

Decision No. 48269

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment )	
of rates, rules, classifications and )	
regulations for the transportation )	Case No. 4084
of property within the City and )	
County of San Francisco. )	

In the Matter of the Establishment )	
of rates, rules, and regulations for )	
the transportation of property by )	
radial highway common carriers and )	Case No. 4108
highway common carriers between, and )	
by city carriers within, the cities )	
of Oakland, Alameda, Albany, )	
Berkeley, Emeryville and Piedmont. )	

In the Matter of the Investigation )	
and Establishment of rates, charges, )	
classifications, rules, regulations, )	
contracts and practices of East Bay )	Case No. 4109
Drayage and Warehouse Co., et al., )	
between the cities of Oakland, )	
Alameda, Albany, Berkeley, Emeryville )	
and Piedmont. )	

Appearances

- Preston W. Davis, for United Parcel Service of Los Angeles, Inc.; Edward M. Berol, Bertram S. Silver and Russel Bevans, for Draymen's Association of San Francisco; and Marvin Handler, Clair W. MacLeod and V. Fred Jakobsen, for V. Fred Jakobsen, dba Transbay Motor Express, petitioners.
- James P. Nyhan and Natalie Gail, for Delivery and Messenger Services Association; Edward J. Maurer, for General Delivery Service, and Delivery and Messenger Service Association; George A. Davis, for Sparkies Special Delivery Service; and Irving Lewin, for Spee-Dee Delivery Service, protestants.
- Clifton E. Brooks, for C. R. Becker, dba Delivery Service Co.; Morton G. Smith, for Pacific Motor Trucking Co.; Quentin W. Bernhard, for California Retailers Association; and J. H. Rhodes, for Southern California Freight Lines; Daniel W. Baker, for Draymen's Association of Alameda County; Noal N. Gray, for Delivery and Messenger Service Association of San Francisco, Norman R. Moon, for Merchants Express Corporation, interested parties.
- Grant L. Malquist and J. A. McCunniff, for the Commission's staff.

SUPPLEMENTAL OPINION

By prior orders in these proceedings, the Commission established minimum rates, rules and regulations for the transportation

of packages in wholesale parcel-delivery service within the City of San Francisco, and within and between the cities of Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont. By petitions, as amended, United Parcel Service of Los Angeles, Inc., San Francisco Draymen's Association, and V. Fred Jakobsen, dba Transbay Motor Express, seek modification of the currently effective minimum rates for the transportation in question.<sup>1</sup>

These matters were consolidated and heard at San Francisco on November 19 and December 18, 1952, before Examiner Lake.

The instant phases of these proceedings stem directly from Decision No. 47716 in Application No. 33086, which became effective on November 3, 1952. By that decision, the United Parcel Service of Los Angeles, Inc., hereinafter referred to as United Parcel, was granted a certificate of public convenience and necessity whereby it was authorized, inter alia, to establish highway common carrier operations involving the transportation of packages in wholesale parcel delivery between the cities of San Francisco, Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont.

Decision No. 47716 also provided for exemption of United Parcel from the minimum rates in connection with this transportation. The exemption applies only to transportation conducted under the certificate granted by that decision. It does not pertain to intracity transportation conducted wholly within each of the cities of San Francisco, Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont.

For its certificated operations between the above-named cities, United Parcel maintains rates of 16 cents per parcel of 70 pounds or less, plus 2 cents per pound. These rates apply only to prepaid shipments forwarded under agreements requiring the

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<sup>1</sup> A petition filed by the Draymen's Association of Alameda County, on December 9, 1952, on related matters in Cases Nos. 4108 and 4109, has been withdrawn. It will be dismissed.

utilization of said rates for all packages tendered to the carrier during any calendar week. They are both higher and lower than the present minimum rates established by the Commission.<sup>2</sup>

By its petition in this proceeding United Parcel seeks authority to assess the same rates for transportation within these cities as it now maintains for intercity transportation. More specifically it asks:

- (1) that it be exempted by name from the San Francisco and East Bay tariffs, or
- (2) that it be specifically authorized to charge within San Francisco and within each of the East Bay cities the same rates as it maintains for intercity operations, or
- (3) that rates of the same volume and effect as maintained for intercity operations be established in the San Francisco and East Bay drayage tariffs in addition to the present minimum parcel rates, or
- (4) that rates of the same volume and effect as maintained for intercity operations be established in the San Francisco and East Bay drayage tariffs in lieu of the present minimum parcel rates.

The petition of the Draymen's Association of San Francisco requests in general the adoption of the fourth alternative of United Parcel which involves the establishment of the proposed rates in lieu of the present rates. However, the association urges that this proposal be modified to permit the sought rates to alternate with the minimum-per-shipment charges now named in Item No. 200-F of the San Francisco drayage tariff.<sup>3</sup> This petition also urges

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<sup>2</sup> The San Francisco rates are set forth in Item No. 425-D of City Carriers' Tariff No. 1-A, (Appendix "A" of Decision No. 41363, as amended; in Case No. 4084). The rates for wholesale parcel delivery within and between the cities of Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont, hereinafter referred to as the East Bay cities, are named in Item No. 990-B of City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A, (Appendix "A" of Decision No. 41362, as amended, in Cases Nos. 4108 and 4109).

