

ORIGINAL

Decision No. 47718

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

Daniel W. Baker, Russell Bevans and Reginald L. Vaughan,
for Draymen's Association of Alameda County and
Draymen's Association of San Francisco, Inc.,
petitioners.

Charles H. Atthowe, C. W. Burkett, Jr., E. L. Carley,
J. A. Clark, Jr., Edward J. Hubber, George T. Hurst,
Jack F. Kueper, William Meinhold, George T. Patton,
Frederick G. Pfommer, Lloyd E. Rasmussen,
A. W. Savage, C. L. Tilden, Jr., and Edward P. White,
for various carriers, interested parties.

L. E. Binsacca, William A. Gough, Allen K. Penttila,
Eugene A. Road, C. J. Riedy, Walter A. Rohde,
James L. Roney, A. F. Schumacher and Clifford Worth,
for various shippers and shipper organizations,
interested parties.

Carl F. Breidenstein, for California Packing Corporation,
protestant.

Hugh Cavalli and Jefferson H. Myers, for Board of State
Harbor Commissioners, Port of San Francisco,
interested party.

Grant L. Malquist, for Engineering Division, Trans-
portation Department, Public Utilities Commission.

SUPPLEMENTAL OPINION

Draymen's Associations of Alameda County and of
San Francisco seek the establishment of increased minimum rates for
the transportation of general commodities between San Francisco and
South San Francisco, on the one hand, and Alameda, Albany, Berkeley,
El Cerrito, Emeryville, Oakland, Piedmont, Richmond, San Leandro,
San Pablo and Stege, on the other hand. Their petition is limited
to class rates subject to minimum weights of 20,000 pounds or more.

Public hearings were held on April 7 and 28 and on
May 23, 26 and 28, 1952.

The transbay rates which petitioners propose be adjusted, as well as the transbay rates for smaller shipments (less than 20,000 pounds) which are not in issue here, are rates varying with the distances involved. They are based on the revised state-wide constructive mileages established, effective January 1, 1952, by Decision No. 46022 (51 Cal.P.U.C. 3). The constructive mileages between San Francisco and Oakland, Richmond and San Leandro and the existing and proposed rates for 20,000-pound and larger shipments transported between these cities are shown in Table 1 which follows. Similar mileages are involved and comparable rate adjustments are sought in the transbay rates to other points for shipments weighing 20,000 pounds and more. Table 1 illustrates the rate increase proposals.

Table 1

Between San Francisco And	MILES	Existing and Proposed Rates										
		CLASSES*										
		1	2	3	4	5	A	B	C	D	E	
Oakland	27	(a)	24	22	19	17	10½	11	9½	9	8	6½
		(b)	29	26	23	20	17	19	16	15	13	12
Richmond	32	(a)	25	23	20	18	11	13	10½	9½	8½	8
		(b)	31	28	25	22	19	20	17	16	14	12
San Leandro	37	(a)	26	23	21	18	13	13	11	10½	8½	8
		(b)	32	29	26	22	19	21	18	16	14	13

* - Classes 1, 2, 3 and 4 are subject to a minimum weight of 20,000 pounds. The remaining classes, 5 through E, are subject to the carload minimum weights set forth in the governing classification and exceptions thereto, but not to exceed 36,000 pounds. The minimum weights applicable in connection with the fifth class through Class E rates are ordinarily greater than 20,000 pounds and for the most part are in the 30,000 to 36,000 pound range.

(a) - Minimum rates now in effect. Charges thereunder are subject to the interim 9 percent surcharge established effective June 24, 1952, by Decision No. 47245 of June 9, 1952. The surcharge was scheduled to expire with September 22, 1952, but has been extended to December 31, 1952 by Decision No. 47574 of August 11, 1952.

(b) Minimum rates proposed by petitioners. No surcharge is sought.

¹Throughout this opinion rates are stated in cents per 100 pounds...

Petitioners' proposed rates are based on a study of highway carrier costs for handling transbay traffic submitted by the Commission's Transportation Department staff. In this study the cost of handling shipments of property, without regard to its classification, are developed for shipments weighing from 20,000 to 30,000 pounds and for shipments weighing 30,000 pounds and over. These costs cover only operating expenses and do not include income taxes. The study also shows costs expanded to the basis which would produce an operating ratio of 90 percent before income taxes.

