

ORIGINALDecision No. 48646

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 general commodities)
 (commodities for which rates are pro-)
 vided in Highway Carriers' Tariff)
 No. 2).)

Case No. 5432

APPEARANCES

(Appearances are listed in Appendix A hereof)

O P I N I O N

This proceeding is an investigation into the rates, rules, regulations, charges, allowances and practices of all common carriers, highway carriers and city carriers relating to the transportation of general commodities for which rates are provided in Highway Carriers' Tariff No. 2.

At a public hearing held before Examiner Bryant at San Francisco on May 12, 1953 evidence was received relative to the petitions of the California Hay, Grain and Feed Dealers' Association and General Mills, Inc., seeking amendment of the tariff provisions relating to delays of equipment. There was submitted the petitioners' request for immediate revision of these provisions as an emergency measure in so far as they relate to the movement of truckload shipments of whole grain in bulk or sacks. Further hearings are scheduled for the receipt of additional evidence relating to the application of these and other provisions of the tariff on commodities generally. (1)

(1) Petitions for Modification Nos. 7 and 8, of General Mills, Inc.; and California Hay, Grain and Feed Dealers' Association, respectively, were filed on May 4 and 5, 1953.

Evidence in support of the petitions was offered by the division traffic manager of General Mills, Inc., by a representative of the California Hay, Grain and Feed Dealers' Association and the San Francisco Grain Exchange, by three principal shippers and receivers of grain, and by three highway carriers who transport substantial quantities of this commodity.

The record shows that there were recently added to Highway Carriers' Tariff No. 2 Items Nos. 142 and 145 which established charges to be assessed for delays to carriers' vehicles at points of origin or destination. ⁽²⁾ According to the testimony these provisions have proved to be unsuitable to the movement of whole grain in truckloads. Assertedly they are unduly complex for the purpose, are exceedingly difficult to apply, are variously interpreted by carriers and shippers, and result in charges which in many cases are excessive and discriminatory.

The record shows that approximately 90 per cent of the whole grain moves in bulk from the points of production to places of processing or storage. The remainder moves in sacks. The witnesses testified that during the harvest season it is a normal and unavoidable condition that trucks loaded with whole grain will remain in line for periods up to several hours awaiting their turn to be unloaded. According to the testimony this condition is brought about by circumstances generally beyond the control of carriers or consignees. It was stated that the shippers, consignees and carriers endeavor through joint efforts to minimize the delays so far as feasible. According to the record the principal grain haulers expect certain terminal delays and do not desire to impose penalty charges except where the delays prove to be excessive.

(2) Items Nos. 142 and 145 became effective March 1, 1953 in accordance with Decision No. 48189 in Case No. 4808.

Petitioners seek the substitution for the present rules of provisions permitting four hours free time on each unit of equipment and specifying a charge of one and one-half cents per 100 pounds to be made by the carrier on equipment loaded or unloaded after the free time has elapsed. Carrier representatives questioned the proposed rule in some respects, but no one opposed its prescription as an emergency measure if limited to truckload shipments of whole grain.

Witnesses declared that immediate action is necessary because the grain harvest has started in the southern part of the state and within a matter of weeks will be flowing in great volume from all of the producing areas in California.

The evidence is convincing that the present tariff provisions relating to delays to equipment are not desirable or appropriate for the handling of whole grain in truckload lots, and that the prescription of provisions substantially as sought by the petitioners will provide just, reasonable and non-discriminatory rules for such movements.

The following order will make the necessary changes at the earliest date possible, giving due and necessary consideration to the time required for publication and service upon the affected parties.

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 ORDERED:

(1) That Highway Carriers' Tariff No. 2 be and it is hereby further amended by incorporating therein, to become effective June 15, 1953, the following revised pages attached hereto and by this reference made a part hereof:

Thirteenth Revised Page 3 cancels Twelfth Revised Page 3
First Revised Page 19-A cancels Original Page 19-A
First Revised Page 19-B cancels Original Page 19-B

(2) That tariff publications required or authorized to be made by common carriers as a result of the order herein may be made effective on or after the effective date hereof on not less than five days' notice to the Commission and to the public.

(3) That, except to the extent provided for in the preceding ordering paragraphs, Petitions for Modification Nos. 7 and 8 will be held for further consideration upon receipt of additional evidence.

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

Dated at San Francisco, California, this 27th day of May, 1953.

