley Chamber of Commerce.  
VAN SLYKE, A. H., for Yosemite Portland Cement Corporation.  
VAUGHAN, REGINALD L., for California Warehousemen's Association and Pacific Motor Tariff Bureau.  
VIZZARD, J. F., for Draymen's Association of San Francisco and San Francisco Movers, Incorporated.

WALKER, REGINALD F., for Spreckles Sugar Company and Western Sugar Refinery.  
WARREN, B. W., in propria persona.  
WARREN, E. R., for California Hay, Grain & Feed Dealers Association and San Francisco Grain Exchange.  
WASSON, E. J., for Central Highway Freight Service Bureau.  
WEDEKIND, R. E., for Southern Pacific Company and Pacific Motor Trucking Company.  
WEDEMAYER, FRED A., for McKesson & Robbins, Incorporated.  
WILSON, DONN W., for Fibreboard Products, Incorporated.  
WILSON, L. G., for Carmichael Traffic Corporation.  
WOLTERS, L. H., for Golden State Company, Ltd.