

Decision No. 38651

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment)
of rates, rules, classifications)
and regulations for the transportation)
of property, exclusive of property)
transported in dump trucks, for)
compensation or hire; over the)
public highways of the City and)
County of San Francisco:)

ORIGINAL

Case No. 4084

Appearances

Russell Bevans and Edward M. Berol; for Draymen's
Association of San Francisco:
Joseph Robertson, for Robertson Drayage Company
James B. Mahoney, for San Francisco Warehouse Company
W. J. Evatz, for G. W. Thomas Draying & Rigging Co. Inc.
L. W. Johnston, for W. R. Ballinger & Son
A. G. Harris, for Walkup Drayage & Warehouse Co.
W. G. Walkup, for Merchants Express Corporation
E. H. Hart; for Draymen's Association of Alameda County
J. B. Costello and N. R. Moon, for General Mills, Inc.,
Sperry Division
E. D. Rapp, for F. W. Woolworth and Company and
Federal Glass Company
Fred Reed, for A. B. C. Transfer and Storage Company
J. M. Kelly, for Joe Mangini Draying Company
E. Hubber, for United Transfer Company
George D. Hart; for Farnsworth and Ruggles
E. L. Carley, Jr., for Carley & Hamilton, Inc.
Edward White, for C. A. Worth and Company
Walter A. Ronde and T. J. Champion, for San Francisco
Chamber of Commerce
C. B. Lynch, for Crown Zellerbach Corp.
Malcolm W. Lamb, for King and Company
L. E. Spence, for South End Warehouse Company
D. S. Smith, for The Dodd Warehouses
W. H. Schroeder, for Schroeder Drayage Company
Samuel Wehrli, for Wehrli Bros. Drayage Company
J. A. Clark, Sr., for J. A. Clark Draying Company, Ltd.
L. J. Steinhart, for J. Schussler & Co.
Charles Lee Tilden, for Overland Freight Transfer Co.
George Patton; for Haslett Warehouse Co.
E. O. Wern, for Jos. D. Sheedy Drayage Co.
George F. Laskey, for Laskey Drayage Service
O. J. Austin, for Austin Draying Company
D. J. Label, for Baker and Hamilton
Milton O'Donnell, for Johnson and Johnson
Chas. J. Worth, for Chas. J. Worth Drayage Co.
George Linale; for Linale Draying Company
Thomas R. Speakman, for Owens-Illinois-Pacific Coast
Company

G. A. Hutchinson, Jr., for G. A. Hutchinson and Son
 E. P. St. Claire, for Redline Transfer Company
 P. Steele Labagh and Leonard R. Keith, for California
 Packing Corporation
 B. H. Briefly, for United Rexall Drug Company
 Donn W. Wilson, for Fibreboard Products, Inc.
 L. E. Binsacca, for M.J.B. Company and Western Can
 Company
 Mrs. Louis DeMatei, for DeMatei Drayage Co.
 J. A. Clark, Jr., for Englander Drayage and Warehouse Co.
 V. Thompson, for Thompson Bros. Inc.
 Geo. Scharetg, for Geo. Scharetg & Son
 Mrs. S. Morris, for S. Morris and Company
 A. M. Devincenzi, for Albert Guardo
 J. Ivanetich, for Emmons Draying Company

SUPPLEMENTAL OPINION

Shortly after the City Carriers' Act (Chapter 312, Statutes of 1935) became effective, Draymen's Association of San Francisco submitted for the Commission's approval a schedule of proposed minimum rates, rules and regulations for San Francisco drayage service. This proceeding was thereupon instituted for the purpose of developing a record on which rates could be established or approved. A comprehensive record was made at the public hearings had in the matter.

Certain of the minimum drayage rates which were prescribed on that record did not conform to established tariff practices of line-haul carriers. These rates were, however, similar to rates which had been used by the draymen for many years. They were represented as being necessary to meet effectively the practical problems confronting the draymen. In Decision No. 28632 (39 C.R.C. 636) which promulgated the minimum rate structure, it was held that, under the circumstances, technical rules must give way to what appears practical and that if, after a reasonable time, experience dictated another course, these matters could be given further consideration.

Since April 5, 1936, when the minimum rates were made operative, various increases and decreases have been made as circumstances have warranted. There has been, however, only one change in the general rate level. It was an increase of 10 per cent and became effective July 15, 1937. For the most part, the miscellaneous rate revisions have not removed the deviations from accepted rate and tariff practices which were adopted when the rates were first prescribed. By petition, the Draymen's Association now seeks certain modifications of the established rate structure, including proposals designed to bring it into closer conformity with customary methods of naming rates.

A public hearing was had at San Francisco before Examiner Mulgrew.

Petitioner proposes (1) that a new and generally higher basis of charges for the handling and distributing of pool cars be established; (2) that additional charges at the rate of $3\frac{1}{2}$ cents per 100 pounds be prescribed for the accessorial services of loading or unloading railroad cars; (3) that the rate schedules for drayage service performed under hourly and monthly truck unit rates be revised; (4) that, for the transportation of quantities of less than 6,000 pounds, class rates in cents per 100 pounds be established at levels producing somewhat higher over-all charges than those produced by the present per-shipment rates; (5) that the rules and regulations governing the application of the established rates be revised in various respects; and (6) that certain commodity rates be canceled.

The higher charges which would result from approval of petitioner's proposals, assertedly are necessary to meet substantial increases in operating expenses which have been experienced since the establishment of the existing rate level in 1937. Petitioner's president, its secretary-manager, and members of its rate committee

testified that the problems created by increases in the cost of providing service had engaged their attention for some time. They pointed out that in 1942 wages of drivers and helpers had been raised \$1.00 per man per day but that their request for increased rates to meet these greater labor costs and other higher operating expenses had been denied by the Commission for want of sufficient justification. (Decision No. 36413 of June 1, 1943). The increased wages of drivers and helpers established in 1942, according to an exhibit submitted by petitioner, were from 15 to 20 per cent higher than the 1937 wage rates, dependent upon the capacity of the equipment operated. Since 1937, the witnesses asserted, there had been also an upward trend in office salaries, equipment maintenance and other expense factors. A comprehensive study of the problems created by the operating cost situation, they said, had been undertaken. They claimed, however, that recent developments necessitated the taking of action before all phases of the study could be completed.

