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ORIGINAL

Decision No. 58182

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into
the rates, rules and regulations, charges,
allowances and practices of all common
carriers, highway carriers and city car-
riers relating to the transportation of
any and all commodities between and
within all points and places in the State
of California (including, but not limited
to, transportation for which rates are
provided in Minimum Rate Tariff No. 2).

Case No. 5432

John MacDonald Smith and Robert A. Thompson, for
Southern Pacific Company and The Atchison, Topeka
and Santa Fe Railway Company; respondents.
Arlo D. Poe, J. C. Kaspar and James Quintrall, for
California Trucking Associations, Inc.; Cromwell
Warner, for Traffic Managers Conference of
Southern California; J. A. Sullivan, for California
Hardware Company; William M. Edwards, for Paxton
Truck Company; Ralph B. Harlan, for California
Manufacturers Association; Ralph Hubbard, for
California Farm Bureau; Wm. G. Jackson and Roy J.
Varni, for Wm. Volker & Co.; W. F. McCann, for
Container Corporation of America; William P.
Wagstaffe, for California Packing Corporation; and
N. E. Keller; interested parties.

OPINION ON REHEARING

Minimum Rate Tariff No. 2 contains minimum rates and rules governing the transportation of general commodities between points in California. Items Nos. 200 through 230 of the tariff set forth provisions for the alternative application of common carrier rates, including rail rates, from, to or between the points of origin and destination. By ex parte Decision No. 57108, dated August 5, 1958, in this proceeding, Items Nos. 200 through 230 were revised to provide specifically that they are governed by the definitions of "point of origin" and "point of destination" appearing in Item No. 10

of the tariff. This revision was made to conform with Informal Ruling No. 30 of the Commission's Transportation Division, issued January 2, 1958.¹

Petitions for rehearing and reconsideration of Decision No. 57108 were filed on August 21, 1958, by the California Trucking Associations, Inc., and on September 6, 1958, by The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company. In essence, the petitions allege that the decision was issued without opportunity for any parties to be heard in the matter, that an informal ruling issued by the staff should not be the basis for evidence upon which a formal order is issued by the Commission, and that the tariff revision made by Decision No. 57108 is not one that can be categorized as merely for clarification.

Pursuant to orders granting rehearing, dated September 10, 1958, and September 15, 1958, rehearing was held on December 15, 1958, before Examiner William E. Turpen at San Francisco.

Counsel for the California Trucking Associations, Inc., pointed out that the alternative application rules (Items Nos. 200 through 230 of the tariff) were established to give effect to the statutory provision in Section 3663 of the Public Utilities Code that minimum rates established by the Commission shall not exceed the rates of common carriers by land for the transportation of the same kind of property between the same points. He argued that the

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Informal Ruling No. 30 was canceled on October 24, 1958, the substance thereof having been incorporated into the tariff by Decision No. 57108, supra. The informal ruling reads as follows:

"Item No. 10-M of Minimum Rate Tariff No. 2 defines 'Point of Origin' and 'Point of Destination,' in part, as including all points within a single industrial plant of one consignor or one consignee. In view of these definitions, questions have been asked whether rail rates, when used by highway permit carriers under the alternative provisions of Items Nos. 200 through 230 series of the tariff, will apply from or to the several points within a single industrial plant without additional charges.

"Highway permit carriers may pick up or deliver freight at all points within a single industrial plant under the alternatively applied rail rates."

intention of these provisions is to provide a competitive equality among the different forms of transportation. For that reason, he stated, when using rail rates highway carriers should not be able to offer any substantial additional or different service than that provided by the rail lines.

The counsel said that the definitions of "railhead" and "same transportation" appearing in Item No. 10 of Minimum Rate Tariff No. 2 confirm this view.² He also cited two decisions of the Commission in which rail rates were found not to be applicable when truck shipments were made from points in the same plant at a distance, in one case, of about 100 feet, and in the other case, of 1200 feet, from the rail facilities.³

In regard to the tariff definitions of "point of origin" and "point of destination", counsel stated that they were expanded by Decision No. 49339 in Case No. 5432 (53 Cal. PUC 43) to reflect prevailing practices with respect to application of the minimum rates and that application of these definitions under alternatively applied rail rates was not considered.

Counsel for the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company concurred in the views of the California Trucking Associations, Inc. He further stated that the railroad, in delivering a carload of freight, is bound by its tracks and the shipper's spur so that the point of delivery is limited. If

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These definitions read as follows:

"RAILHEAD means a point at which facilities are maintained for the loading of property into or upon, or the unloading of property from, rail cars or vessels. It also includes truck loading facilities of plants or industries located at such rail or vessel loading or unloading point."