Estimates of annual revenues are based on load and use factors experienced by carriers engaged in handling the transbay traffic in question. A staff traffic-flow study discloses that, while 58.8 percent of the transbay tonnage is eastbound and 41.2 percent westbound, those carriers with their main movement of tonnage eastbound have westbound tonnage amounting to only 15.4 percent of their total tonnage and those carriers with their main movement westbound have eastbound tonnage amounting to only 5.6 percent of their total tonnage. These circumstances are reflected in the operating experience of the carriers and in the cost estimates.

The staff witness through whom the studies were introduced explained that the purpose of expanding the costs was to develop revenues which rates equivalent to the expanded costs would provide, to determine income taxes under such revenues and expenses, and to use the indicated earnings in connection with investment and other rate base data in arriving at estimated rates of return.

The foregoing method, the staff witness said, could be used for any specific operating ratio before taxes desired. The 90-percent expansion basis was used as an illustration only and not as an expression of opinion that costs as so expanded should be the

measure of reasonable minimum rates. Of the net income which would be available for income taxes and profit under the cost expansion illustration used in the staff study, tax accruals are estimated as accounting for 40 percent, leaving 60 percent for profit.

Rate bases used by the staff to calculate estimated rates of return include investment figures covering the historical cost of vehicles suitable for the operations, the value of other necessary equipment, materials and supplies, and allowances for working capital.

Table 2 which follows shows staff estimates as so developed.

Table 2

Estimated Costs, Rate Bases, Earnings and Rates of Return

<u>Between San Francisco And</u>	<u>Costs*</u>	<u>Expanded Costs*</u>	<u>Rate Bases</u>	<u>Earnings##</u>	<u>Rates of Return#</u>
<u>20,000 to 30,000 pound shipments</u>					
Oakland	18.5	20.6	\$9,105	\$742	8.1%
Richmond	19.7	21.9	9,126	758	8.3
San Leandro	20.5	22.8	9,149	777	8.5
<u>30,000 pound and heavier shipments</u>					
Oakland	14.8	16.5	\$9,113	\$748	8.2%
Richmond	15.7	17.4	9,131	762	8.3
San Leandro	16.3	18.1	9,155	782	8.5

* - In cents per 100 pounds. The expanded costs are on the basis of an operating ratio of 90 percent before income taxes.

- After provision for income taxes.

An analysis of transbay traffic made by the Transportation Department shows that in the 20,000 to 30,000 pound weight bracket, the weighted average of the freight transported is 70 percent of first class. In the 30,000 pound and greater weight bracket the corresponding figure is 61 percent. The transbay traffic is predominantly fourth class and 90 percent of fourth class freight in the 20,000 to 30,000 pound weight bracket and predominantly fifth class and Class A freight in the 30,000 pounds and over weight bracket. Fourth class rates are approximately 70 percent of first class; fifth class and Class A rates are approximately 60 and 65 percent, respectively, of first class. These rate relationships have been distorted to some extent by the application of percentage increases to the rate scales initially established.

Petitioners urge that the transbay rates in question be raised to the bases arrived at by developing rates from the staff cost figures expanded to provide an operating ratio of 90 percent before income taxes. This expansion of costs, petitioners claim, is necessary to cover the expenses incurred in handling the traffic and to provide an appropriate return on the carriers' investment after provision for income taxes.

Petitioners recognize that the establishment of the proposed rates would result in the Commission prescribing bases of charges producing greater compensation for shorter than for longer distances over the same route and in the same direction. They also recognize that to assess such charges carriers subject to the provisions of Article XII, Section 21, of the State Constitution and Section 460 of the Public Utilities Code must be relieved by the Commission from the constitutional and code prohibitions against

the maintenance of rates producing such charges.² They have applied for the necessary relief.

The constitutional and code provisions are directed against the obvious discrimination which results from charges under greater rates for shorter than for longer distances along the same route. The Commission is authorized to relieve the carriers from these provisions in special cases and after investigation. The granting of such relief must necessarily be limited to those cases where unjust or undue discrimination will not result from such action.

