

Decision No. 51086**ORIGINAL**

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 general)
 commodities (commodities for which)
 rates are provided in Minimum Rate)
 Tariff No. 2).

Case No. 5432
 (Pet. No. 29)

(See Appendix "A" hereof for Appearances)

O P I N I O N

By Petition for Modification No. 29 filed in this proceeding, the Truck Owners Association of California and the Motor Truck Association of California¹ seek increases in the minimum rates and charges contained in Minimum Rate Tariff No. 2 (formerly Highway Carriers' Tariff No. 2).

Public hearings were held before Examiner Carter R. Bishop at San Francisco on July 7 and 8, 1954, and at Los Angeles on June 29, July 1 and August 10, 1954. On the last-named date the matter was taken under submission. By petition filed November 27, 1954, petitioners herein requested that the submission of Petition No. 29 be set aside and that the proceeding be reopened for further hearing in order that more recent information concerning the costs of transportation and the operating results of carriers might be made a part of the record. Accordingly, Petition No. 29 was reopened and further hearing was held on December 14 and 16, 1954, in San Francisco and Los Angeles, respectively. The matter is now ready for decision.

¹ Effective June 23, 1954, the name of The Motor Truck Association of Southern California was changed to "Motor Truck Association of California."

Minimum Rate Tariff No. 2 names minimum rates and charges for the transportation of general commodities over the public highways in this State by radial highway common carriers and highway contract carriers. The same rates and charges have also been established, with some exceptions, as the reasonable and sufficient minimum rates and charges for railroads, highway common carriers and other common carriers. (See Decision No. 31606 dated December 27, 1938, in Case No. 4246, as amended, 41 CRC 671.) The provisions of Minimum Rate Tariff No. 2 have been revised from time to time. They were extensively revised and adjusted effective March 1, 1953 (Decision No. 48189, 52 Cal. P.U.C. 385). Since then an upward adjustment was made, effective September 10, 1953, to compensate for increases in fuel taxes, in fuel prices and in wage rates.

Petitioners allege that since the latest adjustments in the minimum rates the costs of transporting property by motor vehicle in California have increased and will advance further in the immediate future, as the result of wage increases of practically all classifications of employees of highway carriers, that their member carriers are not in a position to absorb this additional wage expense, and that as a result of the increases in labor costs the present minimum rates and charges are unreasonably low and are inadequate to produce revenues sufficient to return the cost of service and a reasonable profit. Petitioners propose increases in the minimum rates ranging from two per cent to four per cent, and increases in the various accessorial and other charges by amounts up to five and one-half per cent, assertedly to meet the changes in costs. Petitioners also request that common carriers be authorized to make corresponding increases in rates and charges applicable to the transportation of commodities for which minimum rates have not been established.

The director of research for the Motor Truck Association of California and the industrial and labor relations directors of petitioners testified in support of the petition. The director of research introduced a series of exhibits, which included summaries of wage agreements applicable to all sections of the State, financial statements reflecting the operating results of 82 highway carriers and a detailed development of rate increases necessary to offset the advance in wages.²

In explanation of his exhibit relating to the development of the sought rate increases the director testified that the various increases proposed directly reflect the percentages by which the total costs of performing the various carrier services, according to length of haul and weight of shipment, have increased as a result of the above-mentioned advances in wages. These percentages, he said, were determined by adjusting for the 1954 wage increases the unit operating costs which the Commission's staff had developed in 1953 in connection with the general rate increase proceeding of that year.³ The record indicates that the unit costs developed by the staff in 1953 were, in turn, calculated by adjusting for increases in expenses the basic cost factors which it had developed in its 1952 studies and those of earlier years. Thus, the director explained that current expense levels, as ascertained by him, were predicated upon the weighting factors of the various cost elements which the Commission's staff had employed in the above-mentioned studies and upon the performance factors which the staff had developed in those studies.⁴ The

² According to the record only increases in the wages of local, short-line and long-line drivers have been utilized in the director's calculations. These increases became effective on various dates.

³ Petition No. 9 in Case No. 5432. It resulted in the rate adjustment of September 10, 1953, mentioned above.

