

**ORIGINAL**Decision No. 47893

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 Merchants Express Corporation to )  
 effect tariff changes resulting in ) Application No. 33730  
 increases. )

Appearances

Douglas Brookman and Aaron Glickman, for  
 applicant.  
 Russell Bevans, for Draymen's Association  
 of San Francisco, Inc., Walter A. Rohde,  
 for San Francisco Chamber of Commerce,  
 Jack F. Keeper, for Kellogg Express and  
 Draying Co., Stanley Bush, for Port of  
 San Francisco, interested parties.  
 Grant L. Malquist, for Engineering Section,  
 Transportation Division, Public Utilities  
 Commission.

O P I N I O N

The applicant in this proceeding is a highway common carrier. It is engaged in the transportation of general commodities by motor vehicle within the area bounded by Salinas, Carmel and Santa Cruz on the south; Stockton on the east; Sebastopol, Healdsburg and Redding on the north. It also provides drayage service, as a highway common carrier, between points in the East Bay drayage area. It seeks authority under Section 454 of the Public Utilities Code to increase, on less than statutory notice, certain of its rates and charges; to cancel rates for which there has been no recent movement and to establish certain other rates.

Public hearing was held on October 8, 1952, before Examiner Lake at San Francisco.

Applicant's proposal is specifically set forth in Appendix "A" hereof. In general, it seeks authority (a) to cancel the application of rates subject to carload ratings and in lieu thereof

to apply less-than-carload rates to this class of traffic, (b) to establish on certain articles commodity rates based upon the present carload rates but not less than 15 cents per 100 pounds, (c) to increase to 15 cents per 100 pounds less-than-carload class rates subject to a minimum weight of 20,000 pounds that are lower than that amount, except as to rates between points within the East Bay drayage area and, (d) to increase the third and fourth class rates applicable between points in the East Bay drayage area that are lower than 14 cents per 100 pounds. The latter proposal contemplates increasing to 14 cents per 100 pounds the rates applicable between points in Zone One of the drayage area that are less than that amount and adjusting related rates by amounts ranging from 1 cent to 4 cents in order to preserve the relationships existing in the present rates. In addition, applicant proposes to increase or cancel certain other volume commodity rates which, allegedly, are noncompensatory or for which there has been no movement during the past 12 months.

Evidence was offered by applicant's president and by its general traffic manager. Exhibits were introduced consisting of operating statements, studies of traffic flows, statements of revenues and costs under present and some of the proposed rates, and studies of the anticipated effect of the proposed changes on the revenues of the carrier.

According to the evidence, applicant is in a critical financial condition the nature of which threatens the continuance of its operations. According to exhibits submitted by the witness, a loss of \$120,000 was sustained on the for-hire carrier operations during the eight month period ended August 31, 1952. These operations

produced gross revenues amounting to more than 2-1/2 million dollars during the same period. The president stated that a continuation of such losses would seriously jeopardize his company's ability to continue rendering the character of transportation service which the public desires. He further stated that, unless immediate relief is accorded, it would be necessary drastically to curtail the existing service.

The witness alleged that, because of the competitive influence with which the company is faced, a horizontal increase in all of the rates would be impracticable. He stated further that his company could not exist should it maintain its rates generally on a level higher than those of its competitors. Under the circumstances, extensive studies, he said, were made to determine the particular traffic primarily contributing to the carrier's poor financial position and to determine the action necessary to create a proper balance of income and expense.

The studies conducted by the applicant revealed, according to the witness, that the carload rates here in issue do not earn the costs of performing the service. Merchants Express, the witness testified, is predominantly engaged in the handling of less-than-carload traffic and its facilities are designed and its employees trained for this class of traffic. He stated that for many years the company did not publish rates at the carload class rate levels but maintained rates based upon less-than-carload ratings. Believing that carload rated traffic would prove desirable and because the tariffs of two newly acquired lines maintained carload class rates for quantity shipments, the applicant established in 1950 class rates subject to carload ratings between line-haul points on its line. In addition, it established rates of the same volume as those maintained by the rail lines for the purpose of meeting rail competition and

that of other highway carriers who observed the rail rates. Some of the competitive rates, the record indicates, proved successful and assisted the applicant in maintaining a balanced flow of traffic. Other such rates and particularly those here in issue resulted in disruption of the carrier's over-all operations, involved the movement of loaded equipment in one direction only and did not earn sufficient revenues to cover the cost of performing the service. These conditions, the witness stated, have operated to increase the cost of all operations. Applicant alleges also that the studies it made developed the need for a minimum revenue of 15 cents per 100 pounds on movements of 20,000 pounds or more in connection with line-haul transportation and 14 cents per 100 pounds in connection with local drayage operations in the East Bay area in order to cover the cost of service.