The rates proposed by petitioners for distances varying from 27 constructive miles (San Francisco-Oakland) to 37 miles (San Francisco-San Leandro) are the same as or greater than the basic 45 to 50 mile rates (rates without the temporary 9 percent surcharge increase hereinbefore referred to). The proposed fifth class

² Article XII, Section 21, of the Constitution provides:

"No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance or to charge any greater compensation as a through rate than the aggregate of the intermediate rates.

"Provided, however, that upon application to the Railroad (Public Utilities) Commission provided for in this Constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property and the Railroad (Public Utilities) Commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul."***"

Section 460 of the Code contains similar provisions governing highway, railroad and other common carriers subject to Part 1 of the Code.

and Class A rates are higher than the corresponding 60 to 70 mile rates. The sought transbay rates are contrasted with other minimum rates in the same general area in Table 3 which follows:

Table 3

Proposed Transbay Rates and Existing Rates From and To Other Points in the Same General Area.

<u>Between San Francisco And</u>	<u>MILES</u>	<u>CLASSES*</u>									
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
		<u>Proposed Transbay Rates</u>									
Oakland	27	29	26	23	20	17	19	16	15	13	12
Richmond	32	31	28	25	22	19	20	17	16	14	12
San Leandro	37	32	29	26	22	19	21	18	16	14	13
		<u>Existing Rates From and To Other Points Without the 9% Temporary Surcharge #</u>									
Pinole	40	26	23	21	18	13	13	11	10½	8½	8
Hayward	44	27	24	22	19	13	13	11	10½	9½	8½
Santa Clara	48	29	26	23	20	13	15	13	11	10½	9
Martinez	55	31	28	25	22	15	15	13	13	11	9½
Pittsburg	67	33	30	26	23	16	18	15	14	13	11

* - Classes 1 through 4 are subject to a minimum weight of 20,000 pounds and Classes 5 through E are generally subject to minimum weights of 30,000 to 36,000 pounds as more fully explained in Table 1.

- The surcharge became effective on June 24, 1952, and is scheduled to expire with December 31, 1952, as indicated in Table 1.

The foregoing table shows only a few of the numerous instances where adoption of petitioners' proposed increased minimum rates would result in higher rates for shorter than for longer distances along the same route.

The carriers represented by petitioners are not engaged exclusively in handling freight affected by the proposed increases. Their operations include less-truckload transbay service, drayage in San Francisco and in the East Bay cities, and general commodity hauling within the San Francisco Bay Counties Area centered in the principal cities of that area.

Profit and loss statements for sixteen carriers submitted by petitioners and covering the second six months of 1951 and the first four months of 1952 show that in the over-all operations of these carriers their transbay traffic involved in this petition amounted to \$232,760 of \$6,653,351 in aggregate revenues and thus accounted for only some three and one-half percent of total revenues. On the other hand, the statements show that drayage revenues amounted to \$2,097,074 and transbay less-truckload, San Francisco Bay Counties Area and other so-called "over-the-road" or "line-haul" revenues amounted to \$3,840,812, or approximately 31½ and 57½ percent, respectively, of total revenues.

As has hereinbefore been noted, the state-wide minimum rates, including the transbay rates here in issue and other San Francisco Bay Counties Area rates, are subject to a temporary surcharge of 9 percent. Further investigation of these rates is in progress. Similarly, the San Francisco and East Bay drayage rates are subject to interim surcharges of 12 percent and further

inquiries into these rates are likewise in progress.³ Also, the Common Carrier Conference of The Truck Owners Association of California has petitioned the Commission to investigate the rates between San Francisco and East Bay cities on the one hand and points south of San Francisco to and including Palo Alto on the other hand.

Shipper representatives stressed the fact that under petitioners' proposals San Francisco-East Bay traffic would be subjected to substantial increases and that the resulting rates would be considerably higher for the constructive mileages involved than for the same and greater distances within the San Francisco Bay Counties Area. They were particularly concerned with the rates for shipments of 30,000 pounds and more. They pointed out that, if petitioners' sought increases were established, fifth class rates between San Francisco and Oakland would be raised from 10½ to 17 cents or by approximately 62 percent and fifth class rates between San Francisco and Richmond would be raised from 11 to 19 cents or by some 73 percent.⁴

Canned goods are shipped from Oakland to San Francisco and roofing materials are shipped from Richmond to San Francisco under the fifth class rates in question. Canned goods are also shipped from the San Jose-Santa Clara area to San Francisco and roofing materials are shipped from Pittsburg to San Francisco. The fifth class rates applicable to the San Jose and Pittsburg shipments

³ See Decision No. 47000 of April 14, 1952, in Case No. 4084 (San Francisco drayage) and Decision No. 47247 of June 9, 1952, in Cases Nos. 4108 and 4109 (East Bay drayage).

