

Decision No. 39166

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
Canton Transbay Express, Inc., et al.,)
for an order authorizing an increase)
in rates between San Francisco and)
East Bay points.)

Application No. 27554

In the Matter of the Establishment of)
rates, rules and regulations for the)
transportation of property by radial)
highway common carriers and highway)
contract carriers between, and by city)
carriers within, the cities of)
Oakland, Alameda, Albany, Berkeley,)
Emeryville, and Piedmont.)

Case No. 4108

In the Matter of the Investigation and)
Establishment of rates, charges,)
classifications, rules, regulations,)
contracts and practices of East Bay)
Drayage & Warehouse Co., et al., be-)
tween the cities of Oakland, Alameda,)
Albany, Berkeley, Emeryville and)
Piedmont.)

Case No. 4109

In the Matter of the Establishment of)
rates, rules and regulations for the)
transportation of property by common)
carriers as defined in the Public)
Utilities Act and highway carriers as)
defined in the Highway Carriers' Act.)

Case No. 4246

Appearances

Edward M. Berol, E. H. Hart, and Reginald L. Vaughan, for
applicants and petitioners.

C. E. Atthowe, C. L. Eddy, Fred Higuera, Frank Himmelman,
Hyland Hinman, Glen Holtwick, William J. Keane, Jack F. Kuefer,
L. D. McLaurin, Frank Reed, John P. Ventre, and Edward S. Waldie,
for various carriers.

M. D. Alexander, C. O. Burgin, and John B. Harman, for
the Office of Price Administration.

Edson Abel, H. F. Alvin, Russell Bevans, Noble W. Bohon,
Cliff Brooks, B. H. Butler, W. M. Casselman, J. J. Duvel, A. T. Eche,
L. A. Fields, Alexander Findlay, H. M. Hays, L. R. Keith, W. J.
Kessler, T. J. Label, J. E. Myers, Malcolm Myers, Milton O'Donnell,
Clarence Paskby, Eugene A. Read, Walter A. Rohde, K. P. Thorpe,
M. F. Vincyard, and Samuel Wanzo, for various shippers, shipper
organizations and other interested parties.

O P I N I O N

These proceedings deal with rates, rules and regulations for the transportation of property within and between East Bay cities, and between East Bay cities, on the one hand, and San Francisco and South San Francisco, on the other. Increases are proposed in the minimum rates heretofore established for this transportation and in the tariff rates of applicant and respondent carriers.

Public hearings were had at San Francisco before Examiner Mulgrew on June 3, 5, 11 and 12, 1946.¹

Minimum rates for transportation within the East Bay drayage area, embracing the cities of Oakland, Alameda, Albany, Berkeley, Emeryville and Piedmont, were established in 1936. There has been no change in the general level of these rates. Tariff rates of highway common carriers operating between the aforesaid cities are on the minimum rate level.

The transbay service involved is transportation between the drayage area cities, San Leandro, El Cerrito, Richmond and Stege, on the one hand, and San Francisco and South San Francisco, on the other. The minimum rates for this transportation are on the statewide constructive mileage basis established in 1939. In 1942 the level of these rates was increased 6 per cent on general commodities and 3 per cent on designated articles, particularly products of agriculture and mines. A further increase of 12 per cent became effective on June 10, 1946. As in the case of the common carriers operating in the East Bay drayage area, tariff rates of the transbay highway common carriers are on the minimum rate level.

¹

With respect to the rates for transbay traffic, public hearings were also had on May 8, June 16, November 30 and December 3, 4 and 8, 1942, in connection with the joint petition of Draymen's Associations of Alameda County and of San Francisco and Pacific Motor Tariff Bureau seeking increased rates. Action thereon has been held in abeyance at petitioners' request.

The record shows that most of the transbay carriers are also engaged in East Bay drayage operations. It also shows that, in addition, the carriers handle an important volume of drayage traffic not subject to minimum rates and line-haul traffic from and to points located outside of the territory here under consideration.

