

**ORIGINAL**

Decision No. 48743

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 in the City and County of )  
San Francisco and the Counties of Alameda, )  
Contra Costa, Marin, Monterey, Napa, )  
Santa Clara, Santa Cruz, San Benito, )  
San Mateo, Solano and Sonoma. )

Case No. 5441  
(Petition No. 3)

Marvin Handler, Daniel W. Baker and Russell Bevans,  
for Draymen's Association of Alameda County and  
Draymen's Association of San Francisco,  
petitioners.

W. E. Shuholm, Robert D. Boynton, Joseph C. Kaspar,  
E. E. Bolz, John P. Ventre, William Meinhold,  
John C. Sutherland, Willard S. Johnson, James P.  
Nyhan, Natalie Gail, Jerome Hannigan, G. A.  
Samuelson, Bernard S. Morris, Tom Meyer, A. W.  
Savage, E. L. Carley, E. J. Maurer, Harold M. Hays,  
E. J. Hubber, S. Shimamoto, Joseph Robertson,  
W. G. Walkup, Jr., Edward S. Waldie, Harry J.  
Scherer, for various carriers and carrier associ-  
ations, interested parties.

Rex M. Nielson, William G. Jackson, O. W. Bernhard,  
E. R. Chapman, Leo V. Cox, Stanley T. R. Bush,  
R. A. Dahlman, R. P. McCarthy, Vern Talcott,  
Milton Walker, H. A. Lincoln, Reginald F. Walker,  
J. O. Day, Jack P. Sanders, Fred Merkelbach,  
Leon P. Matthews, Allen K. Penttila, Paul J.  
Wellnitz, Donald Neher, Ruth Church Gupta, R. J.  
Fletcher, J. L. Honey, C. J. Riedy, Leo Tellefsen,  
Harry W. Diamond, T. J. Label, Ben Roth, J. G.  
Vollmar, W. A. Gough, N. E. Keller, Milton  
O'Donnell, W. F. McCann, L. E. Binsacca, A. F.  
Schumacher, P. N. Kujachich, W. P. Gunn and  
E. R. Warren, for various shippers and shipper  
organizations, interested parties.

Walter A. Rohde, for San Francisco Chamber of  
Commerce, interested party.

C. O. Cross, for Joint Council of Teamsters Local 42,  
interested party.

Grant L. Malquist, for the Commission's staff.

INTERIM OPINION

Minimum rates established by the Commission for the transportation of general commodities by common and highway carriers are set forth in Highway Carriers' Tariff No. 2. The rates are state-wide in application. The Draymen's Association of Alameda County and the Draymen's Association of San Francisco, by joint petition filed April 6, 1953, seek an interim increase of 12 per cent in the minimum rates named in the tariff in question which are applicable to the movement of general commodities in a 12-county area centered on the San Francisco Bay District. The area consists of the City and County of San Francisco and the Counties of Alameda, Contra Costa, Marin, Monterey, Napa, Santa Clara, Santa Cruz, San Benito, San Mateo, Solano and Sonoma.

A public hearing of the proposal was held at San Francisco on April 24, 27, 29 and 30 and May 1, 1953, before Examiner Jacopi.

The transportation of property in the 12-county area in question generally is subject to the class and commodity rates provided in Highway Carriers' Tariff No. 2 for state-wide application. Exceptions to these rates now are provided in the tariff, however, for certain movements in the 12-county area. Rates higher than the state-wide rates are applicable to shipments weighing 20,000 pounds or more moving under class rates in transbay service and to shipments of certain commodities of all weights moving throughout the 12-county area.<sup>1</sup> These higher rates were established on records made at public

---

<sup>1</sup> Transbay movements are those 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. The commodity rates referred to apply on grain, hay and related articles, lumber and forest products, petroleum and petroleum products, rice and sugar.

hearings which showed that the state-wide minimum rates then in effect were insufficient to cover the higher costs and other transportation conditions experienced on the traffic in question. Since then, these particular rates and the state-wide rates named in Highway Carriers' Tariff No. 2 have been modified from time to time to cover increased costs of operation and changed conditions. The latest upward adjustment of the rates was made by Decision No. 48189 of January 19, 1953, in Case No. 4808. The increased rates became effective March 1, 1953.

