

Decision No. 36958

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

Case No. 4121

**ORIGINAL**

BY THE COMMISSION:

Additional Appearances

A. L. Russell for Sears Roebuck & Company,  
J. E. Collins for Fibreboard Products, Inc.

SUPPLEMENTAL OPINION

By prior orders in this proceeding the Commission has established minimum rates, rules, and regulations governing the transportation of property by for-hire carriers within a portion of Los Angeles County, hereinafter referred to as the "drayage area." The rates are contained in City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5, which, for convenience, will be called the "drayage tariff."<sup>1</sup>

This decision deals with a request of the Motor Truck Association of Southern California that special provision be made in the drayage tariff for the accessorial service of unloading and segregating freight received in pool cars. No change is proposed in the rates established for transportation.

Evidence was received at a public hearing held before Examiner Bryant at Los Angeles, and the matter is ready for decision

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<sup>1</sup> City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 is Appendix "A" of Decision No. 32504 of October 23, 1939, as amended, (42 C.R.C. 239).

The drayage tariff provides (Item No. 110-A) that an additional charge at the rate of \$1.25 per man per hour shall be made for any accessorial or incidental service which is not authorized to be performed under the rates named in the tariff and for which a charge is not otherwise provided. Petitioner alleges that the draymen<sup>2</sup> have found it to be impracticable in all instances, and impossible in many instances, to apply charges based upon a rate per man hour for the unloading and segregation of pool car shipments. It proposes rates based upon classification and weight of the property, stated in cents per 100 pounds.

The traffic herein considered arrives in the drayage area by rail or truck, usually the former, and in many cases comes from origins beyond California. In its movement into the drayage area each car constitutes a single shipment to a single consignee (who may be the drayman or some other person), but it is intended for delivery to two or more ultimate consignees or addresses within the area. The drayman receives the entire carload, performs such unloading and segregation as is required, and makes the local deliveries.<sup>3</sup>

The character and quantity of service required varies widely. The number of separate lots or "marks" in a car may range from two to 200 or more. The car may be loaded with a single commodity in uniform packages, or may contain a variety of commodities in packages of many sizes and descriptions. In some instances the individual containers may be marked to identify the ultimate consignees; in

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Carriers transporting property within the Los Angeles drayage area will be referred to herein as draymen. They may be common carriers, radial highway common carriers, highway contract carriers, or city carriers.

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Whether or not the traffic moves in interstate commerce, the local service is almost invariably subject to the drayage tariff. See Interstate Commerce Act, Section 203 (b) (8), and order of the Interstate Commerce Commission dated November 9, 1937, in M.C.C.-4 (3M.C.C. 248).

others the packages must be distributed by the drayman in conformity with written instructions describing the kind and quantity of merchandise to be delivered to each address. The drayman may find the merchandise conveniently segregated in the car, or may find it intermingled and scattered throughout the car. He may receive his instructions direct from the original consignor, or from one of the consignees, or from a broker or other party. The charges are sometimes assumed by the consignor, but in most instances must be distributed among the several consignees.

Draymen called by the petitioner testified that it was not feasible to allocate accurately among the various consignees of a pool car the time in "man hours" required to unload the property, make the necessary physical segregations, and perform the required clerical services. These witnesses described the operations in some detail in order to show the virtual impossibility of fairly computing the time chargeable to each lot. They stated that while the time could be determined in total for the entire car, this was of little value because even where the charges were paid by a single consignor he would be unwilling to assume costs based upon an uncertain and fluctuating factor such as man hours.

The witnesses explained that the charges generally used by the draymen in the past, and which they now seek authority to continue, are those published in a tariff filed with the Interstate Commerce Commission.<sup>4</sup> These charges, being stated in cents per 100 pounds, may not be readily compared with the charge of \$1.25 per man per hour now provided in the drayage tariff. Whether one basis would result in higher or lower charges than the other would necessarily be dependent upon the circumstances attendant upon each shipment.

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<sup>4</sup> Southwestern Motor Tariff Bureau-Local Freight Tariff No. 21, MF-I.C.C. No. 33 of J. L. Beeler, Agent. The proposed tariff rule was received in evidence as Exhibit No. 139.

A representative of Sears Roebuck & Company, called by petitioner, testified that his company had found the present hourly basis of charges to be unsatisfactory whenever applied for the services herein considered; that his company preferred charges stated on a weight basis; and that it had no objection to the charges proposed by petitioner.

