

ORIGINALDecision No. 48948

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

Reginald L. Vaughan, Wm. Meinhold, Marvin Handler,
Wyman Knapp, Douglas Brookman, Theo W. Russell and
Calhoun E. Jacobson, for various highway carriers
 as respondents or petitioners.

F. W. Morris, Glenn W. Stephens, Lenn W. Sparks,
C. B. Hamblin, Roland H. Good, F. J. Ferguson,
C. E. Miller, Harry L. Stevens and G. R. Lilinthall,
 for various manufacturers and assemblers of motor
 vehicles, interested parties.

J. C. Kaspar and R. D. Boynton, for California Motor
Transport Associations, interested party.

G. L. Malquist and Norman B. Haley, of the staff of
the Public Utilities Commission of the State of
California.

SUPPLEMENTAL OPINION

By petition filed in this proceeding on December 19, 1949,
 several highway carriers seek the establishment of minimum rates,
 rules and regulations for the transportation of automobiles, trucks,
 freight trailers and related commodities in secondary movements.

Public hearings were held before Commissioner Potter and
 Examiner Bryant in July 1950, October 1952, and April 1953. The
 matter is ready for decision.

At the hearings in July 1950, members of the Commission's staff introduced (1) a study of the cost of transporting automobiles, light trucks, chassis and trailers, and (2) a tariff of proposed minimum rates for such transportation. A carrier representative introduced a table of proposed minimum rates on a point-to-point basis between specified points in California, and a statement comparing such rates with certain interstate and intrastate rates then prevailing. On the one hand the rates developed by the staff witnesses differed greatly from those then generally assessed; on the other hand the rates proposed by the petitioners differed greatly from the cost estimates then of record. At petitioners' request the matter was removed from the hearing calendar to permit them to develop and propose rate bases which would reconcile some of the differences.

Hearings were next held in October 1952, at which time the staff cost estimate was brought up to date and a staff rate witness submitted a revised tariff of suggested minimum rates.¹ The petitioners requested a further adjournment. At the concluding hearings, held on April 8, 9 and 10, 1953, witnesses for the petitioners introduced (1) an exhibit consisting of a partial modification of the staff cost estimates, (2) a study of the cost of towing freight trailers, and (3) proposed minimum rates, rules and regulations.

¹ In the meantime a public hearing was held on January 31, 1952, for the purpose of receiving evidence relating to the question whether a distinction should be made between "initial" and "secondary" movements for minimum rate purposes. By Decision No. 46779, dated February 19, 1952, (51 Cal. P.U.C. 779) the Commission identified "initial" movements and found that there was no immediate need for the prescription of minimum rates therefor.

Careful analysis of all of the evidence of record leads to the conclusion that it provides no satisfactory basis for the establishment of just, reasonable and nondiscriminatory minimum rates which would be suitable for the transportation services herein considered. In view of this conclusion no purpose would be served by discussing the evidence in detail. It will suffice to point out but a few of the deficiencies and difficulties.

This record involves principally passenger automobiles and highway tractors, trucks, and freight trailers. The vehicles are transported over the public highways by methods referred to as "truckaway service" and "driveaway service." Truckaway service means the transportation of one or more vehicles carried wholly or partly upon, or towed by, the carrier's equipment. Driveaway service means transportation of one or more vehicles where the motive power is provided by one of the vehicles transported.

The minimum rates and charges suggested by the Commission rate witness were based in large part upon the estimated cost of performing the transportation as developed and submitted by the staff engineers. For services for which cost data were not available or were not deemed suitable the rate witness relied upon judgment based upon his own investigation and experience. The staff cost estimates and rate proposals were developed in the form of dollars and cents per vehicle for various constructive distances. The rates would vary according to the length of haul, the weight and length of the vehicles, and the number of vehicles in the shipment. The mileages would be determined in accordance with this Commission's Distance Table No. 4. Separate rates were proposed for (a) truckaway service, (b) single driveaway service, and (c) combination driveaway service.

The petitioners commended the work of the Commission's staff, but declared that the suggested minimum rate tariff would not be suitable. In general they stated that the rates recommended by the staff witness were too low and were too dissimilar from the current "going" rates.

Truckaway Service

It appears from the testimony that the present truckaway rates for transportation within California have evolved by a long process of trial and error and reflect various forces of competition from other means of transportation and among the truckaway carriers. These "going" rates are not always identical among the several carriers, and are not always applied uniformly among different shippers. With a minor exception as to one carrier, they are not filed with this Commission or with any other regulatory agency. They are not stated on a mileage basis and are not directly related to the length of haul. The rates are named on a point-to-point plan between principal communities. Rates from and to unnamed points are determined by the carrier and quoted upon request. In general, lower rates are observed between points on the principal traffic routes than between off-route points. The rates are not free from long- and short-haul departures. They cannot be compared readily with the costs of record in this proceeding, inasmuch as the cost estimates are related directly to distance and the rates are not.

The petitioners developed and recommended a new scale of rates apparently designed to effect some compromise between the cost estimate and the current "going" rates. Their endeavor, it appears, was to propose rates which might be supported by the cost evidence but would not depart too greatly from the bases which had been evolved over the years. In effect, the endeavor was to plot a scale

of rates, related to distance, which would approximate the "going" rates at the greatest number of important points and would reflect the cost estimates to the extent possible within the limits of the undertaking. The resulting rates are higher than those recommended by the Commission staff witness. The petitioners indicated that the rates which they recommended would be satisfactory as minimum rates provided the carriers were not precluded from establishing and assessing higher rates where necessary. It appears from their testimony that they would consider higher rates necessary at "off-route" points. With regard to tariff rules for truckaway service, the carriers said that those recommended by the staff witness would be satisfactory, with minor exceptions.