Applicant's general traffic manager stated that the company probably would not retain all of the traffic now moving under the rates here sought to be adjusted. He was of the opinion, however, that either the additional revenue which would be produced under the proposed rates or the savings that could be effected, through curtailment of operations if the traffic were lost, would operate to balance the revenues and expenses. In the event that all of the traffic presently handled under the rates here in issue were retained, the record shows that the proposed adjustment would produce additional revenue of approximately \$14,000 per month.

Service of applicant's petition was made upon The Truck Owners Association of Northern California, the Pacific Motor Tariff Bureau and the Chambers of Commerce of 20 cities between which the carrier performs service. In addition, the secretary of the Commission caused notice to be sent to other parties believed to be interested in the proposed adjustment. No one objected to applicant's proposals.

Upon this record the conclusion is inescapable that applicant's operations under its present rate scales have resulted in losses of approximately \$120,000 in an eight-month period. The changes herein proposed appear to be a managerial effort to adjust rates which are believed to be noncompensatory and which are a contributing cause of the carrier's adverse financial condition. The revenue which would result from the sought adjustments, if the carrier were to retain its present volume of traffic, would not be excessive. On this basis and in the face of the extreme losses encountered by the carrier, the proposal appears to be justified and it will be authorized.

Applicant requests relief from the long and short haul provisions of Article XII, Section 21 of the Constitution of the State of California, and Section 460 of the Public Utilities Code in order to permit the application of the sought rates to be non-intermediate in application. For the reason that departures from the above statutory provisions were authorized in applicant's present rates, like authority is justified for the application of the rates herein authorized to be established. Such authority will be granted.

Upon careful consideration of all of the facts and circumstances of record the Commission finds as a fact that the increases proposed by the applicant in this proceeding are justified. In authorizing these adjustments we do not make any finding of fact as to the reasonableness of any particular rate.

O R D E R

Public hearing having been held in the above-entitled proceeding, the evidence having been fully considered, and good cause appearing,

IT IS HEREBY ORDERED that Merchants Express Corporation be and it is hereby authorized to establish in its Local and Joint Freight Tariff No. 21, Cal.P.U.C. No. 12, and cause to be established in Pacific Motor Tariff Bureau Freight Tariff No. 6E, Cal.P.U.C. No. 17 (E. H. Hart series) of Agent D. W. Baker, for application via its line, increased rates and revised tariff provisions as set forth in Appendix "A" hereof.

IT IS HEREBY FURTHER ORDERED that the tariff provisions herein authorized may be established on not less than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that applicant be and it is hereby authorized to depart from the provisions of Article XII, Section 21 of the Constitution of the State of California and from the provisions of Section 460 of the Public Utilities Code to the extent necessary to exercise the authority granted herein.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the express condition that applicant herein will never urge before this Commission in any proceeding under Section 734 of the Public Utilities Code, or in any other proceeding that the opinion and order herein constitute a finding of fact of the reasonableness of any particular rate or charge, and that the filing of rates and charges pursuant to the authority herein granted will be construed as consent to this condition.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire unless exercised within sixty (60) days after the effective date of this order.

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

Dated at San Francisco, California, this 3rd day of November, 1952.

*R. T. [Signature]*  
 President

*James F. [Signature]*

*Harold P. [Signature]*

*[Signature]*

Commissioners

APPENDIX "A"

TO DECISION NO. 4789 IN APPLICATION NO. 33730

Statement of Proposed Changes in Merchants  
Express Corporation Local and Joint Freight  
Tariff No. 21, Cal.P.U.C. No. 12