The carriers contend that there has been a pronounced upward trend in operating expenses, and particularly in labor costs, during the last several years. Their studies show that pay rolls for drivers, helpers and platform men alone amounted to more than 45 per cent of total operating expenses in the period from January 1 to March 31, 1946; and that, on the basis of the sharply higher wage rates made effective on June 5, 1946, would have amounted to some 57 per cent of all expenses incurred in that period. The figures in the following tabulation have been taken from a study of increases in wage rates submitted by the carriers.

WAGE RATES PER MAN PER DAY				
Effective Date	DRIVERS (Capacity of Equipment in Pounds)			
	Less than 4,500	4,500 to 6,500	6,500 to 10,500	Over 10,500
June 1, 1935	\$6.00	\$6.50	\$7.00	\$7.00
June 5, 1937	7.00	7.00	7.00	8.00
July 3, 1940 (1)	7.50	7.50	7.50	8.50
	(2) 7.65	7.65	7.65	8.67
May 29, 1942 (1)	8.50	8.50	8.50	9.50
	(2) 8.67	8.67	8.67	9.69
June 5, 1944 (1)	8.50	8.50	8.50	9.50
	(3) 8.84	8.84	8.84	9.88
June 5, 1946 (1)	10.50	10.50	10.50	11.50
	(3) 10.92	10.92	10.90	11.96
Increase over June 1, 1935, wages	(1) 4.50 (3) 4.92	4.00 4.42	3.50 3.90	4.50 4.96
(1) Before provision for vacation pay. (2) With provision for the one-week paid vacation given all regular employees. (3) With provision for the two-week paid vacation given all regular employees.				

The wage rate study also shows that on June 1, 1935, helpers were paid \$6 per day and platform men \$6.50; that, under the agreement effective June 5, 1946, their basic wages are \$10.50 and \$11, respectively, before provision for vacation pay; and that increases for these employees and drivers for the 11-year period range from 50 to 82 per cent.

Witnesses for the carriers testified that further increases in labor costs have recently been occasioned by (1) the inauguration of a Monday-to-Friday work week which results in all Saturday work being paid for as a full day at "time and one half" instead of on the former basis of a day's pay at the basic wage rates for work until 3:00 p.m., and (2) by requirements imposed by the union representing the drivers, helpers and platform men. In regard to the union requirements, the witnesses indicated that the more onerous are those which necessitate the exclusive employment of members of the local union for all loading and unloading operations and those which restrict the use of mechanical devices in such operations to equipment manned by local union members and owned by concerns which have agreements with that union.

One of the witnesses said that he had represented the carriers throughout numerous wage negotiations and that he considered the agreement with the drivers, helpers and platform men made effective on June 5, 1946, and incorporating a \$2 per man per day increase, as containing the best terms that could possibly be obtained. The only alternative for the carriers, he stated, was to discontinue service. Repeated attempts to have the union remove its restrictions on loading and unloading operations, he testified, had been unsuccessful.

Other carrier witnesses testified concerning wage and salary rates for employees not covered by the above discussed agreement. The gist of their testimony is that the remuneration of other employees has necessarily followed the trend of wages for drivers, helpers and platform men. Various examples were given including a 72 per cent increase in the salaries of foremen and dispatchers and a 42 per cent increase in the salaries of office help during the 1936-to-1946 period.

Costs for tires, lubricants, insurance, equipment and supplies were also said to have increased sharply in the last several years and various illustrations of such increases were submitted. All of the various carrier witnesses agreed that there was no indication that the trend towards higher operating expenses has been arrested. They claimed that further increases rather than decreases in costs could reasonably be anticipated for some time.