Petitioners allege that despite the minimum rate adjustments which have been made the carriers operating principally in the 12-county area involved herein are in critical financial positions. Petitioners' officials attributed this condition to costs of operation experienced in the area which are substantially higher than the averages to which the state-wide minimum rates generally are related. Exhibits were introduced showing that wage rates in the 12 counties are considerably higher than those in the other sections of the State.<sup>2</sup> The witnesses in question pointed out also that further increases in the cost of labor in the area were experienced recently by reason of upward adjustments of some wage rates and of the establishment of health and welfare plans for employees.

---

2

According to the exhibits, drivers' wages in the 12-county area range from \$2.0625 per hour in the Vallejo and the Alameda and Contra Costa Counties areas to \$2.187 per hour in the San Francisco and San Rafael areas. Without the 12-county area, drivers' wages range from \$1.69 per hour in the El Centro area to \$1.99 per hour in Mendocino and Lake Counties, including \$1.84 per hour in the Los Angeles, Los Angeles Harbor, Orange County and San Diego areas.

Another factor contributing to the adverse earning positions, they said, was the small revenue increase ranging from 2 per cent to 4 per cent which petitioners' members derived from the aforesaid March 1 adjustment of the minimum rates. Petitioners maintain in their joint petition that the establishment of separate minimum rates for the 12-county area is necessary to give appropriate effect to the higher operating costs and different conditions prevailing therein as compared with other sections of the State. Pending investigation of the matter by the Commission and establishment of the separate rates, the interim rate adjustment hereinabove indicated is sought.

The earning position of a group of common and permitted carriers characterized as being representative of those generally operating in the 12-county area was portrayed in a series of exhibits introduced and explained by a certified public accountant retained by petitioners. One of the exhibits disclosed that 22 carriers as a group had in the year 1952 aggregate revenues of \$13,384,594 and operating expenses of \$13,551,038 and that the collective operations for the year resulted in a loss of \$166,144. The operating ratio was 101.24 per cent. These operating results reflect the book figures. According to the record, they were reviewed by the accountant and his staff. He made some minor upward adjustments of revenues and also a number of allowances in the operating expenses to provide for salaries for owner-drivers and for office rent in instances where provision therefor was not made in the books. The accountant pointed out, however, that the 1952

operating results shown above did not reflect for the entire year the additional revenue from rate increases nor the added expenses resulting from advances in the cost of labor and other expenses which took effect at various times during the year.

Estimates of what the annual operating results would have been if current rate and cost levels had prevailed throughout the year 1952 were included in the series of exhibits introduced by the accountant. The results covered the operations of 18 carriers.<sup>3</sup> In these calculations, the 1952 revenues were adjusted to include the annual effect of various rate increases established in the year 1952 and in the first quarter of 1953. Similarly, the operating expenses were adjusted to reflect the current increased cost of labor, fuel, insurance and other items of expense. The foregoing adjustments involved additional revenue of \$1,023,706 and increases in the costs of operation amounting to \$457,654 per year. Of the latter amount, \$202,440 is attributable to advances in the cost of

---

3

As previously stated, the 1952 book operating results covered 22 carriers. In the adjusted results, four of the carriers were omitted because their operations were not considered representative. The record shows that one of the carriers operated on a lease basis for nine months of 1952 and another carrier is in the process of reorganization. The other two carriers earned less than 20 per cent of their total revenues under rates involved herein.

labor. The operating results as so adjusted are summarized from the accountant's exhibits in the tabulation which follows:

TABLE NO. 1

Adjusted Annual Operating Results Under the Present Rates and Current Costs Based Upon the 1952 Operations of 18 Carriers.

<u>Carrier Number</u>	<u>Revenue</u>	<u>Operating Expenses</u>	<u>(1) Net Profit or Loss</u>	<u>(1) Operating Ratio</u>
2	\$ 967,878	\$ 932,997	\$ 21,353	97.8
3	4,342,350	4,263,638	41,550	99.1
4	183,648	159,602	16,159	91.2
5	725,847	723,603	1,508	99.8
6	268,576	238,576	19,104	92.9
7	69,996	69,483	345	99.5
8	723,955	706,854	11,492	98.4
9	320,152	295,515	16,556	94.8
10	626,937	614,426	8,407	98.7
13	76,542	69,768	4,552	94.1
14	1,896,523	1,889,583	4,664	99.8
15	170,727	160,423	6,924	95.9
17	207,739	172,230	21,643	89.6
18	893,111	861,266	19,954	97.8
19	390,062	368,423	14,541	96.3
20	230,193	231,247	(1,054)	100.5
21	532,561	518,206	9,647	98.2
22	194,072	160,641	20,685	89.3
Totals	<u>12,820,869</u>	<u>12,436,481</u>	<u>238,030</u>	<u>98.2</u>

(1) After provision for income taxes.