A study of the cost of performing the services was prepared and introduced by a senior engineer of the Commission's transportation department. This witness testified that the costs vary widely according to the nature and variety of the commodities, number of "marks," and other circumstances. For the purpose of comparison he developed averages, including all elements of cost but without provision for a return on investment or on working capital. The proposed rates (omitting explanatory notes) and the average costs as estimated by the engineering witness, both stated in cents per 100 pounds, are shown in the following table:

| <u>Merchandise Classified As</u> | <u>Proposed Charge</u> | <u>Average Cost</u> |
|----------------------------------|------------------------|---------------------|
| First Class . . . . .            | 10½                    | 10.53               |
| Second Class . . . . .           | 8                      | 10.66*              |
| Third Class . . . . .            | 6½                     | 5.48                |
| Fourth Class, or Lower . . . . . | 5½                     | 5.26                |

\*Average of 15.03 cents for furniture and 9.94 cents for other second class commodities.

One shipper, Fibreboard Products, Inc., opposed the proposed change. A witness for this shipper explained that his company sends pool cars to Los Angeles drayage area for distribution to several branches and subsidiaries. The drayman performing the deliveries, a corporation, is also subsidiary to or affiliated with Fibreboard. From the testimony of this witness it appears that the

Fibreboard cars consist of a single commodity, loaded and marked in such a manner that no segregation by the drayman is necessary. The witness stated that the distribution of these cars did not involve any accessorial service for which a charge in addition to the transportation rates should be assessed. He asked that any rule imposing charges for the unloading of pool cars contain an exception which would permit the continued delivery of the Fibreboard cars without accessorial charge.<sup>5</sup>

No other objection was offered to the proposal of the Motor Truck Association of Southern California. The Office of Price Administration, having received the prescribed notice, informed the Commission that it did not wish to protest or intervene in this matter.

On this record we find as a fact that, under many circumstances encountered within the Los Angeles drayage area, charges stated on a man-hour basis may not practicably be applied for the accessorial service of unloading and segregating pool car shipments. On the other hand, it must be recognized that the basis proposed by petitioner may not be related with exactness to the cost of performing the service on particular shipments, inasmuch as the amount of service required is not necessarily dependent upon the weight of the property or its classification rating. Nevertheless, the record

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The following exception was suggested by the Fibreboard witness:

Exception: No increase in rating shall apply to cars containing the following number of submarks and minimum weights in each car where no sorting is required:

|  |   |   |   |   |   |   |        |   |   |
|--|---|---|---|---|---|---|--------|---|---|
| Two submarks in a car containing up to 30,000 pounds in weight |   |   |   |   |   |   |        |   |   |
| Three  | " | " | " | " | " | " | 40,000 | " | " |
| Four   | " | " | " | " | " | " | 50,000 | " | " |
| Five   | " | " | " | " | " | " | 60,000 | " | " |
| Six  | " | " | " | " | " | " | 70,000 | " | " |
| Seven  | " | " | " | " | " | " | 80,000 | " | " |
| Eight  | " | " | " | " | " | " | 90,000 | " | " |

shows that charges stated on a weight and classification basis, as now proposed, have been applied generally and without difficulty or complaint for a number of years.

In view of the practical difficulties shown to be inherent in the present rule, the testimony that charges substantially identical with those now proposed have been applied satisfactorily for some years, and the cost evidence showing that the proposed charges are not excessive as measured by the average cost of performing the service, we conclude that a rule substantially as proposed by Motor Truck Association of Southern California should be added to the drayage tariff.

The exception requested by Fibreboard Products, Inc. would appear to be one more appropriate for individual authority under Sections 10 and 11 of the City and Highway Carriers' Acts, respectively, than for publication in a general tariff applicable to all draymen. So far as this record discloses, other companies do not receive pool car shipments within the Los Angeles drayage area under circumstances similar to those described by the Fibreboard witness. Fibreboard's drayman may request such additional authority as it may require under the sections cited.

Upon careful consideration of all of the evidence herein, the Commission is of the opinion and finds that the drayage tariff should be further amended as shown in the revised page attached to and made a part of the order which follows, and that in all other respects Decision No. 32504, supra, as amended, should remain in full force and effect.

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This carrier already has authority to transport certain property within the drayage area for Fibreboard Products, Inc. at less than minimum rates. (Decision No. 31930, as supplemented, in Application No. 22427).

ORDER

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

IT IS HEREBY ORDERED that 'City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 (Appendix "A" of Decision No. 32504, as amended, in this proceeding) be and it is hereby further amended by substituting for the corresponding pages now contained therein the revised pages attached hereto and by this reference made a part hereof, to become effective May 1, 1944, which pages are numbered as follows:

"First Revised Page 2 cancels Original Page 2."

