

Decision No. 42315

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment)
of rates, rules, classifications)
and regulations for the transporta-)
tion of property within the City)
and County of San Francisco.)

Case No. 4084

Appearances

Edward M. Berol and Russell Bevans, for petitioner,
Draymen's Association of San Francisco.
J. A. Clark, Jr., Preston W. Davis, A. G. Harris,
James B. Mahoney, R. I. Prosser, L. E.
Raymond, J. Robertson, Hugh Fullerton and
Gerald Levin, for various respondent
carriers.
Carl K. Black, E. R. Chapman, William Larimore,
Frank Loughran, James M. Cooper and Walter
A. Rohde, for various shippers and shipper
organizations.

SUPPLEMENTAL OPINION

Minimum rates, rules and regulations established for San Francisco drayage operations are set forth in City Carriers' Tariff No. 1-A (Appendix "A" of Decision No. 41363 of March 23, 1948, as amended, in this proceeding). By petition filed October 19, 1948, Draymen's Association of San Francisco proposes that this tariff be revised (1) by reducing the minimum charge for accessorial services, (2) by canceling commodity rates for the transportation of property for bagging, mail order and wholesale dry goods houses and wholesale department stores, and for the transportation and installation of refrigerators, and (3) by adjusting the rules and regulations governing the application of hourly rates and by increasing the charges for helpers employed in providing service under these rates.

Additionally, questions have arisen with respect to what, if any, tariff changes are required in connection with the exemption of retail parcel city deliveries, the pool car distribution rates on shipments containing merchandise classified higher than first class, and the commodity rate description "cereal products requiring cooking"

Upon due notice to interested parties, a public hearing was had at San Francisco on November 12, 1948, before Examiner Mulgrew, for the receipt of evidence relative to the foregoing matters.

Discussion of these matters follows:

Minimum Charge for Accessorial Services

The drayage rates are generally restricted in their application to so-called "tailgate" loading and unloading. This restriction limits pickups and deliveries under these rates to points not more than 20 feet distant from the carrier's equipment. For loading and unloading where greater distances are involved, and for other accessorial services, an additional charge of \$2.65 per man per hour is required to be made. When these services are performed by the driver, the minimum charge is for one-half hour and thus amounts to \$1.33. Petitioner proposes that this minimum charge be reduced to one-quarter hour or 66 cents.

Witnesses for petitioner testified that the draymen handled numerous small shipments of such commodities as candy, gum, liquor and matches; that, in order to avoid pilferage, deliveries of these commodities were made inside the customers' establishments; that this service usually involved other than "tailgate" unloading; that ordinarily it was performed by the driver in less than 15 minutes; and that an additional charge of \$1.33 was too high.

The proposed reduction to 66 cents was not opposed. It appears justified and should be adopted.

Commodity Rates on Property Transported for Bagging, Mail Order and Wholesale Dry Goods Houses and Wholesale Department Stores

Transportation of property for bagging, mail order and wholesale dry goods houses and wholesale department stores is covered by specific commodity rates. The rates for the bagging houses are subject to a minimum weight of 750 tons per month; those for the other establishments are subject to a minimum weight of 3,500 tons per year. For drayage meeting these tonnage requirements, the special rates produce lower charges than the rates otherwise applicable. Their cancellation is proposed.

According to the undisputed testimony of witnesses for petitioner, the bagging-house rates have not been used for some eight years and the other special rates have not been used for approximately ten years. The witnesses said that the drayage traffic of the concerns which had formerly enjoyed these rates has been substantially reduced, that the tonnages now shipped are not sufficient to meet the minimum weights involved, and that there is no prospect of traffic being offered to the draymen in the required quantities. They explained that the bagging-house rates had been used chiefly in connection with the drayage of imported burlap, that the interested shipper had established a plant in Los Angeles, and that because of the resulting reduction in its San Francisco operations it no longer requires San Francisco drayage amounting to 750 tons per month. In regard to the other rates, the witnesses said that the drayage requirements of the establishments which had used them had likewise

been sharply curtailed and that the traffic now handled for any of these shippers does not amount to 3,500 tons per year. They attributed the reduced drayage tonnage to the availability of rail service following the installation of spur track facilities and the diversion of traffic to railroad transportation.

Cancellation of the rates in question as sought by petitioner was not opposed, appears warranted in the face of the showing made, and should be effected.

Commodity Rates on Refrigerators

Commodity rates for delivery and installation of refrigerators are involved in, and will be discussed with, proposals concerning the retail parcel city delivery exemption.

