

ORIGINAL

Decision No. 47074

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
into the rates, rules, regulations,)
charges, allowances and practices)
of all common carriers, highway)
carriers and city carriers relating)
to the transportation of property.)

Case No. 4808

Appearances

- Edward M. Berol, for petitioner Common Carrier Conference of the Truck Owners Association of California.
- Daniel Baker, for petitioner Pacific Motor Tariff Bureau and for Alameda County Draymen's Association.
- Frank Terramorse, for Permitted Carriers Conference of the Truck Owners Association of California.
- Frank M. Chandler and J. C. Kaspar, for California Motor Transport Associations, Inc.
- Russell Bevans, for Draymen's Association of San Francisco.
- Elmer Ahl and H. L. Mathewson, for Pacific States Motor Tariff Bureau.
- Thomas R. Dwyer, H. M. Hays, William J. Keane, Jack F. Kueper, C. A. Millen, N. R. Moon, Lloyd E. Rasmussen, Edward S. Waldie, and W. H. Wilson, for various carriers.
- Walter A. Rohde, for San Francisco Chamber of Commerce.
- Earl Sheldon Williams, for California State Department of Finance.
- Jeff H. Myers, for Board of State Harbor Commissioners for the Port of San Francisco.
- L. E. Binsacca, Carl F. Breidenstein, E. R. Chapman, C. H. Costello, Leo V. Cox, Lloyd W. Gragg, Wallace P. Gunn, P. N. Kujachich, Theodore J. Label, Don Neher, Allen K. Penttila, James L. Roney, and A. F. Schumacher, for various shippers.
- J. E. Phelps and Grant Malquist, Transportation Department, Public Utilities Commission.

SUPPLEMENTAL OPINION

By their joint petition, the Common Carrier Conference of the Truck Owners Association and Pacific Motor Tariff Bureau seek an interim increase in the minimum rates established for the transportation of general commodities. The Conference represents association members predominantly engaged in highway common carriage;

the tariff bureau represents transbay common carriers operating between San Francisco and East Bay cities for which it files tariffs with the Commission. Territorially, the petition is limited to that part of the State generally north of Gaviota and Tehachapi.¹ It is restricted to transportation subject to the minimum class rates set forth in Highway Carriers' Tariff No. 2.² It is also restricted to the class rates for minimum weights of 20,000 pounds and less per shipment. For the transportation involved, petitioners propose that the charges produced by the existing rates be made subject to a surcharge of 12 percent, pending further investigation.³ Petitioners also seek relief from the long and short-haul provisions of the State Constitution and the Public Utilities Code; and, on behalf of common carriers which file their tariffs with the Commission, relief from the Commission's tariff filing requirements to the extent necessary to establish the proposed surcharge basis in the common

¹ The specific territorial limitation is to transportation between points situated north of the following line:

"Beginning at the shore line of the Pacific Ocean due south of Gaviota, thence northeasterly along an imaginary straight line to the point at which the boundaries of Santa Barbara, Ventura and Kern Counties intersect, easterly along the northerly boundary of Ventura and Los Angeles Counties to a point due south of the community of Tehachapi, northeasterly along an imaginary straight line to the point at which Highway U.S. 395 intersects the northerly boundary of Kern County, thence easterly along the northerly boundary of Kern and San Bernardino Counties to the California-Nevada line."

² Tariff No. 2 is Appendix "D" to Decision No. 31606, 41 C.R.C. 671 (1938), as amended.

³ Truck Owners Association of California and Motor Truck Association of California have on file a petition seeking increases in all of the class and commodity rates for the transportation of property generally and on a state-wide basis. For shipments in the weight range included in the 12 percent northern California interim increase proposal, the state-wide petition seeks an increase of only 6 percent. The state-wide petition is scheduled for hearing on May 13, 1952.

carriers' tariffs, and authority to make such tariff filings on less than statutory notice.⁴

Public hearings were held at San Francisco on March 28 and 31, 1952, before Examiner Mulgrew.

