

**ORIGINAL**

DECISION No. 50834

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation )  
 into the rates, rules, regulations, )  
 charges and practices of all common )  
 carriers and highway carriers )  
 relating to consignments consisting )  
 of intrastate and interstate or )  
 foreign traffic. )

Case No. 5532

[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]

Edward M. Berol for Blankenship Motors, William Meinhold for Southern Pacific Company and Pacific Motor Transport, Glanz & Russell by Arthur Glanz for West Coast Fast Freight, Inc., respondents.

Glanz & Russell by Arthur Glanz for Los Angeles-Seattle Motor Express, Arlo D. Poe for Motor Truck Association of California, A.F. Schumacher and P. N. Kujachich for Owens-Illinois Glass Co., Pacific Coast Division, W. A. Newhoff, Jr., for Union Oil Co. of California, R. H. Hackley for Libby McNeill & Libby, Walter A. Rhode for San Francisco Chamber of Commerce, Carl F. Breidenstein for Cannery League of California, E. H. Chapman for Golden State Co., Ltd., Division, Foremost Dairies, Inc., Kenneth M. Robinson for Kaiser Steel Corporation, Frank L. Merwin for Kaiser Steel Corporation and California Manufacturers' Association, W. F. McCann for Johnson & Johnson, R. E. Tewson for Montgomery Ward & Co., and Edson Abel for California Farm Bureau Federation, interested parties.

William J. Kane and Hal F. Wiggins for the Commission staff.

O P I N I O N

In Decision No. 49681, dated February 16, 1954, in Case No. 5432, Petition for Modification No. 20, the Commission eliminated the following rule from Item 90 Series of Highway Carriers' Tariff No.2:

"3. Intrastate and Interstate Tonnage:

"(a) When property consisting of part intrastate and part interstate tonnage is received as a single shipment, the intrastate portion may be charged for at the rate which would be applicable on such portion were the entire quantity intrastate in character. In no event shall the aggregate charge on the intrastate and interstate portions be less than the charge herein provided for an intrastate shipment of the same combined quantity."

The revised Item 90 Series of Highway Carriers' Tariff No. 2 was made effective April 1, 1954.

On March 16, 1954, which was prior to the effective date of the revised Item 90 Series, the Commission upon its own motion instituted an investigation into the reasonableness, lawfulness and propriety of the rates, rules, regulations, charges and practices of all common carriers and highway carriers pertaining to consignments consisting of intrastate and interstate or foreign traffic. A public hearing was held on this order before Examiner Wilson E. Cline at San Francisco on October 14, 1954. The matter was taken under submission upon the filing of Exhibit No. 2 on October 21, 1954.

At the hearing Witness Frank L. Merwin, Manager of the Rate Department of Kaiser Steel Corporation, in his capacity as Chairman of the Special Subcommittee, Freight Traffic Committee of the California Manufacturers Association, submitted for consideration Exhibit No. 1, a proposed addition to Item 90 Series of Highway Carriers' Tariff No. 2 (now known as Minimum Rate Tariff No. 2), which reads as follows:

"3. Intrastate and Interstate Tonnage:

"When a straight shipment, or a split pickup shipment, or a split delivery shipment, consisting of part intrastate and part interstate tonnage, is received at a point or points in California, on one shipping document, for delivery at a point or points within the State, the minimum rate for the intrastate portion shall be the same as the rate

which would be applicable on such portion were the entire shipment intrastate in character. In no event shall the aggregate charge on the intrastate and interstate portions be less than the charge herein provided for an intrastate shipment of the same combined quantity. (See Note 4.)

"Note 4: The provisions of this rule will apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one shipping document."

Witness Merwin pointed out that mixed shipments are sent to Kaiser Steel as consignee with a consolidating agent such as Gibraltar Warehouse as the shipper. The weights of the interstate portion and the intrastate portion can be separately stated on the shipping document.

No one opposed the substance of this proposed addition to said Item 90 Series, and many shipper and carrier representatives supported the adoption of such addition.

Exhibit No. 2 has been proposed by Arlo D. Poe of the Motor Truck Association of California as an addition to Item 90 Series. This revision is designed to retain the substance of Exhibit No. 1 but more clearly and simply to state the rule. Exhibit No. 2 reads as follows:

"3. Intrastate and Interstate Tonnage:

"When a straight shipment, or a split pickup shipment, or a split delivery shipment, consisting of part intrastate and part interstate tonnage, is received by a carrier at a point or points of origin in California on one shipping document, for delivery at a point or points of destination within California, the rate or rates applicable to the intrastate portion may be determined as though the entire shipment were subject to the provisions of this tariff. In no event shall the aggregate of the charges on the intrastate and interstate portions be less than the charge herein provided for an intrastate shipment of the same combined quantity. The provisions of this rule will apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one shipping document."