⁴ Among the labor cost elements involved were those relating to pickup, delivery, terminal, line-haul and peddler trip operations.

director stated that he had found no appreciable changes in any of the performance factors since the 1953 rate adjustments were made. This statement was based upon a running check of performance which his office assertedly makes, both by actual observation of operations and by reviews of carrier records.

The revenue studies introduced by the director included the operating results of a selected group of 82 carriers, for the calendar year 1953 and for the first nine months of 1954.⁵ The operating results shown in the study, the witness stated, were taken directly from the carriers' records, with only minor adjustments.⁶ The revenues of the carriers utilized in the study covered a wide range in magnitude. The operating ratios as calculated by the director, before provision for income taxes, ranged from 69.42 per cent to 113.09 per cent for 1953 and from 74.14 per cent to 121.04 per cent for the first nine months of 1954. The weighted average operating ratios for the entire group of 82 carriers were, before provision for income taxes, 98.05 per cent and 98.00 per cent for 1953 and the above-mentioned portion of 1954, respectively.

According to the witness the 82 carriers were selected, by a process of elimination, from a much larger group. In his opinion they were representative of the for-hire carriers throughout the State engaged in the transportation of property for which rates are provided in Minimum Rate Tariff No. 2. They were fairly evenly divided between

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The witness also introduced an exhibit in which were summarized the operating results of these same carriers for the first quarter, first four months, and third quarter, respectively, of 1954.

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The adjustments included the elimination of improper items, such as interest. No adjustment was made for 1954 wage increases, nor for the rate increases of 1953. In many instances owner-drivers did not include any salary for themselves. In such cases, the witness stated, no adjustment was made to reflect such an allowance.

those whose operations are based in northern and southern California. The group included carriers whose operations are predominantly certificated as well as those who operate primarily as permitted carriers. It embraced carriers who are characterized as truckload haulers and those whose operations are essentially those of a less-than-truckload carrier. Assertedly, at least one half of the revenues of each of the carriers utilized accrued in connection with transportation performed under the provisions of Minimum Rate Tariff No. 2.⁷ The witness estimated that close to 90 per cent of the total revenues, earned from all sources, of the carriers as a group accrued from transportation subject to the provisions of that tariff.⁸

The director stated that the carriers had given careful consideration to the question whether the establishment of the increases sought herein would result in a diversion of traffic from the for-hire haulers to proprietary carriage. The carriers had concluded, he said, that the amount of the proposed rate increases was so small that there would be no appreciable diversion in the event that the petition were to be granted.

At the first series of hearings an assistant freight traffic manager of the Southern Pacific Company testified on behalf of that carrier and its affiliates, and on behalf of The Atchison, Topeka and Santa Fe Railway Company, The Western Pacific Railroad Company and the Union Pacific Railroad Company. This witness stated that in the

⁷ This estimate includes transportation of shipments on which railroad or other common carrier rates were assessed under the so-called "alternative application" provisions of the tariff in question.

⁸ Highway transportation not subject to the provisions of Minimum Rate Tariff No. 2 includes, among others, that subject to the provisions of other minimum rate tariffs, transportation of so-called "exempt" commodities, and transportation which is not under the jurisdiction of this Commission.

event the Commission should grant the petition herein in full or in part, the rail lines would accept and apply as minimum on all less-than-carload traffic and on carload class rate traffic such minimum rates as the Commission might prescribe. He said that in previous minimum rate proceedings the Commission had found that the motor carriers are the rate-making carriers in the less-than-carload field. The railroads, he also stated, recognize that, in order for the various classes of carriers to be in a competitive position, a parity of minimum rates must be maintained.

At the further hearing additional testimony on behalf of the rail lines was adduced by an accounting officer and by a commerce agent, both of Southern Pacific, and by the assistant general manager of the Santa Fe Transportation Company.⁹ The accounting officer testified that as a result of agreements reached in 1953 and 1954 with the railroad brotherhoods and the unions of the nonoperating employees wage increases and employee benefits were granted which, on an annual basis, would amount to approximately \$11,680,000.¹⁰ This figure, the witness said, relates to the Pacific Lines of Southern Pacific and applies to both passenger and freight operations. The witness was unable to state what proportion of the total increase was attributable to freight transportation, to traffic moving between points in California, or to California intrastate traffic.

