

ORIGINALDecision No. 56553

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
 motion into the operations, rates and)
 practices of MERCHANTS EXPRESS OF)
 CALIFORNIA, a California corporation.)

Case No. 5903

Investigation on the Commission's own)
 motion into the operations, rates and)
 practices of MERCHANTS EXPRESS)
 CORPORATION, a California Corporation.)

Case No. 5904

Berol and Silver by Edward M. Berol,
 on behalf of both respondents.
Edward F. Walsh and Hector Anninos, on
 behalf of the Commission Staff.

O P I N I O N

On February 25, 1957, the Commission issued an order instituting an investigation on its own motion into the operations, rates and practices of Merchants Express of California for the purpose of determining whether that corporation had violated the Public Utilities Code by failing to adhere to the applicable rates and charges specified in its tariff schedules relative to certain transportation performed by it. On the same date, the Commission issued an order instituting an investigation on its own motion into the operations, rates and practices of Merchants Express Corporation for the same purpose. These two matters have been consolidated for the purpose of hearing and decision.

Facts

Based upon the evidence introduced into the record in these matters, the Commission hereby finds and concludes that the following facts exist:

1. The respondent, Merchants Express of California, has been issued certificates of public convenience and necessity by this Commission to operate as a highway common carrier and as such a carrier, it performed the transportation hereinafter referred to. This respondent had tariffs published and on file with the Commission at the time of and covering such transportation.

2. The respondent, Merchants Express Corporation, has been issued certificates of public convenience and necessity by this Commission to operate as a highway common carrier and as such a carrier, it performed the transportation hereinafter referred to. This respondent had tariffs published and on file with the Commission at the time of and covering such transportation.

3. During the period of time the transportation hereinafter referred to took place, both respondents had in force radial highway common carrier and highway contract carrier permits issued by the Commission.

4. On August 15, 1957, pursuant to authorization of this Commission, the respondent, Merchants Express Corporation, merged with the respondent, Merchants Express of California. The latter corporation is the surviving corporation.

5. On 48 occasions during the period from September 27, 1956 through October 31, 1956, respondent, Merchants Express of California, received merchandise from Purity Stores Ltd., in San Francisco for transportation to Eureka or Arcata. The merchandise received on each occasion was tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the merchandise received on each occasion as a separate shipment. Rather, the respondent consolidated together the merchandise received on more than one occasion

and considered each such consolidation as a single multiple-lot shipment. As a result, respondent assessed its charges on the basis of 11 multiple-lot shipments rather than 48 separate shipments. The merchandise combined together to form each consolidation was not all tendered and received at one time. The date on which the merchandise was tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the merchandise involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 1 through 11 of Exhibit A of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The points of destination and the charges assessed by the respondent for this transportation are as shown in Parts 1 through 11 of that exhibit and these charges total \$3,027.17. The Commission staff maintains that the lawful charges for this transportation total \$3,932.71.

6. On 17 occasions during the period from October 2, 1956 through October 23, 1956, respondent, Merchants Express of California, received goods from A.D.S. Food Products Company in San Francisco for transportation to various points of destination in the State of California. The goods received on each occasion were tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the goods received on each occasion as a separate shipment. Rather, the respondent consolidated together the goods received on more than one occasion and considered each such consolidation as a single multiple-lot shipment. As a result, respondent assessed its charges on the basis of 3 multiple-lot shipments

rather than 17 separate shipments. The goods combined together to form each consolidation were not all tendered and received at one time. The date on which the goods were tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the goods, the consignees, and the points of destination involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 12 through 14 of Exhibit A of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges assessed by the respondent for this transportation are as shown in Parts 12 through 14 of that exhibit and total \$579.23. The Commission staff maintains that the lawful charges for this transportation total \$930.01.

7. On 52 occasions during the period from October 5, 1956 through October 31, 1956, respondent, Merchants Express of California, received merchandise at various points of origin in the State of California to be transported to North Coast Mercantile Company in Eureka. The merchandise received on each occasion was tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the merchandise received on each occasion as a separate shipment. Rather, the respondent consolidated the merchandise received on more than one occasion and considered each such consolidation as a single multiple-lot split pickup shipment. As a result, respondent assessed its charges on the basis of 6 multiple-lot shipments rather than 52 separate shipments. The merchandise combined together to form each consolidation was not all tendered and received at one time. The date on which the merchandise was tendered

on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the merchandise, the consignors, and the points of origin involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 15 through 20 of Exhibit A of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges assessed by the respondent for this transportation are as shown in Parts 15 through 20 of that exhibit and total \$1,552.45. The Commission staff maintains that the lawful charges for this transportation total \$1,913.18.