The termination of hostilities in August, 1945, petitioner's witnesses testified, was followed by a substantial decrease in the volume of drayage traffic. Another important development, they stated, was an agreement further to raise wage rates \$1.00 per man per day which resulted from negotiations between the draymen and representatives of their drivers and helpers. Ratification of this agreement, the witnesses asserted, awaited only settlement of the question of the period of time for which these increased wages would be made retroactive. These wage rates, a study submitted by petitioner shows, are from 26.5 to 35.3 per cent higher than the corresponding wage rates in 1937 when the existing rate level was fixed. Upward adjustments of wages for other employees were said to be in immediate prospect. The draymen's revenues, according to the president of their association, have not been sufficient to enable them to set aside

reserves to meet the retroactive wage payments. He also said that worn-out and obsolete equipment would have to be replaced and that the draymen had not been able to accumulate funds for that purpose.

Studies submitted by a consulting engineer retained by petitioner and based upon the operations of 32 carriers handling in the aggregate some 75 per cent of the for-hire drayage business in San Francisco show the following results:

<u>Period Studied</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Operating Ratio</u>
	<u>32 Carriers</u>		
Year 1944	\$8,988,516	\$8,612,099	96.0%
First six months 1945	4,672,958	4,416,979	94.5%
September, 1945	(Figures not available for all 32 carriers)		
	<u>14 Carriers For Which, September, 1945</u>		
	<u>Figures Were Available</u>		
Year 1944	\$5,653,320	\$5,247,233	92.8%
First six months 1945	3,079,166	2,898,863	*94.1
September, 1945	452,489	441,342	*97.5

*Calculation errors corrected.

The expense figures in the above tabulation, the engineer testified, did not include the \$1 increase in drivers' and helpers' wages called for in the agreement hereinbefore referred to as awaiting ratification at the time of this hearing. The effect of the application of these wage increases to the September, 1945 operations of 6 carriers handling approximately 1/3 of the total drayage business is shown below:

<u>Revenues</u>	<u>Expenses</u>	<u>Operating Ratio</u>
\$295,468	(1) \$295,339	(1) 99.9
	(2) 311,596	(2) 105.5

(1) Under the wage rates then prevailing,

(2) With wages of drivers and helpers increased \$1 per man per day.

Petitioner claims that the draymen will incur serious losses from their operations should the temporary relief here sought be withheld pending completion of their study of the entire situation. With respect to the class rate adjustment and its accompanying revisions in rules and regulations, petitioner urges that the changes, in addition to being necessary from a revenue standpoint, are highly desirable to improve rate relationships, to simplify rate determinations and to bring about uniformity with the practices of line-haul carriers and of draymen operating in other cities.

We turn now to discussions of the individual proposals.

¹
Pool Cars

For handling and distributing pool cars, charges are now generally determined on the basis of class rates one class higher than those otherwise applicable. The regular class rates apply where deliveries weigh 20,000 pounds or more and where smaller deliveries are charged for on the 20,000-pound basis. For component parts of pool cars which are not delivered by the drayman who provides the handling service, the applicable charge is 50 per cent of that provided for both services. Pool cars of new furniture are not subject to these rates. A flat rate of 35 cents per 100 pounds is provided for shipments of that commodity.

Petitioner proposes that the distribution service rendered in connection with pool car operations be made subject to the regular class rates. For the extra handling involved it urges the establishment of additional charges based on separately stated class rates.

¹ The term "pool car" is used to describe a carload or quantity shipment originating outside the city which a drayman distributes to two or more consignees or to the same consignee at two or more locations.

It submitted, in support of this proposal, a study of the cost of unloading, sorting and otherwise preparing pool car shipments for distribution. This study, based upon the experience of carriers engaged extensively in pool car operations, develops costs of 11.16, 9.08, 7.96 and 6.06 cents per 100 pounds for handling 1st, 2nd, 3rd and 4th class freight, respectively.

Two scales of handling rates are proposed, the first to cover handling service performed by the drayman who makes the delivery and the second and higher scale for handling when that drayman does not make the delivery. According to petitioner's witnesses, the handling operation can be performed more expeditiously and economically when it is combined with distribution service. The differences reflected by the proposed rate scales which follow were said to give reasonable recognition to the differences in the service provided.

<u>1st Class</u>		<u>2nd Class</u>		<u>3rd Class</u>		<u>4th Class</u>	
(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)
11	12½	9	10½	7	8½	6	7

- (1) Proposed handling rates when the drayman providing that service also makes the delivery.
- (2) Proposed handling rates when the drayman providing that service does not also make the delivery.

The president of one of the principal pool car distributors testified that his concern had incurred a loss of \$8,100 during the first nine months of 1945. He said that all possible economies had been practiced but that it was impossible to handle pool cars profitably under the existing rates. He pointed out that labor expense is the principal cost factor in this service and attributed the unsatisfactory operating results largely to increased labor costs experienced since 1937 when the present rate level was established. The service, he said, could not be continued without compensating rate increases.

Petitioner's estimate of increased revenues, based on the operations of 10 carriers who were said to be representative draymen, discloses that 6 of them handled pool cars during a test period extending from September 17 to 22, 1945. Pool car revenues for those carriers during that period under the existing and proposed rates are shown in the following tabulation:

<u>Existing Rates</u>	<u>Proposed Rates</u>	<u>Increase</u>
\$1,255.54	\$1,976.23	\$ 720.69
164.78	238.27	73.49
385.91	521.35	135.44
15.89	19.77	3.88
157.21	231.62	74.41
31.90	42.56	10.66
<u>\$2,011.23</u>	<u>\$3,029.80</u>	<u>\$1,018.57</u>

An interested shipper pointed out that petitioner's cost studies embraced only operations performed over dock facilities maintained by draymen. Its traffic manager suggested that pool cars may be handled at and distributed from public facilities of the common carriers transporting these shipments to San Francisco. He further suggested that the character and amount of handling service rendered would necessarily vary with the commodity and its packaging, as well as with the sorting according to brands and number of deliveries required. He also pointed out that the regular class rates proposed to be made applicable to the distribution service include, within certain limitations, loading of the drayman's equipment without additional charge and that no allowance has been made for this circumstance in the charges sought by petitioner for pool car handling and distributing service. To illustrate this situation, reference was made to a hypothetical pool car shipment of flour weighing 60,000 pounds calling for only three deliveries of 20,000 pounds each, not requiring any sorting with respect to grades or brands or according to the size of the packages, and handled at and distributed from a railroad team track.