(—) Denotes loss.

According to the accountant's testimony, the operations of the 18 carriers in Table No. 1 are conducted principally within the 12-county area involved herein and their earning positions under the present rates are reasonably representative for the area.<sup>4</sup> His

<sup>4</sup> The 18 carriers were selected from a list of 75 carriers operating in the territory. Some of the 18 carriers were described as being highway common carriers, some were indicated as being highway permit carriers and others conducted combined operations including local drayage services. The remainder of the 75 carriers on the original list considered assertedly were excluded because their operations were not considered representative of carrier operations in the area. The evidence shows that some of the carriers earned most of their revenues from movements subject to rates other than those involved herein, some earned only a small portion of their revenues within the 12-county area, the operations of some others were devoted almost entirely to city drayage service, others handled mainly interstate movements and a few confined their operations to subhauling.

exhibits disclosed that each of the 18 carriers earned not less than 75 per cent of their total individual revenues shown in Table No. 1 from operations within the aforesaid area.

According to the accountant, the adjusted operating results in Table No. 1 demonstrated also that carriers operating mainly under the rates in Highway Carriers' Tariff No. 2 had earning positions that were less favorable than those of the carriers who derived substantial portions of their revenues from other rates applicable in the 12-county area. The witness offered exhibits in which he segregated the operating results for the 18 carriers in Table No. 1 into two groups. One of the groups was comprised of 7 carriers who earned about 75 per cent of their revenues from the rates in the aforesaid tariff. The second group consisted of the other 11 carriers who earned about 58 per cent of their revenues from drayage operations in the 12-county area and the remainder from rates in Highway Carriers' Tariff No. 2. The operating results as segregated by the accountant are set forth in Table No. 2.

TABLE NO. 2

Statement Showing the Operating Results in  
Table No. 1 as Segregated in Accordance  
With Two Groups of Carriers Described Above.

	<u>7</u> <u>Carriers</u>	<u>11</u> <u>Carriers</u>
Revenues	\$8,659,340	\$4,161,529
Operating Expenses	<u>8,469,554</u>	<u>3,966,927</u>
Net Before Income Taxes	189,786	194,602
Income Taxes	<u>76,737</u>	<u>69,621</u>
Net After Income Taxes	113,049	124,981
Operating Ratio After Income Taxes	98.7%	97.0%

The annual operating results anticipated under the proposed 12-per cent interim increase in rates were included in the exhibits submitted by the accountant. His figures were based upon the 1952 traffic volume without provision for loss of traffic as a

result of the establishment of the higher rates sought. The estimated results shown in Table No. 3 below were summarized from the accountant's exhibits.

TABLE NO. 3

Estimated Annual Results of Operations for  
the 18 Carriers Shown in Table No. 1 Based  
on the Increased Interim Rates Sought.

	<u>Operations of 7 Carriers</u>	<u>Operations of 11 Carriers</u>	<u>Totals for 18 Carriers</u>
Revenues	\$9,508,739	\$4,334,344	\$13,843,083
Operating Expenses	<u>8,492,643</u>	<u>3,969,253</u>	<u>12,461,896</u>
Net Before Income Taxes	1,016,096	365,091	1,381,187
Income Taxes	<u>510,919</u>	<u>138,777</u>	<u>649,696</u>
Net After Income Taxes	505,177	226,314	731,491
Operating Ratio After Income Taxes	94.69%	94.78%	94.72%

Note: The 7 carriers and the 11 carriers indicated above are those referred to in connection with Table No. 2.

A rate base of \$3,798,667 based on original book value less depreciation was submitted by the accountant. The rate of return under the proposed rates as calculated by the witness would be 19.26 per cent. The operating ratio after provision for income taxes would be 94.72 per cent as shown in Table No. 3. In connection with the rate of return, the record shows that the operating properties included in the rate base now are about 62.2 per cent depreciated on the books.

A number of exceptions were taken to the accountant's calculations. It was developed that the net after income taxes was understated because no provision was made for a recent reduction in the cost of unemployment insurance. The accountant claimed, however, that the omission largely was offset by some overstatement of the revenues caused by the difficulty involved in separating interstate from intrastate revenues. In any event, he said, downward adjustment of the expenses to reflect the reduced cost would make only a slight improvement of less than one half of one per cent in the operating



ratio shown in Table No. 3. The record shows also that calculation of the income taxes on a corporation basis in a few instances where individuals or partnerships were involved resulted in overstatement of the taxes by amounts not of record.