The carrier representatives said that they had long been cognizant of increasing costs and had taken steps to lessen the impact of the increases. Prior to the war, economies in operation were effected by replacing obsolete trucks with improved equipment. A large part of the new equipment was designed for loading and unloading by consignors and consignees or by the carriers' drivers with assistance furnished by consignors and consignees. The witnesses testified that under such loading and unloading arrangements they were able to offset increased expenses in some measure. Because of the increased tonnage handled during the war, they claimed, abnormally high load and use factors permitting unusually effective use of man power and equipment were experienced. With the cessation of hostilities, the volume of traffic decreased

materially. Carrier studies show that revenues for the last six months of 1945 were some 11 per cent less than for the first six months of that year and for the first three months of 1946 approximately 18 per cent less than for the first three months of 1945.

In the face of rising costs and decreasing revenues, the carrier witnesses testified, they intensified their efforts to effect all possible savings. They claimed, however, that it was soon apparent that the charges for their services would have to be increased and undertook the preparation of comprehensive cost and rate studies. It is represented that these studies could not be completed before the carriers were required to grant the \$2 per man per day increase and Saturday overtime payments to their drivers, helpers and platform men, and to submit to the union restrictions which prevented virtually all loading and unloading by, or with the assistance of, consignors and consignees. The need for a substantial and immediate rate increase assertedly became so critical as a result of these developments that requests for increased rates could not be deferred until the completion of the cost and rate studies. The increases here sought are proposed as temporary or interim increases. The carriers have indicated that they will diligently pursue their further cost and rate investigations and submit the results of these investigations to the Commission as promptly as possible.

The carriers contend that rates some 30 per cent higher than the rates in effect prior to June 5, 1946, are essential to enable them to remain in business and to provide necessary public transportation service. The 12 per cent increase in transbay rates which became effective on June 10, 1946, they further contend, is entirely inadequate to meet their revenue requirements.

In support of their asserted revenue needs, studies of revenues, expenses and operating ratios of the 16 carriers said to handle most of East Bay drayage traffic were submitted. These studies show operating results for 1945 and the first quarter of 1946. They also show the effect of the June-1946 increase in wages of drivers, helpers and platform men and project operating results reflecting these wage increases and revenue increases of 25, 27½ and 30 per cent. A summary of this showing follows:

	<u>Revenues</u>	<u>Expenses#</u>	<u>Net#</u>	<u>Operating Ratio #</u>
First 6 months, 1945	\$2,339,310	\$2,215,632	\$123,678	94.6
Last 6 months, 1945	2,078,267	2,152,207	(73,940)	103.5
First 3 months, 1945	1,151,737	1,090,482	61,255	94.6
Last 3 months, 1945	981,544	1,067,267	(85,723)	108.8
First 3 months, 1946				
Before adjustment	942,087	980,052	(37,965)	104.0
With wage adjustment	942,087	1,090,496	(148,409)	115.8
With 25% higher revenues (I)	1,185,931	1,090,496	95,435	92.1
With 27½% higher revenues (I)	1,185,931	1,123,112*	62,819*	94.7*
With 30% higher revenues (I)	1,209,484	1,090,496	118,988	90.1
With 27½% higher revenues (I)	1,209,484	1,129,509*	79,975*	93.5*
With 30% higher revenues (I)	1,233,038	1,090,496	142,542	88.5
With 27½% higher revenues (I)	1,233,038	1,137,536*	95,502*	92.0*

- Before provision for federal income taxes, except where otherwise indicated.

* - After provisions for federal income taxes.

(I) - Also includes nonoperating income amounting to \$8,324.

 - Indicates loss.

Seven of the 16 carriers included in the foregoing study were also included in a similar study of the operations of the 10 carriers represented as handling most of the transbay traffic. These 10 carriers, the latter study shows, had revenues of \$952,855 in the first three months of 1946 and expenses of \$1,006,982 in that period. These figures reflect an operating loss of \$54,127 and an operating

ratio of 105.5. With adjustment for the June 5 increase in wages and for \$4,593 nonoperating income, the indicated loss is \$168,895 and the operating ratio 118.0. Revenue increases of 25, 27½ and 30 per cent would produce, according to the carriers' figures, operating ratios, after provision for federal taxes, of 95.9, 94.5 and 93.5, respectively.