8. On 40 occasions during the period from September 15, 1956 through November 15, 1956, respondent, Merchants Express of California, received goods at various points of origin in the State of California to be transported to Oakland Sheet Metal Supply Co., Inc. in Oakland. The goods received on each occasion were tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the goods received on each occasion as a separate shipment. Rather, the respondent consolidated the goods received on more than one occasion and considered each such consolidation as a single multiple-lot split pickup shipment. As a result, respondent assessed its charges on the basis of 3 multiple-lot shipments rather than 40 separate shipments. The goods combined together to form each consolidation were not all tendered and received at one time. The date on which the goods were tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the goods, the consignors, and the points of origin involved are as set forth under the title "Statement

Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 21 through 23 of Exhibit A of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges assessed by the respondent for this transportation are as shown in Parts 21 through 23 of that exhibit and total \$676.85. The Commission staff maintains that the lawful charges for this transportation total \$967.40.

9. On 10 occasions during the period from September 25, 1956 through October 19, 1956, respondent, Merchants Express of California, received merchandise from Blocksom and Company in Los Angeles for transportation to various consignees in San Francisco. The merchandise received on each occasion was tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the merchandise received on each occasion as a separate shipment. Rather, the respondent consolidated together the merchandise received on more than one occasion and considered each such consolidation as a single multiple-lot shipment. As a result, respondent assessed its charges on the basis of 2 multiple-lot shipments rather than 10 separate shipments. The merchandise combined together to form each consolidation was not all tendered and received at one time. The date on which the merchandise was tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the merchandise, the consignees and the points of destination involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 24 through 25 of Exhibit A of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges

assessed by the respondent for this transportation are as shown in Parts 24 through 25 of that exhibit and total \$441.51. The Commission staff maintains that the lawful charges for this transportation total \$921.71.

10. On 13 occasions during the period from September 11, 1956 through October 31, 1956, respondent, Merchants Express of California, received merchandise from El Molino Mills in Alhambra for transportation to various points of destination in the State of California. The merchandise received on each occasion was tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the merchandise received on each occasion as a separate shipment. Rather, the respondent consolidated together the merchandise received on more than one occasion and considered each such consolidation as a single multiple-lot shipment. As a result, respondent assessed its charges on the basis of 3 multiple-lot shipments rather than 13 separate shipments. The merchandise combined together to form each consolidation was not all tendered and received at one time. The date on which the merchandise was tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the merchandise, the consignees and the points of destination involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 26 through 28 of Exhibit A of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges assessed by the respondent for this transportation are as shown in Parts 26 through 28 of that exhibit and total \$578.80. The Commission staff maintains that the lawful charges for this transportation total \$1,066.92.

11. On 44 occasions, respondent, Merchants Express of California, received quantities of merchandise from General Felt Products of California, National Sponge Cushion Company or Air Crest Products Company in Azusa for transportation to various points of destination in the State of California. The merchandise received on each occasion was tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the merchandise received on each occasion as a separate shipment. Rather, the respondent consolidated together the merchandise received on more than one occasion and considered each such consolidation as a single multiple-lot shipment. As a result, respondent assessed its charges on the basis of 8 multiple-lot shipments rather than 44 separate shipments. The merchandise combined together to form each consolidation was not all tendered and received at one time. The date on which the merchandise was tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the merchandise involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 29 through 36 of Exhibit A of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The consignees, points of destination, and the charges assessed by the respondent for this transportation are as shown in Parts 29 through 36 of that exhibit and these charges total \$2,102.57. The Commission staff maintains that the lawful charges for this transportation total \$4,100.27.

