

ORIGINAL

Decision No. 50648

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 ) Case No. 4808  
 of all common carriers, highway )  
 carriers and city carriers relating )  
 to the transportation of property. )

Appearances

Arlo D. Poe, and J. C. Kaspar, for Motor Truck Association  
of California, petitioner.

James F. Bartholomew, for Signal Trucking Service; and  
Benn W. Porter and Nathan Kimmel for Furniture  
Fast Freight, respondents.

R. D. Boynton for Truck Owners' Association of California;  
A. L. Russell, for Sears, Roebuck & Company; and  
Henry W. Fulhorst, for Furniture Manufacturers  
Association of Southern California, interested parties.

Norman Haley, of the staff of the Public Utilities Commission  
of the State of California.

SUPPLEMENTAL OPINION

This phase of Case No. 4808 relates to the minimum rates, rules, and regulations in Minimum Rate Tariff No. 11-A for the transportation of uncrated new furniture. By petition filed July 22, 1954, and amendments thereto, the Motor Truck Association of California seeks (a) revision of the provisions governing minimum charges per shipment and (b) the establishment of reduced rates for unusually large and heavy articles. It alleges that the present minimum charges are deficient, unreasonably low, and non-compensatory for articles of furniture of low weight and density and that the rates are excessive, unjust and unreasonably high for articles of unusually great size and density.

Public hearing of the petition was held before Examiner C. S. Abernathy at Los Angeles on August 18, 1954. Evidence was submitted by petitioner's director of research, and by representatives of two furniture carriers. Representatives of a shipper and of a shipper organization participated in the proceeding through examination of the witnesses.

The rates in Minimum Rate Tariff No. 11-A became effective July 1, 1954, following numerous public hearings over a 4-year period dating back to April, 1950.<sup>1</sup> The rates are named in cents per 100 pounds. Three scales of rates are provided: an "Any Quantity" scale, a scale subject to a minimum weight of 500 pounds, and a scale subject to a minimum weight of 2,000 pounds. A minimum charge of \$1.75 per shipment applies for transportation of 150 miles or less. For transportation in excess of 150 miles a minimum charge of \$2.25 applies.

By its proposal petitioner seeks the establishment of a minimum charge per article in the amount of 25% of the applicable rate (exclusive of certain pickup charges) except that for shipments originating in San Francisco Territory the minimum charge per article shall be 20% of the applicable rate.<sup>2</sup> With respect to articles

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<sup>1</sup> Hearings were held on April 24 and 25, June 7, July 17, 18 and 19, and August 7, 1950. An examiner's proposed report was issued December 1, 1950, and decision in the matters involved was issued August 7, 1951 (Decision No. 46062, 51 Cal. P.U.C. 41). By subsequent order, Decision No. 46160 dated September 4, 1951, the tariff established by Decision No. 46062 was suspended and rehearings were held on December 3, 1952, March 3 and 17, 1953, and May 3 and 11, 1954, as a result of which Minimum Rate Tariff No. 11-A was established by Decision No. 50114 dated June 1, 1954.

<sup>2</sup> The term San Francisco Territory, as used herein, means the following counties: San Francisco, San Mateo, Santa Cruz, Santa Clara, San Benito, Monterey, Alameda, Contra Costa, Marin, Sonoma, Solano and Napa.

which weigh 250 pounds or more and which do not have any dimension in excess of 90 inches, petitioner proposes that the rate that shall be assessed shall be 85% of the rate (exclusive of pickup charges) applicable to the shipment in which the article is included.

According to testimony of petitioner's director of research, it has become apparent since the issuance of Minimum Rate Tariff No. 11-A that there is a flaw in the tariff in that it contains no satisfactory provisions covering the transportation of articles which are either light and bulky or which are very large and heavy. The present provisions assertedly do not give adequate recognition to the fact that the light and bulky articles are more costly to handle and occupy a disproportionate amount of space in the carriers' vehicles. The witness said that prior to the establishment of the present minimum rates carriers took these circumstances into account and adjusted their charges accordingly by means of rate stops and piece rates. He declared that similar provisions which have the same effect are necessary in Minimum Rate Tariff No. 11-A to return more reasonable revenues for the services performed and to avoid burdening shipments of other furniture with costs incurred in the transportation of the light and bulky articles.

