



in the margin below.<sup>1</sup> By the above-named petition, as amended, Elmer Ahl seeks certain revisions in the minimum rates, rules and regulations as set forth in Minimum Rate Tariff No. 6 for the transportation of bulk petroleum products in tank truck equipment.

On February 16, 1956, subsequent to notice to persons and organizations believed to be interested, public hearing of the application and petition was held before Examiner C. S. Abernathy at San Francisco. Evidence in the matters was submitted by applicant's assistant and by representatives of four shipper oil companies.<sup>2</sup>

Generally speaking the proposals in the application and in the petition are substantially similar. In both matters Elmer Ahl seeks revision of provisions governing (a) charges applicable to mixed shipments, (b) demurrage charges for the detention of carriers' equipment, and (c) carrier allowances to consignees for acceptance of deliveries after normal working hours. In his petition he also seeks revision of minimum rate provisions governing charges on diverted shipments and on return shipments. These various matters are discussed below.

#### Minimum Charges Applicable to Mixed Shipments

Present rules and regulations of applicant's tariffs and of Minimum Rate Tariff No. 6 provide that the minimum charge applicable to the transportation of a mixed shipment (a shipment of two or more commodities for which different rates apply) shall be based on certain specified minimum gallonages or weights, according to the vehicle units or combination of vehicle units used in the transportation, and that the applicable charge will be that which would apply

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<sup>1</sup> Local Freight Tariff No. 3-D, Cal. P.U.C. 25; Local Freight Tariff No. 30-A, Cal. P.U.C. 26; and Local Freight Tariff No. 33-B, Cal. P.U.C. 27, published by Tank Truck Operators Tariff Bureau, Elmer Ahl, agent.

<sup>2</sup> The term "applicant" will be used herein to include "petitioner".

were the entire shipment composed of the commodity subject to the highest total charge under the provisions of the tariff. If lower charges result, each of the components may be rated as separate shipments.

Applicant alleges that these provisions create difficulties in billing, and proposes that minimum charges be assessed at the rates applicable to the separate commodities, and at the minimum weights or gallonages applicable to the individual vehicle units in which the components of the mixed shipments are transported. Applicant also proposes that where liquid asphalt, asphalt emulsion and road oil are transported as parts of mixed shipments a minimum weight of 18,000 pounds per truck, per trailer, or per semitrailer shall apply to such components. According to the allegations in the petition and the testimony of applicant's assistant, the proposal would result in increases in charges in some instances but, principally the effect would be to decrease the present charges.

Notwithstanding applicant's allegations it appears that, insofar as the minimum rate provisions are concerned, substantial increases in charges would result under the sought revisions. At present mixed shipments of petroleum products (except gasoline, liquefied gases, asphalt and road oil) are subject to a minimum of 5,000 gallons when transported in a combination of two vehicles. This minimum would be increased to 6,000 gallons or more. It appears that the increases and charges computed under the provisions of applicant's tariff would not be as great inasmuch as those rates and charges are based on the carrying capacity of the vehicles. The proposals in this respect, however, are ambiguous and to a certain extent in conflict with the minimum rate provisions. The showings in support of these proposals do not justify their adoption.

Demurrage Charges for Detention of Carriers' Equipment

Present provisions of applicant's tariffs Nos. 3-D and 30-A and of Minimum Rate Tariff No. 6 state that when, through no fault of the carrier, carrier's equipment is detained beyond a specified free time to complete loading or unloading a charge of \$2.58 shall be assessed for each half hour or fraction thereof beyond the free time that the equipment is detained. Applicant proposes that the basis of the charge be reduced to a one-quarter hour period with a corresponding adjustment of the charge to \$1.29 per one-quarter hour or fraction thereof. Assertedly, this adjustment is being sought in response to shippers' requests for charges more in conformity with the periods that the vehicles are detained. A witness for one of the oil companies testified that an analysis of his records pertaining to the payment of demurrage over a month's time had disclosed 59 instances where demurrage was paid and where the detention time in 37 of these instances was less than 15 minutes. Other of the oil companies' representatives also urged adoption of the proposed change. The change appears reasonable and will be adopted.

Allowance for Delivery After Hours

Applicant seeks to limit present tariff provisions which permit carriers to make an allowance to consignees of \$1.50 per hour, maximum allowance \$3.00, for the time consumed in unloading shipments when the consignees elect to receive the shipments on Sundays, Legal Holidays, or between the hours of 5 p.m. and 8 a.m. on other days. He proposes that the allowance be made

"only in the event that consignee's facilities are not normally operated at the time shipment is tendered for delivery."

In justification of this limitation, applicant points out that the allowance was established to provide compensation for extra

work and expense that consignees incur when they accept deliveries during times other than when they are customarily open for business. He asserts that no purpose is served in making the allowance on deliveries made during the times specified in the present tariff rule if the consignee's receiving facilities are normally open during these times.