According to figures submitted by the carriers, some 16 per cent of the revenues of the operators engaged extensively in both East Bay and transbay hauling is derived from the East Bay traffic and approximately 48 per cent from the transbay service. The remaining 36 per cent is said to be produced by traffic not subject to minimum or tariff rates such as pickup and delivery service for other carriers, and from transportation from, to or between points outside the area here under consideration. The carriers intend to increase their rates for these other services.

The June-1946 wage increase for drivers, helpers and platform men, the carriers' figures indicate, amounts to an 11 per cent increase in operating costs and, so far as the transbay operations are concerned, has assertedly offset the 12 per cent rate increase of June 10, 1946. An increase of some 30 per cent in the East Bay drayage rates and in the transbay rates in effect prior to June 10, 1946, is said to be essential if the carriers are to continue to provide necessary service. In this regard various carrier witnesses testified that there were no further economies which could be practiced and that increased rates were the only means of obtaining the additional revenues necessary to meet their operating costs and to enable them to continue in operation.

A witness for the Office of Price Administration presented the results of certain calculations he had made from the carriers' figures to show the effect of an 18 per cent increase in revenues. He pointed out that revenues in the first three months of 1946 were indicated as being 18 per cent lower than in the corresponding 1945 period. With revenues of the 16 carriers restored to the 1945 level by an 18 per cent increase, the witness developed an operating ratio of 98.09, before provision for federal income taxes. On the basis of 25 per cent higher revenues the corresponding ratio in the carrier studies is 92.1.

It was also pointed out by the OPA that 4 of the 16 carriers would apparently continue to sustain operating losses with a 27½ per cent increase in their revenues and that a 30 per cent increase would leave 3 of them in that position. Attention was also called to the fact that 2 of these 4 carriers were not able to operate on a profitable basis during the first half of 1945 when abnormally heavy traffic and other conditions generally resulted in unusually high load and use factors and the attending effective use of man power and equipment. In regard to the other 2 carriers, their operating results for the first quarter of 1946 show drastic changes from the results for 1945 and for any of the quarters of that year. This circumstance, the OPA claims, tends to show that unusual conditions were encountered by these carriers in 1946.

The OPA witness calculated the results which would be produced by an 18 per cent increase for the 12 carriers remaining after elimination from the studies of the 4 carriers which with 27½ per cent higher revenues would still sustain operating losses. The operating ratio thus developed for the 12 carriers is 92.93, before taxes. The witness expressed the opinion that this is within the range of a reasonable operating ratio for the type of carriers involved.

OPA contends that the increases of 25 per cent or more proposed by the carriers are not warranted. Its position in short is that it is not opposed to increases necessary to relieve actual hardship and to permit the rendition of essential public service but that the increases here sought are greater than those shown to be needed by all of the circumstances and conditions of record.

For the most part, the position of the shippers is essentially the same as that taken by OPA. Shipper representatives indicated that they were not opposed to increases necessary to maintain required service. They questioned the extent to which operations beyond the scope of those here under consideration may account for the losses indicated by the carrier studies, particularly in the case of the 4 operators hereinbefore referred to in connection with the testimony of the OPA witness.

The Oakland Chamber of Commerce urged that any rates authorized between San Francisco and the East Bay drayage area be not higher than rates between San Francisco and Richmond or San Leandro.

The record demonstrates conclusively that under the impact of increased operating expenses, particularly labor costs, the East Bay and transbay carriers cannot continue to operate without sustaining serious operating losses. Adequate service evidently cannot be maintained for any appreciable time under the existing rates. The chief question thus presented is the extent of the increase necessary to maintain required service.

The carriers seek emergency rate relief pending their further study of their revenue and expense problems. Any rate adjustment now authorized will apparently be brought before the Commission for review and modification in the near future and in the

light of the additional data which will then be available. Under the circumstances, and because of the nature of the earning statements of certain of the operators included in the carrier studies, it appears that a rate increase of approximately 30 per cent is substantially greater than that here justified as an emergency adjustment.

