

ORIGINAL

Decision No. 49408

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 Los Angeles and Orange)
Counties (transportation for which rates)
are provided in City Carriers' Tariff)
No. 4 - Highway Carriers' Tariff No. 5).)

Case No. 5435

Appearances

- Arlo D. Poe, for Motor Truck Association of Southern California.
- Edward M. Berol, for Signal Trucking Service, Ltd., and Signal Terminals, Inc.
- J. C. Kaspar, for Motor Truck Association.
- R. D. Boynton, for Truck Owners Association.
- Jackson W. Kendall, for Bekins Van & Storage Co.
- Robert Hopping, for California Retailers Association and California Traffic Service.
- M. E. Smith, for Real Transportation Co.
- L. A. Bey, for William Volker & Co.
- William J. Knoell, for Pacific States Motor Tariff Bureau.
- D. E. Meyers, for Western Transportation Company.
- Donald M. Cooper, for Western Transportation Co.
- Henry W. Fulhorst, for Furniture Manufacturers Association of Southern California.
- Cromwell Warner, for W.F.A. Trucking Company.
- Morgan Stanley, for Star Truck & Warehouse Co.
- Frank B. Austin, for Commission Staff.

SUPPLEMENTAL OPINION

This phase of the above-entitled proceeding deals with the minimum rates, rules and regulations set forth in City Carriers' Tariff No. 4 - Highway Carriers' Tariff No. 5, governing the unloading, segregating, or unloading and segregating of property tendered to carriers in pool cars.

Radial highway common, highway contract and city carriers (hereinafter referred to as draymen) are required to observe the minimum rates, rules and regulations set forth in the above-referred to tariff, in connection with the transportation and handling of pool car shipments within the Los Angeles Drayage Area.

It appears that certain organizations have been incorporated for the purpose of engaging solely in the unloading and segregating of rail pool car shipments. These car unloading companies, it appears, receive pool cars and perform the services of unloading and segregating the commodities thereof at rates which are assertedly substantially less than rates prescribed as minimum. Apparently charges less than the minimum are assessed upon the assumption that the minimum rates are not applicable.

Allegedly the practices described above have had and will have the effect of giving these organizations an unfair competitive advantage over the draymen. For the purpose of inquiring into this matter the Commission scheduled a public hearing which was held before Commissioner Scoggins and Examiner Lake at Los Angeles on December 1, 1953.

The issue here before us is whether the minimum rates for pool car distribution set forth in City Carriers' Tariff No. 4 - Highway Carriers' Tariff No. 5 should be suspended to accord an equality of competitive opportunity between the draymen and the car unloading companies.

According to the record only four car unloading companies are presently assessing rates less than those established as minimum for the draymen. Two of these apparently have been in existence for some time. The others are newly organized. It appears that these companies are engaging in an extensive solicitation program seeking to acquire the pool car accounts of the draymen by means of lower rates. According to witnesses representing the draymen, distribution of pool cars comprises a substantial portion of the drayage business within the Los Angeles area. Of 100 carriers surveyed, 50 of them were said to be handling a combined total in excess of 2000 pool cars per month. Two draymen testified that they had recently lost two accounts representing approximately 6 cars per month. These draymen stated that shippers were beginning to make inquiries concerning the lower rates being offered by their competitors and as a result thereof the draymen were faced with the loss of additional traffic unless they could meet the lower rates.

It was argued by counsel for the draymen that although disruption of the stability of the minimum rate structure is not desired, the potential loss of business with which the draymen are faced demands that they be accorded the opportunity for competitive rate equality. He maintained that unless rate equality could be made to prevail for all those performing the same services the minimum rates applicable to the draymen should be suspended. He declared the expedient means thereto is suspension of the minimum rates applicable to the services here involved.

On the other hand counsel for one of the car unloading companies, an affiliate of a drayman, asserted that on the basis of a record involving the activities of only four car unloading companies it would not be in the public interest to destroy the established rate structure now governing the activities of many draymen in the Los Angeles area by suspending the rates. He urged that a full investigation by the Commission of all parties engaging in pool car operations be conducted and that in the interim the draymen be allowed to meet the rates of car unloading companies having tariffs on file with the Commission in conformity with provisions of the Public Utilities Act.¹

The record is clear that as a result of the rate advantages of their competitors the pool car business of the draymen is in jeopardy. At this juncture, however, the competition afforded by these competitors is largely potential. While the draymen may well be faced with a substantial diversion of their traffic, it is to be observed that on this record only six cars per month out of more than 2,000 were shown to have been lost. In the light of these circumstances the proposed suspension of the rates would be premature. In addition such suspension would have the effect of creating unrestrained competition which could adversely affect the financial position of the carriers, or burden other traffic, or both. Suspension is not in the public interest. It will not be authorized.