Representatives of 5 common carriers involved herein testified that the sought increase in minimum rates was urgently needed by their companies and was essential if adequate transportation services were to be maintained. According to the evidence, the cost of labor is equal to from 50 per cent to 62 per cent of the carriers' total costs of operation. Assertedly, the financial position of the companies in question had deteriorated since the latter part of 1952 as a result of further increases in the cost of labor, fuel, insurance and other items of expense. Four of the 5 witnesses reported that the operations of their companies in the first quarter of 1953 under the present rates had resulted in operating losses ranging from about \$7,500 to \$11,000. They conceded, however, that the results of operation for the first quarter of each year generally were less favorable than those for the other quarters of the year. The other witness introduced studies designed to show that his company's unit cost of operation for representative movements substantially exceeded the minimum rates. The witnesses declared that it was economically impossible for their companies to assess rates higher than the minimum rates unless their competitors took like action.

Officials of the two petitioner associations testified that the carriers were faced with further increases in wages in the near future. Assertedly, labor organizations representing the members' employees have notified them that reopening for negotiations is desired of labor agreements expiring at the end of June 1953. In the case of the agreement covering mechanics and maintenance, garage and service station employees, the notice included a declaration that

higher wages would be sought. The Commission heretofore has said that upward wage adjustments which are not in the form of definite commitments but are or are to be merely the subjects of negotiations will not be considered in determining the results of operation. (See Decision No. 46618 of January 4, 1952 (51 Cal. P.U.C. 371,376).

A study of the cost of transporting general commodities within the 12-county area involved herein was presented by a transportation engineer of the Commission's staff. The study included the development of the total estimated costs of transporting general commodities in different types of equipment for various lengths of haul and for different weight groups. Assertedly, the study reflects the present costs of operations conducted under current expense levels and other operating conditions. The record shows that the costs which the engineer now has developed for the 12-county area are higher than the average state-wide costs used in connection with the determination of the level of the existing minimum rates. For example, the present costs for less-carload shipments transported for a distance of 30 miles have increased by amounts ranging from 5.17 per cent for weights of less than 100 pounds to 10.06 per cent for weights of 4,000-10,000 pounds. For a distance of 75 miles, the corresponding advances in costs range from 8.69 per cent to 5.3 per cent. In general, comparable cost increases are indicated for carload movements.

The data employed by the engineer in the calculations of the costs of record were developed from the operations of a total of 41 certificated and permitted carriers. Some of these carriers operate entirely within the 12-county area in question and others provide service in this area as a part of more extensive operations to and from territories beyond. The engineer found, as maintained by petitioners, that the wage rates within the 12-county area generally were

substantially higher than those observed in the other sections of the State. Based on the data contained in his study, the engineer stated that the carriers employed in petitioners' financial showing appeared to be reasonably representative of the various classes of carriers whose principal operations are conducted in the 12-county area.

Representatives of various shippers and of a shipper association testified in opposition to the higher transportation costs that would result from the sought increase in rates. The witnesses asserted that the proposed rates were too high and would divert traffic to proprietary operations. A number of the witnesses in question stated that their companies were conducting studies of comparative costs of such operations. Certain shippers requested that their commodities be exempted from the proposed rate increase on the ground that improvement of their shipping facilities at substantial costs coupled with assistance given to their carriers resulted in lower than average operating costs for such carriers.

The protestants urged also that no change be made in the present minimum rates without an appropriate showing in accordance with Section 726 of the Public Utilities Code.<sup>5</sup> Additionally, it was contended that the carriers studied in connection with the financial and cost studies of record were not representative of those serving the 12-county area involved herein. Evidence introduced by one of the shipper witnesses showed that 3,056 permitted

---

5

The pertinent provisions of Section 726 are as follows: "In any rate proceeding where more than one type or class of carrier, as defined in this part or in the Highway Carriers' Act, is involved, the Commission shall consider all such types or classes of carriers, and, pursuant to the provisions of this part or the Highway Carriers' Act, fix as minimum rates applicable to all such types or classes of carriers the lowest of the lawful rates so determined for any such type or class of carrier."

carriers have headquarters in the 12-county area as compared with the total of 18 common and permitted carriers and 41 such carriers employed in the studies of petitioners' accountant and the staff engineer, respectively. The witness pointed out also that no carriers having annual gross revenue of less than \$50,000 were included in the aforesaid studies although there were about 2,400 such carriers in the 12-county area. He stated, however, that he had made no study to determine whether the carriers in question operated within the area nor the type of services performed.

