

ORIGINAL

Decision No. 58423

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 household goods carriers,)
common carriers, highway carriers,)
and city carriers, relating to the)
transportation of used household)
goods and related property.)

Case No. 5330
(Order Setting Hearing
dated June 4, 1958)

And related matters.)

Cases Nos. 5432, 5433, 5435,
5436, 5438, 5439, 5440,
5441 and 5603

ORDER DENYING REHEARING
AND MODIFYING PRIOR DECISION

Petitions for rehearing with respect to Decision No. 57829, issued on January 6, 1959, were filed by California Hawaiian Sugar Refining Corporation, Ltd., and by Fibreboard Paper Products Corporation on January 16 and January 19, 1959, respectively. As requested by the petitions, we have re-examined this decision and the problem raised in this proceeding. Although no further hearing appears to be necessary, we deem it expedient to modify, in certain respects, the opinion and order contained in Decision No. 57829.

We believe that much of the difficulty surrounding the problem with which we are concerned in this proceeding is due to the use of the words "rebilling" and "reshipping" in connection with certain practices involving a large volume move from a point of origin A to a point of destination B and a subsequent move (or moves) of a component part (or parts) to an ultimate point (or points) of destination C (D, E, etc.).

These practices, under certain circumstances, result in a lesser total charge to the shipper than if the charge were calculated as if all of the component parts moved as separate shipments

from Point A to Point C (D, E, etc.). This result occurs when a low rate is available on a large volume move from Point A to Point B, and a separate rate is established for the subsequent movement of a component part.

In carrying out these practices, the shipper may either contract with one single carrier to perform both hauls; or he may contract with one carrier for the haul from Point A to Point B, and with another carrier for the haul from Point B to Point C. In the latter case, there are two separate contracts of carriage, and sometimes an unloading of the property from a vehicle of the first carrier, and a reloading upon a vehicle of the second carrier. It seems accurate to call such a transaction a "reshipment" or a "rebill-ing" from Point B to Point C. In other cases there is no unloading, but the shipper agrees with the consignee at Point B that the consignee will engage either the same or another carrier to haul the property, in whole or in part, in the same vehicle to Point C. Again, it seems accurate to say there was a "reshipping" or "rebill-ing" at Point B since there were two separate contracts of carriage. This practice has prevailed in the railroad industry where rail cars are consigned to a consignee at a private spur track and reconsigned by him to another ultimate destination. For such a practice, so-called "combination rates" are available, that is, the rate for the car from point of origin to the first consignee is combined or added to the rate from the spur track to the ultimate destination.

In the above situations there is no problem with respect to the application of split delivery charges because separate shipments are actually involved. In other cases, however, the same kind of rate advantage is obtained through a single contract of carriage whereby a single carrier agrees in advance with the shipper to

transport a large volume load from point of origin A, and to make so-called "split deliveries", i.e., to make deliveries of several component parts of the load at several points of destination. For this type of shipment, the words "rebilling" and "reshipping" are inappropriate and misleading for the reason that there is only one contract of carriage. The Commission has taken cognizance of this practice by establishing in various minimum rate tariffs rates, rules and regulations governing split deliveries. These rates, rules and regulations require, where distance rates are applicable, that the carrier use as a factor the distance between Point A and the point of destination producing the shortest distance via the other point or points of destination. (e.g., MRT No. 2, Item 170 Series). Thus, the charge for each and every component part in the split delivery shipment is affected by the distance to the most remote destination point.

There appears to be another practice intended by certain shippers to produce the low charges resulting from a volume move from Point A to Point B plus an additional charge for moving a component part to Point C. This practice involves the simultaneous issuance by a single carrier of two bills of lading, one purporting to embody his obligation to haul from Point A to Point B, and the other purporting to embody his obligation to haul a part of the load from Point B to Point C.

This practice also has been called, in the industry, "rebilling", or "reshipping". These words, however, are inappropriate to describe this practice. The words themselves indicate that two contracts of carriage have been entered into, it being assumed, apparently, that, because two bills of lading have been executed and issued, there are necessarily two contracts of carriage. But this is not a necessary conclusion. On the contrary, it is more reasonable

to presume that where two parties, such as a carrier and a shipper, contemporaneously enter into various agreements with respect to the same subject matter, the terms being contained in two or more writings, there is a single contract between them, although it embodies numerous obligations. This presumption is strengthened where, as in the practice in question, there is no relinquishment by the carrier, at Point B, of the possession acquired at the time of delivery to it of the large volume shipment. It would then follow that with respect to the practice last described, there is no "rebilling" or "reshipping". Rather, the transaction is in essence one involving a line haul followed by split delivery service, with both services being performed by the same carrier, for which services, the Commission, as already stated, has prescribed rates, rules and regulations.

The above are situations which do not actually involve separate shipments and it is those with which we are concerned in this proceeding. We have recognized, however, in Decision No. 57829, the desirability of authorizing a method of calculating charges, for such transactions, that would produce the same charge as if the transportation of a component part from Point B to Point C had been performed under a separate contract, independent of the contract under which the transportation from Point A to Point B was performed.