The economies inherent in handling pool cars which involve few and relatively large deliveries have been recognized in the present pool car rate provision under which no additional charge is made for component parts delivered under 20,000-pound drayage rates. The record here made fails to support the cancellation of that provision. In regard to the cost showing, petitioner has failed to demonstrate what, if any, expenses corresponding to those incurred by the draymen in maintaining terminals for this service are experienced in handling pool cars at other locations. This must be given consideration in reaching a determination with respect to the propriety of the proposed rates. Petitioner's showing is not convincing that terminal expenses are necessarily incurred in the operation and to this extent it has not justified the proposed rates. Rates of 9, 7, 5½ and 4 cents per 100 pounds for handling 1st, 2nd, 3rd and 4th class freight, respectively, in connection with delivery service appear fully justified. The showing made is also persuasive that a somewhat higher scale of handling rates is warranted for use where component parts of pool cars are not delivered by the drayman providing the handling service. The differences proposed by petitioner between the handling rates without distribution service and the handling rates with that service appear reasonable and will be adopted. If special rate treatment is required for any particular type of pool car operation the matter should be brought to the Commission's attention.

Loading and Unloading Railroad Cars

The drayage rates now in effect include loading and unloading railroad cars without additional charge. Petitioner proposes that a rate of $3\frac{1}{2}$ cents for 100 pounds be prescribed for this accessorial service. On two previous occasions the question of additional charges for this service has been presented by petitioner. At the hearings had in connection with the prior proposals and again at the hearing covered by this opinion it was brought out that at least some of the expense of transferring freight between cars and trucks is reflected in the existing rates. Decision No. 35871 of October 20, 1942, in which this matter was first considered pointed this out and denied the request without prejudice to the conclusions which might be reached on a more comprehensive record. Decision No. 36752 of December 7, 1942, in which this question was again in issue, pointed out that petitioner's studies again failed to reflect the differences in costs between pickup operations involving unloading rail cars and other pickup service. In this decision the Commission said:

"At most, petitioner's showing casts some doubt upon the propriety of maintaining the existing rate parity for operations involving the indicated differences in costs for pickup service. Whether cost differences such as those which assertedly prevail in the two types of pickup service should be given effect by raising the rates for operations including car unloading, as proposed by the Association, or by reducing the rates for other operations, or by making an adjustment involving an increase in the former rates and a reduction in the latter, cannot be determined from the facts of record."

Aside from reflecting increased costs, petitioner's current showing is a repetition of the showings previously made. We adhere to the view that such a showing is insufficient. The proposed rate will not be authorized.

Hourly and Monthly Truck Unit Rates

Hourly and monthly rates are now provided for transportation service involving the operation of equipment exclusively for the handling of a single shipper's goods. The hourly rates are further limited to shipments for which weights cannot be secured or for which specific delivery instruction cannot be obtained. The level of both the hourly and monthly rates, petitioner contends, does not reflect the cost of providing the service. In support of this position, cost studies prepared by the consulting engineer were submitted and revised rates proposed. As in the case of the pool car costs, the engineer's costs for these operations do not include the \$1 per man per day wage increase called for by the agreement recently reached between the draymen and their drivers and helpers. The following tabulation shows the engineer's costs and the existing and proposed hourly rates:

Vehicle Capacity (In Pounds)	Costs (In Cents)	Rates (In Cents)	
		Existing	Proposed
Under 2,500	208.0	220	220
2,500 - 4,500	238.2	248	248
4,500 - 6,500	271.8	275	275
6,500 - 10,000	299.0	330	310
10,000 - 15,000	299.0	385	310
15,000 - 15,500	299.0	440	310
15,500 - 20,500	364.0	440	375
Over 20,500	425.0	440	435

It will be observed that the proposed rates are either the same as or lower than the corresponding existing rates. In other respects the proposed basis differs from that now prevailing only in that the weight brackets are revised. This revision is said to be necessary to bring them into conformity with the wage schedule for drivers which provides different pay scales for trucks of the capacities shown. Labor expense, the record shows, is one of the principal cost elements in this operation.

Costs and existing and proposed rates for monthly service are shown below:

Vehicle Capacity (In Pounds)	Monthly Costs and Charges (In Dollars)			Mileage Costs and Charges (In Cents Per Mile) (3)		
	Costs	Existing Rates	Proposed Rates	Costs	Existing Rates	Proposed Rates
Under 2,500	(1) 312.00 (2) 366.10	258.50 288.50	315.00 370.00	6.06	5.00	6.00
2,500 - 4,500	(1) 359.50 (2) 421.00	293.50 333.50	360.00 425.00	8.80	7.00	9.00
4,500 - 6,500	(1) 401.00 (2) 467.50	329.00 374.00	405.00 470.00	10.10	9.00	10.00
6,500 - 8,500	(1) 437.00 (2) 510.00	364.00 409.00	440.00 515.00	11.30	12.00	12.00
8,500 - 10,500	(1) 437.00 (2) 510.00	379.00 429.00	440.00 515.00	11.30	17.00	12.00
10,500 - 15,500	(1) 437.00 (2) 510.00	389.00 444.00	440.00 515.00	11.30	20.00	12.00
15,500 - 20,500	(1) 509.00 (2) 587.50	409.50 474.50	510.00 590.00	13.08	23.00	13.50
Over 20,500	(1) 582.50 (2) 667.00	409.50 474.50	585.00 670.00	15.56	23.00	16.00

- (1) Costs and proposed rates on a Monday through Friday 5-day week basis; existing rates on a 23-day month basis.
- (2) Costs and proposed rates on a Monday through Saturday 6-day week basis; existing rates on a more than 23 days per month basis.
- (3) Additional costs and rates for operations involving more than 50 miles per day.