"SAME TRANSPORTATION means transportation of the same kind and quantity of property between the same points, and subject to the same limitations, conditions and privileges, but not necessarily in an identical type of equipment."

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Los Angeles & Salt Lake Railroad Company, et al, 45 CRC 551; and Capital Freight Lines, 50 Cal. PUC 339.

the trucker, he continued, delivers a comparable shipment of freight, not to the point served by rail, but to any point within the plant, the trucker is then performing a greater transportation service than is contemplated by the rail rate.

Representatives of the California Manufacturers Association and of the Traffic Managers Conference of Southern California stated that they believed that the action taken in Decision No. 57108 is entirely consistent with the findings in Decision No. 49339, supra, and did no more than recognize what has been practiced.

Based on the arguments made at the rehearing, we are convinced that application of the definition of "point of origin" and "point of destination", as contained in Item No. 10 of Minimum Rate Tariff No. 2, when used in connection with rail rates under the provisions of Items Nos. 200 through 230 of the tariff would result in providing a greater transportation service for the same rates than is provided by the railroads. We, therefore, find and conclude that the tariff changes made by Decision No. 57108 should be canceled. If any party feels that the tariff provisions should be further amended to provide more specific rules in regard to the questions here involved, an appropriate petition in Case No. 5432 may be filed.

ORDER ON REHEARING

Based on the record made on rehearing and on the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED:

(1) That Minimum Rate Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended) be and it is hereby further amended by incorporating therein, to become effective May 1, 1959, Twelfth Revised Page 23, Ninth Revised Page 24 and Fourth Revised Page 25, which revised pages are attached hereto and by this reference made a part hereof.

(2) 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, and that such tariff publications shall be made effective not later than May 1, 1959.

(3) That in all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 24th
day of March, 1959.

E. L. Fox
President
W. L. G. G. G.
W. L. G. G. G.
Therese D. D. D.
Everett D. D. D.
Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
190-D Cancels 190-C and 190-B	<p style="text-align: center;">ALTERNATIVE APPLICATION OF RATES NAMED IN THIS TARIFF</p> <p>In the event two or more rates are named in this tariff for the same transportation, the lower rate shall apply. In the event a combination of rates makes a lower aggregate through rate or charge than a single rate, such lower combination of rates shall apply.</p>
*200-J Cancels 200-I	<p style="text-align: center;">ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</p> <p>(a) Common carrier rates, except rates of coastwise common carriers by vessel, may be applied in lieu of the rates provided in this tariff, when such common carrier rates produce a lower aggregate charge for the same transportation than results from the application of the rates herein provided. (See Notes 1, 2, 3 and 4.)</p> <p>(b) Team track-to-team track rates of common carriers by railroad or of common carriers by vessel operating over inland waters may be applied in lieu of the rates provided in this tariff, in connection with transportation between established depots in the same cities or unincorporated communities in which such team tracks are located, when such team track-to-team track rates produce a lower aggregate charge than results from the application of the rates provided in this tariff for depot-to-depot movements. (See Notes 1, 2, 3 and 4.)</p> <p>NOTE 1.-When a rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item.</p> <p>NOTE 2.-In determining the aggregate charge by railroad of transporting shipments of hay and related articles, as described in Item No. 355, there shall be added to the rail rate 37 cents per ton for shrinkage.</p> <p>NOTE 3.-In determining the aggregate charge by railroad for the transportation of shipments of commodities classified "cold pack" or "frozen" in the Western Classification or Exception Sheet, the charge for refrigeration service shall be the charge for Mechanical Refrigeration Service named in the applicable rail tariff or tariffs.</p> <p>NOTE 4.-In applying the provisions of this item, a rate no lower than the common carrier rate and a weight no lower than the actual weight or published minimum weight (whichever is the higher) applicable in connection with the common carrier rate shall be used.</p>

