

Decision No. 47245

ORIGINAL

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

Robert D. Boynton and Arlo D. Poe, for The Motor Truck Association of Southern California and Truck Owners Association of California, petitioners.

Daniel W. Baker, Russell Bevans, H. J. Bischoff, Charles Burkett, Jr., Frank M. Chandler, James E. Doyle, Thomas R. Dwyer, J. G. Fitzhenery, Joseph Landini, T. A. L. Loretz, Frank Loughran, D. A. Mitchell, Joseph Robertson, Melvin D. Savage, Harold E. Schiffner, H. S. Scott, Frank F. Terramorse, F. L. Van Normann, Edward S. Waldie, W. G. Walkup, Jr., Guy Warren and Edward J. Willig, for various carriers and carrier associations, in support of petitioners.

James F. Bartholomew, Clifton E. Brooks, Harold F. Culy, James J. Devine, A. W. Hays, George T. Hurst, Armand Karp, J. C. Kasper, Lester Parker, Frederick G. Pfommer, John C. Sutherland, for various carriers and carrier associations, interested parties.

P. J. Arturo, W. Y. Bell, Quentin W. Bernhard, Lester A. Bey, L. E. Binsacca, Carl F. Breidenstein, E. R. Chapman, W. M. Cheatham, F. S. Clough, Gerald W. Collins, J. R. Copeland, Leo V. Cox, William A. Gough, Lloyd W. Gragg, R. T. Hunt, S. Charles Knight, P. N. Kujachich, Henry B. Manker, J. D. Masters, Leon P. Matthews, R. P. McCarthy, Don Neher, Arthur B. Oberlin, L. E. Osborne, Allen K. Penttila, Eugene A. Read, Walter A. Rohde, James L. Roney, A. L. Russell, A. F. Schumacher, J. A. Sullivan, R. L. Whitehead, R. K. Wilson and Clifford Worth, for various shippers and shipper organizations, interested parties.

John Crain, C. E. Jacobsen, Ralph S. Schmitt and Clifford J. Van Duker, for various shipper protestants.

Edward J. Tazer, for Office of Price Stabilization.

H. J. McCarthy and Grant L. Malquist, for the Commission's staff.

INTERIM OPINION

The Motor Truck Association of Southern California and Truck Owners Association of California propose that increased minimum rates and charges be established for the transportation of general commodities by common and highway carriers. The minimum rates and charges now in effect are those set forth in Highway Carriers' Tariff No. 2. They are state-wide in their application. Petitioners seek increases of 13 percent in less-truckload rates, of 17 percent in truckload rates, of 18 percent in oil field hourly rates, and of 13 percent in all other rates and charges.¹

The matter was scheduled for public hearing at San Francisco on May 13, 1952, before Examiner Mulgrew. At the outset of the hearing counsel for petitioners stated that they had determined to urge the Commission to grant an immediate interim increase of 9 percent in all of the rates and charges involved. A petition making this request was thereupon filed. The hearings were continued at San Francisco on May 14, 15 and 16, and at Los Angeles on May 27 and 28. On May 28, the request for interim relief was submitted. Further hearings are to be held concerning the proposed greater increases.

Petitioners point out that increased costs have resulted in various upward adjustments of the minimum rates and charges; that

¹ More specifically, first, second, third and fourth class rates, the class rates ordinarily applicable to less-truckload transportation, but applying to some truckload hauling, and commodity rates subject to minimum weights of less than 20,000 pounds per shipment, are proposed to be raised by 13 percent. Fifth class and Class A, B, C, D and E rates, the truckload class rates, and commodity rates subject to minimum weights of 20,000 or more, are proposed to be raised by 17 percent. The oil field rates on which an 18-percent increase is sought are specific rates set forth in Item No. 720-E of Tariff No. 2. The remaining rates and charges on which a 13-percent increase is applied for are minimum per-shipment charges and various accessorial service rates and charges.

less-truckload rates have not been adjusted since April 2, 1951; and that truckload rates, except rail-competitive rates, have not been increased subsequent to August 1, 1948.² They assert that meanwhile carrier costs, and particularly wages, have continued to rise. Increases in wage costs culminated in further substantial wage increases effective May 1, 1952. This development precipitated the request for the emergency interim rate increase of 9 percent.