To illustrate the amount of service that the carriers are called upon to provide in connection with the transportation of light and bulky articles, he submitted calculations to show the number of articles that may be included in a minimum charge shipment and the cubic feet of space occupied thereby. He also submitted similar data to show the results that would obtain should the proposed minima be established. The norm which he employed in the development of these data was the average density heretofore

developed for all items of new furniture, namely 3.3 pounds per cubic foot. The figures which are set forth in the following table are representative of the witness's showing in this regard:

Number of Articles Comprising and Cubic Feet Occupied by  
Light and Bulky Shipments Having a Density of 1/4 Pound  
per Cubic Foot That May be Transported 75 Miles for a  
Minimum Charge of \$1.75 per Shipment

Weight per Article	Number of Articles per Shipment		Cubic Feet Occupied	
	Under Present Provisions	Under Proposed Provisions	Under Present Provisions	Under Proposed Provisions
5	23.8	4.8	476	96
10	11.9	4.8	476	192
15	7.9	4.8	476	288
20	6.0	4.8	476	384
25	4.8	4.8	476	480

The research director said that the rate differential that would provide a more equitable basis of charges for the light and bulky articles is difficult to measure quantitatively and that in arriving at the proposed minimum charges he had to rely on judgment based upon his knowledge of the costs and the operating conditions applicable to the transportation of new furniture and to the experience of carriers who transport shipments of this type. The lesser charges proposed for shipments originating in San Francisco Territory reflect the practice of a highway common carrier operating in that area. Regarding the proposed reduction in charges for the transportation of unusually large and dense articles the witness asserted that the reductions are justified by favorable operating circumstances which apply to that transportation. He said that the principal article which is involved is a combination bed and divan which requires lesser handling and protective services than those accorded new furniture generally.

In his explanations of the sought rules and the justification therefor, the director emphasized that in arriving at the proposals

much weight had been given to the level of charges which the carriers had maintained prior to the time that the present minimum rates became effective. He pointed out that the charges for various articles of furniture under the proposed rules would be approximately the same or somewhat less than those which were applicable formerly and he urged that this fact be one of the controlling considerations for granting of the petition.

The two carrier witnesses who offered testimony supported the proposed minimum charges as a means for increasing their revenues. They said that their revenues under the minimum rates are less than those which accrued under their former rate scales. The amount of increase in total revenues which would result from the minimum charges was estimated as approximating  $2\frac{1}{2}$  to 3 percent. Although reductions in revenues would result under the lower rates sought for large and heavy articles, the carrier witnesses asserted that the lower rates are necessary to provide more equitable charges for those articles. Counsel for petitioner stated that the viewpoints expressed by these witnesses were representative of other carriers engaged in the transportation of uncrated new furniture.

Except to the extent that different minimum charges would apply from San Francisco Territory than would apply to the same destinations from points of origins elsewhere, granting of the petition was not specifically opposed by the shippers' representatives. However, the petition was opposed in principle by the traffic manager of the Furniture Manufacturers' Association of Southern California, who pointed out that his organization has a petition pending before the Supreme Court of the State of California seeking review of the propriety of the rates, rules and regulations in Minimum Rate Tariff No. 11-A. He said that since the validity of the minimum rates

themselves is being questioned he could not agree with the validity of the amendments thereto which is being sought herein.<sup>3</sup>

As indicated hereinabove, Minimum Rate Tariff No. 11-A was established upon a full record reached after hearings and rehearings. The matters which were considered at length included the assessing of transportation charges in terms of cents per article, the practice of the carriers at the time. On the record which was adduced there appeared no feasible basis for adoption of the rates then observed by the carriers inasmuch as a method was not advanced by which the various articles of furniture could be classified according to their transportation characteristics with sufficient certainty to assure that reasonable and nondiscriminatory charges would be applied. The rate scale which was ultimately established was designed to produce results which for the transportation as a whole would be reasonable and nondiscriminatory from a minimum standpoint.