As has been pointed out, an 18 per cent increase would produce an operating ratio of 92.93, before federal income taxes, for 12 of the 16 carriers handling most of the traffic involved. With such an increase, the revenues of all but one of the 12 carriers would apparently exceed their expenses. A relatively small loss is indicated for the remaining carrier. It may well be, as the carriers contend, that such an increase will prove insufficient. A greater increase is not, however, supported by the showing made.

In view of the foregoing, the minimum rates heretofore prescribed for East Bay drayage operations will be increased 18 per cent and the highway common carriers operating between the cities in the drayage area will be authorized to increase their tariff rates accordingly. There is no indication that contract carrier drayage operations are being conducted in the East Bay area. However, to avoid conflict with federal statutory requirements and regulations promulgated thereunder, the order herein will provide that the rates established for contract carriers shall not exceed the maximum rates they are permitted to observe under federal price control regulations.

With respect to the minimum rates for transbay traffic, the showing made with respect to current conditions is confined largely to the 9 common carriers operating under tariffs on file with the Commission. The more general record made in 1942 which the carriers still rely upon is, in the face of the radical changes

experienced since that time, of dubious probative value. The transbay minimum rate level, as has been hereinbefore noted, was increased 12 per cent on June 10, 1946. The 9 common carriers have increased their rates accordingly. They will be authorized to establish a further increase of 6 per cent, provided that rates between San Francisco or South San Francisco and Richmond or San Leandro are not maintained on a lower basis than the San Francisco-Oakland rates. Adjustment of the transbay minimum rates has not been justified on this record.

Apparently important economies in carrier operations would result in the event that the carriers are able to have the union requirements relating to loading and unloading removed. Unless and until this is accomplished, however, it appears that the carriers must incur the increased costs occasioned by these requirements if they are to continue to provide service. It is hoped that this situation is a temporary one and that it will be clarified and remedied before completion and submission of the further carrier studies which are now under way. The carriers are urged to see that all possible economies consistent with the rendition of adequate transportation service are put into effect as promptly as possible.

Upon consideration of all the facts of record we are of the opinion and find (1) that an 18 per cent increase in the minimum rates for transportation of property within the East Bay drayage area and a corresponding increase in the tariff rates of highway common carriers operating between cities in that area have been justified, (2) that a further increase of 6 per cent in the transbay rates of the common carrier applicants in Application No. 27554 has been justified, and (3) that in all other respects the rate adjustments

proposed in Application No. 27554, filed May 28, 1946, the joint petition of Draymen's Associations of Alameda County and San Francisco and Pacific Motor Tariff Bureau, filed November 10, 1941, and the petitions of Draymen's Association of Alameda County, filed February 8 and March 29, 1945, and April 29, 1946, have not been justified.

O R D E R

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

IT IS HEREBY ORDERED that applicants in Application No. 27554 be and they are hereby authorized to increase their existing rates and charges between San Francisco, on the one hand, and Oakland, Alameda, Albany, Berkeley, Emeryville and Piedmont, on the other hand, by not more than 6 per cent, computed in accordance with the provisions of the third ordering paragraph hereof; and that, in the event they exercise this authority, said applicants be and they are hereby authorized and directed to establish concurrently, in any of their tariffs naming rates between San Francisco or South San Francisco, on the one hand, and San Leandro, El Cerrito, Richmond or Stege, on the other hand, rates no lower than those established pursuant to this order for like transportation between San Francisco Zone No. 11 and Oakland Zone No. 7, as described in Items Nos. 10-C and 5-A, respectively, of Pacific Motor Tariff Bureau Freight and Express Tariff No. 8, C.R.C. No. 16 (Freight series) and C.R.C. No. 2 (express series) of E. H. Hart, Agent.