Petitioners urge that the carriers' need for additional revenues is so acute that they cannot await completion of the full record covering the proposed greater increases. They request that the 9-percent interim rate increase be made effective for a ninety-day period during which time they anticipate the full record on the proposed higher increases will be completed. In connection with the sought interim adjustment, petitioners request such relief from the long and short haul provisions of the State Constitution and the Public Utilities Code as is involved in the proposed rate changes; and on behalf of common carriers which file their tariffs with the Commission, petitioners seek authority to establish the increase on less than statutory notice and relief from tariff circular rules governing the filing of tariffs, as well as authority to establish corresponding increases on commodities not covered by Tariff No. 2 but on which they have maintained their rates on the Tariff No. 2 rate levels.³

² The decisions in the proceeding establishing general increases in minimum rates and charges are: 39004, 46 C.R.C. 486 (1946); 39945, 47 Cal.P.U.C. 136 (1947); 40557, 47 Cal.P.U.C. 353 (1947); 41768, 48 Cal.P.U.C. 171 (1948); 43462, 49 Cal.P.U.C. 186 (1949); 44637, 50 Cal.P.U.C. 8 (1950); and 45429, 50 Cal.P.U.C. 493 (1951). Decisions Nos. 43462, 44637 and 45429 did not increase truckload rates.

³ The long and short haul requirements are contained in Article XII, Section 21 of the Constitution and in Section 460 of the Code; the statutory notice is the 30-day provision contained in Section 491 of the Code; and the tariff filing regulations are those set forth in Tariff Circular No. 2 and in General Order No. 80.

The Commission views an interim increase as "an emergency measure, applicable only in the instance where the minimum financial obligations of the utility cannot be met prior to the establishment of definitive rates."⁴ The first determinations to be made are therefore the financial position of the carriers affected by the minimum rates in question and whether their position is such that it justifies emergency rate treatment.

Petitioners submitted exhibits disclosing the operating results of 102 carriers for the calendar year 1951 by six-month periods and of 96 of the same group of carriers for which operating results were available for the first quarter of 1952. These over-all operating results are shown in the table which follows:

Table 1 - Unadjusted Over-all Operating Results, 102 Carriers

	January 1 through <u>June 30, 1951</u>	July 1 through <u>December 31, 1951</u>	January 1 through <u>March 31, 1952</u> [#]
Revenues	\$38,230,633	\$43,152,514	\$20,067,513
Expenses*	<u>36,912,386</u>	<u>42,247,362</u>	<u>20,241,330</u>
Net Income*	\$ 1,318,247	\$ 905,152	\$ <u>(173,817)</u>
Operating Ratio*	96.55%	97.90%	100.87%

() - Indicates loss.

* Before provision for income taxes; income taxes not calculated by petitioners.

For the 96 carriers for which information was available.

⁴ Decision No. 45653 in Application No. 31614 of Coast Counties Gas and Electric Company (50 Cal.P.U.C. 580-586 (1951)).

Petitioners also submitted an exhibit in which they adjusted revenues and expenses for the last six months of 1951 to give effect to certain subsequent rate and cost increases. The revenue adjustment involves the 6-percent increase in competitive truckload rates of highway carriers which corresponded with the 6-percent increase in railroad carload commodity rates made effective January 14, 1952.⁵ The projected expense figures reflect the higher wages, including the increased wages negotiated to become effective May 1, 1952, and the higher taxes on fuel (gasoline and diesel oil), and adjustments to make provision for compensation for owners who did not pay themselves salaries for services rendered in their operations.⁶ Petitioners' witness who presented the operating result exhibits testified that 86.67 percent of the aggregate revenues of the carriers studied was derived from the general commodity traffic here under consideration. He also testified that 17 percent of the amount of his estimate for wage increases included raises which required approval of the Wage Stabilization Board before they may be paid carrier employees. The table which follows shows prospective operating results under the present rates and under the proposed 9-percent interim increase in rates and charges based on carrier experience for the last six months of 1951 with the above-discussed adjustments.

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See Decisions Nos. 46572 of December 18, 1951, in Application No. 32219, and 46672 of January 22, 1952, in Case No. 4808, covering the rail and highway carrier rates, respectively.

6

Gasoline taxes were increased one-half cent per gallon, diesel taxes were increased two cents per gallon. Salaries were computed on the basis of \$500 per month for owner-drivers and 10 percent above drivers' wages but not to exceed \$650 per month for other operators managing their trucking operations. In one case, a monthly salary of \$1,165 was reduced to \$600.