Petitioner's allegations that a "flaw" exists in the rate provisions in Minimum Rate Tariff No. 11-A are founded upon the fact that the rates were developed upon an over-all basis rather than upon circumstances applicable to the transportation of specific articles or classes of articles of uncrated, new furniture. The remedy which petitioner advocates is in effect that classifications be established for light and bulky articles and for large and dense articles and that special rates be provided therefor. To be suitable for inclusion in the minimum rate provisions it must appear that the results which would accrue under the sought rules would be reasonable and

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<sup>3</sup> The traffic manager said that he was authorized to speak also for the Retail Furniture Association of Southern California and for the John Bruener Company.

nondiscriminatory. In both respects the proposals do not appear suitable.

Insofar as the proposed provisions for articles of less than 25 pounds are concerned, it is evident that they would not be limited in application to the so-called light and bulky articles but would apply to any article of whatever density if weighing less than 25 pounds. It does not appear that the establishment of a rule as broad in application as that proposed is reasonable or is necessary for the correction of the alleged inequities in the present rates. The rule, moreover, is not consonant with the declared objectives thereof in that in various instances it would not result in a more equitable apportionment of charges according to the service performed. For example, charges on 10 lazy susan coffee tables having a weight of 25 pounds and a volume of 35 cubic feet per table would be assessed on a weight of 250 pounds. On the other hand charges on 25 coffee tables having the same total weight and occupying 30 percent less space would be computed on a weight of 625 pounds. Although more service undoubtedly is provided in loading and unloading the smaller tables, it does not appear that the difference in service justifies a difference in total transportation charges of the volume indicated. Furthermore, establishment of the sought rule would result in substantial increases in transportation charges for various light articles. The charges per article for the various articles which were listed by petitioner as representative light and bulky articles would in most instances be more than twice those which now apply. The evidence shows that the increase per article which would apply on the average to all articles of

furniture weighing less than 25 pounds would be approximately 25 per- cent. Petitioner did not undertake to show by cost evidence that increases of this extent are necessary to provide reasonable compen- sation for the transportation involved.<sup>4</sup>

Regarding the rate reductions which are proposed for large and heavy articles, the justification which was advanced therefor was based upon the fact that the combination bed-divans referred to above can be loaded with less handling and protective services than provided other articles of furniture generally. Loading characteristics and susceptibility to damage are two important considerations in classi- fication but they are not necessarily the sole or controlling determ- inants. Another important classification factor is the matter of density. The record shows that the density of the bed-divans is virtually the same as the average density of all articles of new furniture. It shows furthermore that the bed-divans are as little as half, or less than half, the density of various other articles of furniture for which rate reductions are not sought, except those which by reason of weight and dimensions would come within the purview of the proposed rule.<sup>5</sup> Obviously, for the weight transported and the space occupied in the carriers' vehicles, the bed-divans make a smaller contribution proportionately to the carriers' earnings than

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<sup>4</sup> The foregoing comments apply also in a lesser degree to the minimum charge of 20% of the applicable rate which was proposed for articles in shipments originating in San Francisco Territory.

<sup>5</sup> The density of furniture generally, of the bed-divans, and of cer- tain other articles were represented as follows:

	<u>Density in Pounds per Cubic Foot</u>
Furniture generally	3.3
Bed-divans	2.99 to 3.78
Foam rubber mattress	4.23
Double dresser	4.37
Small Mr. and Mrs. chest	6.41



the denser articles except to the extent that the greater revenues from the denser articles are offset by savings resulting from the favorable transportation characteristics mentioned. Petitioner in its showing did not undertake to relate the transportation of bed-divans to the denser articles in order to show that establishment of the proposed rule would not unduly favor the bed-divans over other articles of furniture. With respect to the other articles of furniture which because of weight and dimension would be subject to the reduced rates, it was not shown that those articles enjoy such favorable transportation characteristics that the rate reductions of the volume sought would be justified therefor.

For the reasons set forth hereinabove, it is concluded and the Commission finds that petitioner has not shown the proposed amendments to Minimum Rate Tariff No. 11-A to be reasonable, nondiscriminatory, and justified. The petition will be denied.

O R D E R

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

IT IS HEREBY ORDERED that the petition for modification of the rules and charges in Minimum Rate Tariff No. 11-A which was filed in this proceeding on July 22, 1954 by the Motor Truck Association of California, and which was subsequently amended, be and it hereby is denied.

Dated at San Francisco California, this 13th day of October, 1954.

[Signature]  
President  
MATIA J. [Signature]  
[Signature]  
[Signature]  
Commissioners