"First Revised Page 20 cancels Original Page 20."

IT IS HEREBY FURTHER ORDERED that tariff publications required to be made by common carriers as a result of the amendment herein of the aforesaid tariff shall be made effective on May 1, 1944, on not less than three (3) days' notice to the Commission and to the public.

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 28<sup>th</sup> day of March, 1944.

Richard Laska  
James F. Calver  
Francis D. Havens  
Frank C. Crow  
Wm. A. D. D. D.  
 Commissioners

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\*Change, Decision No. 36958

EFFECTIVE MAY 1, 1944

Issued by The Railroad Commission of the State of California,  
 San Francisco, California,  
 Correction No. 46



| Item No.   | SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)  |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
|--|---|------------------------------------|--------------------------------------|-------------------|-----|--------------------|---|-------------------|----|------------------------------|----|
| (1)<br>165   | <p style="text-align: center;">POOL CARS</p> <p>(a) For the service of unloading, segregating, or unloading and segregating property tendered to the carrier in pool cars, the following charges shall be made in addition to transportation charges:</p> <table border="0" style="margin-left: 40px;"> <tr> <td style="text-align: left;">* <u>Merchandise classified as</u></td> <td style="text-align: right;"><u>Rates in cents per 100 pounds</u></td> </tr> <tr> <td>First Class .....</td> <td style="text-align: right;">10½</td> </tr> <tr> <td>Second Class .....</td> <td style="text-align: right;">8</td> </tr> <tr> <td>Third Class .....</td> <td style="text-align: right;">6½</td> </tr> <tr> <td>Fourth Class, or lower .....</td> <td style="text-align: right;">5½</td> </tr> </table> <p style="margin-left: 40px;">* Subject to a minimum charge of 27 cents for each point of destination involved.</p> <p>(b) The term "Pool Car" as used in this item means a rail car or motor vehicle (other than carrier's equipment) containing property intended for delivery to two or more points of destination located within the zones described in Items Nos. 30 to and including 33 series.</p> <p>(c) Classification ratings shall be based upon the L.C.L. (less than carload) ratings in the Western Classification, Exception Sheet or this tariff.</p> <p>(d) Articles taking a rating higher than first class shall be computed upon the percentage of the first class rating, as set forth in the Western Classification, Exception Sheet or this tariff.</p> | * <u>Merchandise classified as</u> | <u>Rates in cents per 100 pounds</u> | First Class ..... | 10½ | Second Class ..... | 8 | Third Class ..... | 6½ | Fourth Class, or lower ..... | 5½ |
| * <u>Merchandise classified as</u>   | <u>Rates in cents per 100 pounds</u>  |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| First Class .....  | 10½   |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| Second Class .....   | 8   |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| Third Class .....  | 6½  |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| Fourth Class, or lower .....   | 5½  |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| 170<br><br>1-1-40  | <p style="text-align: center;">DELAYED DELIVERY OF SHIPMENTS</p> <p>(a) Where carrier cannot effect delivery upon arrival of shipment at point of destination, a free storage period of 48 hours from the first 7:00 A.M. thereafter may be allowed. After said free storage period, storage charges shall be assessed at not less than 1½ cents per 100 pounds per day for each of the first five days and at not less than 3 cents per 100 pounds per day for the sixth and each succeeding day until such time as instructions regarding disposition of the shipment are received by the carrier. In computing time, Sundays and legal holidays shall be excluded.</p> <p>(b) Subsequent delivery of the property from point of storage shall constitute a new shipment.</p>   |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| 180<br><br>1-1-40  | <p style="text-align: center;">DISPOSITION OF FRACTIONS</p> <p>In computing a rate based on a percentage of another rate, the following rule shall be observed in the disposition of fractions:</p> <p style="margin-left: 40px;">Fractions of less than 1/2 or .50 of a cent, omit.</p> <p style="margin-left: 40px;">Fractions of 1/2 or .50 of a cent or greater, increase to next whole figure.</p>   |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| (1)  | New Item, Decision No. 36958  |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| EFFECTIVE MAY 1, 1944  |   |                                    |                                      |                   |     |                    |   |                   |    |                              |    |
| Issued by The Railroad Commission of the State of California,<br>San Francisco, California,<br>Correction No. 47 |   |                                    |                                      |                   |     |                    |   |                   |    |                              |    |