12. On 35 occasions during the period of September and October, 1956, respondent, Merchants Express Corporation, received goods at various points of origin in the State of California to be

transported to Park Auto Markets in Santa Rosa. The goods received on each occasion were tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the goods received on each occasion as a separate shipment. Rather, the respondent consolidated the goods received on more than one occasion and considered each such consolidation as a single multiple-lot split pickup shipment. As a result, respondent assessed its charges on the basis of 3 multiple-lot shipments rather than 35 separate shipments. The goods combined together to form each consolidation were not all tendered and received at one time. The dates on which the goods were tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the goods, the consignors, and the points of origin involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 1 through 3 of Exhibit B of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges assessed by the respondent for this transportation are as shown in Parts 1 through 3 of that exhibit and total \$411.61. The Commission staff maintains that the lawful charges for this transportation total \$696.09. ✓

13. On 11 occasions during the period from June through October, 1956, respondent, Merchants Express Corporation, received merchandise from Olive Products Company, Ehmann Olive Company, or Mt. Ida Packing Company in Oroville for transportation to various points of destination in the State of California. The merchandise received on each occasion was tendered to the respondent on a different bill of lading. In assessing its charges for this

transportation, the respondent did not treat the merchandise received on each occasion as a separate shipment. Rather, the respondent consolidated together the merchandise received on more than one occasion and considered each such consolidation as a single multiple-lot shipment. As a result, respondent assessed its charges on the basis of 4 multiple-lot shipments rather than 11 separate shipments. The merchandise combined together to form each consolidation was not all tendered and received at one time. The date on which the merchandise was tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the merchandise, the consignors and consignees, and the points of destination involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 4 through 7 of Exhibit B of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges assessed by the respondent for this transportation are as shown in Parts 4 through 7 of that exhibit and total \$104.35. The Commission staff maintains that the lawful charges for this transportation total \$138.26.

14. Olive Products Company, Ehmann Olive Company, and Mt. Ida Packing Company are three separate corporations.

15. On 15 occasions, during the period from July through November, 1956, respondent, Merchants Express Corporation, received merchandise from Wyandotte Olive Sales Company in Oroville for transportation to various points of destination in the State of California. The merchandise received on each occasion was tendered to the respondent on a different bill of lading. In assessing its charges for this transportation, the respondent did not treat the

merchandise received on each occasion as a separate shipment. Rather, the respondent consolidated together the merchandise received on more than one occasion and considered each such consolidation as a single multiple-lot shipment. As a result, respondent assessed its charges on the basis of 4 multiple-lot shipments rather than 15 separate shipments. The merchandise combined together to form each consolidation was not all tendered and received at one time. The date on which the merchandise was tendered on each occasion (being the date set forth on the respective bill of lading) together with the type and weight of the merchandise, the consignees, and the points of destination involved are as set forth under the title "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in Parts 8 through 11 of Exhibit B of the written stipulation dated June 26, 1957 which was entered into between this respondent and the Commission staff. The charges assessed by the respondent for this transportation are as shown in Parts 8 through 11 of that exhibit and total \$251.64. The Commission staff maintains that the lawful charges for this transportation total \$264.18.

16. During the first part of the year 1957 respondents re-billed the shippers referred to in the preceding paragraphs, for undercharges relative to the transportation referred to in the previous paragraphs.

Conclusions

The Commission staff maintains that the merchandise received on each occasion referred to in the previous paragraphs constituted separate shipments and that the charges assessed by respondents based upon consolidated multiple-lot shipments were improper. At the time of the hearings, respondents conceded that improper consolidations had been made.

Examination of respondents' tariffs applicable to the transportation in question sustains the Commission staff's position. These tariffs provide that each shipment must be rated separately and that the carrier must not consolidate or combine shipments.^{1/} The word "shipment" is defined in the tariffs as meaning "a quantity of freight tendered by one shipper on one shipping document at one point of origin at one time for one consignee at one point of destination."^{2/} A "split pickup" shipment is defined in most of respondents' tariffs as meaning "a shipment consisting of several component parts, tendered at one time and received during one day and transported under one shipping document from (1) one consignor at more than one point of origin, or (2) more than one consignor at one or more points of origin, the composite shipment weighing (or transportation charges computed upon a weight of) not less than 4,000 pounds, said shipment being consigned and delivered to one consignee at one point of destination and charges thereon being paid by the consignee when there is more than one consignor."^{3/}

^{1/} Item No. 280, Merchants Express of California Local Freight Tariff No. 8, Cal. P.U.C. No. 8, series of A. W. Way, dba Way's Redwood Empire Freight Lines.
Item No. 205, Merchants Express of California, Local Freight Tariff No. 1, Cal. P. U. C. No. 2.
Item No. 480, Merchants Express Corporation Local and Joint Freight Tariff No. 21, Cal. P.U.C. No. 12.