The rates in question were raised to their present levels by Decision No. 45429 of March 6, 1951, in this proceeding. The increased rates became effective April 2, 1951. They were established as a temporary measure. At the time, the general postwar rate investigation was pending. An examiner's proposed report had been issued. Provision had been made for the filing of exceptions to the report and of replies thereto. The interim increases made by Decision No. 45429 were the last in the series of interim increases established while the investigation was still under way. This last interim adjustment was designed "to return costs and make some provision for income taxes and profit during the time remaining before disposition of the general investigation."

The record in the general investigation was completed upon the filing of replies to the exceptions to the proposed report. This was followed by the issuance of Decision No. 46022 of July 31, 1951, in this proceeding. Therein the Commission discussed, among other things, the interim rate levels and the recommended rate levels. It commented on the fact that "the shippers claimed that the record was too inadequate and too stale to justify the recommended increases" and that the carriers made identical claims with respect to the recommended reductions. The Commission reached the following conclusions:

⁴ The long and short-haul provisions are contained in Article XII, Section 21, of the Constitution and in Section 460 of the Public Utilities Code; the tariff filing requirements are contained in the Commission's Tariff Circular No. 2 and in its General Order No. 80; and the statutory notice is the 30-day requirement contained in Section 491 of the Public Utilities Code.

"In Decision No. 45429, supra, it was pointed out that, and in this opinion we take official notice that, there were 'substantial increases in wage costs and in costs for materials and supplies, including sharp increases in the cost of tires' since the close of the series of hearings at which the testimony and exhibits discussed in the examiner's report and in this opinion were received. The Decision No. 45429 record, therefore, reflects current carrier experience and other circumstances and conditions covered by that record more closely than the record under consideration here. We are impressed by the unanimity of shipper and carrier opinion that any general adjustment of the existing class rate scales should be built on a more up-to-date factual foundation. The interim class rates, based on a less comprehensive but more recent record and reflecting the stresses and strains of rapidly changing economic conditions, are shown to be more appropriate than the rates recommended by the examiner based on a more complete but less up-to-date record. Further or future inquiries into the class rate levels should await the filing of requests therefor and reasonable assurance from such petitioners that they will supply the record with necessary current information.

"In the circumstances, we will not adopt the examiner's recommendations with respect to adjusting the class rate scales. Instead, these scales will be continued at their present levels."

Additionally, in Decision No. 46022 the Commission advised interested parties who might consider further rate adjustments necessary and justified to "be prepared to make adequate and complete showings based on current information in support of the adjustments sought."

Decision No. 46022 also established Distance Table No. 4, effective January 1, 1952. This distance table superseded Distance Table No. 3. It revised the constructive mileages used in determining the applicable minimum rates on a state-wide basis.

Petitioners allege that, since April 2, 1951, the date of the last rate adjustment, changed conditions have seriously and adversely affected the carriers' revenue position. They allege further that costs for wages, equipment, materials and supplies have increased and that taxes have been raised. Distance Table No. 4, they represent, has decreased constructive mileages and rates.

These changed conditions, they claim, threaten the carriers' ability to provide full and adequate service. They assert that additional revenues from the sought 12 percent interim surcharge are urgently necessary.

Petitioners retained a certified public accountant to compile revenue and expense data. This information was gathered by the questionnaire method. Questionnaires were sent to all association members, common carriers and permitted carriers, some 400 in number. Twenty-six common carriers and 19 permitted carriers responded. Only one of the 19 permitted carrier returns was used by the accountant because none of the other eighteen permitted carriers derived more than 10 percent of their revenue from the traffic under consideration (traffic subject to class rates for minimum weight of 20,000 pounds or less) and because the average revenue from this traffic for the 19 permitted carriers was less than 5 percent of their total revenues. Another carrier that had its status changed from a permitted to a common carrier during the period covered by the questionnaire also supplied requested information. The information thus obtained from the questionnaires covers the experience of 28 highway carriers, 27 of which are common carriers. Operating results of the approximately 350 association members that failed to answer its accountant's questionnaire are not of record here. The operating results of carriers which are not members of the association are likewise not of record.