As in the case of the hourly rates and for the same reasons, petitioner proposes that the weight brackets be adjusted so as to conform with the wage agreement. The substantial increases in monthly rates are said to be necessary to reflect the costs necessarily incurred in the operation. Of the 10 representative carriers studied to determine the effect of proposed rate increases, only 2 were engaged during the test period in providing hourly and monthly truck service. According to this study, the proposed increases and reductions would result in an over-all increase of approximately 20 per

cent. in revenues from service performed under hourly and monthly rates. The substantial rate increases in the monthly rates are said to be necessary to permit continuance of this service.

No one opposed the proposed revision of hourly and monthly rates.

The proposed modifications of these rates appear justified and necessary in order to bring the rate schedules into line with current operating conditions. The rules and regulations governing the application of the present rates do not clearly set forth the circumstance under which they will be applied. Regulations necessary for greater definiteness with respect to the application of hourly and monthly rates and giving clear effect to the optional character of these rates are provided in connection with similar rates established in the Los Angeles Drayage Area. Like regulations should be prescribed here.

Class Rates

In the present rate structure, a so-called "grasshopper scale," is provided for shipments weighing less than 6,000 pounds transported under class rates. This scale provides rates in cents per weight unit. There are 13 weight units. The first 4 weight units are: 100 pounds and under, 100 to 200, 200 to 350, and 350 to 500 pounds. There are six units for shipments weighing from 500 to 2,000 pounds. The rate progression for this bracket is on a 250-pound basis. The eight units which cover shipments of from 2,000 to 6,000 pounds provide progressively higher charges for each 500 pounds. On shipments weighing over 6,000 pounds class rates are stated in cents per 100 pounds.

Petitioner proposes that the "grasshopper scale" be eliminated. It recommends the substitution of six scales of class rates, all stated in cents per 100 pounds. These rates, like the existing "grasshopper scale" of rates, would vary with the weight of the shipment but, unlike the present scale, the precise weight of the consignment would be reflected in the charges. The recommended scales are based on weights of: less than 500 pounds, 500 to 2,000, 2,000 to 4,000, 4,000 to 10,000, 10,000 to 20,000, and 20,000 pounds and over. Minimum charges for small shipments are also proposed in connection with this adjustment.

Because the existing and proposed rates are stated on different bases in connection with shipments weighing less than 6,000 pounds there are wide variations in the nature and extent of the changes involved. The table which follows illustrates the character of petitioner's proposals:

Weight of Shipment (In Pounds)	Charges (In Cents-Intrazone Traffic)							
	1st Class		2nd Class		3rd Class		4th Class	
	(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)
100	55	70	45	60	40	50	40	40
250	90	83	70	70	55	55	45	48
600	165	138	130	114	100	84	85	72
1,400	250	322	200	266	150	195	125	168
2,250	415	428	330	338	250	259	210	225
4,250	635	680	505	553	380	403	320	340
7,000	980	1120	770	910	595	665	490	560
10,000	1400	1400	1100	1100	850	850	700	700

(1) Under existing rates.

(2) Under proposed rates.

Both increases and reductions are involved as indicated by the foregoing tabulation. The net result of the proposed adjustment, as disclosed by petitioner's study of actual shipments handled by the 10 carriers during the one-week test period, is an over-all increase of some 4 per cent. The increased rates are generally lower than the

rates needed to return the full costs shown in the engineer's study of operations under class rates. His estimated costs for these operations do not include the \$1 per man per day wage increase hereinbefore mentioned in connection with pool car rates and with rail carloading and car unloading operations. The engineer's costs for the handling of class rate drayage generally were compared by petitioner's rate expert with existing and proposed 3rd class rates. Third class, he pointed out, is generally conceded to be the classification which should most closely approximate average cost for class rate traffic. The engineer's costs and the proposed intrazone rates for representative weights follow:

Weight (In Pounds)	Costs (In Cents)	Min. Weight	Rates (In Cents)			
			1st Class	2nd Class	3rd Class	4th Class
1 - 500	37.84	A.Q.	33	28	22	19
500 - 2,000	18.18	500	23	19	14	12
2,000 - 4,000	12.49	2,000	19	15	11½	10
4,000 - 10,000	9.33	4,000	16	13	9½	8
10,000 - 20,000	7.45	10,000	14	11	8½	7
Over 20,000	7.15	20,000	14	11	8½	7

Petitioner's witnesses claimed that it would be preferable to adjust the relationship of class rates so that it would follow the 100-90-80-70 relationship which has been generally used in California for both line-haul and drayage truck rates. They said, however, that this would bring about drastic rate increases and that in the face of price ceiling regulations and other current conditions such action should be deferred. The experience gained under the present proposal, they urged, would be helpful in determining what further revisions in class rates might be warranted.

No one opposed the sought modifications of the class rates.

The elimination of the "grasshopper scales" and the other changes recommended in the form of the class rates appear highly desirable in the interest of rate simplification and uniformity. The proposed rates appear to be no higher than justified by the costs shown to have been experienced by the draymen. Petitioner's class rate proposals will be adopted.

Rules and Regulations

Numerous revisions in rules and regulations are proposed. For the most part they consist of changes made necessary by the changed method of stating class rates. They are patterned after similar rules established in connection with rates for other drayage areas and for line-haul traffic and do not appear to require detailed treatment here. With certain modifications which appear desirable for simplicity or further clarity, these proposals will be adopted. There are, however, certain other proposals which require consideration. They will now be treated.

The proposed definition of holidays for the purpose of assessing charges for service at other than regular working hours includes the following: "Admission Day when celebration is in San Francisco." This is an indefinite statement and does not provide that certainty which is a prerequisite to the correct determination of rates. Admission Day will, therefore, be eliminated from the list of holidays.

In the rule proposed for ascertaining charges on mixed shipments, petitioner has not made provision for ascertaining the charges on mixed shipments consisting in part of commodities for which rates are provided in other effective tariffs issued by the Commission or commodities on which rates have not been established. This appears necessary and an appropriate addition will be made to the rule proposed by petitioner.