This method would avoid the greater charges resulting from an application of the present split delivery rule, under which, as above pointed out, the charge for each and every component part is affected by the distance to the most remote destination point and would permit the shipper to use a single carrier under one contract of carriage and obtain the same lower charges which would be available to him if he employed two or more carriers under separate contracts of carriage.

The language of Items 160 and 170 does not clearly state that the modification prescribed in Decision No. 57829 is an alternative to the present provisions regarding split pickup and split delivery. Said items will be revised.

O R D E R

IT IS ORDERED:

1. That the above-described petitions for rehearing of California Hawaiian Sugar Refining Corporation, Ltd., and Fibreboard Paper Products Corporation are hereby denied.
2. That Minimum Rate Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended) is hereby further amended by incorporating therein, to become effective June 26, 1959, Tenth Revised Page 20-A, Sixteenth Revised Page 21 and Supplement No. 46, which revised pages and supplement are attached hereto and by this reference made a part hereof.
3. That tariff publications authorized to be made by common carriers as a result of this order herein may be made effective on not less than five days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the tariff pages herein involved.
4. That in all other respects said Decision No. 31606, as amended, shall remain in full force and effect.
5. That proceedings instituted by the Commission's Order Setting Hearing Dated June 4, 1958, are discontinued.

6. That Decision No. 57829 is hereby modified to the extent that it is inconsistent with the conclusions and order hereinabove set out.

Dated at San Francisco, California, this 19th day of May, 1959.

Matthew F. Dooley
Matthew F. Dooley, Commissioner
Date MAY 20 1959

C. Lynn Fox
President
John E. B. [unclear]
Theodore [unclear]

Commissioners

SUPPLEMENT NO. 46

(Cancels Supplement No. 44)

(Supplements Nos. 35, 43, 45 and 46 Contain All Changes)

TO

MINIMUM RATE TARIFF NO. 2

NAMING

MINIMUM RATES, RULES AND REGULATIONS

FOR THE

TRANSPORTATION OF PROPERTY OVER THE

PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

RADIAL HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

AND

HOUSEHOLD GOOTS CARRIERS

Decision No. 58428

EFFECTIVE JUNE 26, 1959

Issued by the
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
State Building, Civic Center
San Francisco, California

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">SPLIT PICKUP</p> <p>The rate for the transportation of a split pickup shipment shall be determined and applied as follows; subject to Note 1:</p> <p>(a) Subject to the alternative provided in paragraph (f) of this item, distance rates shall be determined by the distance to point of destination from that point of origin which produces the shortest distance via the other point or points of origin.</p> <p>(b) Subject to the alternative provided in paragraph (f) of this item, point-to-point rates shall be applied only when point of destination and all points of origin are within the territories or are within the pickup and delivery limits of the named points between which the point-to-point rates apply, or are located between said territories or named points on a single authorized route.</p> <p>(c) Subject to the alternative provided in paragraph (f) of this item, point-to-point rates determined under paragraph (b) may be combined with distance rates provided in paragraph (a) where lower charges result. The applicable distance rate factor shall be determined by use of one-half the shortest distance from the territory or authorized route and return thereto via the off-route point or points of origin and destination.</p> <p>(d) For each split pickup shipment a single bill of lading or other shipping document shall be issued; and at the time of or prior to the initial pickup the carrier shall be furnished with written instructions showing the name of the consignor, the point or points of origin and the description and weight of property in each component part of such shipment.</p> <p>(e) If split delivery is performed on a split pickup shipment or a component part thereof, or if shipping instructions do not conform with the requirements of paragraph (d) hereof, each component part of the split pickup shipment shall be rated as a separate shipment under other provisions of this tariff.</p> <p>*d(f) In determining the charge for a split pickup shipment, component parts may be rated as separate shipments from point or points of origin of such component parts to any point on the split pickup route (as provided in paragraph (a), (b) or (c) hereof); provided that the written instructions furnished to the carrier under paragraph (d) hereof show (1) the component parts to be treated as separate shipments and (2) the points between which the separate shipment rates are to be applied. The additional charges provided in Note 1 shall apply to all component parts of the split pickup shipment rated in accordance with the provisions of this paragraph, provided, however, where two or more component parts are rated under rates provided in this tariff as separate shipments to the same point on the split pickup route, the aforesaid two or more components shall be considered as one split pickup and the charge therefor shall be at the combined weight of the aforesaid component parts.</p> <p>NOTE 1: In addition to the rate for transportation, the following additional charges shall be assessed for split pickup service:</p>

*160-N
 Cancels
 160-I
 and
 160-L

- a
- For split pickup shipments transported under distance rates, when the distance computed in accordance with paragraph (a) hereof does not exceed 100 constructive miles, and shipments transported under point-to-point rates named in Items Nos. 509, 515 and 520:

Weight of Component Part (Pounds)		Split Pickup Charge for Each Component
Over	But Not Over	Part in Cents
0	100	140
*100	500	160
500	1,000	190
1,000	2,000	245
2,000	4,000	325
4,000	10,000	380
10,000		435

- For split pickup shipments, except as provided in paragraph 1:

Weight of Component Part (Pounds)		Split Pickup Charge for Each Component
Over	But Not Over	Part in Cents
0	100	160
*100	500	200
500	1,000	300
1,000	2,000	430
2,000	4,000	540
4,000	10,000	650
10,000		760

(1) Ninth Revised Page 20-A was suspended by Supplement No. 44.