The practicalities of the situation, however, require the exercise of a stabilizing influence which would grant the draymen certain relief and in addition secure just and reasonable rates necessary to maintain adequate and dependable service for the public by all those who are engaged in the same car unloading services. In the

¹ One of the newly-organized car unloading companies, Signal Terminal, Inc., has filed a tariff with the Commission governing its activities.

circumstances the draymen will be authorized to observe the car unloading rates of those who have filed tariffs with the Commission pursuant to provisions of the Public Utilities Act. In addition, the Commission will institute a full scale investigation into the operations and practices of those who engage in car unloading within the Los Angeles Drayage Area.

with this added

O R D E R

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

IT IS HEREBY ORDERED that City Carriers' Tariff No. 4 - Highway Carriers' Tariff No. 5 (Appendix "A" of Decision No. 32504, as amended) be and it is hereby amended by incorporating therein, to become effective January 1, 1954, 9th Revised Page 20 Cancels 8th Revised Page 20, which page is attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that tariff publications made by common carrier respondents filed pursuant to this order may be made effective not earlier than January 1, 1954, and on not less than five days' notice to the Commission and to the public. In all other respects Decision No. 32504, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 8th day of December, 1953.

R. F. [Signature]

President
James F. [Signature]

Frederick [Signature]

John E. [Signature]

Gene [Signature]

Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)												
*165-H Cancels 165-G	<p style="text-align: center;">POOL CARS</p> <p>(a) For the service of unloading, segregating, or unloading and segregating property tendered to the carrier in pool cars, the following charges shall be made in addition to transportation charges:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: right;">Rates in cents per 100 pounds</th> </tr> </thead> <tbody> <tr> <td>(1) Merchandise classified as</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">First Class -----</td> <td style="text-align: right;">22</td> </tr> <tr> <td style="padding-left: 20px;">Second Class -----</td> <td style="text-align: right;">18</td> </tr> <tr> <td style="padding-left: 20px;">Third Class -----</td> <td style="text-align: right;">13</td> </tr> <tr> <td style="padding-left: 20px;">Fourth Class, or lower -----</td> <td style="text-align: right;">12</td> </tr> </tbody> </table> <p style="padding-left: 40px;">(1) Subject to minimum charge of 57 cents for each point of destination involved.</p> <p>(b) The term "Pool Car" as used in this item means a rail car or motor vehicle (other than carrier's equipment) containing property intended for delivery to two or more points of destination located within the zones described in Items Nos. 30 to and including 33 series.</p> <p>(c) Classification ratings shall be based upon the L.C.L. (less than carload) ratings in the Western Classification, Exception Sheet or this tariff.</p> <p>(d) Articles taking a rating higher than first class shall be computed upon the percentage of the first class rating, as set forth in the Western Classification, Exception Sheet or this tariff.</p> <p>(e) When rail pool cars are unloaded and segregated at and deliveries made from carrier's established depot, said depot will be considered as being located within Zone 1-A for the purpose of assessing transportation charges under this tariff, and transportation rates shall be applied from Zone 1-A as point of origin.</p> <p>(f) Rates named in this item alternate with rates for the same services contained in tariffs filed with the Commission, pursuant to the provisions of the Public Utilities Act, and in effect on the date the services are provided.</p>		Rates in cents per 100 pounds	(1) Merchandise classified as		First Class -----	22	Second Class -----	18	Third Class -----	13	Fourth Class, or lower -----	12
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170	<p style="text-align: center;">DELAYED DELIVERY OF SHIPMENTS</p> <p>(a) Where carrier cannot effect delivery upon arrival of shipment at point of destination, a free storage period of 48 hours from the first 7:00A.M. thereafter may be allowed. After said free storage period, storage charges shall be assessed at not less than $1\frac{1}{2}$ cents per 100 pounds per day for each of the first five days and at not less than 3 cents per 100 pounds per day for the sixth and each succeeding day until such time as instructions regarding disposition of the shipment are received by the carrier. In computing time, Sundays and legal holidays shall be excluded.</p> <p>(b) Subsequent delivery of the property from point of storage shall constitute a new shipment.</p>												
180	<p style="text-align: center;">DISPOSITION OF FRACTIONS</p> <p>In computing a rate based on a percentage of another rate, the rule shall be observed in the disposition of fractions:</p> <p>Fractions of less than $\frac{1}{2}$ or .50 of a cent, omit. Fractions of $\frac{1}{2}$ or .50 of a cent or greater, increase to next whole figure.</p>												
* Change) & Reduction)	Decision No. 49408												
EFFECTIVE January 1, 1954													
Issued by the Public Utilities Commission of the State of California, San Francisco, California.													
Correction No. 164													