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>PROPOSED CHANGE</u>
10	Application of Ratings And Ex- ceptions To Classification of Exception Sheet.	To delete from paragraph (b) "car- load ratings (including minimum weight)," also, delete paragraphs (d), (c) and (f) in their entirety.
125	Gas Oil or Water Well Outfits and Other Articles as described.	To substitute commodity rates based upon corresponding percentages of Class A rates of not less than 15¢ cwt.
130	Groceries and Grocers' Supplies.	To substitute commodity rates based on 5th Class rates, but not less than 15¢ cwt. for the present 5th Class rating.
162	Cast Iron Pressure Pipe And Fittings.	To substitute commodity rates based on 5th Class Rates, but not less than 15¢ cwt. for the present 5th Class rating.
Page 133	Carload Class Rates, Classes 5, A, and B, C, D and E. (Rate Basis Nos. 3 to 325, inclusive.)	To cancel and delete references there- to.
	Rate Basis Nos. 3 to 25; inclu- sive (Minimum Weight 20,000 lbs.)	To substitute 15¢ rate in lieu of Class Rates where presently lower.
Page 134	Notes 1 and 2.	To delete reference to carload ratings.
765	Glassware. Between Napa and San Francisco or Oakland. (Minimum Weight 30,000 lbs.)	Rates to be canceled account no movement.
770	Grain, Grain Products, and re- lated articles. Between Vallejo on the one hand, and, San Fran- cisco, South San Francisco, Oakland Group, and El Cerrito. (Minimum Weight 10,000 lbs., 20,000 lbs. and 30,000 lbs.)	All rates to be increased by 2¢-cwt.
775	Liquors, alcoholic, N.O.I.B.N. Between Napa and San Francisco or Oakland (Minimum Weight 30,000 lbs.)	Rates to be canceled account no move- ment.
785	Salt. From Newark to Oakland, Berkeley and San Francisco (Minimum Weight 36,000 lbs.)	Rates to be canceled account no move- ment.

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>PROPOSED CHANGE</u>
787	Batteries, Electric Storage. From San Francisco and Oakland to Stockton and Sacramento. (Minimum Weight 30,000 lbs.)	Rates to be canceled account no movement.
795	Canned Goods. Between Stockton and Lodi, on the one hand, and, San Francisco Bay Area points, also Sacramento, on the other hand. (Minimum Weights 20,000 lbs. and 30,000 lbs.)	Rates to apply from Stockton and Lodi to the points named, except that rates to or from Sacramento be canceled.
800	Films, Motion Picture. Between San Francisco and Vallejo and Mare Island.	Rates to be canceled account no movement.
802	Freight, as described (principally Food Products). (On shipments of less than 100 lbs.) Between San Francisco and Oakland. (Published to meet Railway Express Agency competition.)	Rates to be canceled.
820	Fertilizers. Between Oakland Group or Hayward, on the one hand, and, Vallejo to St. Helena, inclusive, on the other hand.	Rates to be canceled account no movement.
830	Fruit, dried. Between Stockton and Lodi, on the one hand, and, San Francisco Bay Area points, also Sacramento, on the other hand. (Minimum Weights 20,000 lbs. and 30,000 lbs.)	Rates to apply from Stockton and Lodi to the points named, except that rates to or from Sacramento be canceled.
850	Grain, Grain Products and related articles. Between Oakland and San Leandro, San Lorenzo, Hayward, and Richmond. (Minimum weight 20,000 lbs.), also between Santa Rosa and Healdsburg. (Minimum weight 20,000 lbs. and 30,000 lbs.)	Rates to be canceled account no movement.
855	Grain and Grain Products, viz., Food Preparations. Between San Francisco and Vallejo and Mare Island, also between Santa Rosa and Healdsburg. (Minimum Weight 20,000 lbs. and 30,000 lbs.)	Rates to apply from Vallejo and Mare Island, to San Francisco, except that rates between Santa Rosa and Healdsburg be canceled account no movement.
865	Lumber and Forest Products, viz., Pencil Slats and Plywood. Between Stockton and Sacramento, on the one hand, and, San Francisco Bay points on the other hand.	Rates to apply from Stockton and Sacramento to San Francisco Bay points.