<sup>3</sup> The present parcel rates do not alternate with the rates in Item No. 200-F of the San Francisco drayage tariff.

that the "prepayment" and the "shipper agreement" restrictions be not adopted.

The volume of the rates proposed by United Parcel and the Draymen's Association of San Francisco are identical for parcels weighing 41 pounds or less. The proposed rates for parcels within this weight group would result in both increases and reductions in the present rates. For parcels weighing over 41 pounds, the proposal of United Parcel would result in rates that exceed the current minimum rates, whereas the Draymen's Association proposal is on the minimum-rate level.

The petition of V. Fred Jakobsen, doing business as Transbay Motor Express, requests that he be granted exemption or authority similar to that which may be granted United Parcel. At the hearing this petitioner supported and endorsed the proposal of the Draymen's Association of San Francisco.

Testimony presented by the vice-president and counsel for United Parcel discloses that it is essential to the efficient operation of his company that rates for intracity wholesale parcel-delivery service be uniform with those applicable under its common carrier certificate and that there is no apparent sound reason for higher intracity rates than the intercity rates to more distant points. The witness stressed the desirability of amending the drayage tariffs. Such action, he said, would promote an equality

of competitive opportunity for all city carriers engaged in wholesale parcel deliveries within the Bay Area.

The secretary of the Draymen's Association and a witness for the Transbay Motor Express Company testified that the "shipper-agreement" limitation proposed by United Parcel should not be included in the minimum-rate tariffs. Any carrier electing to use United Parcel's proposed rates, assertedly would find itself at a distinct rate disadvantage since the rates necessarily applied under the aforesaid shipper agreements, for shipments in excess of 41 pounds, would be higher than the currently effective minimum per shipment charges available where such agreements were not employed. Such rate disadvantage, the witness for Transbay Motor Express claimed, would result in considerable loss of traffic to his company.

The witnesses also testified that a desirable parity of competitive opportunity would be preserved, without undue over-all increases in the minimum rates, by the adoption of the proposal of the Draymen's Association.

The secretary of the Draymen's Association of San Francisco explained that an investigation had been made in order to determine the effect of the association's proposed rates upon the revenues of member carriers. The study shows that only 5 members of the association are primarily engaged in wholesale parcel-delivery service and that all shipments were found to be prepaid. Assertedly 4 of the 5 carriers studied would earn, under the proposed rates, revenues reflecting increases ranging from approximately 0.1 percent to 15.0 percent, whereas a single carrier would experience a loss of

revenue of approximately 3.0 percent. The over-all effect of the association's proposal was said to be an increase in revenue of approximately 1 percent.

Evidence was also presented by a representative of Delivery and Messenger Service Association of San Francisco and General Delivery Service, a San Francisco city carrier.<sup>4</sup> The association and carrier witness objected to the proposed reduction in minimum rates for packages weighing from 1 to 7 pounds, inclusive, and to any reduction in currently effective minimum C.O.D. collection fees. In support of his position, he stated that the 32-cent rate now provided in Item No. 425-D of the San Francisco tariff, has been in effect for some time and that it would be impossible to operate at the reduced rates.

Upon cross-examination, the witness stated that the "going" rates of his company ranged upward from a minimum of 50 cents for packages weighing up to 25 pounds, and from a minimum of \$1.00 for packages weighing 26 to 50 pounds, depending upon the type of commodity, the distance it is transported, the type of service rendered and the volume of business offered. He also asserted that most of the other 10 members of the association charged rates higher than the rates of his company.

Concerning San Francisco the record discloses exemption of United Parcel and Transbay Motor Express, by name or a grant of

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<sup>4</sup> The Delivery and Messenger Service Association is comprised of 11 city carriers engaged generally in special delivery of small parcels by messenger on foot, bicycles or in passenger cars with commercial licenses as well as by motorcycles and light delivery trucks.

special authority as to intracity service, as requested, would place other wholesale parcel city carriers that are required to observe the minimum rates at a distinct disadvantage. The representative of United Parcel and other petitioners agreed on the desirability of minimum-rate equality for all wholesale parcel carriers.

The rates which comprise the third and fourth alternatives of United Parcel (wherein inclusion of the rate proposals in the minimum-rate tariff is sought) appear well adapted to the type of operation contemplated by that company. They coincide with its rate structure as a whole. These proposals, however, would result in material increases in the minimum rates for the delivery of parcels weighing over 41 pounds within San Francisco. The evidence affords no firm foundation for a finding that such increases are justified.

The objections of Delivery and Messenger Service Association to the reduction in the minimum rates for packages weighing 1 to 7 pounds, inherent in both the United Parcel and the Draymen's Association proposals, are not persuasive in view of the degree to which the going rates of the association members assertedly exceed the present and proposed minimum rates. It appears that because of the immediate special-delivery nature of the service rendered these carriers are able to assess rates far in excess of the minimum. Apparently, therefore, no appreciable loss of traffic or revenue would result from the proposed rates.