Hourly Rates

Hourly rates are applicable when, prior to the performance of service, the shipper enters into a written agreement with the carrier. When such an agreement is made, the hourly rates supersede the weight rates otherwise applicable. Petitioner proposes that the written agreement requirement be cancelled and that in its stead the hourly rates be limited to so-called "unusual shipments." It also proposes that the charge of \$2.14 per man per hour for help in addition to the driver, applicable in connection with service under hourly rates, be increased to \$2.65.

Under petitioner's proposals, the hourly rates would be applied only to "unusual shipments." Such a shipment would be defined as: "one of which no actual or accurate estimated weight can be secured; where there is neither a definite point of destination nor specific time for loading or unloading and/or releasing the vehicle." The chairman of the draymen's rate committee testified

that they were called upon to provide special service involving delay to their equipment and that, while hourly rather than weight rates should be applied to such operations, it was not feasible to enter into the written agreements required by the tariff. He explained that equipment was dispatched on verbal instructions, that frequently the character of the required service was not disclosed; and that it was not practicable to complete the written agreements after the equipment had arrived at the shipping points and prior to the transportation of the property. In such circumstances, the chairman said, the hourly rates should nevertheless be made applicable. He also said that adoption of petitioner's proposals would preclude the use of hourly rates to defeat the weight rates for ordinary drayage transactions and would reinstate tariff provisions canceled by Decision No. 38651, 46 C.R.C. 327, (1946). The witness asserted that during their effectiveness these tariff provisions had been applied without difficulty.

In canceling the provisions proposed to be reinstated, the Commission held that they did not clearly set forth the circumstances under which the hourly rates would be applied. Because they lack the definiteness and certainty which is essential to proper tariff rules and regulations, they were then, and are now, not suitable to govern rate determinations. While it may be impracticable to do so in certain instances, an actual weight can be secured on any drayage shipment. The effect of the provisions relating to the point of destination and the time for loading, unloading and releasing the equipment is obscure. The point of destination, if not known at the time the equipment is dispatched, will be established when the property is delivered. Special circumstances involving delays in loading, unloading and releasing equipment, standing alone, do not

appear to require that hourly rates be applied. The tariff now contains a rule covering delays at docks, warehouses or stores. This rule specifies a charge of \$2.95 per hour, minimum charge 74 cents, for all delays over one-half hour for which the carrier is not responsible. Petitioner has not justified its proposals relating to the cancellation of written agreements and the substitution of the "unusual shipment" provisions therefor.

In regard to the sought increase in charges for help in addition to the driver, petitioner's witness testified that the draymen were required to pay such helpers the same wages as helpers employed for other work and that the existing charge of \$2.14 per hour did not reflect current wage costs. He pointed out that the charge for helpers in connection with other drayage operations is \$2.65 per hour, the same basis as that proposed for the hourly rate transportation. This proposal appears justified and should be adopted.

Retail Parcel City Delivery Exemption

Parcels delivered from retail stores, as well as parcels returned to such stores, are exempted from the minimum drayage rates. A witness from the Commission's staff pointed out that the tariff did not define the term "parcels." He said that questions had arisen as to whether or not the exemption covered stoves, furniture and other articles of relatively large size or weight. He claimed that a parcel is a small package and that the exemption should be restricted accordingly. The usual limitation placed upon minimum rate exemptions granted "parcel carriers," the witness said, was 100 pounds. He recommended that the drayage exemption be restricted to packages or pieces weighing 100 pounds or less.

United Parcel Service seeks exemption of retail deliveries of furniture, household appliances and other home furnishings and the

return of any such articles to the stores. The general manager of its San Francisco Bay district operations testified that it handled a substantial volume of these articles weighing over 100 pounds; that size rather than weight was of controlling importance in determining proper transportation charges for such merchandise; and that to weigh it would be an unnecessary, inconvenient and costly operation. He also said that these deliveries involved other than "tailgate" loading and unloading and that determinations of weight rates for transportation and of hourly rates for accessorial services as required by the tariff could not be made without seriously impairing the company's operating efficiency.

No one opposed the staff witness' recommendations, as modified by those submitted by United Parcel Service.

Counsel for the Draymen's Association stated that the draymen recognized the problems peculiar to the retail delivery of home furnishings and that they did not object to the exemption of such deliveries.

It appears that the retail parcel city delivery exemption should be revised so that it will cover only packages or pieces weighing 100 pounds or less and furniture, household appliances and other home furnishings of greater weight.

The draymen's proposal to cancel commodity rates for the transportation and installation of refrigerators involves deliveries from retail stores which will be covered by the foregoing exemption. These rates should accordingly be cancelled.