According to petitioner, shippers occasionally instruct draymen to deliver shipments at a time when no one will be on hand to receive the shipment at the delivery point. The rule proposed to apply in such circumstances provides that such shipments would be delivered at shipper's risk when charges are prepaid or guaranteed and that the drayman would not be liable for loss or damage after delivery. Another rule covers the draymen's reservation of the right to refuse to handle dangerous, offensive or improperly packed freight. It has not been shown that such rules are appropriate for inclusion in a rate structure prescribed by the Commission.

Various rate bases are now provided for accessorial services not included in the transportation rate. These services petitioner states are over and above the ordinary transportation function. They consist of such operations as stacking, sorting and reconditioning merchandise and similar work for which the drayman is generally required to employ additional help. It is contended that the charges for these operations should be based on a uniform rate. The rate proposed by petitioner, \$1.75 per man per hour, appears to be no higher than necessary to cover the cost of providing service. Such services are rendered only in response to the demands of shippers and, petitioner asserts, the draymen would, if they were in a position to do so, decline to provide them. The proposal appears justified and will be adopted.

A rule proposed for the assessment of penalty charges for delays to carrier's equipment provides that where more than one shipment is being transported the charge for delay will be prorated according to the weight of each shipment. It also provides rates varying with the size of equipment used. It fails to provide that it would not apply to those shipments not causing the delay. Also,

under the proposed rule, charges would vary dependent solely upon the size of the equipment the drayman elected to employ in transporting the freight. In view of these infirmities the proposed rule will not be adopted.

In connection with rail cars stopped in transit for partial unloading, petitioner proposes a rule to govern charges when the drayman finds it necessary to trim or brace the remaining portion of the load left in the car. This rule merely restates the charge of \$1.75 per man per hour proposed for accessorial services not included in the transportation rates and therefore is not necessary. A similar rule proposed for the cleaning of rail cars is likewise unnecessary.

Cancellation of Commodity Rates

Petitioner proposes cancellation of commodity rates on (1) bakery goods in lift vans, (2) cereal products, (3) freight transported for chain and retail department stores, (4) liquid dairy products, (5) freight transported for wholesale department stores and mail order houses, (6) new office furniture, (7) wholesale parcel city delivery, (8) refrigerators, and (9) towed vehicles.

These proposals were said to be designed to eliminate so-called "dead rates" (rates no longer used) from the drayage rate structure. Petitioner's secretary-manager said that his investigation had disclosed that, except in those instances hereinafter discussed, these rates had not been used for some time and that their cancellation would be consistent with generally accepted tariff practice in such cases. It was developed, however, that his investigation had been confined to general draymen who would not ordinarily provide the specialized services contemplated under most of these rates. In addition, he admitted, in connection with the freight rate for chain and retail department stores, that he had not considered what effect the resumption of intercoastal steamship service might have upon the need for the rate.

When it is contended that rates should be canceled because they have become "dead," it must be affirmatively shown that they are no longer used and that there is no reasonable expectation of their being needed in the near future. This petitioner has failed to do. It has been represented that petitioner is making a further study of the commodity rate situation generally. If it still considers cancellation of these rates necessary or desirable it may again bring these matters to the Commission's attention.

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C.4084-RD As stated at the outset of this opinion, petitioner requests temporary rate adjustments pending further study. The record now before us, as we have hereinbefore indicated, appears to be sufficient in connection with certain of these proposals and insufficient in others. Our findings and conclusions are without prejudice to further consideration of these matters and to the conclusions which may be reached on a more comprehensive and up-to-date record.

It is clear that a sharp reduction in the volume of traffic has been experienced and that the remaining business cannot long be handled without an upward adjustment in rates. There appears to be no prospect of changed circumstances favorable to the draymen offsetting the adverse effect of the substantial loss of traffic. Indeed, the higher wages for drivers and helpers which the draymen have agreed to pay, would, according to petitioner's estimates, increase their operating costs in an amount almost three times as great as the amount of the additional revenues which would be produced by all of the proposed higher rates. The increases authorized apparently will do no more than afford a limited measure of temporary relief.

Upon consideration of all the facts of record we are of the opinion and find that the modifications of existing rates, rules and regulations contained in Appendix "A" hereto have been justified and should be adopted and that in all other respects petitioner's proposals 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 this proceeding, be and it is hereby further amended to the extent shown in Appendix "A" attached hereto and by this reference made a part hereof and that in all other respects said Decision No. 28632 shall remain in full force and effect.

IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraph, the petitions filed by Draymen's Association of San Francisco on February 6 and October 19, 1945, be and they are hereby denied.

This order shall become effective ten (10) days from the date hereof.

Dated at San Francisco, California, this 29th day of January, 1946.

David Anderson
Justin F. Craven
James E. ...
David ...
Harold P. Hill
 Commissioners

APPENDIX "A"

Exhibit "A" of Decision No. 28632 of March 16, 1936, as amended, in Case No. 4084, is further amended as follows:

Rule 5 - Application of Rates

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

13. Fat, sweet cream, concentrated, frozen.
14. Newspapers, not scrap or waste.

Substitute the following rule for paragraph (b):

Rates provided in this exhibit are for the transportation of shipments, as defined in Rule 15-series, from point of origin to point of destination, and include tailgate loading into and tailgate unloading from carrier's equipment with services of driver only. (For definition of tailgate loading and tailgate unloading, see Rule 75 series.)

Substitute the following rule for paragraph (c):

Except as otherwise provided, class rates in this Exhibit are subject to the class ratings shown in the Classification of Articles or Exceptions to Classification of Articles contained in this Exhibit, subject to Rule 45-series. When the Classification of Articles or Exceptions to Classification of Articles do not provide applicable class ratings, articles shall be subject to the less-than-carload ratings in the Western Classification, subject to Rule 45(b)-series.

Eliminate present paragraph (d) and substitute the following rule:

An additional charge at the rate of \$1.75 per man per hour or fraction thereof shall be made for other than tailgate loading or tailgate unloading, help in addition to driver for loading or unloading furnished by the carrier at request of consignor or consignee, distribution, segregation, tagging, reconditioning, stacking, sorting or any other accessorial or incidental service which is not authorized to be performed under the rates named in this Exhibit and for which a charge is not otherwise provided; except that no additional charge shall be made for such services in connection with shipments weighing less than 100 pounds.