In support of the need for the proposed addition to said Item 90 Series, Exhibits Nos. 3 through 7 were introduced through Witness R. E. Tewson, Regional Traffic Manager of Montgomery Ward & Co.

Montgomery Ward & Co. has warehouses at Oakland and at Los Angeles to which shipments of merchandise destined to its fifty-two retail stores in California are sent not only from various points within California but also from various points throughout the United States. At these two warehouses mixed shipments consisting both of intrastate and interstate portions are picked up by its carrier Blankenship Motors for delivery to various retail stores in California.

Exhibit No. 6 shows a breakdown for the month of November, 1953, of interstate and intrastate traffic in pounds moving from Oakland and from Los Angeles to ten principal Montgomery Ward & Co. stores in California as follows:

	<u>Interstate Pounds</u>	<u>Interstate %</u>	<u>Intrastate Pounds</u>	<u>Intrastate %</u>
From Oakland	184,700	39.71	280,410	60.29
From Los Angeles	<u>69,113</u>	14.09	<u>421,240</u>	85.91
Total Weight	253,813	26.59	701,650	73.44

Exhibit No. 7 shows the impact of the elimination of Rule 3(a) from Item 90 Series on mixed shipments from Oakland and from Los Angeles during the period November 2 through 9, 1953. Had Rule 3(a) not been applicable during this period of time the freight charges on mixed shipments coming within the rule from Oakland would have been 9.55 per cent higher and from Los Angeles 5.29 per cent higher.

Witness Tewson stated that in his opinion a mixed shipment should be rated as a single shipment because there is no difference in the characteristics of the intrastate and the interstate portions. The elimination of Rule 3(a) from Item 90 Series has already resulted

in an increase of approximately \$50,000 in freight charges paid by Montgomery Ward & Co. Witness Tewson further stated that in some parts of the country Montgomery Ward & Co. has instituted proprietary operations where transportation costs have become excessive.

Witness Tewson was of the opinion that there would be no difficulty in designating which portion of a mixed shipment is intrastate and which is interstate.

It was conceded by the parties at the hearing that the mixed shipments to which the proposed rule would apply should be carried between points wholly within the State of California, and that the carrier should physically receive and physically deliver the shipment at such California points. In order that there will be no transshipment of the interstate portion prior to such physical delivery of the goods by the carrier, the rule is to be applicable only where the shipment moves under a single contract of carriage embodied in one shipping document.

Under the rule as proposed in certain instances a change in interstate rates would affect the intrastate rates on mixed shipments. Administrative, legal and economic difficulties are posed by a rule which in effect incorporates by reference certain interstate rates into the provisions of Minimum Rate Tariff No. 2. This Commission is of the opinion that it should establish intrastate rates which are independent of interstate rates. The requested provision that in no event shall the aggregate of the charges on the intrastate and

interstate portions be less than the charge herein provided for an intrastate shipment of the same combined quantity will be omitted from the rule which will be adopted. The rule which is adopted will also make clear that all points of origin and destination must be within California and will provide that certain information necessary for the administration of the rule must be shown on the shipping documents.

We hereby find that the following rule relating to mixed shipments should be added to Item 90 Series of Minimum Rate Tariff No. 2:

"3. Traffic for which rates are named in this tariff, moving in mixed shipments containing traffic on which interstate rates are applicable, shall be subject to the following provisions:

"(a) When a shipment consisting both of traffic for which rates are named in this tariff and traffic on which interstate rates are applicable, is received by a carrier at a point or points of origin for delivery by a carrier at a point or points of destination, all of which points of origin and destination are located wholly within California, the charges on the traffic subject to the rates named in this tariff may be computed at the separate rates applicable to such traffic based upon the combined weight of the entire mixed shipment. The minimum weight shall be the highest provided for any of the intrastate rates used in computing the charges, subject to Item No. 80.

"(b) The provisions of this paragraph shall apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one shipping document on which are shown separately (1) for the intrastate portion and each component part thereof, and (2) for the interstate portion and each component part thereof, the name of each shipper and consignee, each point of origin and point of destination, and the quantity, kind and weight of the property transported. The weight of the entire shipment shall also be shown.

"(c) The word 'shipment' as used in this item shall include a split pickup shipment or a split delivery shipment.

"(d) The term 'interstate' as used in this item means interstate or foreign."

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:

1. That Minimum Rate Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended) be and it is hereby further amended by incorporating therein, to become effective January 1, 1955; Original Page 17-A and Ninth Revised Page 17 cancels Eighth Revised Page 17, which pages are attached hereto and by this reference made a part hereof.

2. That tariff publications required to be made by common carriers pursuant to this order shall be made effective not later than January 1, 1955, and on not less than five days' notice to the Commission and to the public.

3. That in all other respects the aforesaid Decision No. 31606, as amended, shall remain in full force and effect:

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

Dated at San Francisco, California; this 7<sup>th</sup> day of DECEMBER, 1954.