Rates on Pool Car Shipments

The staff witness pointed out that the tariff item providing rates for unloading and segregating pool car shipments stated the bases for merchandise classified first class and lower but did not specifically set forth the bases for articles classified higher than

first class. He said that the application of these rates to property taking greater than first class rates would be made clearer by removing the words "Merchandise Classified As" from the rate headings involved and describing the rates as "Class" rates. Thus, he stated, it would be apparent that the provisions of the governing classification and exception sheet concerning multiples of first class rates would be applicable.

No objections to the proposed revision were offered. It appears that it should be adopted in the interest of tariff clarity.

Commodity Description "Cereal Products Requiring Cooking"

Evidence was received relative to the commodity description "Cereal Products requiring cooking," including whether or not this description covers malt. The record on this phase of the matter has not been completed.

Findings

Upon consideration of all the facts and circumstances of record, we are of the opinion and hereby find that the proposed revisions of City Carriers' Tariff No. 1-A have been justified to the extent indicated in the foregoing opinion and as provided by the order herein; and that in all other respects the proposals advanced have not been justified.

O R D E R

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

IT IS HEREBY ORDERED that City Carriers' Tariff No. 1-A (Appendix "A" of Decision No. 41363 of March 23, 1948, as amended, in this proceeding), be and it is hereby further amended by incorporating therein, to become effective January 15, 1949, the revised

pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Second Revised Page 15 cancels First Revised Page 15
Second Revised Page 16 cancels First Revised Page 16
Second Revised Page 23 cancels First Revised Page 23
Second Revised Page 38 cancels First Revised Page 38
Second Revised Page 39 cancels First Revised Page 39
Second Revised Page 42 cancels First Revised Page 42
Second Revised Page 45 cancels First Revised Page 45

IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraph, the petition of Draymen's Association of San Francisco, filed October 19, 1948, in this proceeding, be and it is hereby denied.

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

Dated at San Francisco, California, this 14th day of December, 1948.

B. J. [Signature]
Justice J. [Signature]
[Signature]
Harold [Signature]
[Signature]
Commissioners

Item No.	SECTION NO. 1---RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES</p> <p>Rates in this tariff apply for the transportation of all commodities except the following:</p> <p>(a) Used property, viz.: household goods, office and store fixtures and equipment, as described in and for which rates are provided in City Carriers' Tariff No. 3 (Appendix "A" of Decision No. 32629 of December 7, 1939, or as amended, in Case No. 4434), and used property as described therein transported for the United States, County or Municipal governments.</p> <p>(b) Fruits and vegetables except as provided for in Section 7 of this tariff.</p> <p>(c) Property transported in dump trucks.</p> <p>(d) Property transported in tank trucks.</p> <p>(e) The following described property, when tendered to one carrier at one time in a single lot consisting of identical articles for distribution to not less than eight (8) separate addresses and where the weight of each delivery does not exceed 25 pounds:</p> <p>*50-B Printed Matter, viz.: Books, Magazines, Periodicals, Directories, Pamphlets, Rating Books, Registers or Services; Advertising Matter. 50-A</p> <p>(f) Pickup and delivery of common carrier shipments transported from or to points outside the San Francisco city limits under through pickup and delivery rates.</p> <p>(g) Unloading and distribution of freight forwarders' cars originating at points outside the State.</p> <p>◊ (h) Commodities weighing 100 pounds or less per piece or package when delivered from retail stores, or when returned to the original retail store shipper via the carrier which handled the outbound movement.</p> <p>(i) Telephone Directories, new, distributed to subscribers; old, picked up from subscribers.</p> <p>(j) Voting booths, ballot boxes, election tents and election supplies, when transported from or to polling places.</p> <p>(k) Commodities which consist of or contain materials essential to National Defense and which have been donated to and are transported for the United States government, governmental agencies, or nonprofit organizations acting for or in behalf of said government in the collection, assembly or transportation of said commodities in connection with the recovery of said essential materials from the commodities transported.</p> <p>(l) Accessories and supplies, motion picture; film, motion picture.</p> <p>(m) Fat, sweet cream, concentrated, frozen.</p> <p>(n) Newspapers, not scrap or waste.</p> <p>◊ (o) Furniture, household appliances and other home furnishings, transported from retail stores where they have been sold at retail by a retail merchant, or transported from retail customers to retail stores.</p>
	<p>◊ Reduction) ◊ Increase) Decision No. 42315 * Change)</p>
EFFECTIVE JANUARY 15, 1949	
Issued by The Public Utilities Commission of the State of California, San Francisco, California.	
Correction No. 41	