According to the accounting officer, the above-mentioned item of increased wage expense would reflect, on the basis of the

⁹ Santa Fe Transportation Company is a highway common carrier, wholly owned by The Atchison, Topeka and Santa Fe Railway Company. It serves generally the same points in California as are reached by the latter.

¹⁰ The figure quoted includes an estimate of \$10,380,000 for increased wage expense and \$1,300,000 for payments by the carrier, under an agreement effective in January 1955, to the employees' health and welfare plan.

carrier's experience in 1954, an increase of 4.41 per cent over what it would have paid, had the increases not been granted.¹¹ He testified that the agreements which resulted in the wage increases in question were nationwide in their application and involved at least all Class I railroads. The cost of materials and supplies, the witness said, had not appreciably changed since the last increase in minimum rates.

The commerce agent and the assistant general manager testified regarding the operations of Pacific Motor Trucking Company and Santa Fe Transportation Company, respectively.¹² According to the record each of these highway carriers performs pickup and delivery service and so-called substituted line-haul service for its parent company in the transportation generally of less-than-carload shipments on rail billing between points in California. Practically all such shipments of The Atchison, Topeka and Santa Fe Railway are so handled and transported by Santa Fe Transportation Company, and nearly all such shipments of Southern Pacific where the length of haul is less than 200 miles are similarly handled and transported by Pacific Motor Trucking Company.

Assertedly, as compensation for the service it renders in connection with the above-described traffic Santa Fe Transportation Company receives a specified portion of the total revenue accruing to the parent company for the transportation involved. The Southern Pacific witness was unable to indicate the basis of compensation to

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The record discloses that the estimated wage expense of Southern Pacific (Pacific Lines) for 1954 was less than that incurred in 1953. The figures given by the witness for those years were \$275,051,000 and \$289,320,000, respectively. The average number of employees in 1954 was 59,069; the corresponding figure for 1953 was 64,593.

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Pacific Motor Trucking Company is a highway common carrier, and a wholly owned subsidiary of Southern Pacific Company. Many of the points in California which it serves are also reached by the rails of the parent company.

Pacific Motor Trucking for the corresponding services which it renders Southern Pacific.¹³

Counsel for the San Francisco Draymen's Association and for the Draymen's Association of Alameda County directed attention to the six per cent surcharge now applicable within a defined 12-county area centering on San Francisco. It is the position of the draymen's associations, he said, that any increase granted as a result of this petition should be without adverse effect on that surcharge.

The president of Southern California Freight Lines and affiliates testified in support of the petition. He adduced figures showing that during the past year the operating expenses of the carriers he represents have increased while revenues have declined. He expressed the view, however, that the ultimate solution of the problem of securing adequate revenues lay in the extensive revision of classification ratings with a view to eliminating asserted long-standing maladjustments, rather than in general rate increases.

Statements of position were made by various shipper representatives. Most of these were to the effect that the petition should be dismissed in whole or in part. Some shippers asserted that the minimum rates should not be changed but that common carriers, on a showing of need for adequate revenues, should be permitted to increase their published rates. Others said that no increases should be authorized in railroad rates on the ground that no evidence of probative value, in compliance with Section 726 of the Public Utilities Code, had been offered by the rail lines.

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The record discloses that Pacific Motor Trucking Company and Santa Fe Transportation Company are parties to the wage agreements negotiated by petitioners and, like other highway carriers, have experienced increased labor costs since the last increase in minimum rates.

It is apparent from the revenue and expense showings introduced by petitioners that some of the highway carriers involved herein may urgently need financial relief. This group includes some of the largest operators as well as some of the smaller carriers. Common carriers which find themselves in this condition may file with the Commission applications seeking authority under Section 454 of the Public Utilities Code to make such increases in their published and filed rates, rules and regulations as they deem proper under the circumstances. Such applications will be given prompt consideration. Permit carriers, of course, do not need advance authority from this Commission to make reasonable increases in their rates, rules and regulations.