John E. Mitchell  
President  
Justice F. Caldwell  
Marion H. Foster  
Deane Deaggers  
Ray G. Winters  
Commissioners

Item No.	SECTION NO. 1-RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">MIXED SHIPMENTS</p> <p>(1) 1. Commodities for which rates are provided in this tariff:</p> <p style="padding-left: 40px;">(a) When two or more commodities for which different ratings are provided, are shipped as a mixed shipment, without actual weights being furnished or obtained for the portions shipped under the separate ratings, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest classed or rated commodity contained in such mixed shipment, subject to Item No. 80 .</p> <p style="padding-left: 40px;">(b) When two or more commodities are included in the same shipment and separate weights thereof are furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates used in computing the charges, subject to Item No. 80 . In the event a lower charge results by considering such commodities as if they were divided into two or more separate shipments such lower charge shall apply.</p> <p style="padding-left: 80px;">(1) Paragraph 1 hereof will not apply to mixed shipments which are subject to the provisions of Item No. 365 of this tariff.</p> <p>2. Commodities for which rates are provided herein, moving in mixed shipments containing commodities for which rates are provided in other effective tariffs of the Commission, or in mixed shipments containing commodities upon which no minimum rates or charges have been established by this Commission:</p> <p style="padding-left: 40px;">(a) When one or more commodities for which rates are not provided in this tariff are included in a shipment of one or more commodities for which rates are herein provided, the rate or rates applicable to the entire shipment may be determined as though all of the commodities were ratable under the provisions of this tariff; or one or more of the commodities for which rates are not provided in this tariff may be transported at the rates otherwise applicable. In the event the latter basis is used, the minimum charges provided in Item No. 150 of this tariff shall apply to the entire shipment. (See Notes 1, 2, 3, 4 and 5.)</p> <p style="padding-left: 80px;">NOTE 1.-The provisions of this rule will not apply to mixed shipments containing petroleum or petroleum products in bulk in tank trucks, tank trailers or tank semi-trailers for which rates are provided in tariff designated City Carriers' Tariff No. 5, Highway Carriers' Tariff No. 6.</p>

\*90-I  
Cancels  
90-II



NOTE 2.-The provisions of this rule will not apply to mixed shipments containing used property, viz.: household goods, personal effects and office and store fixtures and equipment, for which rates are provided in the tariff designated City Carriers' Tariff No. 3-A, Highway Carriers' Tariff No. 4-A.

NOTE 3.-The provisions of this rule will not apply to mixed shipments containing fresh fruits, fresh vegetables (including fresh mushrooms) or empty containers for which rates are provided in the tariff designated Minimum Rate Tariff No. 8.

NOTE 4.-The provisions of this rule will not apply to mixed shipments containing uncrated new furniture for which rates are provided in Minimum Rate Tariff No. 11-A. All commodities in such mixed shipments may be rated under the provisions of Minimum Rate Tariff No. 11-A, or the commodities for which rates are provided herein may be rated under the provisions of this tariff as separate shipments.

NOTE 5.-The provisions of this rule will not apply to mixed shipments containing motor vehicles and other commodities moving in truckaway service for which rates are provided in Minimum Rate Tariff No. 12.

\*(Continued)

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\*Change, Decision No. **50834**

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EFFECTIVE JANUARY 1, 1955

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

Correction No. 642

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Item No.	SECTION NO. 1-RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
6 90-1	<p style="text-align: center;">MIXED SHIPMENTS (Concluded)</p> <p>3. Traffic for which rates are named in this tariff, moving in mixed shipments containing traffic on which interstate rates are applicable, shall be subject to the following provisions:</p> <p>(a) When a shipment consisting both of traffic for which rates are named in this tariff and traffic on which interstate rates are applicable, is received by a carrier at a point or points of origin for delivery by a carrier at a point or points of destination, all of which points of origin and destination are located wholly within California, the charges on the traffic subject to the rates named in this tariff may be computed at the separate rates applicable to such traffic based upon the combined weight of the entire mixed shipment. The minimum weight shall be the highest provided for any of the intrastate rates used in computing the charges, subject to Item No. 80.</p> <p>(b) The provisions of this paragraph shall apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one shipping document on which are shown separately (1) for the intrastate portion and each component part thereof, and (2) for the interstate portion and each component part thereof, the name of each shipper and consignee, each point of origin and point of destination, and the quantity, kind and weight of the property transported. The weight of the entire shipment shall also be shown.</p> <p>(c) The word "shipment" as used in this item shall include a split pickup shipment or a split delivery shipment.</p> <p>(d) The term "interstate" as used in this item means interstate or foreign.</p>
6 Reduction, Decision No.	50534
EFFECTIVE JANUARY 1, 1955	
Issued by the Public Utilities Commission of the State of California, San Francisco, California.	
Correction No. 643	