R. T. Anderson
President
Justus F. Casper
Harold P. Huls
Francis P. Patten
John L. Wilson
Commissioners

APPENDIX A

Appearances in Case No. 5432

Respondents:

H. H. Lowthian, Merlyn F. Teskey, Louis A. Dore, J. Cousimano, J. H. Watson, Harold F. Culy, Michael Nejiri, Jack O. Goldsmith, Lester M. Grainger, Emile J. Pozas, H. M. Hays, Armand Karp, B. E. Rowland, Morton G. Smith, Harry Moser, William Meinhold, Peter Vinick, H. J. Bischoff, Willie Calvin Lykes, C. A. Millen, and J. G. Fitzhenry, for various carriers, respondents.

Other Parties:

F. F. Miller, James L. Roney, Charles R. McNulty, Frank A. Small, W. L. Ryan, Richard Stokes, Russell Bevans, Daniel W. Baker, S. C. Knight, N. R. Moon, Arlo D. Poe, Earl R. Wertz, William A. Gough, Fred Merkelbach, Jack P. Sanders, Walter A. Rohde, Erma Stang, J. R. Copeland, Harry L. Gunnison, J. B. Costello, W. K. Smith, A. D. Carleton, William M. Larimore, R. E. Tewson, Ralph R. Bishop, J. A. Sullivan, Fred R. Nelson, Bess E. Anderson, Elmer J. Melberg, Stanley T. R. Bush, Milton O'Donnell, B. F. Bolling, William J. Keane, Joseph R. Quinn, G. E. Lowe, Earl S. Williams, C. J. Riedy, Eugene R. Warren, D. A. Mitchell, R. L. Whitehead, William H. Ott, Jr., Rex M. Nielson, Norman C. Ortman, Jr., Melvilla A. Tuchler, E. R. Chapman, L. E. Osborne, W. R. Donovan, Gustav V. Sundin, R. Church, Clifford J. Van Duker, L. J. Rowley, Leon P. Matthews, R. P. McCarthy, P. J. Arturo, W. O. Narry, R. T. Hunt, N. O. Greer, E. Nicholas Ferretta, A. F. Schumacher, J. C. Kaspar, R. D. Boynton, W. V. Criddle, Lloyd W. Gragg, W. P. Gunn, Emerson E. Bolz, H. C. Stallings, John G. Breslin, V. E. Keller, Frank L. Merwin, E. C. Hurley, R. Hutcherson, Orville A. Schulenberg, Milton A. Walker, Laurence Binsacca, A. W. Brown, John E. Myers, John C. Sutherland, S. A. Moore, C. R. Nickerson, Allen K. Penttila, Jess F. Milford, Harry Moser, Lester A. Bey and John E. McCarthy, for various shippers, receivers, carrier and shipper associations, organizations and chambers of commerce, as interested parties or petitioners.

J. A. McCunniff, appearing for the staff of the Public Utilities Commission of the State of California.

(End of Appendix)

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* Change, Decision No. 48646

EFFECTIVE JUNE 15, 1953

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 552

Item No.	SECTION NO. 1-RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">(1) DELAYS TO EQUIPMENT</p> <p>1. DEFINITIONS</p> <p>(a) Actual Placement. By actual placement is meant the placing of a unit of carrier's equipment at the place designated by the consignor or consignee for loading or unloading.</p> <p>(b) Constructive Placement. By constructive placement is meant the holding of a unit of carrier's equipment at a point other than the designated loading or unloading place, due to the inability of the consignor or consignee to accept for actual placement the unit of carrier's equipment after its tender for actual placement by the carrier. Constructive placement of equipment for the purpose of loading shall not commence prior to the time specified in shipper's oral or written equipment order; nor at any time other than on normal business days between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday, for the purpose of unloading, unless otherwise agreed to by receiver and carrier and such agreement is noted on the shipping document.</p> <p>(c) Unit of Equipment. By unit of equipment is meant a motor truck, trailer or semi-trailer, exclusive of motor tractors.</p> <p>2. DELAYS AFTER ACTUAL PLACEMENT</p> <p>Except as hereinafter noted, whenever, after actual placement of a unit of equipment, the elapsed time between commencement and completion of the loading or unloading of shipments subject to minimum weights of 10,000 pounds or more, exceeds 12 minutes per ton (based on the weight on which transportation charges are computed) additional charges for delay time in excess of 12 minutes per ton shall be assessed as provided in Item No. 145 series. The charge provided in Item No. 145(b) series for unit of equipment, shall apply only when the accessorial or incidental service requires its use or when the unit of equipment is inactivated by reason of its driver or helper being engaged in such service. The provisions of the item shall not apply in connection with the actual placement of units of equipment under agreement with the shipper or consignee for loading by the shipper or unloading by the consignee, when such agreement is recorded on the shipping document.</p>