Rule 15 - Definition of Shipment

Eliminate the rule "Definition of Shipment" and substitute the following rule:

SHIPMENTS TO BE RATED SEPARATELY

Each shipment shall be rated separately. Shipments shall not be consolidated or combined by the carrier. 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 rated accordingly.

Rule 25 - Delays in Delivery

Substitute the following rule:

If the carrier, through no fault of its own, is unable to effect delivery of a shipment at the point of destination every effort will be made to secure instructions from either consignor or consignee as to disposition desired; failing in this, such shipment will be stored at carrier's terminal on demurrage, or placed in suitable storage where facilities are available, at owner's risk and expense, and consignor and consignee immediately notified. If such shipment is left at the carrier's terminal, the liability of the carrier will be that of a warehouseman only, and a demurrage charge of 75 cents per revenue ton if unloaded and reloaded on truck, plus a demurrage charge of 5 cents per revenue ton per day, including Sundays and holidays, minimum charge 25 cents per shipment, will be made. Subsequent delivery of the property shall constitute a new shipment.

Rule 35 - Charges for Service at Other Than Regular Working Hours

Substitute the following rule:

(a) Rates named in this Exhibit apply to transportation, accessorial and other services specified herein during the hours 8:15 a.m. to 5:15 p.m., Monday through Friday, and during the hours 8:15 a.m. to 3:00 p.m. on Saturdays, not including holidays as defined in Rule 75 series.

(b) For services performed at request of consignor or consignee at other than during the times specified in paragraph (a) hereof, and on Sundays or holidays, charges shall be assessed upon the rates named in this Exhibit, plus an additional charge equal to the cost to the carrier of the overtime involved.

Rule 40 - Advance Charges

Substitute the following rule:

Charges directly incidental to transportation of property by the carrier may be advanced to transportation companies or warehouses for account of consignors or consignees.

Rule 45 - Package Requirements

Substitute the following rule:

(a) Except as otherwise provided in the Classification of Articles or Exceptions to Classification of Articles, commodities transported under class rates may be accepted for transportation in any container or any shipping form, providing such container or form of shipment will render the transportation of the freight reasonably safe and practicable.

(b) When the ratings in the Western Classification are applicable as provided by Rule 5(c), commodities transported under class rates will not be subject to the packing requirements of the Western Classification but may be accepted for transportation in any container or any shipping form, providing such container or form of shipment will render the transportation of the freight reasonably safe and practicable. If two or more ratings are provided for an article in the form in which it is shipped (e.g., set up or knocked down, nested or not nested, compressed or not compressed, folded flat or not folded flat), subject to different packing requirements, the lowest of such ratings will apply.

Rule 60 - Charges for C.O.D. Shipments

Substitute the following rule:

(a) In the handling of C.O.D. shipments carrier shall, promptly upon collection of any and all moneys, and in no event later than ten (10) days after delivery to the consignee, unless consignor in writing, instructs otherwise, remit to consignor all moneys collected by it on such shipments.

(b) Except as otherwise provided, the charges for collecting and remitting the amount of C.O.D. bills collected on C.O.D. shipments shall be as follows:

When the amount collected is	Charge for collecting and remitting will be
Not over \$2.50	\$ 0:19
Over \$2.50 not over \$5:00	:21
Over 5:00 not over 10:00	:30
Over 10:00 not over 20:00	:32
Over 20:00 not over 25:00	:34
Over 25:00 not over 40:00	:39
Over 40:00 not over 50:00	:42
Over 50:00 not over 60:00	:53
Over 60:00 not over 80:00	:55
Over 80:00 not over 100:00	:57
Over 100:00 not over 102:50	:72
Over 102:50 not over 105:00	:74
Over 105:00 not over 110:00	:77
Over 110:00 not over 120:00	:80
Over 120:00 not over 140:00	:82
Over 140:00 not over 150:00	:85

When the amount collected is		Charge for collecting and remitting will be	
Over	150:00 not over	160.00	\$ 0.90
Over	160:00 not over	180.00	.92
Over	180:00 not over	200.00	.94
Over	200:00 not over	250.00	1.06
Over	250:00 not over	300.00	1.22
Over	300:00 not over	350.00	1.38
Over	350:00 not over	400.00	1.54
Over	400:00 not over	450.00	1.70
Over	450:00 not over	500.00	1.86
Over	500:00 not over	550.00	2.01
Over	550:00 not over	600.00	2.17
Over	600:00 not over	650.00	2.33
Over	650:00 not over	700.00	2.49
Over	700:00 not over	750.00	2.65
Over	750:00 not over	800.00	2.81
Over	800:00 not over	850.00	2.97
Over	850:00 not over	900.00	3.13
Over	900:00 not over	950.00	3.29
Over	950:00 not over	1,000.00	3.45
Over	1,000.00 at rate of \$3.45 per \$1,000.00		

Rule 65 - Charges for Collection of Loss and/or Damage Claims

Substitute the following rule:

When incidental to transportation by the carrier, a charge of \$1.00 per claim shall be made by the carrier for the service of handling and collection of loss or damage claims against another carrier when the amount involved therein exceeds \$100.00. When the amount involved is \$100.00 or less, one per cent of the amount involved shall be charged, subject to a minimum charge of 25 cents.

Rule 70 - Marking of Packages

Substitute the following rule:

For the service of marking packages when incidental to transportation by the carrier, the following charges shall be made:

3 line stencil or less, one cent per package,
minimum charge 25 cents

When more than one stencil is used, the minimum charge shall apply to each stencil used.

Rule 75 - Explanation of Technical Terms

Add to "Explanation of Technical Terms" the following:

(h) Carrier means a carrier, as defined in the City Carriers' Act (Chapter 312, Statutes of 1935, as amended).

(i) Carrier's Equipment means any motor truck or other self-propelled highway vehicle, trailer, semi-trailer, or any combination of such highway vehicles operated by the carrier.

(j) Holidays means New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Armistice Day, Thanksgiving Day and Christmas Day.

(k) Point of Destination means the precise location at which property is tendered for physical delivery into the custody of the consignee or his agent.