⁴ All of the transbay and other rates in the San Francisco Bay Counties Area have been subjected to the 9 percent temporary surcharge hereinbefore referred to.

are 13 and 16 cents, respectively. The constructive distances are 51 miles between San Jose and San Francisco and 67 miles between Pittsburg and San Francisco as contrasted with 27 miles between Oakland and San Francisco and 32 miles between Richmond and San Francisco.

Other abnormalities in the rate relationships that would result from the adoption of petitioners' proposed rates were also pointed out by the shipper representatives. For example, they said that under these proposals higher rates would be required to be charged between points within the San Leandro corporate limits and San Francisco than for like transportation between points just outside the city limits of San Leandro and San Francisco. The fifth class rates would be 19 cents per 100 pounds from and to San Leandro and 13 cents from and to the somewhat more distant locations contiguous to that city. Similarly, while the fifth class rate applicable to roofing from Richmond to San Francisco would be increased from 11 cents to 19 cents, the 13-cent rate applicable on the more distant haul from Richmond to Daly City through San Francisco would remain unchanged.

Numerous examples were given by the shippers of rate maladjustments which would result from increasing the transbay rates to the levels sought by petitioners, including various examples of higher rates and charges for shorter hauls than for longer hauls along the same route.

It is plain from the foregoing that the rates proposed by petitioners would subject certain of the Bay area cities and shippers with establishments situated in those cities to discrimination, including that type of discrimination which results from the maintenance of higher rates and charges for longer than for shorter hauls along the same route. This has not been shown to be a "special

case" in which the Commission may authorize so-called "long and short haul departures" under the authority conferred on it by the Constitution and by the Public Utilities Code. Indeed, the record is persuasive that the rate situation which would result were the Commission to grant the petition is the very type of discrimination which the constitution and the code specifically prohibit, except where circumstances and conditions peculiar to the traffic involved are such that other considerations are conclusively shown to outweigh the discrimination considerations. Here, the discrimination which would result outweighs all other considerations of record. While carriers should receive reasonable compensation for their services, they cannot be authorized to charge discriminatory rates as petitioners have proposed.

In the circumstances, it is not necessary to discuss the record in other respects or to decide here the merits of other contentions of the parties.

Because of the competitive conditions prevailing within the San Francisco Bay Counties Area we have instructed our staff to give specific attention to these conditions in connection with its further studies of state-wide "line-haul" or "over-the-road" rates and of San Francisco and East Bay drayage rates to the end that a harmonious and integrated over-all rate structure may be developed. We urge shippers, carriers and other interested parties likewise to give attention to these considerations. We invite their cooperation in this work and their participation in further hearings on these matters.

Upon consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that establishment of the increased rates proposed by the petition of Draymen's

Associations of Alameda County and of San Francisco, filed October 24, 1951, in this proceeding, and as amended, has not been justified and that the petition should, accordingly, be denied.


O R D E R

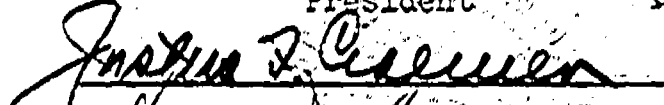
Based on the evidence of record and on the conclusion and finding set forth in the preceding opinion,

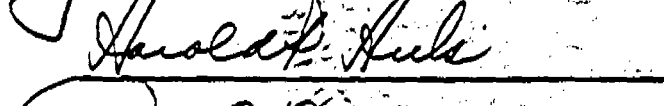
IT IS HEREBY ORDERED that the joint petition, filed October 24, 1951, in this proceeding, by Draymen's Association of Alameda County and Draymen's Association of San Francisco, Inc., and as subsequently amended, be and it is hereby denied.


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

Dated at San Francisco, California, this 16th day of September, 1952.



President






Commissioners