Driveaway Service

The estimated cost of performing driveaway service, as submitted by the Commission engineer, exceeds substantially the "going" rates for such service. It developed that the engineer based his estimate upon a wage contract by which the carriers are not governed, and that he included other items of operating expense which he considered reasonable but which the carriers in fact have not incurred. The Commission rate witness concluded that driveaway rates based upon the cost estimate would be excessive. The rates which he proposed for this service were predicated primarily upon relationships with the "going" rates and with his recommended truckaway rates.

The petitioners, likewise departing from the cost estimate, asked that the Commission establish as minimum for driveaway service the rates based upon an interstate tariff said to govern the charges of a preponderance of the common carriers engaged in this type of service throughout the United States. They proposed various exceptions to this tariff, however. They asked that the rates be made

subject to constructive distances rather than to the actual mileages by which the interstate rates are governed, that an arbitrary mileage be fixed between Los Angeles Territory and San Francisco Territory, that rates lower than the interstate rates be established for short movements, and that rate exceptions be made applicable between San Francisco on the one hand and East Bay cities on the other hand. They asked the prescription of some but not all of the rules as set forth in the interstate tariff. Many of the proposed rules would differ substantially from those recommended by the staff witness, and some of them clearly would not be suitable for prescription in a minimum rate tariff.

Towaway Service

The Commission engineer did not estimate specifically the cost of transporting motor trucks and freight trailers by the towaway method. He said that he had found little evidence of such service in California, and that data necessary to a cost estimate were lacking. The staff rate witness did not exclude such transportation from his recommended minimum rates, but agreed that the rates were not designed therefor.

A consulting engineer, testifying on behalf of the petitioners, submitted an estimate of the cost of performing this service. Other carrier witnesses then proposed that the Commission prescribe as minimum for the towaway service certain rates based upon an interstate tariff in which ten carriers are named as participants. As exceptions to the interstate level, the petitioners would disregard an increase of 10 percent which was made in the interstate rates on March 1, 1953, and would have the rates be governed by constructive rather than actual distances. There is little apparent relationship between the towaway rates as recommended by the petitioners and the cost of performing the service as estimated

by their consultant. With regard to governing rules, the carriers ask that the Commission prescribe many, but not all, of the rules in the interstate tariff.²

General Conclusions

It is clear that the petitioners, for reasons hereinbefore indicated, would not welcome the establishment of minimum rates for truckaway service upon the basis recommended by the staff witness. Their own alternative proposal represents a compromise upon which the carriers were able to agree, although the rates thus proposed would not be wholly satisfactory to the carriers. These latter rates bear no fixed relationship to the cost estimates and they are not substantially supported by other evidence.

The driveaway and towaway rates proposed by the petitioners are not related to the cost estimates in any discernible respect, and are almost wholly unsupported by other evidence. Indeed, insofar as these rates are concerned, the record is little more than a statement of the rates, rules and regulations which the carriers would desire to have this Commission establish as minimum. The driveaway rates suggested by the staff witness are based principally upon his own investigation and judgment, and the carriers clearly do not subscribe to his recommendation. The staff witness did not propose any rates designed for the transportation of freight vehicles by the towaway method.

² The interstate tariffs were received in evidence as Exhibits Nos. 1145 (driveaway) and 1143 (towing of freight vehicles).

As a further limiting factor, the respondents made it clear that they do not desire that minimum rates be established for truckaway service unless minimum rates are likewise established for driveaway service. They explained that the competition between the two methods of transportation is such that minimum rates should not be prescribed for one unless they are prescribed for both.

This phase of Case No. 4808 was instituted for the purpose of receiving evidence on petitioners' request for the fixation of minimum rates. It appears that the carriers and the staff of this Commission made a sincere and conscientious endeavor to develop the evidence necessary to that purpose. However, it is clear that the carriers, although few in number, did not wholly succeed in coordinating their efforts and abilities toward any common objective. As a consequence, the proceedings were delayed, prolonged, and generally unproductive.

This Commission will not establish minimum rates for the transportation of property based solely upon the desire of carriers for such rates, nor upon an agreement among the carriers concerning the form and level of such rates. Minimum rates, rules and regulations will be established or approved only upon adequate and convincing evidence that such rates, rules and regulations will be just, reasonable and nondiscriminatory for the transportation services in question. When such evidence is lacking there is no alternative to withholding the establishment of minimum rates.

As hereinbefore stated, a careful examination of all of the evidence of record leads to the conclusion that it provides no satisfactory basis for the establishment of just, reasonable and non-discriminatory minimum rates, rules and regulations which would be suitable for the transportation services herein considered. In view of this conclusion the petition seeking the establishment of minimum rates, rules and regulations for the transportation of motor vehicles and related commodities will be dismissed without prejudice to further consideration if and when the Commission is assured that probative evidence will be forthcoming.

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 the petition filed in this proceeding on December 19, 1949, by W. H. Clark, doing business as Automobile Forwarding Service, et al, be, and it hereby is, dismissed without prejudice.

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

Dated at Los Angeles, California, this 10th day of August, 1953.

R. Z. [Signature]
President
Justus F. Caserio
Harold [Signature]
[Signature]
[Signature]
Commissioners