^{2/} Item 180(j), First Revised Page 22, Merchants Express of California Local Freight Tariff No. 8, Cal. P.U.C. No. 8, series of A. W. Way, dba Way's Redwood Empire Freight Lines.
Item 20(o), Original Page 15, Merchants Express of California, Local Freight Tariff No. 1, Cal. P.U.C. No. 2.
Item No. 205(m) First Revised Page 41, Merchants Express Corporation, Local and Joint Freight Tariff No. 21, Cal. P.U.C. No. 12.

^{3/} Item 180(k), First Revised Page 22, Merchants Express of California Local Freight Tariff No. 8, Cal. P.U.C. No. 8, series of A. W. Way, dba Way's Redwood Empire Freight Lines.
Item 20(p), Original Page 15, Merchants Express of California, Local Freight Tariff No. 1, Cal. P.U.C. No. 2.
Item No. 210(a), First Revised Page 42, Merchants Express Corporation, Local and Joint Freight Tariff No. 21, Cal. P.U.C. No. 12.

A "split delivery" shipment is defined in the tariffs as meaning "a shipment consisting of several component parts delivered to (1) one consignee at more than one point of destination, or (2) more than one consignee at one or more points of destination, the composite shipment weighing (or transportation charges computed upon a weight of) not less than 4,000 pounds, said shipment being shipped by one consignor at one point of origin and charges thereon being paid by the consignor when there is more than one consignee." ^{4/}

The various tariffs also contain a provision relative to shipments transported in multiple lots. This provision states:

- "(a) When carrier is unable to pick up an entire shipment, including a split delivery shipment, at the time of the initial pickup, or when carrier at its option and for its operating convenience picks up a shipment in more than one vehicle or at more than one time, the following provisions shall apply in addition to other applicable rules and regulations:
1. The entire shipment shall be tendered at one time and shall be available to the carrier for immediate transportation at the time of the first pickup.
 2. A single shipping document for the entire shipment tendered shall be issued prior to or at the time of the first pickup.
 3. The date, quantity, kind and weight of the property in each pickup shall be shown on the single shipping document as it is separately picked up, or in lieu thereof, an additional shipping document may be issued for each pickup which shall give reference to the single shipping document covering the entire shipment and shall be attached to and become a part thereof.

^{4/} Item No. 180(1), First Revised Page 22, Merchants Express of California Local Freight Tariff No. 8, Cal. P.U.C. No. 8, series of A. W. Way, dba Way's Redwood Empire Freight Lines. Item No. 20(q), Original Page 15, Merchants Express of California, Local Freight Tariff No. 1, Cal. P.U.C. No. 2. Item No. 210(b), First Revised Page 42, Merchants Express Corporation Local and Joint Freight Tariff No. 21, Cal. P.U.C. No. 12.

4. The entire shipment shall be picked up by the carrier within a period of 2 days computed from 12:01 a.m. of the date on which the first pickup commences, excluding Saturdays, Sundays and legal holidays. (See Exception.)
5. The separate pickups made in accordance with the foregoing provisions shall constitute a composite shipment which shall be subject to the rates named or provided for in this tariff in effect on the day of the first pickup, for the transportation of a single shipment of like kind and quantity of property picked up or transported on a single vehicle.

- (b) Any property separately picked up without complying with the foregoing provisions shall constitute a separate shipment and shall be subject to the rates, rules and regulations applicable thereto.

Exception: - Will not apply to split pickup shipments." 5/

Based upon the facts hereinabove found and the tariff provisions just referred to, it is the Commission's conclusion that the merchandise tendered on each of the occasions mentioned in paragraphs 5 through 15 constituted a separate shipment and should have been rated as such. The consolidation of various of these shipments together for the purpose of assessing transportation charges was improper. ✓

Based upon the facts found and in view of the previous discussion, it is the Commission's conclusion that the correct charges for the shipments in question are those set forth under the section entitled "Statement Describing Shipments and Showing Rates and Charges Applicable Thereto" in the respective parts of

5/ Item No. 282, Merchants Express of California Local Freight Tariff No. 8, Cal. P.U.C. No. 8, series of A. W. Way, dba Way's Redwood Empire Freight Lines.

