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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 SAN FRANCISCO WAREHOUSE CO., a corporation,
 for authorization to transport tobacco
 products for AMERICAN TOBACCO COMPANY,
 BROWN & WILLIAMSON TOBACCO CORPORATION and
 LIGGETT AND MYERS TOBACCO COMPANY within
 San Francisco at rate below minimum rate
 prescribed by City Carriers' Tariff No. 1-A.

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) Application
) No. 41031
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In the Matter of the Application of WALKUP
 DRAYAGE AND WAREHOUSE COMPANY, a corporation,
 for authority to charge less than certain
 minimum rates prescribed in City Carriers'
 Tariff No. 1-A.

)
) Application
) No. 41107
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)

Vaughn, Paul & Lyons, by John G. Lyons, for San Francisco
 Warehouse Co., applicant.
 Berol & Silver, by Edward M. Berol, for Walkup Drayage
 and Warehouse Co., applicant.
Russell Bevans, for Draymen's Association of San Francisco,
Inc., J. C. Kaspar, A. D. Poe and J. X. Quintrall, for
 California Trucking Associations, Inc.; interested
 parties.
John B. Nance and John E. Specht, for the Commission staff.

O P I N I O N

San Francisco Warehouse Co., a city carrier, by Application
 No. 41031, seeks authority under Section 4015 of the Public Utilities
 Code to transport cigars, cigarettes, snuff and manufactured tobacco
 from its warehouse at 180 Napoleon Street, San Francisco, to points
 in Zone 1 as described in City Carriers' Tariff No. 1-A for American
 Tobacco Company, Brown and Williamson Tobacco Corporation and
 Liggett and Myers Tobacco Company, at rates less than the minimum
 rates prescribed by the Commission in said City Carriers' Tariff
 No. 1-A.

Walkup Drayage and Warehouse Co., a city carrier, by Application No. 41107, seeks similar authority in connection with shipments from its warehouse for the accounts of Phillip Morris, Inc., and P. Lorillard Co.

Said applications, together with Application No. 41105 of Merchants Express of California, were heard on a consolidated record June 5, 1959 at San Francisco. The instant applications were taken under submission and Application No. 41105 of Merchants was continued for further hearing.^{1/}

The large manufacturers of tobacco products are R. J. Reynolds Co., American Tobacco Co., Liggett and Myers Tobacco Co., Phillip Morris, Inc., P. Lorillard Co., and Brown and Williamson Tobacco Corporation. The main offices and traffic departments of these companies are in the eastern part of the United States. It is their practice, at present, in the marketing of their products in the San Francisco Bay Area to store goods in public warehouses in San Francisco, or Oakland in the case of R. J. Reynolds, and distribute the products through jobbers. The jobbers, for the most part, are located in a section of San Francisco Zone 1 and in a section of Oakland. Reynolds utilizes the warehouse facilities of Haslett Warehouse Co. in Oakland. The other major tobacco companies use the warehouse services of the applicants as indicated above. The warehousemen are also draymen and, in the case of applicants, have affiliated companies performing highway common carrier services in the Bay Area and to other points in California. The competition

^{1/} By Application No. 41105, Merchants Express of California seeks authority to charge rates lower than those prescribed in City Carriers' Tariff No. 2-A, Highway Carriers' Tariff No. 1-A for the transportation of tobacco products from its warehouse in Oakland to points in Oakland. This application was protested by Haslett Warehouse Co. which did not protest the application of S.F. Warehouse or Walkup.

among the warehousemen for the accounts of the tobacco companies is very intensive. Well over 75,000 pounds of cigarettes are distributed each month from each company to jobbers in San Francisco alone. In addition to the competition among the warehousemen, another important consideration is proprietary competition. Most of the tobacco companies in the recent past distributed their products from their own warehouses in owned or leased trucks.

The following are the circumstances which led to the filing of the applications. Early in 1953, by Decision No. 48187 in Cases Nos. 4108 and 4109, the Commission ordered increases in the minimum rates in the East Bay Drayage Area. Reynolds made a survey of its storage and distribution costs and informed Haslett, which had been enjoying its business for 10 years, that it intended to discontinue its storage and distribution at Oakland and handle its business through San Francisco; Haslett filed Application No. 34712 seeking authority to charge less than the minimum rates for the transportation of Reynolds' products in Oakland. The Commission granted the authority by Decision No. 49582 dated January 18, 1954. Supplemental orders have authorized Haslett to continue to perform such transportation at rates which are lower than the minimum. Since 1953 there have been adjustments in the rates in City Carriers' Tariff No. 1-A (San Francisco), City Carriers' Tariff No. 2-A (Oakland) and Minimum Rate Tariff No. 2 (Transbay) at various times.

Recently, the vice president and general manager of Haslett informed the traffic departments of several of the major tobacco companies presently utilizing applicants' services that if the storage were moved to Haslett's warehouse in Oakland, he would endeavor to obtain for them the same rates which it is authorized to charge Reynolds. The traffic departments were able to determine

that their cost of distribution could be lower under such circumstances combined with the use of split delivery rates on movements from Oakland to San Francisco. They notified applicants that they were contemplating a change in distribution practices.

The departures sought by applicants from the minimum rates involve shipments weighing between 207 pounds and 3,779 pounds.^{2/} According to applicants, the rates were determined by considering the present minimum rate structure, Haslett's rates and the charges for transportation transbay with split delivery, so as to meet the costs which would be incurred by the tobacco companies under other methods of distribution.

San Francisco Warehouse and Walkup presented studies showing that the revenues under the proposed rates exceed the cost of transporting cigarettes from their respective warehouses to jobbers in Zone 1, San Francisco.

The Draymen's Association of San Francisco moved that the rates sought be established as minimum rates in City Carriers' Tariff No. 1-A and that the Haslett rates be established as minimum rates in City Carriers' Tariff No. 2-A. Such motion is not without merit in that there is little difference in the transportation of tobacco or any other products moving in volume by one

^{2/}

<u>Present Rates</u> (In Lbs.)	<u>Proposed Rates</u> (In Lbs.)	<u>Haslett</u> (In Lbs.)
101/207 - \$ 2.15 min.	101/597 - \$ 2.15 min.	101/250 - \$ 1.04 cwt.
208/346 - 1.04 cwt.		251/500 - 2.60 min.
347/500 - 3.60 min.		501/807 - .42 cwt.
501/1278- .72 cwt.	598/3778- .36 cwt.	808/1000- 4.20 min.
		1001/1714- .42 cwt.
1279/2000- 9.60 min.		1715/2000- 7.20 min.
2001/2956- .46 cwt.		2001/over- .36 cwt.
2957/4000- 13.60 min.	3779/4000- 13.60 min.	
4001/over- .34 cwt.	4001/over- .34 cwt.	

carrier from its own warehouse as compared to another. The granting of the motion would not, however, provide the solution to the underlying problem here; that is the competition among warehousemen on either side of the bay for the storage accounts of the manufacturers of tobacco products. The changes in the minimum rates in City Carriers' Tariff No. 1-A do not coincide with those in City Carriers' Tariff No. 2-A. Haslett filed its Application No. 34712 following an increase in the rates in City Carriers' Tariff No. 2-A because at that time, in light of the increases, Reynolds found it would be less expensive to distribute their products from warehouses in San Francisco. Now, the opposite situation occurs where the tobacco manufacturers presently storing goods in San Francisco find it will be less expensive to distribute their products from warehouses in Oakland. The placing of the rates in the respective tariffs will not improve the situation if the future adjustments of the rates in the separate tariffs are made independently.

In Decision No. 49582, in which Haslett was authorized to deviate from the minimum rates for the transportation of Reynolds' products the Commission stated:

"The Commission has recognized that East Bay and San Francisco drayage rates, transbay rates, and rates between the drayage areas and contiguous territory require further study. This investigation is actively being pursued in Case No. 5441. It embraces, among other things, consideration of the extent to which drayage zones may require adjustment.

"In this proceeding, it is evident that applicant has established that the proposed rates are reasonable and consistent with the public interest under prevailing conditions. Accordingly, the application will be granted. The authority will be issued on a temporary basis and made subject to review in the light of developments in the Case No. 5441 investigation."

The Case No. 5441 investigation mentioned therein involved proceedings brought by the Commission's Order Setting Hearing Dated February 15, 1955. Hearings were held in that proceeding and thereafter the matter was removed from the Commission's calendar.

The conditions surrounding the distribution of tobacco products in the San Francisco Bay Area add support to the proposition that minimum rates should be considered on a broader regional basis in the Bay Area than at present. Until, as a result of further proceedings in Case No. 5441, such matters are considered, the warehousemen should have equal opportunity to compete.

In the light of all of the facts and circumstances of record, the Commission is of the opinion and finds that the rates proposed by applicants are reasonable. It is readily apparent that the circumstances upon which our finding is based are susceptible to change; therefore, the authority which will be granted herein will be scheduled to expire November 1, 1959, which is the date on which the authority granted to Haslett by Decision No. 49582, as supplemented by Decision No. 57424 in Application No. 34712 is scheduled to expire. The matter of whether the rates so authorized should be modified or extended may be determined upon consideration of all of the applications involving this transportation.

O R D E R

Based on the evidence of record and on the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED that San Francisco Warehouse Company, a corporation, and Walkup Drayage and Warehouse Company, a corporation, and each of them, are authorized to assess less than the applicable minimum rates set forth in City Carriers' Tariff No. 1-A (Appendix "A" of Decision No. 41363 as amended) but not less than those set forth in Appendix "A" attached hereto and by this reference made a part hereof for the transportation named therein.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire November 1, 1959, unless sooner canceled, changed or extended by further order of the Commission.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 28th day of July, 1959.

Everett A. Deane
President

Walter H. Fisher

Theodore J. Dennis

Commissioners

Peter E. Mitchell
Commissioners C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Authorized rates for the transportation of cigarettes and manufactured tobacco products as described in Items 26880 to 26940, inclusive, of Western Classification No. 77 by:

SAN FRANCISCO WAREHOUSE COMPANY from its warehouse at 180 Napoleon Street, San Francisco, for American Tobacco Company, Brown and Williamson Tobacco Corporation and Liggett and Myers Tobacco Company; and,

WALKUP DRAYAGE AND WAREHOUSE COMPANY from its warehouse at 20th and Illinois Streets, San Francisco, for Phillip Morris, Inc. and P. Lorillard Co.;

TO: Points and places in Zone 1 as described in City Carriers' Tariff No. 1-A.

Rates are subject to a minimum weight of 75,000 pounds per month tendered to the carrier by the shipper.

<u>Minimum Weight in Pounds</u>	<u>Minimum Charge in Cents</u>	<u>Rates in Cents Per 100 Pounds</u>
25 or less	93	
Over 25 but not over 50	120	
Over 50 but not over 75	140	
Over 75 but not over 100	165	
Over 100 but not over 598	215	
Over 598 but not over 3,776		36
Over 3,776 but not over 4,000	1360	
Over 4,000		34

End of Appendix A