The accountant compiled the information supplied him by the 28 carriers in exhibits showing operating profit and loss statements for each carrier for the first six months of 1951 and for the second six months of that year. He did not examine the books of the carriers or make any check or test of the figures supplied him. His questionnaire asked that the carriers allocate total revenues to

common carrier, contract carrier, transbay, local cartage and "other" operating revenues. However, only each carrier's aggregate operating revenues were shown in the exhibits. The questionnaire asked for no segregation of expenses according to the operations in which the carriers might be engaged and none was furnished. Likewise, it asked for no rate base and rate of return data and such information was not supplied.

Subtotals of revenues and expenses according to carrier groupings made by the accountant were also shown in his exhibits. One such group is made up of 11 carriers with operations not confined to the northern California territory under consideration here. These 11 carriers operate between the San Francisco Bay and Los Angeles metropolitan areas. Some of them also operate between southern California points. Collectively, their revenues amount to some 70 percent of the aggregate revenues of the 28 carriers. Revenues and expenses from their northern California operations are not separately shown in the record. Two of them, Pacific Freight Lines and Southern California Freight Lines, recently sought and obtained authority to increase most of their rates and charges by six percent.⁵ Pacific is the largest carrier and Southern the third largest carrier in this group of 11 carriers. Together their revenues are more than 50 percent of the total revenues for the group. In the circumstances, the operating results of these 11 carriers have little value in determining revenue requirements for carriers engaged in transporting shipments between northern California points.

All but two of the remaining 17 carriers showed operating profits for the first six months of 1951. The over-all operating

⁵ See Decision No. 46937 of April 1, 1952, in Applications Nos. 33042 and 33052. These applications and the decision therein covered all applicants' intrastate rates, except those for the transportation of bulk petroleum products and of uncrated new furniture, and except certain joint rates maintained with other carriers not parties to the proceedings.

ratio before provision for income taxes, as disclosed by the accountant's exhibit, was approximately 95 percent.⁶ No carrier enjoyed a more favorable ratio than 90 percent. Two carriers showed small losses, \$252 and \$761, with resulting operating ratios slightly above 100 percent. These operating results were not adjusted by the carriers or by the accountant to include the effect of subsequent experience reflecting increases in rates or in expenses.

The accountant's questionnaire asked for information on wage and salary increases during 1951, as well as for information on increases in other expenses. He said that he had been able to develop and use wage adjustment data covering the second half of 1951 as a basis for giving effect to these increases for this entire period. He also estimated the effect of 1952 wage increases and applied this estimate to the actual expense figures of the carriers for the last six months of 1951. With respect to other increases in costs, he stated that the information supplied him was not complete enough to project the higher costs for the entire period involved.⁷

The questionnaire also asked for "projections" of the effect of Distance Table No. 4 and the "estimated reduction in Highway Revenues resulting." This information was used by the accountant to adjust the actual revenues for the second half of 1951 as reported to him.

The accountant made no estimate of the amount of additional revenues which would be produced by the proposed 12 percent interim increase other than to increase the adjusted revenues for the last

⁶ Income taxes were not calculated by the accountant.

⁷ Officials of seven of the carriers involved and a representative of the Permitted Carrier Conference of the Truck Owners Association also testified with respect to such increased costs. This testimony, like the information supplied the accountant, affords no basis for actual cost determinations.

six months of 1951 by 12 percent. The resulting revenue figures would, of course, overstate the effect the sought increase would have on the carriers' earnings. The amount of such overstatement is not determinable from the facts at hand. Another unknown factor is the extent to which the carriers will derive added revenues from the adjustment of rates which they have maintained at levels below the truck scales in meeting rail competition at carload commodity rates. These competitive highway carrier rates were authorized and required to be increased by 6 percent, an increase corresponding to the 6 percent increase in the railroad carload commodity rates made effective January 14, 1952.⁸

The over-all operating results for the 17 carriers for the period July 1 through December 31, 1951, and the adjustments of these results to reflect estimates of the effect of the sought rate increases and of higher costs, as disclosed by the accountant's exhibit, are shown in the table which follows.