Item No. 210, Merchants Express of California Local Freight Tariff No. 1, Cal. P.U.C. No. 2.

Item No. 512, Merchants Express Corporation Local and Joint Freight Tariff No. 21, Cal. P.U.C. No. 12.

Exhibits A and B of the written stipulation dated June 26, 1957, with the following exceptions:

(A) The correct charge for the shipment on October 18, 1956 ✓ of 330 cases of strawberry preserves from A.D.S. Food Products Company in San Francisco to Weinstein and Cummings in Canoga Park is \$75.60.

(B) The correct charge for the shipment on October 23, 1956 of various cases of nectars from Central Cal. Freight Lines to North Coast Mercantile Company in Eureka is \$38.72.

(C) The correct charge for the shipment of 87 rug cushions from General Felt Products of California and National Sponge Cushion Co. Inc. in Azusa to Berven Carpet Corporation in San Francisco is \$169.06.

(D) The correct charge for the shipment on September 19, 1956 of 110 cases of canned chicken from Central Warehouse in San Francisco to Park Auto Markets, Inc. in Santa Rosa is \$31.11.

(E) The correct charge for the shipment on October 2, 1956 of 500 packages of liquid bleach from the Purex Corporation in San Leandro to Park Auto Markets, Inc. in Santa Rosa is \$77.56.

(F) The correct charge for the shipment on October 12, 1956 of Cream of Wheat from the Cream of Wheat Corporation in San Francisco to North Coast Mercantile Company in Eureka is \$39.40.

(G) The correct charge for the shipment on October 11, 1956 of cereal from the Central Warehouse & Drayage Company in San Francisco to North Coast Mercantile Company in Eureka is \$17.71.

(H) The correct charge for the shipment on October 22, 1956 of cereal from Central Warehouse & Drayage Company in San Francisco to the North Coast Mercantile Company in Eureka is \$25.18.

(I) The correct charge for the shipment on October 22, 1956 of pitted dates from Central Warehouse & Drayage Company in San Francisco to North Coast Mercantile Company in Eureka is \$28.73.

(J) The correct charge for the shipment on October 15, 1956 of peanuts from Circus Foods, Inc. in San Francisco to Park Auto Markets, Inc. in Santa Rosa is \$1.71.

Based upon the facts hereinabove found and the conclusions heretofore reached, the Commission hereby finds and concludes that Merchants Express of California and Merchants Express Corporation violated Section 494 of the Public Utilities Code by charging, demanding, collecting and receiving a different compensation for the transportation of property than the applicable rates, fares, and charges specified in their schedules filed and in effect at the time. With respect to respondent, Merchants Express of California, these violations resulted in undercharges in the amount of \$4,993.43. With respect to Merchants Express Corporation, these violations resulted in undercharges in the amount of \$358.55 and overcharges in the amount of \$23.24.

Motions

At the time of the hearing in this matter, a motion was made to strike certain testimony of one of the witnesses. This motion is hereby denied. Respondent, Merchants Express of California, petitioned for a proposed report by the presiding officer. This petition is hereby denied.

Penalty

As indicated in the findings of fact, the two respondents have merged and respondent, Merchants Express of California is the surviving corporation. Any penalty to be assessed must, of necessity, be assessed against this carrier alone.

Respondents introduced evidence showing that during the same period of time over which Merchants Express of California transported the shipments relative to which violations were found, this respondent handled 41,757 shipments. Likewise, evidence was introduced showing that during the same period of time during which Merchants Express Corporation transported the shipments relative to which violations were found, this respondent handled 369,863 shipments. It was respondents' estimate that Merchants Express of California serves over 5,000 shippers per month.

Respondent Merchants Express of California is a large carrier. Notwithstanding this fact, however, all carriers, both large and small, must be made to realize that rate violations will not be tolerated. It is the Commission's opinion that this fact will be realized only if substantial penalties are assessed against those carriers found engaging in rate violations. This is particularly true in the present case where the record indicates that the rate violations found were not sporadic occurrences. To the contrary, the record shows that these violations constituted a consistent course of conduct by respondents with respect to the shippers involved.

It should also be noted that certain of the rate violations of Merchants Express of California occurred on shipments between San Francisco and Eureka or Arcata. It was on shipments between these points that Merchants Express of California recently supported a request to the Commission for an increase in rates. It is all too obvious that rate increases are meaningless if the carriers who are seeking such increases are illegally charging less than the very rates they are asking to be increased.

