

Decision No. 39583

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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

ORIGINAL

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., between the cities of Oakland, Alameda, Albany, Berkeley, Emeryville and Piedmont.

Case No. 4109

Appearances

- E. H. Hart, for Draymen's Association of Alameda County and Pacific Motor Tariff Bureau.
- Eugene A. Road, for Oakland Chamber of Commerce.
- J. J. Deuel and Edson Abel, for California Farm Bureau Federation.
- J. E. Myers, for Durkee Famous Foods Division of the Glidden Company.

SUPPLEMENTAL OPINION

Prior orders in these proceedings (Decision No. 29217 of October 26, 1936, as amended) have prescribed minimum rates, rules and regulations for the transportation of property within and between East Bay cities. By petition, Draymen's Association of Alameda County proposes that the minimum rate structure be revised by increasing the additional charges for heavy or bulky shipments and by establishing extra charges for service on Saturdays and Admission Day on the same basis as that heretofore prescribed for work on Sundays and other holidays. On behalf of the highway common carrier respondents in Case No. 4109, petitioner, Pacific Motor Tariff Bureau, proposes that the hourly and monthly truck

unit rates published in the Bureau's Tariff No. 6-E, C.R.C. No. 17 of E. H. Hart, Agent, be cancelled; and that the charges for loading and unloading truck equipment at marine terminal facilities published by these highway common carriers in the aforementioned tariff be raised to the current bases for corresponding carloading and car unloading service.

Public hearing was had at San Francisco on October 2, 1946, before Examiner Mulgrew.

The existing rate for extra labor for handling heavy or bulky shipments is \$1.77 per man per hour. Petitioner proposes that this rate be increased to \$2.00. It also requests that the minimum additional charge be raised from \$1.48 to \$2.00. Witnesses for petitioner testified that the charge for extra labor is based on the time actually spent in performing the handling service, that there is a considerable element of cost involved in the nonproductive time paid for by respondents in getting the men from and to the points where the work is performed, that demands for this work are irregular, and that ordinarily each job is of relatively short duration. The character of the work in question, they said, is such that for the most part the men must be hired on the broken-time wage rate of \$1.75 per man per hour. The men so hired are paid from the time they leave the hiring hall until they return to it. On the whole, the proposed increased rate is expected to do no more than return the costs incurred by the carriers in providing the service. The proposed adjustment appears justified by the showing made.

For service performed at the shipper's request on Sundays and designated holidays, outstanding rate orders require the observance of an additional charge equal to the added cost of overtime. The record shows that the revised agreement between petitioners'

members and the union representing their drivers, helpers and platformmen, which was made effective June 5, 1946, provides for overtime wages on Saturdays and Admission Day on the same basis as that for work performed on Sundays and other specified holidays. Adoption of the proposal that additional overtime charges be extended to Saturday and Admission Day service appears warranted under these circumstances.

In regard to the authority to cancel hourly and monthly truck unit rates sought by respondent highway common carriers, petitioners' secretary-manager and tariff publishing agent testified that the rates were not compensatory and that they were inappropriate for common carrier operations. He explained that in drayage operations under minimum rates the draymen were not prevented from charging hourly and monthly rates higher than the corresponding minimum rates to the extent that the particular circumstances and conditions involved might warrant, but that the highway common carriers must strictly adhere to their tariff rates regardless of differences in the circumstances and conditions surrounding various transactions. However, the extent to which the common carrier rates in question may be inadequate is not disclosed by the record. Increases in charges which would result from their cancellation have not been justified on the showing made.

The rates for loading and unloading trucks published by respondent highway common carriers for service rendered in connection with transportation from or to marine terminal facilities were established several years ago on the same bases as those then maintained for like carloading and unloading service. Respondents' charges for this transportation are based on truckloading and truck unloading rates plus rates patterned after the railroad rates for switching service. Aggregate charges thus produced which are

lower than those produced by the minimum rates otherwise applicable were permitted to be established to meet competition with railroad switching service. Meanwhile, the carloading and car unloading rates have been increased by the Port of Oakland and by privately operated marine terminals, and respondents' charges are lower than necessary in the face of this change in the competitive situation. Marine terminals operating under the jurisdiction of the Commission were granted authority to establish the increases in their car and truck loading and unloading rates by Decision No. 38840 (46 C.R.C. 433). These higher rates have been incorporated in the minimum rate structure by reference to the tariffs of the publicly and privately operated marine terminals. Respondents here seek authority to make similar increases in their loading and unloading rates so that the competitive situation may be restored to its former basis and in order to bring their tariff rates into conformity with the provisions of outstanding minimum rate orders. The proposed increases should be authorized.

Upon consideration of all the facts and circumstances of record we are of the opinion and find that the proposed revisions in the minimum rate structure and the above indicated increases in highway common carriers' rates involving service from or to marine terminal facilities have been justified, and that to this extent the petition should be granted. In other respects, the sought adjustments have not been shown to be 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 Exhibit "A" of Decision No. 29217 of October 26, 1936, as amended, in Cases Nos. 4108 and 4109, be and

it is hereby amended, effective five (5) days after the effective date of this order, as follows:

PAGE 4 - Charges for Service at other than Regular Working Hours

Insert "Saturdays," after "Except" and before "Sundays" and "Admission Day" after "Labor Day" and before "Thanksgiving Day," in the first sentence, and "Saturdays," after "on" and before "Sundays" in the last sentence.

PAGE 7 - Heavy or Bulky Shipments

Substitute "\$2.00 per man per hour, minimum charge \$2.00, subject to Note:" for "\$1.50 per man per hour, minimum charge \$1.25," and add "Note. - This rate and minimum charge are not subject to the 18 per cent increase established by Decision No. 39166 of June 25, 1946."

IT IS HEREBY FURTHER ORDERED that respondents in Case No. 4109 be and they are hereby authorized and directed to establish rates and charges no lower than the prescribed minimum rates as further amended herein, to adjust their rates for service from and to marine terminal facilities to the extent indicated in the opinion which precedes this order, and to establish these revisions in their tariffs, effective not later than five (5) days from the effective date of this order and on not less than three (3) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that in all other respects the petition of Draymen's Association of Alameda County and Pacific

Motor Tariff Bureau, filed September 5, 1946, in these proceedings, be and it is hereby denied.

In all other respects Decision No. 29217, as amended, shall remain in full force and effect.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of October, 1946.

Harold D. Huls  
Justus J. Quinn  
Frank W. Green  
Earl L. Quinn

Commissioners