The proposed rule lacks the definiteness that is essential to tariff rules suitable for general application. The unqualified term "normally" which is employed in the proposed rule is not sufficiently precise to be used as the governing determinant in the application of an allowance which, if granted by common carriers, should be granted without discrimination. The sought limitation will not be adopted or authorized.

#### Rates on Diverted Shipments

Generally speaking, the rates in applicant's Tariff No. 3-D and in Minimum Rate Tariff No. 6 vary according to the distance from origin to destination of the shipment transported. One exception relates to movements between defined areas, designated as groups, wherein are located principal facilities for the production, refining and marketing of petroleum products. Rates between points in separate groups are determined by the distances between basing points of the groups; thus, the rates from all points in one group to all points in another group are the same. In the case of diverted shipments, however, (shipments for which a point of destination or consignee or both are changed after the shipment leaves the point of origin) the group basis of assessing rates does not apply. Instead, the rates are based on the total distance from point of origin to point of ultimate delivery via each of the points where divergence occurs.

Applicant states that in certain instances the provisions for diverted shipments permit the transportation of shipments between groups at rates less than those which otherwise apply for intergroup movements. These instances arise where the distance between point of shipment and point of delivery is less than the distance between the basing points of the groups involved so that lower charges may be obtained by intentional diversion of the shipments en route. Assertedly, the availability of this avenue of avoiding the charges which would otherwise apply is a source of difficulty for shippers and carriers alike. As a remedy, applicant proposes that diverted shipments which originate at points within groups be subject to the same provisions as other shipments moving from the groups. This proposal was supported by the oil companies' representatives who presented evidence in the matter. These witnesses said that the different bases of computing transportation charges under the present tariff provisions presents particular pricing problems for their companies.

The present rule relating to diverted shipments was first established in 1953 pursuant to Decision No. 48756 (52 Cal. P.U.C. 624). As indicated in this decision, the rule was established in conjunction with certain other provisions for the purpose of clarifying and improving the regulations then in effect. It is clear that in operation the rule has had the unintended result of permitting the partial subversion of the long established group basis of rates in Minimum Rate Tariff No. 6 which was adopted for the primary purpose of providing rate equality for competing petroleum shippers located in the same general areas. It appears that the amendments which applicant proposes will restore the rate equality that formerly prevailed with respect to intergroup shipments

and that the restoration of this equality is in the interest of carriers and shippers alike. The amendments will be adopted or authorized.<sup>3</sup>

Rates on Returned Shipments

Under present rules of Minimum Rate Tariff No. 6 shipments, or portions of shipments, may be returned to point of origin at a rate that is one-half of the rate otherwise applicable from the point where the return is made. The return movements are subject to the same minimum charges as those which apply to the outbound movements and which vary according to the commodity transported and the unit or units of carrier's equipment utilized in the transportation. Applicant seeks establishment of an alternate rule so that charges on returned shipments may be computed on the basis of the gallonage returned subject to a minimum charge of \$20.00, in the event that lower charges would result. Incidental changes which applicant proposes be made in the present rule are (a) the assessing of charges on the return shipment at one-half of the outbound rate instead of one-half of the return rate, and (b) liberalization of the rule to include the return of shipments which have been contaminated and to apply to shipments which are returned in conjunction with a subsequent outbound movement instead of on the same trip as the outbound movement as at present.

Applicant's assistant stated that the purpose of this proposal is to provide more reasonable charges when the quantities

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<sup>3</sup> The proposed amendment will be adopted even though in one respect it appears inconsistent with the general objective of the present diversion rule that transportation charges on diverted shipments reflect the costs of additional mileage occasioned by diversions. Under petitioner's proposal no additional charges for additional distances traveled would apply in connection with intergroup movements where the points of diversion and point of ultimate delivery are all within the same destination group. However, because of the relative importance of the rate adjustment which petitioner seeks, it appears that adoption of the amendment should not be deferred pending development of any more suitable rule relating to intergroup diversions. Petitioner should, however, undertake to develop and submit appropriate provisions as soon as feasible governing intergroup diversions.

returned are small in comparison with the minimum quantities upon which the present charges are based. He said that the minimum charge of \$20.00 which would apply in connection with the alternate proposal was developed from a survey of the services which the carriers perform in the return of shipments and that it would be a compensatory charge. He said that extension of the provisions to include the return of contaminated shipments is intended to provide more reasonable charges for occasional contaminated shipments that must be returned to the refineries for reprocessing. The shipper representatives joined in the request for establishment of the proposed alternative basis of charges for the return of shipments. As one example of what was considered to be an unreasonable charge under present provisions, a shipper representative reported that his company recently had to pay a charge of \$70.40 on the return of 90 gallons of diesel fuel oil from El Centro to San Diego, a distance of 148.5 constructive miles. Another of the shipper representatives urged that in conjunction with effecting the proposed changes in the rules governing shipments diverted, returned, or stopped in transit for partial loading and unloading, the rules be restated to provide separate provisions for each type of service. He stated that the present rule should be clarified, particularly as to whether a returned shipment is a diverted shipment.