It is the Commission's conclusion that it would not be in the public interest to suspend all of the operating authority of respondent, Merchants Express of California. However, the highway common carrier, petroleum irregular route carrier, radial highway common carrier, and highway contract carrier operating authority of Merchants Express of California will be suspended to the extent that the said respondent will be prohibited from serving the shippers of the shipments for which violations have hereinabove been found, for a period of forty-five days. This same operating authority will also be suspended to the extent that the said respondent will be prohibited from transporting any shipments whatsoever between San Francisco, on the one hand, and Eureka or Arcata, on the other hand, for a period of five days. Merchants Express of California will also be ordered to collect the undercharges hereinabove found and to refund the overcharges hereinabove found. This respondent will also be ordered to examine its records and the records of Merchants Express Corporation for the period from January 1, 1956 to the present time to ascertain whether other undercharges or overcharges have occurred and to collect or refund such amounts, as the case may be.

O R D E R

A public hearing having been held in the above-entitled matter and the Commission being fully informed, therein, now therefore,

IT IS ORDERED:

(1) That Merchants Express of California shall cease and desist from future violations of Section 494 of the Public Utilities Code.

(2) Commencing at 12:01 a.m. on the third Monday following the effective date hereof, Merchants Express of California whether operating as a highway common carrier, petroleum irregular route carrier, radial highway common carrier, or highway contract carrier, shall not serve the following named companies or their successors or agents, either as consignees or consignors for a period of forty-five days:

Purity Stores Ltd.
A.D.S. Food Products Company
North Coast Mercantile Company
Oakland Sheet Metal Supply Co. Inc.
Blocksome and Company
El Molino Mills
General Felt Products of California
National Sponge Cushion Company
Air Crest Products Company
Park Auto Markets, Inc.
Olive Products Company
Ehmann Olive Company
Mt. Ida Packing Company
Wyandotte Olive Sales Company

This prohibition shall be considered as a partial suspension of this respondent's certificates of public convenience and necessity to operate as a highway common carrier and petroleum irregular route carrier and its permits to operate as a radial highway common carrier and as a highway contract carrier.

(3) Commencing at 12:01 a.m. on the third Monday following the effective date hereof, Merchants Express of California whether operating as a highway common carrier, petroleum irregular route carrier, radial highway common carrier, or highway contract carrier, shall not transport any shipments whatsoever between San Francisco, on the one hand, and Eureka or Arcata, on the other, for a period of five days. This prohibition shall likewise be considered as a partial suspension of this respondent's certificates of public convenience and necessity to operate as a highway common carrier and petroleum irregular route carrier and its permits to

operate as a radial highway common carrier and as a highway contract carrier.

(4) At least ten days before the suspension periods commence, Merchants Express of California shall send written notice to the companies named in paragraph 2 notifying them of its suspensions and the periods thereof and shall post at its terminal and station facilities used for receiving property from the public for transportation a notice to the public stating that its highway common carrier, petroleum irregular route carrier, radial highway common carrier and highway contract carrier operating authority have been suspended as set forth in paragraphs 2 and 3 hereof.

(5) That Merchants Express of California shall examine its records and the records of Merchants Express Corporation for the period from January 1, 1956 to the present time for the purpose of ascertaining if any additional undercharges or overcharges have occurred other than those mentioned in this decision.

(6) That Merchants Express of California is hereby directed to immediately refund the overcharges found in the previous opinion and to refund any additional overcharges found after the examination required by paragraph 5.

(7) That Merchants Express of California is hereby directed to take such action as may be necessary to collect the amount of the undercharges set forth in the preceding opinion, together with any additional undercharges found after the examination required by paragraph 5, and to notify the Commission in writing upon the consummation of such collection.

(8) That in the event charges to be collected as provided in paragraph 7 of this order, or any part thereof, remain uncollected eighty days after the effective date of this order, Merchants Express of California shall submit to the Commission, on the first Monday of each month, a report of the undercharges remaining to be collected and specifying the action taken to collect such charges and the result of such action, until such charges have been collected in full or until further order of the Commission.

116. (9)
(3) The Secretary of the Commission is directed to cause personal service of this order upon Merchants Express of California, and this order shall become effective twenty days after such service.

Dated at San Francisco, California, this 15th day of April, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners