

56461

ORIGINAL

Decision No. \_\_\_\_\_

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  
 Order Setting Hearing  
 Dated June 19, 1956

E. J. McSweeney, for Pacific Motor Trucking Company,  
 respondent.  
Arlo D. Poe and J. C. Kaspar, for California Trucking  
 Associations, Inc., interested party.  
Allen K. Pentilla, for The Sherwin Williams Co.,  
 interested party.  
Ray Ristrom and H. A. Lincoln, for The Fibreboard  
 Paper Products Corporation, interested party.  
A. L. Russell, for Sears, Roebuck and Company,  
 interested party.  
B. F. Bolling, for The Flintkote Co., interested  
 party.  
James Quintrall, for the Western Motor Tariff Bureau,  
 interested party.  
Edward Rutherford, for Schenley Industries, Inc.,  
 interested party.  
A. F. Schumacher, Sr., for Owens-Illinois Glass Co.,  
 interested party.  
Eugene R. Rhodes and Waldo A. Gillette, for Monolith  
 Portland Cement Co., interested party.  
John MacDonald Smith, for Southern Pacific Company, The  
 Atchison, Topeka & Santa Fe Railway Co., Union  
 Pacific Railroad Co., Western Pacific Railroad Co.,  
 Northwestern Pacific Railroad Company, Pacific  
 Electric Railway Company, Visalia Electric Railroad Co.,  
 Petaluma & Santa Rosa Railroad Company, Sacramento  
 Northern Railway, Tidewater Southern Railroad  
 Company, San Diego & Arizona Eastern Railroad  
 Company, Holton Interurban Railroad Company,  
 Central California Traction Company, and Sunset  
 Railroad Company, respondents.  
L. E. Osborne, for California Manufacturers Association,  
 interested party.  
W. F. McCann, for Johnson & Johnson, interested party.  
Willard F. O'Brien, for Electric Auto Lite Co.,  
 interested party.  
J. Lane Barbour, Norman Haley, and Robert A. Lane, for  
 the staff of the Public Utilities Commission of the  
 State of California.

O P I N I O N

This phase of Case No. 5432 deals with charges which Minimum Rate Tariff No. 2 prescribes for the services of loading and unloading vehicles of for-hire motor carriers when the loading or unloading is performed under other-than-tailgate loading or unloading conditions. As defined in the tariff, tailgate loading or unloading means the loading or unloading of carriers' equipment from or to a point not more than 25 feet from said equipment. The charges apply mainly when highway carriers provide loading or unloading services in conjunction with transportation performed at rates of rail carriers and when said rates do not include the services of car loading or car unloading.

In Decision No. 54378, dated January 15, 1957, consideration was given to proposals of the Commission's staff to cancel the charges for other-than-tailgate loading and unloading. The proposals were not adopted for reasons that they represented a departure from a principle of competitive equality between highway and rail carriers which has been observed as a standard in the establishment and maintenance of reasonable and nondiscriminatory minimum rates. Because of this aspect of the matter, the proposals were scheduled for further hearing in order that interested parties might present additional evidence and recommendations thereon.

The further hearing was held before Examiner C. S. Abernathy at Los Angeles on May 1, 1957, at which time additional evidence in support of the proposals was presented by members of the Commission's staff. Evidence and argument in opposition to the staff recommendations were submitted on behalf of California rail

carriers and their subsidiaries. The California Trucking Associations, Inc., also opposed adoption of the proposals.

The position of the Commission staff in this matter may be summarized as follows: The tariff provisions in question are ambiguous and unclear. Experience shows that vehicles of for-hire highway carriers are seldom, if ever, loaded or unloaded under other-than-tailgate conditions. Charges for other-than-tailgate loading and unloading different from charges for tailgate loading and unloading have little effect upon the maintenance of competitive equality between rail and highway carriers.

The opposition of the rail carriers and of the California Trucking Associations, Inc., to the proposals of the Commission staff was principally on the grounds that (1) where highway carriers provide truck loading and unloading services, and where provision therefor is not included in the rate assessed for the transportation, the highway carriers should make an appropriate charge for the loading and unloading services performed; and (2) that when highway carriers perform transportation at rail carrier rates, which do not include the services of loading and unloading, the highway carriers should assess an additional charge when they perform these services. In short, the opposition of respondent carriers is to the elimination of additional charges for loading and unloading, whether tailgate or otherwise, and not to the difference between charges for tailgate loading and unloading, on the one hand, and other-than-tailgate loading and unloading, on the other hand.

D E C I S I O N

Since the close of the record in this matter, the tariff provisions governing tailgate loading and unloading were modified by Decision No. 55249, dated July 9, 1957, in this general proceeding. This decision established a charge of 1 cent per 100 pounds for the loading or unloading services in order to take into account the conditions under which these services are now performed.<sup>1</sup> It appears that the extension of this additional charge to tailgate loading and unloading services as well would essentially achieve the purposes of respondent carriers.

In the circumstances, it is concluded that, except as hereinafter provided, the elimination of the separate provisions for other-than-tailgate loading and unloading and the application to such services of the charge for tailgate loading or unloading established by Decision No. 55249 is justified.

The revisions hereinafter provided in the rules and charges in Minimum Rate Tariff No. 2 for other-than-tailgate loading and unloading will not be made to apply to transportation performed under the commodity rates set forth in Section 3 of said tariff. These rates are being made the subject of specific studies. To the extent that adjustments should be made in the charges for other-than-tailgate loading or unloading which apply in conjunction with the commodity rates, such adjustments will be considered at a future date.