<p>Item No.</p>	<p>SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)</p>
<p>60 4-20-48</p>	<p>APPLICATION OF RATES</p> <p>Rates provided in this tariff are for the transportation of shipments, as defined in Item No. 10(k) series from point of origin to point of destination, and include tailgate loading into and tailgate unloading from the carrier's equipment with services of the driver only.</p>
<p>70 4-20-48</p>	<p>APPLICATION OF WESTERN CLASSIFICATION</p> <p>(a) Except as otherwise provided, class rates in this tariff are subject to the less-than-carload ratings shown in the Western Classification.</p> <p>(b) Where the ratings are in conflict with those provided in this tariff, the provisions of this tariff will apply.</p>
<p>*80-B Cancels 80-A</p>	<p>ACCESSORIAL CHARGES</p> <p>1. (Not applicable on shipments subject to Section 7 rates.) 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, re-conditioning, stacking, sorting or any other accessorial or incidental service which is not authorized to be performed under the rates named in this tariff and for which a charge is not otherwise provided, an additional charge shall be made as follows:</p> <p>(a) The time consumed by the driver in performing such services shall be charged for at the rate of \$2.65 per hour, minimum charge one-quarter hour.</p> <p>(b) The time consumed by the helper or helpers in performing such services shall be charged for at the rate of \$2.65 per helper per hour. In computing the time consumed by each helper used in performing the service, fractions of an hour shall be increased to a full hour.</p> <p>2. (Applies only on shipments subject to Section 7 rates.) An additional charge equal to 50 per cent of the transportation charge shall be made for pickup or delivery requiring other than tailgate loading or tailgate unloading as defined in Item No. 20 series.</p>
<p>o Reduction) * Change)</p>	<p>Decision No. 42315</p>
<p>EFFECTIVE JANUARY 15, 1949</p>	
<p>Issued by The Public Utilities Commission of the State of California, San Francisco, California.</p> <p>Correction No. 42</p>	

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
----------	--

POOL SHIPMENTS (See Note 1)

(Not applicable on shipments subject to Section 7 rates)

(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:

	* Class
	Rates in Cents Per 100 Pounds

First Class	12
Second Class	9½
Third Class	7
Fourth Class or Lower	5½

Minimum charge 37 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:

*220-B
Cancels
220-A

	* Class
	Rates in Cents Per 100 Pounds

First Class	14
Second Class	12
Third Class	9½
Fourth Class or Lower	6½

Minimum charge 71 cents per shipment

(c) Class ratings referred to in this rule shall be determined in accordance with the provisions of Item No. 70 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 Item No. 140 series.

NOTE 1.--Pool shipment means a lot of property consigned to (a) a carrier, with instructions for ultimate delivery to two or more subconsignees, or to one subconsignee 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 subconsignees, or to a subconsignee at more than one delivery address, located within the zones described in Item No. 40 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.

**** Words "Merchandise Classified As" eliminated.
* Change, Decision No. 42315

EFFECTIVE JANUARY 15, 1949

Issued by The Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 43

SECTION NO. 4 - COMMODITY RATES In cents per 100 lbs. except as noted.			
Item No.	COMMODITY	RATES	Minimum Weight (Except As Noted)
*370-B Cancels 370-A	◇ Cancelled.		
380-A Cancels 380 (7-6-48)	BRICK, weighing each not more than seven and one-half (7½) lbs.	In Cents per 1000 <u>brick</u>	1000 brick
	Between points in the same Zone.....	541	
	Between points in Zone 1 and points in Zone 2, or between points in Zone 2 and points in Zone 3.....	660	
	Between points in Zone 1 and points in Zone 3..	695	
◇ Increase) * Change) Decision No. 42315			
EFFECTIVE JANUARY 15, 1949			
Issued by The Public Utilities Commission of the State of California, San Francisco, California.			
Correction No. 44			