Table 2 - Adjusted Over-all Operating Results,
 July 1 through December 31, 1951,
102 Carriers

	<u>Under Present Rates</u>	<u>With Proposed 9% Rate Increase</u>
Revenues before adjustment	\$43,152,514	\$43,152,514
Six percent increase in rail competitive rates	294,574	294,574
Nine percent proposed interim increase	<u>--</u>	<u>2,924,167</u>
Total of revenue adjustments	\$294,574	\$3,218,741
Adjusted revenues	\$43,447,088	\$46,371,255
Expenses before adjustment	\$42,247,362	\$42,247,362
Wage increases not requiring W.S.B. approval	\$1,294,938	\$1,294,938
Increased fuel taxes and provision for owners' salaries	201,549	201,549
Provision for income taxes*	<u>--</u>	<u>1,342,438</u>
Total of expense adjustments	\$1,496,487	\$2,838,925
Adjusted expenses	\$43,743,849	\$45,086,287
Net Income	(\$296,761)	\$1,284,968
Operating ratio*	100.68%	97.23%

() - Indicates loss

* As hereinbefore stated, income taxes were not calculated by petitioners. In connection with the adjusted results projected under the proposed 9-percent increase, income taxes have been calculated on the corporation basis and the indicated operating ratio is after provision for these taxes on that basis.

Tables 1 and 2 show that on the whole the operations of the 102 carriers studied were less profitable during the last six months of 1951 than during the first six months of that year and that at current rate and cost levels these carriers in the aggregate would not have had sufficient revenues to cover their costs for the latter half of 1951. Table 1 also shows that, for the first quarter of 1952, 96 of the 102 carriers experienced an over-all loss from operations. Although petitioners did not calculate the effect of

subsequent wage increases, they contend, and it is evident, that the wage adjustments effective May 1, 1952, had they been in effect during the first three months of this year would have made the operating loss considerably more severe.

The witness who presented petitioners' financial showings, a member of the associations' standing rate committee, and representatives of various individual carriers all said that the operating results disclosed by the studies and depicted in Tables 1 and 2 understate the gravity of the carriers' financial situation.

The witnesses explained that reductions in revenues attributable to decreases in constructive mileages used in determining rates, effective January 1, 1952, had not been given effect in adjusting the 1951 operating results.⁷ The decreased mileages, they said, affected principally carriers operating in the San Francisco Bay area and in northern California north and east of that area. An exhibit dealing with the operations of one such carrier shows that 54 percent of its over-all revenues was affected by the decreased mileages, that the reduction in revenues amounted to some 5-1/3 percent of its affected revenues and about 3 percent of its over-all revenue, and that an increase in Highway Carriers' Tariff No. 2 rates of approximately 3-1/3 percent would be necessary to offset the decrease resulting from the mileage adjustments. Other carriers, their representatives testified, had experienced reductions in rates and revenues. In an extreme case a rate reduction was said to amount to 17 percent.

The projections of increased costs, petitioners' witnesses testified, do not give full effect to the higher expenses which the carriers must meet. For example, they referred to the upward

⁷ See Decision No. 46022, 51 Cal.P.U.C. 3 (1951).

adjustments in salaries for supervisory and office personnel which they have already made or will be required to make following the wage adjustments for drivers and other employees covered by the wage agreements. Carrier witnesses said that other costs, including insurance and fuel costs, had continued to rise. Other wage agreements, they said, must be renegotiated in the near future and further wage increases are in immediate prospect. Additionally, petitioners' witnesses who had participated in the negotiations leading up to the May 1, 1952 increases said that it is anticipated that the Wage Stabilization Board will approve the 17 percent of that total increase which requires the Board's approval.

The rate committee member and officials of various carriers asserted that the carriers cannot continue to lose money and meet their obligations to provide service. One of them said that his concern would have to "fold up" within another two months if rate relief is not forthcoming.

Witnesses from the Commission's Transportation Department calculated that the wage increases put into effect since January 1, 1952, not including the increases requiring Wage Stabilization Board approval, have raised the carriers' costs by amounts ranging from 2.8 to 8 percent, depending upon the localities involved and upon the weights of the shipments and the distances they are transported.