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Prior to the establishment of the charge prescribed by Decision No. 55249, Minimum Rate Tariff No. 2 provided, with certain exceptions, that highway carriers assessing rail competitive rates need not assess any additional charges for tailgate loading and unloading of shipments. The free loading and unloading was originally authorized as an offset, to some extent, for the free time of 48 hours allowed by railroads for the loading or unloading of rail cars.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">ACCESSORIAL SERVICES NOT INCLUDED IN COMMON CARRIER RATES</p> <p>In the event under the provisions of Items Nos. 200 to 230, inclusive, a rate of a common carrier is used in constructing a rate for highway transportation, and such rate does not include accessorial services performed by the highway carrier the following charges for such accessorial services shall be added (except as otherwise provided in connection with individual rates):</p> <p>o(1) For loading of carrier's equipment, 1 cent per 100 pounds assessed on the weight on which transportation charges are computed (See Notes 1, 2, 4, 5 and 6);</p> <p>o(2) For unloading of carrier's equipment, 1 cent per 100 pounds assessed on the weight on which transportation charges are computed (See Notes 1, 2, 4, 5 and 6);</p> <p>o(3) **</p> <p>(4) For C.O.D. service - charges provided in Item No. 180;</p> <p>(5) For other accessorial services - charges provided in Item No. 145;</p> <p>(6) Split pickup or split delivery shall not be accorded unless included in the common carrier rate (See Items Nos. 220 and 230 for exceptions) except that, on shipments of dried fruit, split delivery may be accorded, subject to the additional charges named in Note 1 of Item No. 170, when all component parts of the shipment are destined to one or more docks, piers or wharves at:</p> <p style="padding-left: 40px;">(a) San Francisco only, or  (b) Alameda, Oakland and/or Richmond, or  (c) Stockton only.</p> <p>NOTE 1.--The charges for loading and/or unloading shall apply in all circumstances except those on which the shipment is loaded into and/or unloaded from the carrier's equipment, as follows:</p> <p>(a) On shipments of grain, in bulk, when loaded and/or unloaded by gravity.</p> <p>(b) By the consignor and/or the consignee, as follows:</p> <p style="padding-left: 40px;">(1) With power equipment as described in Item No. 10, or</p> <p style="padding-left: 40px;">(2) When the carrier's equipment is a trailer or semitrailer left for loading and/or unloading without the presence of carrier's employees.</p> <p>(c) Provided that on shipments described under subparagraphs (a) and (b) above the Shipping Document (Freight Bill) issued pursuant to Item No. 255 indicates that the shipment was loaded and/or unloaded under one of the circumstances described in subparagraphs (a) or (b) above.</p>

\*240-L  
Cancels  
240-K

NOTE 2.-When shipments consisting in whole or in part of Oil, Water or Gas Well Outfits and supplies, and other Articles, as described in Item No. 365, moving between points located in Los Angeles and Orange Counties on the one hand and points located in California, Salinas, Fresno and south thereof, on the other hand, are transported:

Δ(a) Under the provisions of Item No. 200, a charge of 3½ cents per 100 pounds shall be added for \*\*\* loading, and a charge of 3 cents per 100 pounds shall be added for \*\*\* unloading;

Δ(b) Under the provisions of Paragraph (a) of Item No. 210, a charge of 3¼ cents per 100 pounds shall be added for \*\*\* unloading;

Δ(c) Under the provisions of Paragraph (b) of Item No. 210, a charge of 3½ cents per 100 pounds shall be added for \*\*\* loading; or

Δ(d) Under the provisions of Paragraph (c) of Item No. 210, no additional charge shall be added for \*\*\* loading or \*\*\* unloading.

⊕ NOTE 3 \*\*

NOTE 4.-When shipments consisting in whole or in part of Liquors, alcoholic, N.O.I.B.N., as described under that heading in the Western Classification, moving between San Francisco Territory and Los Angeles Territory are transported:

Δ(a) Under the provisions of Item No. 200 a charge of 2-3/4 cents per 100 pounds shall be added for \*\*\* loading, and a charge of 2½ cents per 100 pounds for \*\*\* unloading;

Δ(b) Under the provisions of Paragraph (a) of Item No. 210, a charge of 2½ cents per 100 pounds shall be added for \*\*\* unloading;

Δ(c) Under the provisions of Paragraph (b) of Item No. 210, a charge of 2-3/4 cents per 100 pounds shall be added for \*\*\* loading; or

Δ(d) Under the provisions of Paragraph (c) of Item No. 210, no additional charge shall be added for \*\*\* loading or \*\*\* unloading.

ΔNOTE 5.-For \*\*\* loading or \*\*\* unloading of Cement, Portland (building), a charge of 2½ cents per 100 pounds shall be added.

NOTE 6.-For pickup or delivery service at a point not at street level and where the minimum weight is less than 10,000 pounds, the loading or unloading provisions of this item will not apply and the additional charge provided in Item No. 120 will apply.

- \*\* Paragraph (3) and Note 3 eliminated )
- \*\*\* The word "tailgate" eliminated )
- \* Change )
- ⊕ Reduction )
- Δ No increase nor reduction )

Decision No. 56461

EFFECTIVE MAY 11, 1958

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

Correction No. 806