* Change)
 & Reduction) Decision No. 58123

EFFECTIVE JUNE 26, 1959

Issued by the Public Utilities Commission of the State of California,
 San Francisco, California.
 Correction No. 919

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p data-bbox="748 389 970 421" style="text-align: center;">SPLIT DELIVERY</p> <p data-bbox="341 455 1362 521">The rate for the transportation of a split delivery shipment shall be determined and applied as follows, subject to Note 1:</p> <p data-bbox="341 555 1414 686">(a) Subject to the alternative provided in paragraph (f) of this item, distance rates shall be determined by the distance from point of origin to that point of destination which produces the shortest distance via the other point or points of destination.</p> <p data-bbox="341 721 1431 950">(b) Subject to the alternative provided in paragraph (f) of this item, point-to-point rates shall be applied only when point of origin and all points of destination are within the territories or are within the delivery and pickup limits of the named points between which the point-to-point rates apply, or are located between said territories or named points on a single authorized route.</p> <p data-bbox="341 984 1453 1179">(c) Subject to the alternative provided in paragraph (f) of this item, point-to-point rates determined under paragraph (b) may be combined with distance rates provided in paragraph (a) where lower charges result. The applicable distance rate factor shall be determined by use of one-half the shortest distance from the territory or authorized route and return thereto via the off-route point or points of origin and destination.</p> <p data-bbox="189 1213 304 1371">*170-N Cancels 170-M and 170-L</p> <p data-bbox="341 1213 1453 1408">(d) For each split delivery shipment a single bill of lading or other shipping document shall be issued; and at the time of or prior to the tender of the shipment the carrier shall be furnished with written instructions showing the name of each consignee, the point or points of destination and the description and weight of property in each component part of such shipment.</p> <p data-bbox="341 1442 1475 1608">(e) If split pickup is performed on a split delivery shipment or a component part thereof, or if shipping instructions do not conform with the requirements of paragraph (d) hereof, each component part of the split delivery shipment shall be rated as a separate shipment under other provisions of this tariff.</p> <p data-bbox="326 1642 1448 2205">*6(f) In determining the charge for a split delivery shipment, component parts may be rated as separate shipments from any point or points on the split delivery route (as provided in paragraph (a), (b) or (c) hereof) to point or points of destination of such component parts; provided that the written instructions furnished to the carrier under paragraph (d) hereof show (1) the component parts to be treated as separate shipments and (2) the points between which the separate shipment rates are to be applied. The additional charges provided in Note 1 shall apply to all component parts of the split delivery shipment rated in accordance with the provisions of this paragraph, provided, however, where two or more component parts are rated under rates provided in this tariff as separate shipments from the same point on the split delivery route, the aforesaid two or more component parts shall be considered as one split delivery and the charge therefor shall be at the combined weight of the aforesaid component parts.</p> <p data-bbox="360 2239 1407 2331">NOTE 1: In addition to the rate for transportation, the following additional charges shall be assessed for split delivery service:</p>

1. For split delivery shipments transported under distance rates, when the distance computed in accordance with paragraph (a) hereof does not exceed 100 constructive miles, and shipments transported under point-to-point rates named in Items Nos. 509, 515 and 520:

Weight of Component Part (Pounds)		Split Delivery Charge for Each Component Part in Cents
Over	But Not Over	
0	100	140
* 100	500	160
500	1,000	190
1,000	2,000	245
2,000	4,000	325
4,000	10,000	380
10,000		435

2. For split delivery shipments, except as provided in paragraph 1:

Weight of Component Part (Pounds)		Split Delivery Charge for Each Component Part in Cents
Over	But Not Over	
0	100	260
* 100	500	280
500	1,000	300
1,000	2,000	430
2,000	4,000	540
4,000	10,000	650
10,000		760

172-E
Cancels
172-D

RECEIVING AND TRANSMITTING PURCHASE ORDERS

When the service of receiving and transmitting purchase orders is performed in connection with the transportation to which the rates provided in this tariff are applicable the charge for handling said purchase orders shall be $3\frac{1}{2}$ cents per order.

175-B
Cancels
175-A

STRINGING PIPE

When the service of stringing (distribution in transit along a line) is performed in connection with the transportation of pipe and culvert, fencing, posts and poles for which the class rates provided in this tariff are applicable, the class rates shall be applied to the point at which the stringing service is commenced. In addition thereto hourly rates provided in Item No. 720 shall be assessed for the time consumed in performing the stringing service, less ten minutes per ton.

(1) Fifteenth Revised Page 21 was suspended by Supplement No. 44.

* Change

o Reduction

Decision No. 58426

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Correction No. 920