<u>Operating Results - 17 Carriers</u>			
	(1)	(2)	(3)
Revenues	\$8,749,267	\$8,512,387	\$9,533,874
Expenses	<u>8,646,085</u>	<u>8,724,530</u>	<u>8,724,530</u>
Net Income Before Income Taxes	\$ 103,182	<u>(\$ 212,143)</u>	\$ 809,344
Operating Ratio Before Income Taxes	98.82%	102.49%	91.51%
Income Taxes	*	*	\$ 405,118
Net Income After Income Taxes	*	*	\$ 404,226
Operating Ratio After Income Taxes	*	*	95.76%

Column (1) - Before adjustment.

Column (2) - Revenues adjusted for Distance Table No.4 changes; expenses adjusted for wage increases.

Column (3) - Revenues further adjusted for proposed 12 percent surcharge increase.

() - Indicates loss.

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- Not calculated by the accountant.

⁸ See Decision No. 46572 of December 18, 1951, in Application No. 32219 covering the rail rates and Decision No. 46672 of January 22, 1952, in Case No. 4808, dealing with the corresponding highway carrier rates.

The operating results shown in the foregoing table indicate that, collectively, the revenues of the 17 carriers involved were barely sufficient to cover their expenses during the last half of 1951. These operating results also tend to show that, unless these carriers' rates are increased, future operations of this carrier group will be conducted at an over-all loss. Only five of the 17 carriers, according to the accountant's basic data, would have sufficient revenues to meet the expenses for future operations at the present rate levels. It must be borne in mind, however, that petitioners are not seeking permissive authority for this group of carriers to increase their rates. Their request is for a mandatory order requiring for-hire carriers generally to raise the charges produced by the present minimum rates by 12 percent.

It has hereinbefore been pointed out that 16 of the 17 northern California carriers covered by the accountant's exhibits are common carriers, and the 11 San Francisco-Los Angeles and southern California carriers which also supplied information to the accountant are all common carriers. The record does not show the extent to which the data supplied by the 28 carriers, and particularly that supplied by the northern California group, include revenues and expenses from permitted carrier and drayage operations or other services not covered by the rates under consideration. It will be recalled that the accountant's questionnaire asked for revenue allocations but that they were not submitted. The record is also devoid of any facts on the number of other common carriers operating in northern California, of the nature and extent of such operations, and of the operating results therefrom. The rail lines and their highway carrier affiliates did not appear at the hearings and no information concerning their revenue and expense position was supplied.

With respect to permitted carriers, the accountant furnished data covering the experience of one contract carrier. It serves three shippers. One shipper accounts for 90 percent of its total business. The reason given by the accountant for excluding the information supplied by the other 18 permitted carriers has hereinbefore been stated - the small percentages of their total business under the rates in question.

Thus the record supplies no specific information concerning the operating results of any of the thousands of radial highway common carriers that are involved in petitioners' proposal. It supplies no information relating to the rail lines and their highway carrier affiliates. In regard to other common carriers, the record furnishes only over-all operating results for 17 of an undetermined total number of the numerous such carriers operating in the territory involved. It furnishes data for but one highway contract carrier out of the many hundreds of contract carriers. Moreover, the value of petitioners' showing is further impaired by the fact that the basic data were gathered solely by the questionnaire method without testing the accuracy and reliability of the figures and without determining the extent to which they might require adjustment for the purposes for which they were designed to be used.⁹

An estimate of the amount of additional revenue which the 17 common carriers studied would derive from the proposed increase was not furnished. There is no basis for even any sort of rough estimates of the amount of additional revenue the proposed increase would produce for the 17 carriers or for all of the for-hire carriers operating in northern California.

However critical the revenue needs of the 17 carriers may be, their plight cannot be considered adequate justification for

⁹ See the concurring opinion of Commissioners Huls and Mittelstaedt in Decision No. 40557 of July 22, 1947, in this proceeding (47 Cal. P.U.C. 353,361), holding that "complete and sufficient evidence" is not furnished by answers to questionnaires.

raising the rates and charges of other carriers which may or may not require added revenues. Some 350 of the petitioning association's members did not see fit to complete their questionnaires. This leaves grounds for assuming that they either do not need increased rates or that their earning position is not as adverse as the position of the carriers which responded to the questionnaire. The profits or losses of carriers that are not association members are not known. There are no estimates of anticipated operating results for such carriers and no bases of any sort for making forecasts of their future earnings under either the existing or proposed rates. The revenue and expense showing made by petitioners is entirely inadequate and insufficient to support the establishing of the sought increase for all for-hire carriers as petitioners propose.