Petitioners maintained, however, that the operations of the carriers employed in the studies of their accountant and of the staff engineer were entirely representative of average operations in the 12-county area. The record shows that in selecting the carriers the book records of those whose annual gross revenue amounted to less than \$50,000 were found to be insufficient in the detail necessary for the showing to be made herein. It shows also that although the carriers whose revenue amounts to less than \$50,000 per year comprise 90.7 per cent of the total for-hire carriers in the State they earned only 16.6 per cent of the aggregate annual revenue of all for-hire carriers. It was pointed out that the shippers introduced no evidence showing the extent, if any, to which they used the services of the smaller carriers in question. Officials of two carriers, members of the petitioner associations, asserted that there was but little difference in the costs experienced by different classes of carriers for similar services. They explained that their companies recently had converted their operations from those of permitted carriers to highway common carriers under certificates of public convenience and necessity issued by this Commission. Assertedly, no changes in the physical operations were necessary and only minor additional costs

such as those involved in the filing of tariffs were experienced in operating as highway common carriers.

Conclusions

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.<sup>6</sup> In the circumstances, this record does not justify an interim increase as great as 12 per cent as sought by petitioners. Although the evidence shows that the 1952 operations of the group of carriers used in petitioners' showing were conducted at a loss of \$166,144, or an operating ratio of 101.24 per cent, petitioners' estimates in Table No. 1 show also that the operations would have produced net revenue of \$238,030 after provision for income taxes if the rate increases made effective and the advances in costs experienced during 1952 and to and including March 1, 1953, had been in effect throughout the year 1952. The operating ratio would have been 98.2 per cent after income taxes.

As hereinbefore stated, however, the staff engineer's studies disclosed that the current unit costs of performing the service in the 12-county area involved herein are greater than the state-wide average costs to which the present minimum rates were related when last adjusted. The evidence of record also indicates a further downward trend in carrier earnings in the first quarter of 1953, with some of the carriers, as previously stated, experiencing substantial operating losses. It appears from the evidence of record that an interim increase of 6 per cent in the minimum rates involved herein would provide the carriers with additional

---

6

See Decision No. 47245 in Case No. 4808, 51 Cal. P.U.C. 758,760 (1952) and Decision No. 45653 in Application No. 31614, 50 Cal. P.U.C. 580,586 (1951).

revenue for meeting their financial obligations under present conditions and for the maintenance of adequate service to the public pending determination of the final action to be taken herein.<sup>7</sup>

The record shows that the carriers used in the respective studies of petitioners' accountant and the staff engineer were selected carefully from substantial lists with the view of providing a typical cross-section of the revenue position and of the unit costs of various types of highway carriers of general commodities operating primarily in the 12-county area. For the purpose of the interim adjustment involved herein, the operating results and the unit costs of such carriers may be considered as reasonably representative of highway carrier operations generally in hauling commodities subject to Highway Carriers' Tariff No. 2 rates and charges in the area in question.

An adjustment of the character involved herein necessarily must be made along broad lines. Except for traffic under separate investigation, all commodities and all movements must bear their share of the increase necessary to cover the higher costs of operation. The rail lines serving the 12-county area will be authorized to establish a like increase in their class rates. There has been no material change in conditions since the minimum rates last were adjusted when the rail lines and highway carriers were agreed that competition was so strong that neither could adjust their rates without corresponding changes being made by the other. Long and short haul relief and short notice and tariff circular relief will be

---

7

Based on the adjusted results of operation for the year 1952, the rate adjustment would produce an over-all operating ratio of 93.4 per cent before provision for income taxes and 96.5 per cent after income taxes.

granted. In temporary broad adjustments such as those here being made, the authorizations in question are necessary pending final conclusions on the issues raised herein. The record shows that the long and short haul departures are not substantial. The interim adjustment will be authorized for a period of 180 days and because of its temporary nature the increase will be established as a surcharge. The increase will be made effective July 23, 1953, the earliest day which will permit of printing, filing and distribution of tariffs.

Upon consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that an interim increase of 6 per cent in the minimum rates and charges applicable within the 12-county area involved herein, to the extent provided for in the order which follows, is justified and that in all other respects petitioners' proposals have not been justified.