Cancel

SECTION NO. 4 - COMMODITY RATES (Continued)			
In cents per 100 lbs. except as noted.			
Item No.	COMMODITY	RATES	Minimum Weight
	CEREAL PRODUCTS requiring cooking. FEED FLOUR		
	Inhaul, Shipping or City Deliveries at truckside, platform or sidewalk:	In Cents Per Shipment	
	350 pounds or less.....	57	
	Over 350 " but not over 500 pounds.....	63	
	" 500 " " " " 750 "	92	
	" 750 " " " " 1000 "	105	
	" 1000 " " " " 1250 "	127	
	" 1250 " " " " 1500 "	141	
	" 1500 " " " " 1750 "	169	
	" 1750 " " " " 2000 "	204	
	" 2000 " " " " 2500 "	232	
390-A	" 2500 " " " " 3000 "	260	
Cancel	" 3000 " " " " 3500 "	295	
390	" 3500 " " " " 4000 "	324	
(7-6-48)	" 4000 " " " " 4500 "	357	
	" 4500 " " " " 5000 "	386	
	" 5000 " " " " 5500 "	414	
	" 5500 " " " " 6000 "	464	
	" 6000 "	(1)8	
	(1) In cents per 100 pounds		
	City Deliveries (Not Subject to Item No- 60 Series)	In Cents Per Shipment	
	500 pounds or less.....	77	
	Over 500 " but not over 1000 pounds.....	141	
	" 1000 " " " " 1500 "	204	
	" 1500 " " " " 2150 "	260	
		In Cents Per 100 Pounds	
	" 2150 " " " " 5000 "	13	
	" 5000 " " " " 10000 "	12	
	" 10000 "	10	
400-A	COFFEE, GREEN Inhaul only		(1)1000 tons per Calendar Month
Cancel	(1) Monthly tonnage is to be averaged over twelve (12) calendar months commencing with month in which property is first transported.	6	
410-A	COFFEE, GREEN, in sacks) SPICES, VIZ.:)		5000 tons per Calendar Year
Cancel	Pepper, in sacks,) Mustard, ground, in sacks)	(1)6½	
410	(1) Minimum weight 10,000 pounds per shipment.		
*420-B	◇ Cancelled.		
420-A	◇ Increase) * Change)	Decision No. 42315	
EFFECTIVE JANUARY 15, 1949			
Issued by The Public Utilities Commission of the State of California, San Francisco, California.			
Correction No. 45			

SECTION NO. 4 - COMMODITY RATES (Continued) In cents per 100 pounds except as noted			
Item No.	COMMODITY	RATES	Minimum Weight
*490-B Cancels 490-A	* Cancelled.		
500-A Cancels 500 (7-6-48)	RICE AND RICE MILL PRODUCTS	6½	20,000 Pounds
510-A Cancels 510 (7-6-48)	SOAP, in bars; SOAP CHIPS; SOAP POWDER; LARD SUB- STITUTES Inhaul within Zone 1 (1) Minimum weight 30,000 pounds per shipment.	(1) 10	3000 tons per year
* Change, Decision No. 42315			
EFFECTIVE JANUARY 15, 1949			
Issued by The Public Utilities Commission of the State of California, San Francisco, California.			
Correction No. 46			

Item No.	SECTION NO. 5 - UNIT RATES, RULES AND REGULATIONS
----------	---

APPLICATION OF RATES

(a) Rates in this Section 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 tariff will not apply.

(b) Rates in this Section will not be governed by the general rules and regulations in this tariff other than the following:

Item No. 10(d), (g), (h), (i), and (j), Explanation of Technical Terms; Item No. 20, Collection of Charges; Item No. 100, Charges for Service at Other Than Regular Working Hours; Item No. 110, C.O.D. Shipments; Item No. 130, Collection of Loss and/or Damage Claims; Item No. 190, Marking of Packages.

(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 Section, 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.

*550-B
Cancels
550-A

Date
<p>In accordance with the provisions of Section 5 of City Carriers' Tariff No. 1-A, I hereby elect to have</p> <p>. transported by</p> <p style="padding-left: 40px;">(Identify transaction) (Name of</p> <p>. from to</p> <p style="padding-left: 40px;">Carrier) (Point of Origin)</p> <p>. at the rate of</p> <p style="padding-left: 40px;">(Point of Destination) (See Note)</p> <p>under the rates and provisions of Item No.</p> <p style="text-align: right; padding-right: 20px;">(See Note)</p> <p>series of said tariff.</p> <p>Shipper By</p> <p style="padding-left: 40px;">(Name in full) (Name in full)</p> <p>Confirmed:</p> <p>Carrier By</p> <p style="text-align: right; padding-right: 20px;">(Name in full)</p> <p>NOTE--In the event shipper and carrier agree to a basis higher than that provided in this Section, 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.</p>

(d) Rates in this Section include the services of driver only. When, at the request of shipper, carrier furnishes help in addition to driver, an additional charge shall be made at the rate of \diamond \$2.65 per man per hour or fraction thereof. The time for computing the additional charge shall be not less than the actual time the helpers are engaged in performing the service.

* Change)
 \diamond Increase) Decision No. 42315

EFFECTIVE JANUARY 15, 1949

Issued by The Public Utilities Commission of the State of California,
Correction No. 47 San Francisco, California.