The alternative method of computing charges on returned shipments on the gallonage (or weight) returned appears reasonable, and will be incorporated in the minimum rate provisions.<sup>4</sup> The

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<sup>4</sup> For purposes of clarity the modified rule will continue in effect the basing of charges on the return rate instead of on the outbound rate, inasmuch as no satisfactory definition was advanced of what is comprehended by the outbound rate.



extension of this provision to include contaminated shipments returned likewise appears reasonable, and this proposal will be adopted also. Present restrictions, however, limiting the reduced rate for returned shipments only to property returned without unloading from carriers' equipment, should be retained in lieu of adoption of applicant's recommendations that the rates be made to apply also when the return is accompanied "in conjunction with a subsequent outbound movement to the same destination or point beyond." The record does not support the broadening of the rule as sought. For similar reasons the rates for the return of contaminated shipments will be limited to returns which are made in conjunction with an outbound movement from the plant to which the contaminated property is returned. The recommendations of the shipper witness that the rule be divided for clarification purposes to establish separate provisions for diverted shipments and for returned shipments will not be adopted. It is evident that the recommendations were advanced from the viewpoint that the diversion of shipments and the return of shipments constitute two different services. For minimum rate purposes, however, returned shipments are considered as a form of diverted shipments, even though certain exceptions from the regulations governing diverted shipments are provided for returned shipments.

Upon careful consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds as a fact that amendments in the rates, rules and regulations contained in applicant's tariffs and in Minimum Rate Tariff No. 6 have been shown to be reasonable and justified to the extent that said amendments are authorized or established by the order which follows. To this extent the above-numbered application and petition will be granted. In other respects they will be denied.

O R D E R

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

IT IS HEREBY ORDERED:

1. That Minimum Rate Tariff No. 6 (Appendix "C" of Decision No. 32608, as amended) be, and it is hereby further amended by incorporating therein to become effective September 1, 1956, the revised pages attached hereto which pages are identified as follows:

First Revised Page 8-E Cancels Original Page 8-E  
 Eighth Revised Page 11 Cancels Seventh Revised  
 Page 11

2. That tariff publications required or authorized 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; and that such required tariff publication shall be made effective not later than September 1, 1956.
3. That in all other respects the aforesaid Decision No. 32608, as amended, shall remain in full force and effect.
4. That Petition for Modification No. 17 in Case No. 5436 be and it hereby is denied to the extent that it is not granted by the order herein.
5. That Application No. 37514 of Elmer Ahl, Agent for Tank Truck Operators Tariff Bureau, be and it hereby is granted to the extent that his Petition for Modification No. 17 in Case No. 5436 is herein granted in corresponding respects, and that in all other respects said Application No. 37514 be and it hereby is denied.

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

Dated at San Francisco, California, this 7th day of August, 1956.

John E. Mitchell President  
Walter J. ...  
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...  
 Commissioners

-10- Commissioner Ray E. Untereiner, being necessarily absent, did not participate in the disposition of this proceeding.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS (Continued)
	<p style="text-align: center;">APPLICATION OF TARIFF-TERRITORIAL GROUPS (Concluded)</p> <p>NOTE 1.-In computing charges for the transportation of black oils as described in Item No. 30 series from Chrisman to points located within the following described territory mileages will be computed from Chrisman to point of destination.</p> <p>Commencing at the intersection of U. S. Highway No. 101 and U. S. Highway No. 399 at Ventura, thence northerly along U. S. Highway No. 399 to Wheelers Hot Springs (including the highway extending approximately 1.8 miles to Buena Ventura Hot Springs), returning along U. S. Highway No. 399 to Meiners Oaks, southeasterly along the county road extending from Meiners Oaks to Ojai, southeasterly along State Highway No. 150 to Santa Paula, easterly along State Highway No. 126 to Piru, returning along State Highway No. 126 approximately .8 miles to Torry Road, southerly along Torry Road to McGregor Road, westerly along McGregor Road and Guiverson Road to State Highway No. 23, southerly along State Highway No. 23 to its junction with U. S. Highway No. 101 approximately .5 miles west of Newton Oaks, westerly along U. S. Highway No. 101 to Camarillo, southerly and westerly along Oxnard Road to Wood Road, southerly along Wood Road to Hueneme Road, westerly and northerly along Hueneme Road and its prolongation via Hueneme and Hollywood-by-the-Sea to Hollywood Beach, northerly along McGrath Road to 5th Avenue, easterly along 5th Avenue to Oxnard, northerly along Oxnard Boulevard and Vineyard Avenue to El Rio, northwesterly along U. S. Highway No. 101 to point of beginning; and including also a strip of territory 1½ miles wide immediately adjoining and circumscribing the above described boundary.</p> <p style="text-align: center;">NOTE 2.- ***</p>
<p>*45-A Cancels 45</p>	<p>* Change *** Provision Canceled } Decision No. <b>53540.</b></p>
EFFECTIVE SEPTEMBER 1, 1956	
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p>	
Correction No.	164