There are important deficiencies in the record from the standpoint of proposed changes in minimum rates. In particular, the evidence relative to railroad rates and charges is inadequate. The Public Utilities Code provides that in any rate proceeding where more than one type of carrier is involved, the Commission shall consider all such types or classes of carriers and 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 (Sec. 726). The evidence adduced with respect to the rail carriers, as outlined in preceding paragraphs, is insufficient to meet the above-mentioned requirements of the Public Utilities Code.

Moreover, the process by which petitioners have pyramided wage increases on top of previously developed operating costs of highway carriers is open to question, in that it does not give due weight to the effect of improved carrier efficiency as well as to the 1954 wage increases and to other changed cost factors.

The evidence adduced by each of the witnesses who testified in this phase of Case No. 5432 has been carefully weighed and appraised

in the light of the governing constitutional and statutory provisions. Likewise, the arguments presented by counsel for petitioners and for other interested parties have been fully considered. The evidence fails to establish with the certainty that is necessary in proceedings of this character that increased minimum rates are required. Accordingly, it is our conclusion, and we hereby find, that the sought rate increases have not been justified on this record. The petition will be denied.

Prior to the original submission, counsel for the California Manufacturers Association requested that an examiner's proposed report be issued. At the further hearing this request was reiterated by the western traffic manager of Gerber Products Company. The request is hereby 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 Petition for Modification No. 29 in Case No. 5432 be and it is hereby denied.

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

Dated at San Francisco, California, this 7th day of September, 1955.

[Handwritten signature]
President
[Handwritten signature]
[Handwritten signature]

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX "A"

Appearances

- Arlo D. Poe, for the Motor Truck Association of California and the Truck Owners Association of California, petitioners.
- J. C. Kaspar, for the Motor Truck Association of California, petitioner.
- R. D. Boynton, for Truck Owners Association of California, petitioner.
- Marvin Handler, for Draymen's Association of San Francisco and Draymen's Association of Alameda County, interested parties, in support of petitioners.
- R. D. Adams, M. Lee Astor, James F. Bartholomew, Henry J. Bischoff, E. L. H. Bissinger, Donald M. Cooper, Joseph J. Cousimano, Jack R. Decker, A. L. Demek, W. V. Duckett, Thomas R. Dwyer, George Dyck, Robert H. Fuller, Lester M. Grainger, W. B. Grummel, Harold M. Hays, Armand Karp, Fred Kenny, E. J. McSweeney, William Meinhold, Frederick C. Pfrommer, Roger L. Ramsey, A. R. Reader, John B. Robinson, O. H. Scott, C. A. Sprengelmeyer and Stephen W. Stewart, for various for-hire carriers, respondents.
- William J. Knoell and Maurice A. Owens, for certain carrier associations, interested parties.
- A. R. Allan, P. J. Arturo, John Bruner, D. E. Burnham, R. C. Chamberlain, E. R. Chapman, Jack Clodfelter, Gerald W. Collins, William T. Crowley, S. A. Fenster, E. Nicholas Ferretta, James A. Gayle, Donald J. Griley, George R. Groth, W. P. Gunn, Ruth Church Gupta, W. J. Haener, Lawrence R. Horka, Charles E. Houlihan, M. S. Housner, R. T. Hunt, Rudolph Illing, William G. Jackson, John F. Kirkman, P. N. Kujachich, Franklyn E. Landes, E. J. Leach, W. E. Maley, Earl M. Matson, W. F. McCann, J. R. McNicoll, Frank L. Merwin, L. C. Monroe, John E. Myers, W. O. Narry, Don Neher, A. E. Norrbom, H. C. Noy, W. G. O'Barr, L. E. Osborne, Allen K. Penttila, C. J. Riedy, Raymond Ristrom, J. L. Roney, Harry H. Ross, Philip J. Ryan, Jack P. Sanders, Edward J. Schilz, A. F. Schumacher, Sr., Frank A. Small, J. A. Sullivan, C. J. Van Duker, F. Z. Wakefield, Milton A. Walker, Louie H. Wolters, Cromwell Warner, Kenneth J. Wion, N. E. Keller, Herbert Wolff, and A. L. Russell, for various shippers and shipper organizations, interested parties.
- Grant L. Malquist and J. A. McCunniff, for the Commission's staff.

End of Appendix "A"