*142-A
Cancel
142

3. DELAYS PRIOR TO ACTUAL PLACEMENT

When the period of time between constructive and actual placement exceeds thirty minutes, additional charges for delay time in excess of thirty minutes shall be assessed as provided in Item No. 145 series. When carrier effects constructive placement more than 30 minutes after the time specified in written agreements between shipper or consignee and carrier or in oral agreements noted on the shipping document, the charges for delays prior to actual placement shall be assessed for delay time in excess of one hour. The foregoing shall not apply in connection with the constructive placement of units of equipment under agreement with the shipper or consignee for loading by the shipper or unloading by the consignee when such agreement is recorded on the shipping document.

The charge provided in Item No. 145(a) series shall not apply prior to actual placement when the driver or helper is not inactivated by the delay.

4. COMPOSITE SHIPMENTS - COMMON CARRIER RULES

The provisions of paragraph 2 of this item shall also apply in connection with:

(a) Component parts of shipments transported under the provisions of Items Nos. 160 and 170 series, when the component part picked up or delivered weighs 10,000 pounds or more. In such instances, the charges assessed shall be based on the actual weight of the component part loaded or unloaded.

(b) Shipments transported under the provisions of Items Nos. 200, 210, 220 and 230 series.

The provisions of paragraph 3 of this item shall apply in connection with shipments transported under the provisions of Items Nos. 200, 210, 220 and 230 series.

- (1) Does not apply on shipments of Whole Grain, in bulk or in bags, subject to minimum weights of 10,000 pounds or more.
* Change, Decision No. 43645

EFFECTIVE JUNE 15, 1953

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 553

<p>Item No.</p>	<p>SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)</p>
<p>#143</p>	<p>(1) DELAYS TO EQUIPMENT</p> <p>1. Definition.</p> <p>(a) Actual placement. By actual placement is meant the placing of carriers' equipment at place designated by consignee or consignor for loading or unloading.</p> <p>(b) Constructive placement. By constructive placement is meant the holding of a unit of carriers' equipment at a point other than the designated loading or unloading place, due to the inability of consignee or consignor to accept for actual placement the unit of carriers' equipment after its tender for actual placement by the carrier. Constructive placement of equipment for purpose of loading or unloading shall not commence prior to the time specified in consignee's or consignor's oral or written equipment order, or at any time other than normal business days between the hours of 8:00 A.M. and 3:00 P.M. (the lunch hour between 12:00 noon and 1:00 P.M. excepted) Monday through Friday.</p> <p>(c) Unit of Equipment. By unit of equipment is meant a motor truck, trailer, or semi-trailer, exclusive of motor tractor.</p> <p>2. Free Time</p> <p>(a) A period of four (4) hours will be allowed on each unit of equipment between constructive placement and time equipment has actually completed loading or unloading.</p> <p>(b) The provisions of this item shall not apply in connection with the actual placement of units of equipment under agreement with the consignor or consignee for loading by the consignor or unloading by the consignee, when such agreement is recorded on the shipping document.</p> <p>3. Demurrage on Equipment Held After Free Time Has Elapsed.</p> <p>A charge of 1-1/2¢ per 100 pounds will be made by the carrier on all shipments on all equipment unloaded or loaded after the free time has elapsed.</p> <p>4. Provisions of Item No. 145 series of this tariff will not apply.</p>

CHARGES FOR ACCESSORIAL SERVICES OR DELAYS

For accessorial services or delays under conditions specified in Items Nos. 140 and 142 series, charges shall be assessed for each period or fraction thereof, as follows:

Charges in Cents

		<u>For First 30 Minutes or Fraction</u>	<u>For Each Additional 15 Minutes or Fraction</u>
145	(a) For driver, helper or other carrier employee, per man	150	75
	(b) For unit of equipment (each motor truck, trailer or semi-trailer, exclusive of motor tractors)	50	25

ADVERTISING ON EQUIPMENT

147 For placing or carrying any sign, or signs, or advertising, of alcoholic liquors on carrier's equipment engaged in transporting alcoholic liquors, N.O.I.B.N., as described under that heading in the Western Classification, moving between San Francisco Territory and Los Angeles Territory, an additional charge of \$6.00 per unit per shipment shall be assessed by the carrier.

(1) Applies only on shipments of Whole Grain, in bulk or in bags, subject to minimum weights of 10,000 pounds or more.

Addition, Decision No. 48646

EFFECTIVE JUNE 15, 1953

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Correction No. 554 San Francisco, California.