

**ORIGINAL**Decision No. 54636

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  
 Petition for Modification  
 No. 62  
 (Second Supplemental)

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  
 Petition for Modification  
 No. 74  
 (Third Supplemental)

Appearances are listed in Appendix "A" of  
 Decision No. 51688. Additional appear-  
 ances will be listed in the final order  
 of these proceedings.

SUPPLEMENTAL OPINION

Petition No. 62, filed by the California Trucking  
 Associations, Inc., involves adjustments of the minimum rates named  
 in Minimum Rate Tariff No. 2. Petition No. 74, filed by the major  
 railroads, seeks corresponding adjustments in the rail class rates  
 and certain rail commodity rates. Hearings have been held in these  
 proceedings and additional hearings are scheduled to complete the  
 record.

Pursuant to petitioners' requests, and based on a record  
 showing the necessity therefor, two interim increases have been

granted, and are now in effect. The second interim increase in the rates became effective May 15, 1956.<sup>1</sup>

By Second Supplemental Petition No. 62, filed August 22, 1956, and Third Supplemental Petition No. 74, filed September 5, 1956, petitioners seek a further emergency increase of one percentage point in each of the interim surcharge rates now in effect. Public hearings were held on this latest request on September 13 and 14, 1956, at San Francisco before Commissioner Matthew J. Dooley and Examiner Jack E. Thompson.

According to Second Supplemental Petition No. 62, the "Federal-Aid Highway Act of 1956" increased certain federal taxes imposed on highway carriers effective July 1, 1956.<sup>2</sup> The petition alleges that these increases in the federal taxes will increase the carriers' operating expenses in excess of one percent, and that the proposed additional interim increase is necessary in order to maintain the minimum rates at a reasonable level. The rail lines, in their petition, seek corresponding adjustments in their rates which are maintained at the same level as the minimum rates.

A witness for petitioner California Trucking Associations, Inc., explained that, when it became apparent that the record in

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<sup>1</sup> Decision No. 51688 of July 18, 1955, and Decision No. 52971 of April 24, 1956.

<sup>2</sup> The changes in the taxes involved are as follows:

	<u>Old Tax</u>	<u>New Tax</u>
Gasoline and diesel fuel, per gallon	2¢	3¢
Excise tax on trucks and trailers	8%	10%
Excise tax on tires and tubes, per pound	5¢	8¢
Excise tax on tread rubber (camelback), per pound	-	3¢
Use tax on vehicles of gross weight of more than 26,000 pounds per year for each 1,000 pounds of weight	-	\$1.50

Petitions Nos. 62 and 74 would not be completed and a decision issued before some time in the Spring of 1957, the Associations' rate committee felt it was necessary to seek the further interim relief to compensate for the increased federal taxes. The witness presented an exhibit to show the effect of the increased taxes on the operating results of a sampling of carriers. The exhibit shows that the operating expenses of the carriers used as a sample would be increased an estimated 1.02 percent by the increase in federal taxes. The witness explained that, in order to estimate the effect of the increased taxes on actual carrier operations, a sampling was made of the records of those carriers used to develop Exhibit 62-10, in this proceeding. The expenses of these particular carriers were developed as to the items subject to the federal taxes involved, and increased to reflect the impact of the new taxes. On cross-examination, it was developed that the data in the exhibit was compiled from the records of only 12 carriers.

A witness for the rail lines, the petitioner in Petition No. 74, stated that, although the increased federal taxes have no effect on the operating costs of rail movements, the rail rates are competitive with the truck rates and the rail rate level has accordingly been held down to the level of the truck rates. The sought increase, according to the witness, would do no more than accord some of the rate relief that the rail lines had been unable to take previously in so far as rail movements are concerned. The increased taxes would affect, however, any motor operations of the rail lines.

The petitioners here seek a further interim increase in the minimum rates. The evidence presented by petitioners shows that the motor truck carriers' cost of performing service after July 1, 1956, is higher than prior to that date because of certain federal taxes. Petitioners' estimate, which is based upon a sample of the operations of twelve carriers, is that the aforesaid taxes will

increase the operating expenses of carriers by somewhat in excess of one percent.

The Commission has held on more than one occasion that interim increases are intended to provide financial relief when, from the record, it is readily apparent that continued operations at the rates sought to be increased would seriously impair the maintenance of adequate service.<sup>3</sup> Petitioners' contentions that the interim increase in minimum rates prescribed by Decision No. 52971 must be construed as offsetting merely a portion of increased costs of operation and that evidence showing a further increase in operating expenses since the date of said decision necessitates a finding that an emergency situation again arises is without merit.

The effect upon carriers' revenues of interim increases in rates in the form of various surcharges ranging from 5 percent to 16 percent as prescribed in Decision No. 52971 cannot be measured with accuracy without a study of the operations performed under the increased rates made from a broad sample of carriers engaged in the various types of transportation, differentiating among the carriers predominantly engaged in one of the types of traffic for which different surcharges were prescribed. At the time the record was made herein, information was not available and could not be obtained respecting the effect of the May 15, 1956 interim increases upon carrier revenues. The presentation made by the petitioners in the opinion of the Commission does not indicate that, without an immediate one percent increase in the minimum rates, adequate transportation service will be seriously impaired.

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<sup>3</sup> "We view an interim rate increase as an emergency measure, applicable only in the instance where the minimum financial obligations of the utility cannot be met prior to the establishment of definitive rates." (Interim increase denied, Coast Counties Gas and Electric Company, 50 Cal. P.U.C. 580, 586 (1951).)

See also Re Interim Increase Minimum Rate Tariff No. 3, 54 Cal. P.U.C. 535 (1955).

The supplemental petitions will be denied. In view of the above conclusions, rulings on motions made by various parties to strike testimony and to dismiss the supplemental petitions is not necessary.

O R D E R

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

IT IS ORDERED that Second Supplemental Petition No. 62, filed August 22, 1956, and Third Supplemental Petition No. 74, filed September 5, 1956, in this proceeding, be and they are hereby denied.

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

Dated at San Francisco, California, this 12<sup>th</sup> day of March, 1957.

[Signature]  
President  
[Signature]  
[Signature]  
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Commissioners