

Decision No. 51582**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 uncrated new fur-)
 niture (commodities for which rates)
 are provided in Minimum Rate Tariff)
 No. 11-A).)

Case No. 5603
 Petition No. 2

Arlo D. Poe and J. C. Kaspar, for California Trucking Associations, Inc., petitioner.
Eddy S. Feldman and Anthony V. Danna, for Furniture Manufacturers Association of Southern California;
A. L. Russell, for Sears Roebuck & Co.; R. E. Tewson, for Montgomery Ward & Co.; W. G. O'Barr, for Los Angeles Chamber of Commerce; and H. K. Wilson, for Barker Bros. Corporation, interested parties.
R. C. Fels, for Crocker Mohawk Lines, Inc.; Melvin W. Pixley, for Pixley Transportation; and John B. Robinson, for Southern California Freight Lines, respondents.
Cyril M. Saroyan and Grant L. Malquist, for the Commission staff.

INTERIM OPINION

By petition filed February 18, 1955, the California Trucking Associations, Inc., seeks an interim increase of 10 per cent in all rates and charges contained in Minimum Rate Tariff No. 11-A pending the determination by the Commission of modifications, adjustments and revisions in the rates, charges, rules and regulations which the petitioner believes necessary in order to provide just, reasonable and nondiscriminatory minimum rates for the transportation of uncrated new furniture. The petitioner alleges that the present rate structure is unreasonable and is not sound. In order to present adequately its proposals for revisions in the rate structure, it will

need time to develop a full study of the characteristics of the transportation involved. Petitioner alleges that there is an urgent and immediate need of additional revenue by carriers engaged in the transportation of uncrated new furniture; hence, an interim increase in rates is necessary for the reason previously indicated.

Public hearing of the petition for an interim increase in minimum rates was held before Examiner J. E. Thompson at Los Angeles on March 29 and 30, 1955.

The Present Rate Structure

Minimum rates for the transportation of uncrated new furniture were established by the Commission effective July 1, 1954. The rates, in cents per one hundred pounds, are applicable state-wide and are predicated upon distance as computed in accordance with the provisions of the Commission's Distance Table No. 4. Point-to-point minimum rates are prescribed for transportation between Los Angeles Territory and San Francisco Territory. These rates do not include pickup service. When point of origin is other than carrier's established depot an additional rate for the pickup is prescribed. Two scales of rates are provided for distance rates and pickup rates, one for shipments having point of origin in one of the twelve counties in the San Francisco Bay area ("Column B" rates in Items Nos. 60 and 400 series), and the other for shipments having origin in other than one of the twelve counties ("Column A" rates in the aforesaid items).

The Evidence

Evidence was submitted by an accountant employed in petitioner's research division, by three carrier representatives and by two shipper representatives.

The accountant introduced and explained an exhibit consisting of a summary of the operating profit and loss statements of eleven highway carriers and a summary of the wage rates of drivers, helpers, mechanics and other types of employees used by the carriers. The accountant stated that at the time he prepared the exhibit there were to his knowledge only twelve carriers in the State predominantly engaged in the intrastate transportation of uncrated new furniture. He was not able to include the operating results of one carrier because at the time he made his study the records of this carrier were not current or in such condition as to permit the extraction of necessary data.

The wage rate summary shows that effective March 1, 1955, employees of carriers operating out of Los Angeles County received an increase in wage rate of approximately 5 per cent. The carrier operating in the San Francisco Bay area has not experienced a wage increase since June 10, 1954. The accountant is of the opinion that Bay area drivers' and helpers' wages will be increased in June 1955 when the present contract expires.

The following tabulation consists of the individual and consolidated statements shown in the accountant's exhibit for the eleven carriers engaged in the business of transporting uncrated new furniture.

Summary of Income Statements of Carriers
Engaged in Transporting Uncrated New Furniture
Period July 1, 1954 to December 31, 1954

Carrier	Operation (1)	Operating Revenue	Operating Expense	Operating Ratio	Modified Expense (2)	Modified Operating Ratio
1	Cert. 95%	\$ 77,905	\$ 85,943	110.32	\$ 87,612	112.46
2	Cont. 100%	122,673	120,331	98.09	122,724	100.04
3	Rad. 100%	62,819	62,687	99.79	63,990	101.86
4	Cont. 90%	42,250	42,124	99.70	42,816	101.34
5	Cert. 95%	102,773	100,954	98.23	103,245	100.46
6	Cert. 98%	202,864	240,897	118.75	243,522	120.04
7	Cont. 100%	37,023	38,120	102.96	38,659	104.42
8	Rad. 100%	10,750	12,543	116.68	12,543	116.68
9	Cert. 100%	61,408	58,280	94.91	58,280	94.91
10	Cont. 100%	45,652	44,922	98.40	45,558	99.79
11	Cont. & Rad.	3,302	4,632	140.28	4,632	140.28
Consolidated		\$769,419	\$811,433	105.46	\$823,581	107.04

(1) Cert. means highway common carrier. Cont. means highway contract carrier. Rad. means radial highway common carrier. The percentage figure shows the extent of operation of the type indicated in transporting shipments subject to Minimum Rate Tariff No. 11-A.