IT IS HEREBY FURTHER ORDERED that Appendix "A" of Decision No. 29217 of October 26, 1936, as amended, in Cases Nos. 4108 and 4109, be and it is hereby further amended by increasing the rates and

charges set forth in said Appendix "A", as amended, by 18 per cent, computed in accordance with the provisions of the third ordering paragraph hereof, effective five (5) days after the effective date of this order; that respondents in Case No. 4109 be and they are hereby authorized and directed to establish for transportation service for which rates are provided by said Appendix "A", as amended, and not later than five (5) days after the effective date of this order, rates no lower than the increased minimum rates prescribed herein; and that said respondents be and they are hereby authorized to increase rates and charges by not more than 18 per cent, computed in accordance with the provisions of the third ordering paragraph hereof, for transportation service within the East Bay drayage area for which rates are not provided by said Appendix "A", as amended.

IT IS HEREBY FURTHER ORDERED that rates specifically set forth in Appendix "A" of Decision No. 29217, as amended, and in the tariffs of applicants in Application No. 27554 and respondents in Case No. 4109 shall be increased under the provisions of this order before computing rates which are based in multiples or percentages of rates or ratings; and that in applying all increases herein authorized fractions shall be disposed of as follows:

(a) When the rates or charges before applying the increase are 5 cents or less:

Fractions of less than $1/8$ or .125 of a cent shall be omitted;
Fractions of $1/8$ or .125 of a cent or greater but less than $3/8$ or .375 of a cent shall be stated as $1/4$ or .25 of a cent;
Fractions of $3/8$ or .375 of a cent or greater but less than $5/8$ or .625 of a cent shall be stated as $1/2$ or .50 of a cent;
Fractions of $5/8$ or .625 of a cent or greater but less than $7/8$ or .875 of a cent shall be stated as $3/4$ or .75 of a cent;
Fractions of $7/8$ or .875 of a cent or greater shall be increased to the next whole cent.

(b) When the rates or charges before applying the increase are 10 cents or less but greater than 5 cents:

Fractions of less than $1/4$ or .25 of a cent shall be omitted;

Fractions of $1/4$ or .25 of a cent or greater but less than $3/4$ or .75 of a cent, shall be stated as $1/2$ or .50 of a cent;

Fractions of $3/4$ or .75 of a cent or greater, shall be increased to the next whole cent.

(c) When the rates or charges before applying the increase are greater than 10 cents:

Fractions of less than $1/2$ or .50 of a cent shall be omitted;

Fractions of $1/2$ or .50 of a cent or greater shall be increased to the next whole cent.

IT IS HEREBY FURTHER ORDERED that contract carriers required by federal statutes and duly established regulations issued thereunder to observe maximum rates lower than those established as minima in this proceeding may deviate from the minimum rates prescribed herein to the extent necessary for compliance with such maximum rate requirements.

IT IS HEREBY FURTHER ORDERED that tariff publications of common carrier applicants in Application No. 27554 and respondents in Case No. 4109 filed pursuant to this order may be made effective on not less than one (1) day's notice to the Commission and to the public; that said common carriers be and they are hereby authorized to depart from the provisions of Tariff Circular No. 2, General Order No. 80 and Section 24(a) of the Public Utilities Act, to the extent necessary to carry out the effect of this order; and that the permissive authority granted herein to said common carriers shall be void unless exercised within twenty (20) days from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that in all other respects Decision No. 29217, as amended, in Cases Nos. 4108 and 4109, and

Decision No. 31606, as amended, in Case No. 4246, shall remain in full force and effect.

IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraphs, Application No. 27554, filed May 28, 1946, the joint petition of Draymen's Associations of Alameda County and San Francisco and Pacific Motor Tariff Bureau, filed November 10, 1941, and the petitions of Draymen's Association of Alameda County, filed February 8 and March 29, 1945, and April 29, 1946, be and they are hereby denied.

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

Dated at Los Angeles, California, this 25th day of June, 1946.

Harold C. Culver
Justin F. Casper
Francis D. ...
Harold D. ...
Harold H. ...
Commissioners