From all of the foregoing it is clear that the financial position of the group of 102 carriers is critical. The record shows that these carriers were selected to afford a typical cross-section of highway carriers of general commodities. It also shows that attention was given to including all types of carriers - large and small - less-truckload and truckload - long-haul and short-haul - common and permitted (contract and radial). It shows further that the revenue and expense data were gathered and checked by petitioners'

personnel and that steps were taken to guard against incorrect and misleading information being supplied or used. Exhibits presented by the witnesses who developed the operating results indicate that generally similar operating results were attained regardless of the type of operation or the operating authority under which it was conducted. Geographically, these exhibits show that for the last half of 1951 the northern carriers achieved a more favorable over-all operating result than the southern carriers, but that in the first quarter of 1952 this situation was reversed.

It appears, therefore, that for the purposes of this interim rate increase proposal the operating results of the 102 carriers may reasonably be considered as typical of highway carrier operations generally in hauling commodities subject to Highway Carriers' Tariff No. 2 rates and charges.

With regard to rail rates, the record shows that higher less-carload and carload class rates the railroads formerly maintained were voluntarily reduced to the lower less-truckload and truckload highway carrier rate levels because the force of competition required such action. The record also shows that in the pickup and delivery services involved in less-carload rail operations the railroads are subject to the same wage agreements and other costs as the highway carriers. It shows further that in line-haul operations rail wages and other costs of materials and supplies have been subjected to marked increases. An exhibit presented by the rail lines discloses that the over-all (intrastate and interstate) net operating income of the four major California railroads for 1951 amounted to \$160,374,406; that their aggregate investment was \$3,707,651,291; and that the resulting rate of return was 4.33 percent.

The Commission has previously found that in the less-carload and less-truckload field the highway carriers are the "rate-making" carriers. No different conclusion appears warranted here. With respect to carload rail class rates, a rate and traffic witness for the rail lines said that, while the volume of their California business under such rates was not relatively important, in view of the competitively depressed carload class rate structure and the relatively low rate of return, the railroads desired to establish and needed increased rates corresponding with the proposed highway carrier rate increase. The highway and rail carriers agreed that neither could raise their rates without corresponding action by the other because of the strength of competitive influences. The rails seek such authority as is necessary to establish increases corresponding with highway carrier increases. Carload commodity rates, which cover the bulk of the carload traffic, are not involved. Class rates, carload and less-carload, were not adjusted on January 14, 1952, when the rail commodity rates were increased by 6 percent.

A traffic consultant representing a group of northern California shippers protested the granting of any increase. The shippers, he claimed, could not pass on the higher costs which would result from increased transportation charges. He said further that higher rates would curtail the carriers' business and reduce their revenues. He claimed that there is needless duplication of carrier service and of carrier facilities.

Another northern California shipper urged that the blanket 9-percent increase proposal be rejected. Instead, he recommended that the increased costs experienced by the carriers be offset by increasing minimum per-shipment charges and first class less-truckload rates by 15 percent. Other less-truckload rates, he said, should

be raised by using the usual relationships to first class rates. Less-truckload rates, he asserted, are more sensitive to wage changes. On truckload traffic he proposed no rate increase but recommended that penalty charges for delays be established to expedite loading and unloading operations and thus reduce truckload costs of the carriers.

Representatives of three producers and distributors of soaps, detergents and cleaning compounds opposed increased rates for the transportation of their products. They said that the record made does not establish the need for increased rates for the transportation of these commodities, that higher transportation charges cannot be offset by higher prices, and that advances in rates would result in loss of traffic to the carriers.

Numerous other shipper representatives entered appearances as interested parties and many of them assisted in the development of the record by examination of the various witnesses.

In a separate petition in this proceeding the rates on beer and malt liquors are under further consideration. Petitioner, the California State Brewers Institute, urges that these rates not be made subject to the interim increase.

It is abundantly clear that the carriers of general commodities are in immediate need of increased revenues. Wages constitute an important element of their total costs. They have regularly pursued collective bargaining procedures and settled for wage rates materially lower than those demanded by their employees at the outset of the negotiations. Other carrier costs have likewise been increased. The pressure of these cost increases on the rate structure requires that the rate levels be increased. On an emergency interim basis the sought 9-percent general increase in minimum rates has been shown to be necessary to meet the pressing and immediate revenue requirements

of the carriers. An adjustment of this character must necessarily be made along broad lines. All traffic and all commodities must bear their share of the increase necessary to meet this emergency situation. The shipper protests will, therefore, be overruled and their counter-proposals not adopted at this time. The rail lines will be authorized to establish a like increase in their carload class rates. Long and short haul relief and short notice and tariff circular relief will be granted. The adjustment will be authorized for the ninety-day period sought and because of its temporary nature the increase will be established as a surcharge. The increase will be made effective June 24, 1952, the earliest day which will permit printing, filing and distribution of tariffs.