Item No.	SECTION NO. 1 - RULES AND REGULATIONS (Continued)
*130-E Cancels 130-D	<p style="text-align: center;">SHIPMENTS DIVERTED, RETURNED, OR STOPPED IN TRANSIT FOR PARTIAL LOADING OR UNLOADING (Does not apply to split delivery shipments for which rates and charges are provided in Item No. 87.)</p> <p>(a) Charges upon a shipment which at request of consignor or consignee is either diverted or stopped in transit for partial loading or unloading, or any of them, shall be computed at the rate applicable from point of origin to the point where delivery is completed via each of the points where diversion occurs or partial loading or unloading is performed. (Subject to Notes 1, 2, 3 and 5.)</p> <p>6 (b) Charges upon a shipment or a portion of a shipment returned to point of origin, or to a point directly intermediate between last point of diversion and point of origin, shall be computed by adding to the full charge to last point of diversion the charge at one half the rate provided in Section 2 from the latter point to point of origin on the gallonage returned, subject to minimum charge provided in Item No. 80 applicable to the shipment or portion returned, or \$20, or the charge computed on the basis provided in paragraph (a) of this item for the round trip movement, whichever is the lowest. (Subject to Notes 1, 2, 3, 4 and 5.) The provisions of this paragraph will also apply to the return of contaminated shipments, or portions thereof. (Subject to Notes 1, 2, 3, 5 and 6.)</p> <p>NOTE 1 - Charges upon a shipment of crude oil transported under the provisions of Item No. 210 shall be computed at the highest rate provided to any point where diversion occurs or delivery is performed.</p> <p>NOTE 2 - Shipments shall be subject to an additional charge of \$6.25 for each stop in transit to partially load or unload.</p> <p>NOTE 3 - Shipments shall be subject to an additional charge of \$4.00 for each diversion. This charge shall be in addition to all other charges provided herein.</p> <p>NOTE 4 - Applies only to property returned prior to unloading from carrier's equipment.</p> <p>NOTE 5 - A diverted shipment is a shipment on which a point of destination or consignee is changed, or both are changed, after the shipment leaves the point of origin.</p> <p># NOTE 6 - Applies only to returns made in conjunction with an out-bound movement from the plant to which the contaminated property is returned.</p>
*140-D Cancels 140-C	<p style="text-align: center;">DEMURRAGE OR DETENTION CHARGES</p> <p>1. Applies only in connection with transportation of refined petroleum products, black oils, crude oil, and liquefied petroleum gas.</p> <p>6(a) A charge of \$1.29 for each one-quarter hour, or fraction thereof, shall be assessed for the time carrier's equipment is detained through no fault of the carrier to complete loading or unloading in excess of the free time specified in paragraph (b).</p> <p>(b) Free time shall commence when carrier's equipment arrives at the loading or unloading point and the carrier's employee reports to the consignor or consignee that the equipment is ready for loading or unloading. Two hours free time shall be allowed for loading and three hours free time shall be allowed for unloading.</p>

2. Applies only in connection with transportation of asphalt and road oil:

(a) Charges as set forth in paragraph (c) hereof shall be assessed for the time carrier's equipment is detained, through no fault of the carrier, to complete loading, unloading or spreading after expiration of the free time specified in paragraph (b).

(b) Free time shall commence when carrier's equipment is placed in position to load, unload or spread (see Note 1). Two hours free time shall be allowed for loading and two hours free time shall be allowed for unloading and spreading.

(c) The following detention or demurrage charges for excess loading, unloading or spreading shall be made:

- (1) LOADING:  
\$6.40 per hour, fractions of an hour to be prorated.
- (2) UNLOADING:  
\$6.40 per hour, fractions of an hour to be prorated.
- (3) SPREADING:  
\$8.40 per hour, fractions of an hour to be prorated.

NOTE 1. - When shipper or consignee orders load to be delivered at a specifically designated time and carrier has its equipment at destination point at designated time and consignee cannot receive delivery as ordered, free time will commence at the time designated for delivery.

\* Change )  
# Addition ) Decision No. 53540  
o Reduction)

EFFECTIVE SEPTEMBER 1, 1956

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Correction No. 165