INTERIM ORDER

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, in Case No. 4808) be and it is hereby further amended by incorporating therein Supplement No. 22 cancels Supplement No. 21, to become effective July 23, 1953, attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that common carriers subject to the Public Utilities Code, 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 commodity rates, but that such increases shall be no greater in volume and effect than the corresponding class rate increases established herein; that said common carriers which do not maintain in their tariffs all of the rate scales provided in Highway Carriers' Tariff No. 2 may establish the increases involved in continuing provisions relating to rates for transportation under these circumstances; 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.

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 not earlier than July 23, 1953, on not less than five days' notice to the Commission and to the public.

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 and 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.



IT IS HEREBY FURTHER ORDERED that, except to the extent provided for in the preceding ordering paragraphs hereof, the joint petition of Draymen's Association of Alameda County and Draymen's Association of San Francisco, filed April 6, 1953, being Petition For Modification No. 3 herein, be and it is hereby denied.

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

Dated at San Francisco, California, this 23<sup>rd</sup> day of June, 1953.

A. J. [Signature]  
President  
Justina F. [Signature]  
[Signature]  
  
Commissioners

DISSENTING OPINION - Case 5441 (Petition No. 3)

For the reasons stated in my dissenting opinion in Decision 46912, Case 4808 (March 27, 1952), 51 Cal PUC 586, 602, and in my dissent in Decision 48189, Case 4808 (January 19, 1953), 52 Cal PUC 385, 396, I cannot concur in the decision and order herein.

In the opinion in the instant case it is stated that for the purpose of the interim adjustment involved herein, the operating results and the unit costs of the carriers whose results were reviewed in the evidence may be considered as reasonably representative of highway carrier operations generally in hauling commodities subject to Highway Carriers' Tariff No. 2 Rates and Charges in the area in question and the opinion finds that an interim increase of 6% in such minimum rates and charges to the extent provided for in the order is justified.

While the results of operations of the carriers included in the studies of the petitioner's accountant and the staff engineer may afford a typical cross-section of the revenue position of such highway carriers generally, in my opinion they do not show the revenue positions or the unit costs of each of the various types of highway carriers within the purview of Section 726 of the Public Utilities Code. Since the studies relied upon by the majority do not separately show the results of operations or costs of each type or class of carrier, it is impossible upon this record for the Commission to fix as minimum rates applicable to all such types or classes of carriers the lowest of the lawful rates so determined for any such type or class of carrier as required by the plain language of said Section 726.

It should be noted that the interim order herein authorizes the establishment in the tariffs of common carriers subject to the Public Utilities Code of rates increased by the interim increase of 6% in the minimum rates and charges applicable, and that the common carriers so authorized include common carriers by railroad with respect to their less than carload rates and charges subject to

Decision 31606 as amended. No showing of results of operations of such rail carriers has been made on the record herein other than that the rail rates are geared to the truck rates in order to maintain their competitive positions. Thus the rates increased by the interim order are neither the lowest of the lawful rates of the highway carriers or of the highway carriers and rail and other carriers within the meaning of Section 726.

That the instant order is an interim order should occasion no departure from the requirement of the statute since said Section 726 requires the fixing as minimum rates the lowest of the lawful rates "in any rate proceeding where more than one type or class of carriers \*\*\* is involved \*\*\*."

For the foregoing reasons I dissent from the decision and order herein.

  
Commissioner.

June 23<sup>rd</sup>, 1953.

SUPPLEMENT NO. 22  
(Cancels Supplement No. 21)

(Supplement No. 22 contains all changes)

TO

HIGHWAY CARRIERS' TARIFF NO. 2

MAKING

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

(1) ♦ APPLICATION OF SURCHARGE

(a) (Applies only to shipments between points of origin and destination both of which are within the San Francisco Bay Counties Territory as described in paragraph 3½ of Item No. 270 series, and to split pickup or split delivery shipments between points of origin and destination all of which are within said San Francisco Bay Counties Territory.) Except as provided in paragraph (b) below, compute the amount of charges in accordance with the rates, rules and regulations of this tariff. Increase the amount so computed by six percent. Fractions will be disposed of in accordance with paragraph (c) below.

(b) The provisions of paragraph (a) will not apply to accessorial charges applicable to pool shipments named in Items Nos. 176, 177, 178 and 179 series, nor to the transportation of lumber and forest products as described in Item No. 660 series, nor to common carrier rates used under the provisions of Items Nos. 200, 210, 220 and 230 series.

(c) Fractions of less than one-half cent shall be dropped; fractions of one-half cent or greater shall be increased to one cent.

♦ Increase, Decision No. 48743.

(1) Expires with January 19, 1954, unless sooner canceled, changed or extended.

EFFECTIVE JULY 23, 1953

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