The foregoing opinion has not discussed all of the evidence presented at the six days of hearing in this matter. All of this evidence insofar as it relates to the 9-percent emergency increase proposal has been carefully considered.

In reaching our conclusions we recognize that a blanket rate adjustment of the character of this surcharge cannot give the precise effect to costs, competitive conditions, rate relationships and other rate-making considerations that is desirable and necessary in matters of less urgency. The authorized adjustment is a temporary one. All interested parties will be given full opportunity to present fully the facts and circumstances on which they may rely to support further changes in the rate structure. We urge that they participate in the further hearings.

Upon consideration of all of the facts and circumstances of record we are of the opinion and hereby find that the interim emergency increase proposed by petitioners has been shown to be justified. Accordingly, the petition will be granted.

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 Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606 as amended) be and it is hereby further amended by incorporating therein to become effective June 24, 1952, Supplement No. 17, attached hereto and by this reference made a part hereof; that common carriers subject to the Public Utilities Act, including common carriers by railroad with respect to their less-carload rates and charges subject to said Decision No. 31606, as amended, be and they are hereby authorized and directed to establish in their tariffs the increases necessary to conform with the further adjustment herein of that decision; that said common carriers be and they are hereby authorized to establish in their tariffs increases in class rates and charges in connection with the transportation of commodities for which minimum rates have not been established by the Commission and in connection with commodities on which the common carriers maintain rates on class rate levels higher than the applicable minimum commodity rates, but that such increases shall be no greater in volume and effect than the corresponding class rate increases established herein; and that carriers by railroad be and they are hereby authorized to establish in their tariffs increases in their carload class rates corresponding with the increases in Highway Carriers' Tariff No. 2 rates and charges. ✓

IT IS HEREBY FURTHER ORDERED that tariff publications required or authorized to be made by common carriers as a result of the order herein may be made effective on not less than one (1) day's notice to the Commission and to the public.

SUPPLEMENT NO. 17

(Supplements Nos. 14, 15, 16 and 17 contain all changes)

TO

HIGHWAY CARRIERS' TARIFF NO. 2.

NAMING

MINIMUM RATES, RULES AND REGULATIONS

FOR THE

TRANSPORTATION OF PROPERTY OVER THE

PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

RADIAL HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

AND

HOUSEHOLD GOODS CARRIERS

ITEM NO. 1: ◇ (1) AMENDMENT OF SUPPLEMENT NO. 14

Item No. B-2, Supplement No. 14, is amended by substituting therein "twenty (20) percent" for "ten (10) percent."

ITEM NO. 2: ◇ (1) APPLICATION OF SURCHARGE

(Applies only to rates and charges not subject to the surcharge provided in Item No. B-2 of Supplement No. 14, as amended by Item No. 1 of this supplement.)

Except as otherwise provided compute the amount of the charges in accordance with the rates, rules and regulations of the tariff. Increase the amount so computed by nine (9) percent, dropping fractions of less than one-half cent and increasing fractions of one-half cent or greater to one cent.

The provisions of this Item will not apply to common carrier rates used under the provisions of Items Nos. 200, 210, 220 and 230 series.

◇ Increase, Decision No. 47245

(1) Expires with September 23, 1952, unless sooner canceled, changed or extended.

EFFECTIVE June 24, 1952

Issued by the
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
State Building, Civic Center
San Francisco, California

IT IS HEREBY FURTHER ORDERED that common carriers be and they are hereby authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California, and Section 460 of the Public Utilities Code to the extent necessary to adjust long and short haul departures now maintained under outstanding authorizations and to depart from the provisions of Tariff Circular No. 2 and General Order No. 80 to the extent necessary to carry out the effect of the order herein.

This order shall become effective June 23, 1952.

Dated at San Francisco, California, this 9th day of June, 1952.

R. F. [Signature] President
Justice J. [Signature]
[Signature]
[Signature]
Commissioners