* Change)
** Note 5 Eliminated) Decision No. 58182

EFFECTIVE MAY 1, 1959

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 689

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p data-bbox="553 411 1251 481" style="text-align: center;">ALTERNATIVE APPLICATION OF COMBINATIONS WITH COMMON CARRIER RATES</p> <p data-bbox="362 507 1470 640">When lower aggregate charges result, rates provided in this tariff may be used in combination with common carrier rates, except rates of coastwise common carriers by vessel, for the same transportation as follows:</p> <p data-bbox="362 671 1439 906">(a) When point of origin is located beyond railhead or an established depot and point of destination is located at railhead or an established depot, add to the common carrier rate applying from any team track or established depot to point of destination the rate provided in this tariff for the distance from point of origin to the team track or depot from which the common carrier rate applies. (See Notes 1, 2, 3 and 4.)</p> <p data-bbox="362 932 1482 1166">(b) When point of origin is located at railhead or an established depot and point of destination is located beyond railhead or an established depot, add to the common carrier rate applying from point of origin to any team track or established depot the rate provided in this tariff for the distance from the team track or depot to which the common carrier rate used applies to point of destination. (See Notes 1, 2, 3 and 4.)</p> <p data-bbox="362 1192 1496 1460">(c) When both point of origin and point of destination are located beyond railhead or an established depot, add to the common carrier rate applying between any railheads or established depots the rate provided in this tariff for the distance from point of origin to the team track or depot from which the common carrier rate used applies, plus the rate provided in this tariff for the distance from the team track or depot to which the common carrier rate used applies to point of destination. (See Notes 1, 2, 3 and 4.)</p> <p data-bbox="432 1486 1371 2007">NOTE 1.-If the route from point of origin to the team track or the established depot, or from the team track or established depot to point of destination, is within the corporate limits of a single incorporated city, the rates provided in this tariff for transportation for distances of 3 miles or less, or rates established for transportation by carriers as defined in the City Carriers' Act, whichever are the lower, shall apply from point of origin to team track or established depot or from team track or established depot to point of destination as the case may be; except that if the route from team track or established depot is within the limits of the Los Angeles Drayage Area (see Item No. 30 for reference), rates no lower than those established for transportation therein shall apply in connection with shipments of alcoholic liquors originating in San Francisco Territory.</p> <p data-bbox="427 2033 1364 2202">NOTE 2.-When a rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item.</p>

*210-I
 Cancels
 210-E

NOTE 3.-In determining the aggregate charge by railroad of transporting shipments of hay and related articles, as described in Item No. 355, there shall be added to the rail rate (or the combined rail and highway carrier rate) cents per ton for shrinkage.

NOTE 4.-In applying the common carrier rate or charge under this item, a rate no lower than the common carrier rate and a weight no lower than the actual weight or published minimum weight (whichever is the higher) applicable in connection with the common carrier rate shall be used.

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* Change .	} Decision No. 58182
** Note 5 Eliminated	

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Correction No. 890

Item No.	SECTION NO. 1-RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>*220-D Cancels 220-C</p>	<p style="text-align: center;">ALTERNATIVE APPLICATION OF SPLIT PICKUP UNDER RATES CONSTRUCTED BY USE OF COMBINATIONS WITH COMMON CARRIER RATES</p> <p>Charges on split pickup shipments may be computed by use of combinations with common carrier rates as follows, if a lower aggregate charge than that accruing under the basis provided in Item No. 160 results :</p> <p>(1) Compute the charge applicable under the rates named in this tariff for a split pickup shipment from the point or points of origin of the several component parts (See Item No. 160) to any team track or established depot. (See Note.)</p> <p>(2) Add to such charge the charge applicable under Items Nos. 200 and 210 for the weight of the composite shipment from such team track or established depot to point of destination.</p> <p style="text-align: center;">**</p> <p>***NOTE. -If the points of origin of all component parts are within the limits of an incorporated city within which the team track or established depot is located, and no rate for transportation to the team track or established depot from such points of origin is named in this tariff, the rates named in this tariff for transportation for distances of 3 miles or less shall apply to the composite shipment, or rates established for transportation by carriers as defined in the City Carriers' Act, whichever are the lower, shall apply to such team track or established depot from such points of origin.</p>
<p>*230-D Cancels 230-C</p>	<p style="text-align: center;">ALTERNATIVE APPLICATION OF SPLIT DELIVERY UNDER RATES CONSTRUCTED BY USE OF COMBINATIONS WITH COMMON CARRIER RATES</p> <p>Charges on split delivery shipments may be computed by use of combinations with common carrier rates as follows, if a lower aggregate charge than that accruing under the basis provided in Item No. 170 results :</p> <p>(1) Compute the charge applicable under Items Nos. 200 and 210 for the weight of the composite shipment from point of origin to any team track or established depot.</p> <p>(2) Add to such charge the charges applicable under the rates named in this tariff for a split delivery shipment (See Item No. 170) from such team track or established depot to the point or points of destination of the several component parts. (See Note.)</p>

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***NOTE.-If the points of destination of all component parts are within the limits of an incorporated city within which the team track or established depot is located, and no rate for transportation from the team track or established depot to such point of destination is named in this tariff, the rates named in this tariff for transportation for distances of 3 miles or less shall apply to the composite shipment, or rates established for transportation by carriers as defined in the City Carriers' Act, whichever are the lower, shall apply from such team track or established depot to such points of destination.

* Change	}	Decision No. 58182
** Note 1 Eliminated		
*** Formerly Note 2		

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