(2) Modified Expense consists of the operating expense adjusted to show only the increase in wage rates for carriers operating out of Los Angeles County.

While the operating revenue figures include amounts received for transportation of uncrated furniture not subject to the minimum rate tariff, over 90 per cent of the consolidated revenue figure represents earnings from transportation subject to the minimum rates with which we are here concerned.

The principal operation of Carriers Nos. 2, 3, 4, 6, 7, 8 and 11 is from Los Angeles to points north of Santa Barbara and Bakersfield. Carriers Nos. 1, 5 and 10 operate principally from Los Angeles to other points in Southern California. Carrier No. 9 performs transportation from points in the San Francisco Bay area to places within a radius of approximately 150 miles from San Francisco. This

carrier is the only one of the eleven whose operation is subject to "Column B" rates, the others perform transportation subject to "Column A" rates.¹

The exhibit does not completely present the situation respecting the financial needs of the carriers. The accountant did not make any adjustment for increases in payroll taxes, compensation insurance or other expenses which are based upon general wage levels, including increases to salaried employees.

The three carrier witnesses testified that their financial condition was much more serious than that indicated in the accountant's exhibit. The book record of depreciation expense was used by the accountant in his exhibit. Much of the equipment used by the carriers has reached the end of its recorded service life. The low depreciation expense as shown by the book record makes the operating results look much more favorable than if the depreciation were treated on a remaining-life basis. The period selected by the accountant represents the favorable business period for the carriers. Two of the witnesses stated that they had made a determination of their operating results for the months of January and February, 1955 and found that severe losses were incurred which are far greater than those reflected in the exhibit.

According to the witnesses, besides the recent wage increases, the present rate structure, together with changes in the character of traffic, contributes to the poor operating results of the carriers. It is their contention that, under the present rates, the lighter weight articles are not bearing their share of

¹

It should be noted that the carrier not included in the exhibit serves manufacturers located in Los Angeles and vicinity; therefore, Carrier No. 9 assertedly is the only carrier in the State predominantly engaged in the business of uncrated new furniture who transports uncrated furniture in any significant volume from points of origin in the 12 San Francisco Bay Counties.

transportation costs and that the revenue earned from transportation of small shipments does not produce more than cost. Since the effective date of Minimum Rate Tariff No. 11-A there has been an acceleration of a trend towards smaller shipments and lighter furniture. According to the witnesses, retailers no longer inventory different colors of the same article of furniture as they did in the past. The present merchandising trend is towards having a sample piece of furniture with swatches of available materials, and upon making a sale, to order the piece from the manufacturer. This practice has resulted in the carriers' receiving smaller shipments and making more numerous stops per truckload. The witnesses also testified that in the past year manufacturers have been marketing lighter furniture. This is apparently due to the use of new materials such as plastic and also due to a buyer's desire for the lighter type of furniture. The result has been that the carriers receive less revenue for transporting the same number of pieces than they received when the tariff became effective. The carriers stated that their payloads are not limited by weight but upon the space the furniture occupies in the trucks. The furniture has not diminished in size but only in weight, therefore they receive less revenue per truckload.

The two shipper representatives corroborated the testimony of the carrier witnesses as it pertained to weight of shipments and articles of furniture and also respecting alleged defects in the present rate structure. These witnesses state, however, that while the lighter weight article of furniture could bear increased rates, the present rates on the heavier pieces are all that the traffic will bear. Los Angeles manufacturers compete with furniture makers in eastern states and, to a limited extent, with manufacturers in the San Francisco Bay area. Effective January 15, 1955, there was a

15 per cent decrease in transcontinental rail rates on furniture. The Los Angeles manufacturers are presently finding it difficult to compete in the marketing cities in California. Of particular concern is the marketing of "sleepers".² They constitute a substantial portion of the business of the furniture manufacturers and it is a highly competitive item. At the present time one manufacturer has dispatched motor vehicle equipment, which is ordinarily used in other phases of his business, to the San Francisco Bay area with its "sleepers". Another shipper from time to time is crating the heavier items and uses rail transportation. According to the witnesses, if the minimum rates are increased in the heavier items, particularly "sleepers" the other manufacturers will have to divert shipments of those items from the furniture carriers and attempt to find other means of transporting the heavier items to the competitive markets. They testified that, if such traffic were diverted, the carriers would have poorer operating results than at present because these items are presently lightening the burden of the losses incurred by the carriers under the present rate structure from transporting the lightweight articles.

There was testimony by carrier and shipper witnesses that the largest furniture carrier had discontinued service approximately one week prior to the hearing³ and that two other carriers had discontinued operations within the past year, one of whom has undergone bankruptcy.

2

A sleeper is a sofa that can be converted into a bed. Generally they are shorter than a standard sofa but from 60 to 70 pounds heavier.

3

Furniture Fast Freight, Carrier No. 6 in the exhibit. On March 28, 1955, a complaint was filed, Furniture Manufacturers Association of Southern California vs. A.T.L., Inc., dba Furniture Fast Freight, alleging that Furniture Fast Freight discontinued highway common carrier service on or about March 21, 1955. Application No. 36894 was filed on April 15, 1955, by A.T.L., Inc., dba Furniture Fast Freight and Furniture Freight Forwarders for authorization to suspend highway common carrier operations for one year.

Contentions and Arguments

Both the shipper interests and the carriers contend:

(1) the present rate structure is unreasonable, discriminatory and is not suited to the transportation of uncrated new furniture, (2) the present rates are too low for lightweight articles, and (3) the rate structure should be revised and during the interim the Commission should issue an order calculated to increase the carrier operating revenues.

The petitioner and the shipper interests disagree in two principal respects: (1) the method whereby increases should be ordered, and (2) whether the Commission should consider that minimum rates are the going rates.

The petitioner urges that any alteration of the rate structure, other than a general increase, should be ordered only after a full record is made. It was argued that the only way that the results of an increase can be measured at this time is by a straight across-the-board increase. Petitioner urges that the Commission view the revenue needs of the industry as a whole. A 10 per cent increase in rates will produce an operating ratio of 98.45 for the eleven carriers combined. The petitioner asserts that it is unrealistic to assume, as has been previously indicated by the Commission, that permitted carriers are free to charge rates greater than the minimum rates or that common carriers can individually apply to the Commission for authorization to increase rates.⁴ It is contended that the forces of competition prevent the carriers from taking independent action, therefore a realistic approach requires that consideration be given to the industry as a whole.

⁴ Decision No. 51086, dated February 7, 1955, in Case No. 5432, Petition No. 29, 54 Cal. PUC 5.

The shipper interests contend that the position taken by petitioner that carriers are not individually free to charge more than the minimum rates is without foundation in fact. They state that carriers can and do individually negotiate with shippers for rates in excess of the minimum. They urge the Commission not to attempt to establish "going rates" but to place the rate level so that carriers and shippers can enter into negotiation respecting transportation charges which will reflect the favorable or unfavorable circumstance of individual hauls.

The shipper representatives suggest that the Commission prescribe a rule establishing a minimum weight of 25 pounds per article in a shipment and increase the present rates by 2 to 5 per cent providing, however, that such increase shall not apply to articles weighing over 150 pounds. In support of this proposal, they argue that the lighter weight articles, which presently do not produce to the carriers the cost of transportation, should bear the heavier burden of an increase in rates. They point out that a straight 10 per cent increase will only compound the present disparity in the rate structure between the lightweight articles and the heavier ones.

Discussion

The operating results of record on this proceeding serve to indicate the need of carriers operating under "Column A" rates for additional revenues. The record shows with clarity and certainty that recent revisions in labor agreements had the effect of increasing those carriers' over-all operating expenses by about 3 per cent. The wage adjustments in combination with other known cost increases have raised the total operating expenses by not less than 5 per cent. It has not been shown that the carrier operating in "Column B" territory

has recently experienced wage increases nor do the operating results show an emergency need for an increase in this carrier's revenues.

Other than the above, the record does not provide a satisfactory basis for determining to what extent or in what respects the minimum rates should be adjusted. It is appropriate at this point to discuss the contentions of the parties in this regard.

The argument of the parties on whether the Commission should establish minimum rates sufficiently high to assure reasonable return to the industry as a whole is academic. The Commission's rate-making power with respect to highway permit carriers is limited to the establishment of just, reasonable and nondiscriminatory maximum or minimum rates and rules as are necessary to the application and enforcement of such rates.⁵ As has been repeatedly pointed out in prior decisions, the statute does not contemplate the establishment by the Commission of "going rates" or minimum rates which are intended to be sufficiently high to assure reasonable remuneration to a cross section of carriers of all kinds.⁶

The shippers proposed that the carriers' revenues be augmented by the establishment of a rule providing for a minimum weight of 25 pounds per article in a shipment. The Commission recently gave careful consideration to such a proposal and on the evidence received in that proceeding found that the sought rule would be unreasonable and discriminatory.⁷ The evidence in this proceeding does not refute the grounds for the finding in the prior decision.

⁵ See Sections Nos. 3662, 3665, Public Utilities Code.

⁶ See Decision No. 47123 dated May 5, 1952, in Case No. 4808 and Decision No. 46912 dated March 27, 1952, in Case No. 4808, 51 Cal. PUC 586 at page 601.

⁷ Decision No. 50648 dated October 13, 1954, in Case No. 4808, 53 Cal. PUC 543.

The shippers also urge that an increase not be made applicable to articles weighing 150 pounds or more. The present record does not reveal the nature or the densities of the various articles that would be included in the proposed exemption; nor is there evidence respecting the effect such a provision would have upon the carriers' revenues.

Conclusions

Upon careful consideration of the facts and circumstances of record, the Commission is of the opinion and hereby finds that an interim increase of 5 per cent, to be applied to all rates except "Column B" rates in Items Nos. 60 and 400 series of Minimum Rate Tariff No. 11-A, is justified and necessary to assure continuance of the required transportation services. The necessity for further revisions and adjustments in the rates will be determined when the full record has been completed.

The interim adjustment will be established as a surcharge. Because of the immediate need for revenues by the respondents, the increase will be made effective July 15, 1955, the earliest day which will permit of printing, filing and distribution of tariffs. Highway common carriers will be authorized to increase their tariff rates as provided herein on not less than five days' notice to the Commission and to the public and to depart from Rule 8 of General Order No. 80 by issuing a special supplement to their tariffs providing for the increase.

INTERIM ORDER

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

IT IS HEREBY ORDERED that Minimum Rate Tariff No. 11-A (Appendix A of Decision No. 50114, as amended) be and it is hereby further amended by incorporating therein to become effective July 15,

1955, Supplement No. 1, which supplement is attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that tariff publications required to be made by common carriers as a result of the order herein may be made effective not earlier than the effective date hereof on not less than five days' notice to the Commission and to the public; that such required tariff publications shall be made effective not later than July 15, 1955; and that common carriers are authorized to depart from the provisions of Rule 8 of General Order No. 80 to the extent necessary to carry out the effect of the order herein.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 50114, as amended, shall remain in full force and effect.

Except as otherwise provided herein, the petition filed in this proceeding on February 18, 1955, by the California Trucking Associations, Inc., for an interim increase in minimum rates in Minimum Rate Tariff No. 11-A be and it is hereby denied. Evidence relating to other matters in Petition for Modification No. 2 in this proceeding will be received by the Commission at a time and place to be determined.

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

Dated at San Francisco, California, this 9th day of June, 1955.

[Signature]
President
[Signature]
[Signature]

Commissioners
JUSTUS P. CRAMER

Commissioner Boz Hardy, being necessarily absent, did not participate in the disposition of this proceeding.

SUPPLEMENT NO. 1

TO

MINIMUM RATE TARIFF NO. 11-A

NAMING

MINIMUM RATES, RULES AND REGULATIONS

FOR THE

TRANSPORTATION OF UNCRATED NEW FURNITURE

OVER

THE PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

RADIAL HIGHWAY COMMON CARRIERS

AND

HIGHWAY CONTRACT CARRIERS

◇ APPLICATION OF SURCHARGE

(a) Except as provided in paragraph (b) below, compute the amount of charges in accordance with the rates, rules and regulations of this tariff. Increase the amount so computed by five percent. Fractions will be disposed of in accordance with paragraph (c) below.

(b) The provisions of paragraph (a) will not apply to Column "B" rates set forth in Items Nos. 60 and 400.

(c) Fractions of less than one-half cent shall be dropped; fractions of one-half cent or greater shall be increased to one cent.

◇ Increase, Decision No. **515S2**

EFFECTIVE JULY 15, 1955

Issued by the
Public Utilities Commission of the State of California
State Building, Civic Center
San Francisco, California