(l) Point of Origin means the precise location at which property is physically delivered by the consignor or his agent into the custody of the carrier for transportation.

(m) Rate includes charge and also the ratings, minimum weight, rules and regulations governing, and the accessorial charges applying in connection therewith.

(n) Same Transportation means transportation of the same kind and quantity of property and subject to the same limitations, conditions and privileges, although not necessarily in an identical type of equipment.

(o) Shipment means a quantity of freight tendered by one shipper on one shipping document at one point of origin at one time for one consignee at one point of destination. (See also Rule 15 series.)

(p) Tailgate Loading means loading of the shipment into or upon carrier's equipment from a point at street level not more than 20 feet distant from said equipment, or at other than street level when vehicular elevator service or vehicular ramp is provided and made available to the carrier.

(q) Tailgate Unloading means unloading of the shipment from carrier's equipment and placing it at a point at street level not more than 20 feet distant from said equipment, or at other than street level when vehicular elevator service or vehicular ramp is provided and made available to the carrier.

(r) Western Classification means Western Classification No. 71, C.R.C.-W.C. No. 4 of R.C. Effe, Agent, and supplements thereto or reissues thereof when the provisions of said supplements or reissues have been approved by the Commission.

Original Page 25 - Handling and Distribution of Pool Cars

Substitute the following rule:

POOL SHIPMENTS (See Note 1)

(a) For the services of unloading, segregating, or unloading and segregating property in pool shipments, when the carrier performing such services also performs the transportation, the following charges shall be made in addition to transportation charges, subject to Notes 2 and 3:

Merchandise Classified As	*Rates In Cents Per 100 Pounds
First Class	9
Second Class	7
Third Class	5½
Fourth Class or lower	4

*Subject to minimum charge of 27 cents per shipment.

(b) For the services described in paragraph (a); when the carrier performing such services does not perform transportation to ultimate point of destination, the following charges shall be made, subject to Note 2:

Merchandise Classified As	**Rates In Cents Per 100 Pounds
First Class	10½
Second Class	8½
Third Class	7
Fourth Class or lower	5

**Subject to a minimum charge of 53 cents per shipment.

(c) Class ratings referred to in this rule shall be determined in accordance with the provisions of Rule 5(c) series.

(d) When carrier has unloaded or segregated a pool shipment and finds that delivery instructions for a component part or parts thereof have not been received from shipper, such component part or parts may be placed in storage, subject to Rule 25 series.

NOTE 1. - Pool Shipment means a lot of property consigned to (a) a carrier, 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, located within the zones described in Rule 10 series.

NOTE 2. - Each component part of the pool shipment for each ultimate point of destination shall be considered as a separate shipment.

NOTE 3. - No additional charge shall be made on quantities of 20,000 pounds or more, or when transportation charges are computed upon a weight of not less than 20,000 pounds, delivered to one point of destination.

Original Page 25

Add new rules as follows:

GROSS WEIGHT

Charges shall be assessed on the gross weight of the shipment. No allowance shall be made for the weight of containers.

MINIMUM CHARGES

Except as otherwise provided on shipments moving under class rates, the minimum charge per shipment shall be as follows:

Weight of Shipment	Minimum Charge In Cents
25 pounds or less	40
Over 25 pounds but not over 50 pounds	50
Over 50 pounds but not over 75 pounds	60
Over 75 pounds	70

RATES BASED ON VARYING MINIMUM WEIGHTS

When the charges accruing on a shipment based upon actual weight exceed the charges computed upon a rate based upon a greater minimum weight, the latter shall apply. For the purpose of applying this item to a mixed shipment, deficiency between actual weight of the shipment and the greater minimum weight shall be computed at the rate applicable to the lowest rated commodity in the shipment.

(1)

COLLECTION OF CHARGES

(a) Except as otherwise provided in this rule, transportation and accessorial charges shall be collected by the carriers prior to relinquishing physical possession of shipments entrusted to them for transportation.

(b) Upon taking precautions deemed by them to be sufficient to assure payment of charges within the credit period herein specified, carriers may relinquish possession of freight in advance of the payment of the charges thereon and may extend credit in the amount of such charges accruing during a calendar month to those who undertake to pay them, such persons hereinafter being called shippers, and collection thereof made not later than the tenth day (excluding Sundays and legal holidays other than Saturday half-holidays) of the calendar month following the delivery of the freight.

(c) Where a carrier has relinquished possession of freight and collected the amount of charges represented in a freight bill presented by it as the total amount of such charges, and another freight bill for additional charges is thereafter presented to the shipper, the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days to be computed from the first 12:00 o'clock midnight following the presentation of the subsequently presented freight bill.

(d) Freight bills for all transportation and accessorial charges shall be presented to the shippers not later than 12:00 o'clock midnight of the fifth day (excluding Sundays and legal holidays other than Saturday half-holidays) of the calendar month following the delivery of the freight.

(e) Shippers may elect to have their freight bills presented by means of the United States mail, and when the mail service is so used, the time of mailing by the carrier, as evidenced by the postmark, shall be deemed to be the time of presentation of the freight bills.

(f) The mailing by the shipper of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed such shipper may be deemed to be the collection of the charges within the credit period for the purpose of these rules. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

(1) Will not apply to the transportation of property for the United States, state, county or municipal governments.

MIXED SHIPMENTS

1. Commodities for which rates are provided in this Exhibit.

(a) When two or more commodities for which different ratings are provided, are shipped as a mixed shipment, without actual weights being furnished or obtained for the portions shipped under the separate ratings, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest classed or rated commodity contained in such mixed shipment, subject to rule on "Rates Based on Varying Minimum Weights."

(b) When two or more commodities are included in the same shipment and separate weights thereof are furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates used in computing the charges, subject to rule on "Rates Based on Varying Minimum Weights." In the event a lower charge results by considering such commodities as if they were divided into two or more separate shipments, such lower charge shall apply.

2. Commodities for which rates are provided herein, moving in mixed shipments containing commodities for which rates are provided in other effective orders of the Commission, or in mixed shipments containing commodities upon which no minimum rates or charges have been established by this Commission:

(a) Except as otherwise provided by paragraph (b) hereof, when one or more commodities for which rates are not provided in this Exhibit are included in a shipment of one or more commodities for which rates are herein provided, the rate or rates applicable to the entire shipment may be determined as though all of the commodities were ratable under the provisions of this Exhibit; or one or more of the commodities for which rates are not provided in this Exhibit may be transported at the rates otherwise applicable.

(b) When one or more commodities for which rates are provided in this Exhibit are included in a shipment with uncrated property, viz.: used household goods, office and store fixtures and equipment as described in and for which rates are provided in City Carriers' Tariff No. 3, Highway Carriers' Tariff No. 4, (Appendix "A" of Decision No. 32629, or as amended, in Case No. 4434), the charge on the entire shipment may be computed at the hourly rates on the entire shipment may be computed at the hourly rates in said tariff; or each component part of the shipment may be rated at the rates otherwise applicable thereto.

Items 35, 40 and 45 - Class Rates

Eliminate Class Rate Scales 1, 2 and 3 and substitute the following:

CLASS RATES
In Cents Per 100 Pounds

Rate Basis	Minimum Weight In Pounds											
	Any Quantity				500				2,000			
	1	2	3	4	1	2	3	4	1	2	3	4
A	33	28	22	19	23	19	14	12	19	15	11½	10
B	37	30	24	20	27	21	16	13	23	18	13½	11
C	42	34	27	23	32	25	19	16	26	21	14½	13

Rate Basis	Minimum Weight In Pounds							
	4,000				10,000			
	1	2	3	4	1	2	3	4
A	16	13	9½	8	14	11	8½	7
B	19	15	11½	10	16½	13	10	8½
C	20	16	12	10	17½	14½	10½	9

Rate Basis A applies between points in the same zone.
 Rate Basis B applies between points in Zone 1 and points in Zone 2; also between points in Zone 2 and points in Zone 3.
 Rate Basis C applies between points in Zone 1 and points in Zone 3; also between points in Zones 1, 2 or 3 and points in Zone 4.

Item 130 - Rates for Transportation on
Monthly Truck Unit Basis

Substitute the following:

UNIT RATES, RULES AND REGULATIONS

(a) Rates in this item apply only when, prior to the transportation of the property, the shipper enters into a written agreement with the carrier as provided in paragraph (c) hereof, and only when the property is transported by one carrier for one shipper. When such agreement is executed, rates otherwise provided in this Exhibit will not apply.

(b) Rates in this item are subject to Rule 35, Charges for Service at Other Than Regular Working House; Rule 60, Charges for C.O.D. Shipments; Rule 65, Charges for Collection of Loss or Damage Claims; Rule 70, Marking of Packages; Rule 75(h), (i), (j), (k) and (l), Explanation of Technical Terms; and rule entitled "Collection of Charges". They are not subject to other rules and regulations provided by Exhibit "A" of Decision No. 28632, as amended, in Case No. 4084.

(c) Prior to the transportation of the property, the shipper must enter into a written agreement with the carrier to ship at rates no lower than those provided in this item, stating specifically the class of service desired. No single agreement shall cover shipments transported over a period in excess of 31 days. The agreement shall be in substantially the following form, and the original or a copy thereof shall be retained and preserved by the carrier, subject to the Commission's inspection, for a period of not less than three (3) years from the date of its issuance:

Date _____	
In accordance with the provisions of Item No. 130 series of Exhibit "A" of Decision No. 28632, as amended, in Case No. 4084, I hereby elect to have _____ (identify transaction) transported by _____ (carrier) from _____ (point of origin) to _____ (point of destination) at the rate of _____ (See note) under the rates and provisions of Item No. _____ (see note) series of said Exhibit.	
Shipper _____ (name in full)	By _____ (name in full)
Confirmed: Carrier _____	By _____ (name in full)
NOTE.--In the event shipper and carrier agree to a basis higher than that provided by the Item, but in the same unit or units of measurement in which the minimum basis is stated, the agreed basis may be stated in place of the Item Number.	

(d) Rates in this item include the services of driver only. When, at the request of shipper, carrier furnishes help in addition to the driver, an additional charge shall be made at the rate of \$1.75 per man per hour or fraction thereof. The time for computing the additional charge shall be not less than the actual time the helper or helpers are engaged in performing the services.

(e) HOURLY VEHICLE UNIT RATES, subject to Note 1:

Capacity of Carrier's Equipment In Pounds	Minimum Charge One Hour Rates In Cents Per Hour
2,500 or less	220
Over 2,500 but not over 4,500	248
Over 4,500 but not over 6,500	275
Over 6,500 but not over 15,500	310
Over 15,500 but not over 20,500	375
Over 20,500	435

NOTE 1.-The total of the loading, unloading and driving time computed from the arrival of carrier's equipment at point of origin, or first point of origin when more than one point of origin is involved, to the time unloading is completed at point of destination, or last point of destination when more than one point of destination is involved, shall be used to compute charges.

(f) MONTHLY VEHICLE UNIT RATES

Capacity of Carrier's Equipment In Pounds	Column 1	Column 2	Column 3
2,500 or less	315	370	6
Over 2,500 but not over 4,500	360	425	9
Over 4,500 but not over 6,500	405	470	10
Over 6,500 but not over 15,500	440	515	12
Over 15,500 but not over 20,500	510	590	13½
Over 20,500	585	670	16

- COLUMN 1 - Rates per month in dollars per unit of carrier's equipment for service exclusive of service on Saturdays, Sundays and Holidays. When service on Saturday is required, Column 2 rates apply. When equipment is operated in excess of 1,050 miles per month, add rates provided by Column 3.
- COLUMN 2 - Rates per month in dollars per unit of carrier's equipment for service exclusive of service on Sundays and Holidays. When equipment is operated in excess of 1,250 miles per month, add rates provided by Column 3.
- COLUMN 3 - Rates in cents per mile to be added to the Columns 1 and 2 rates when the unit of carrier's equipment is operated in excess of the maximum mileage allowed thereunder.

Original Page 25-- Rates for Transportation
on Hourly Truck Unit Basis

Eliminate item "Rates for Transportation on Hourly
Truck Unit Basis" applicable on "unusual shipments". Item 130
series applies.

End of Appendix