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>PROPOSED CHANGE</u>
870-880 Incl.	Petroleum and Petroleum Products. Rate Basis Numbers and rates applicable thereto.	Rates to be canceled.
885-895 Incl.	Poultry, Dressed, Live, or Live and Dressed. Between San Francisco or South San Francisco and Vallejo, Mare Island, Sausalito, Mill Valley, Fairfax, and San Rafael.	Rates to be canceled account no movement.
910	Rice. From Stockton and Sacramento to San Francisco Bay Area points, including Sacramento to Stockton.	Rates from Sacramento to Stockton to be canceled, all others unchanged.
915	Sugar. Between San Francisco and Oakland, on the one hand, and, points in San Francisco Bay Area, on the other hand. (Minimum Weight 10,000 lbs.)	Rates to be canceled.
920	Sugar. From San Francisco and Oakland to Stockton, Lodi, and Sacramento, also, from Sacramento to Sacramento Valley points, Roseville to Corning.	Rates to be canceled account no movement.
930	Canned Goods. From Stockton to Sacramento, and Sacramento to Stockton.	Rates to be canceled account no movement.
965 870	Iron and Steel Articles. From San Francisco Bay Area points to Sacramento, Marysville, Yuba City and Chico.	Rates to be canceled account no movement
995	Paints and Paint Materials. From San Francisco, Oakland and Richmond, to Stockton, Sacramento, and North Sacramento.	Rates to be canceled account no movement.
1000 1005	Paper and Paper Articles, also Newsprint. From San Francisco Bay Area Points to San Jose, Stockton, Sacramento, Marysville, Yuba City, and Oroville.	Rates to be canceled account no movement.
1010	Petroleum and Petroleum Products. From Oakland, Alameda, Richmond, and Oleum, to San Jose, Stockton, Lodi, and Sacramento Valley Points, also Calistoga and Petaluma.	Rates to be canceled account no movement.
1020 1025	Roofing, Building or Paving Materials. From Redwood City, Oakland, and Richmond, to Santa Clara, San Jose, Stockton, Lodi, Sacramento Valley points, and Calistoga.	Rates to be canceled account no movement.

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>PROPOSED CHANGE</u>
1030	Sugar. From Crockett, to Stockton, Lodi, Sacramento, and other Sacramento Valley points.	Rates to be canceled account no movement.
1040	Vegetables, dried. From San Francisco, Oakland, Alameda, Richmond, to Stockton, Lodi, Sacramento, Marysville, and other Sacramento Valley points; also, from Stockton to Marysville, Yuba City, Live Oak, and Gridley.	Rates to be canceled account no movement.
1045	All Commodity Freight Rate Between Stockton, San Francisco, Oakland, Alameda, San Leandro, Hayward, and Richmond.	Rates to be canceled.

Statement of Rates Named in Pacific Motor Tariff Bureau  
Freight Tariff No. 6-E, Cal.P.U.C. 17 (E. H. Hart Series)  
of Agent D. W. Baker Together with Rates Proposed

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>PRESENT RATE</u>	<u>PROPOSED RATE (1)</u>
360-C	Group A - 4th Class	13	14
	Group B - " "	14	15
	Group C - " "	16	17
	Group D - " "	21	22
365-C	Group A - 3rd Class	13	14
	Group B - " "	14	15
	Group C - " "	16	17
	Group D - " "	21	22
	Group A - 4th Class	12	14
	Group B - " "	13	15
	Group C - " "	14	16
	Group D - " "	16	18
370-C	Group A - 3rd Class	12	14
	Group B - " "	13	16
	Group C - " "	15	17
	Group D - " "	17	19
	Group A - 4th Class	10	14
	Group B - " "	12	16
	Group C - " "	13	17
	Group D - " "	15	19

(1) Rates proposed shall be subject to surcharge of 12% under the existing provisions of Special Supplement No. 3.

Commodity Rate Items Which Are To  
Be Canceled Account No Movement

380-D Automobile Gear Frames.  
385-D Automobile Gear Frame Side Members,  
Cross Bars and Brackets.  
395-D Canned Goods.  
405-C Castings.  
410-C Feed, animal.  
430-D Gases, viz.: Acetylene or Oxygen,  
Calcium, Carbide of,  
Welding Equipment.  
435-D Grain Products.  
440-C Groceries and Grocers' Supplies.  
445-C Hypo-Chlorite Solution of Sodium.  
450-C Iron and Steel.  
455-C Iron and Steel Articles.  
460-C Kalsomine.  
465-C Lumber.  
470-B Oils, Vegetable and Oil Products.  
475-C Paper, newsprint.  
480-C Paper, pulp.  
485-C Paper, waxed.  
495-C Piling, wooden.  
500-C Pipe, Concrete.  
505-C Steamship Transfer.  
510-C Stoves or Ranges.

END OF APPENDIX "A".