The Draymen's Association recommendation would result in both increases and decreases, largely offsetting each other. Only a slight over-all increase in the minimum rates would result. This proposal would maintain the present competitive balance and represent a satisfactory solution to the problems with which the San Francisco carriers are faced. It appears to be reasonable and will be adopted.

As to the East Bay cities the exemption or specific authority to assess rates different from those established as minimum (as requested by United Parcel in alternative Nos. 1 and 2) would contain the same infirmities as herein discussed in connection with parcel-delivery rates in San Francisco. With respect to the establishment of the sought rates in lieu of the present rates (alternative No. 4) there is no justification in this record for the resulting increases.

It was urged by the secretary of the Draymen's Association of Alameda County that the sought rates be established in addition to the present rates (alternative No. 3). It was pointed out that adding the proposed rates to the East Bay tariff need not result in charges to shippers higher than those now assessed. Shippers electing to use the present rates may continue to do so. No one opposed this recommendation. It will accord competitive equality to city and highway carriers conducting parcel-delivery operations within and between the East Bay cities and will resolve the difficulties with which United Parcel as well as other carriers are confronted. In the circumstances, the proposal to establish the sought rates as an addition to the present East Bay tariff appears to be reasonable and will be adopted.

Upon consideration of all of the facts and circumstances of record we are of the opinion and hereby find that modification of the minimum rates, rules and regulations established in these proceedings have been justified as indicated in the foregoing opinion and set forth in the order which follows, and that in all other respects the proposals have not been justified. Procedures established for the handling and distribution of minimum-rate tariffs require that the changes in tariff provisions involved be made by separate orders revising these tariffs. A separate order, therefore, is being entered in Cases Nos. 4108 and 4109, in connection



with the adjustment of wholesale parcel-delivery rates in the East Bay drayage area.

O R D E R

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

IT IS HEREBY ORDERED that City Carriers' Tariff No. 1-A (Appendix "A" of Decision No. 41363, as amended, in Case No. 4084) be and it is hereby further amended by incorporating therein, to become effective March 15, 1953, Eighth Revised Page 40 cancels Seventh Revised Page 40, attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that, except to the extent provided by the order herein, the petition filed by United Parcel Service of Los Angeles, Inc., on September 23, 1952, as amended, be and it is hereby denied.

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

Dated at San Francisco California, this 10th day of February, 1953.

[Signature]  
President

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners

SECTION NO. 4 - COMMODITY RATES--(Continued)  
In cents per 100 lbs. except as noted

Item No.	COMMODITY	RATES		Minimum Weight
*425-E Cancels 425-D	<p>FREIGHT, REGARDLESS OF CLASSIFICATION, When not subject to rates and charges provided elsewhere in this section, within and between all zones and only on deliveries from manufacturers' agents, wholesalers, jobbers, commercial distributors and warehouses. Weight Per Package 70 Pounds or less -----</p> <p>The rates named in this item shall alternate with the minimum per shipment charges set forth in Item 200 series of this tariff and shall not be subject to Item 60 series of this tariff.</p> <p>NOTE:--An additional charge of 20 cents for each \$100 or fraction thereof shall be assessed for each C.O.D. collected.</p>	<p>In Cents Per Package 16 Plus 2 cents for each pound or fraction thereof (See Note)</p>		
430-D Cancels 430-C	<p>GROCERY HOUSES, WHOLESALE, Commodities transported for-- COLUMN "A" rates in cents per 100 pounds. COLUMN "B" rates in cents per shipment. City Deliveries: 250 lbs. or less ----- Over 250 " but not over 1800 lbs. ----- " 1800 " " " " 2000 " ----- " 2000 " " " " 5000 " ----- " 5000 " " " " 6000 " ----- " 6000 " ----- Shipping: 100 lbs. or less ----- Over 100 " but not over 400 lbs. ----- " 400 " " " " 1000 " ----- " 1000 " " " " 1500 " ----- " 1500 " " " " 2000 " ----- " 2000 " ----- N.O.S. (including inhaul): 500 lbs. or less ----- Over 500 " but not over 1200 lbs. ----- " 1200 " " " " 2000 " ----- " 2000 " -----</p>	Col. A	Col. B	1000 tons per Calendar Month
440-D Cancels 440-C	<p>GROCERY HOUSES, WHOLESALE, Commodities transported for-- COLUMN "A" rates in cents per 100 pounds. COLUMN "B" rates in cents per shipment. City Deliveries: 250 lbs. or less ----- Over 250 " but not over 1800 lbs. ----- " 1800 " " " " 2000 " ----- " 2000 " " " " 5000 " ----- " 5000 " " " " 6000 " ----- " 6000 " -----</p>	Col. A	Col. B	400 tons per Calendar Month
450-F Cancels 450-E	<p>HARDWARE HOUSES, WHOLESALE, Commodities transported for----- Minimum charge 53 cents per shipment</p>	14		6000 tons per Calendar Year

\* Change, Decision No. 48263

EFFECTIVE MARCH 15, 1953

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