The testimony of the officials of seven of the 28 carriers included in the accountant's studies and of the representative of the Permitted Carrier Conference of the petitioning truck association who participated in the hearings, and all other testimony and argument, has been carefully considered. We are fully aware of petitioners' contentions that the common carriers handle the great bulk of the less-truckload traffic and that they cannot increase their tariff rates individually or by group action in the face of competition with other common and permitted carriers.¹⁰

However, the crux of the situation is simply this - the revenue and expense showing made by petitioners falls far short of being persuasive that an increase in minimum rates requiring all for-hire carriers to raise their charges is justified. The operating results disclosed by the accountant's exhibits, based solely on questionnaire returns, afford no solid foundation for concluding

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It has hereinbefore been noted that Pacific Freight Lines and Southern California Freight Lines sought and obtained authority to increase their rates above the minimum rate levels. They established such increases in their tariffs effective April 21, 1952.

that a general rate increase is required. The related and supplementary evidence offered through petitioners' other witnesses, like the accountant's evidence, deals particularly with the experience and revenue requirements of certain common carriers. It does not overcome the fatal shortcoming of the record - the lack of information regarding other carriers. This is not the record's only shortcoming. Another important one is that the proposed adjustment is a horizontal percentage increase for all weights and all distances involved. It was made evident in the previous interim rate proceedings, and in the general investigation, that the horizontal percentage increase method fails to reflect appropriately higher cost experience, particularly higher wage costs.¹¹ Also, petitioners have chosen to rely on a showing which allows the carriers' revenue requirements to be measured only by the operating ratio method.

The showing made is a far cry from the "adequate and complete showing" which in Decision No. 46022, supra, the parties were advised to be prepared to make in support of future rate adjustment proposals. The Decision No. 46022 record which both shippers and carriers claimed was "too inadequate" to support rate adjustments

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Decision No. 43462 of October 25, 1949, in this proceeding, appraised the effect of increased wage costs as follows:

"The strong influence of wages upon highway carrier costs and rates is apparent. Wage increases have been given effect in the rate levels by horizontal percentage increases. Studies of record confirm that wages are a relatively more important factor in the costs for short-haul than for long-haul traffic and for smaller than for larger quantities. Expenditures for labor at points of origin and destination do not vary appreciably with the length of the haul. A larger shipment does not incur handling costs in cents per 100 pounds at origin and destination as great as those incurred in connection with a smaller like shipment. Handling over terminal platforms is not necessary when large shipments are involved. Adjustments which have heretofore been granted following the various wage increases have been established on records which did not afford a basis for giving effect to these circumstances. It is clear that percentage increases in rates have unevenly distributed the burden of the higher costs."

contained far more evidence than the record in the case at hand. We have also held that consideration of the reasonableness of earnings should not be restricted to information relating to a single method or formula and that all available information should be developed (Pasadena City Lines Application for Fare Increases (51 Cal.P.U.C: 248,255 (1951); Decision No. 47046 of April 22, 1952, in Application No. 33036, San Francisco and East Bay Warehousemen to Increase Rates and Charges). We adhere to these views.

Upon consideration of all of the facts and circumstances of record we are of the opinion and hereby find that the interim increase proposed by petitioners has not been shown to be justified and that accordingly the petition should be denied.

ORDER

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

IT IS HEREBY ORDERED that the petition of the Common Carrier Conference of the Truck Owners Association of California and Pacific Motor Tariff Bureau, filed January 15, 1952, in this proceeding, be and it is hereby denied.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 29th day of April, 1952.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner Justus F. Craemer, being necessarily absent, did not participate in the disposition of this proceeding.