

Decision No. 62209

ORIGINAL

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 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
Petition for Modification
No. 212

E. H. Griffiths and John Kosack, for Arcata
Chamber of Commerce, petitioner for rehearing.
J. C. Kaspar, Arlo D. Poe and J. X. Quintrall,
for California Trucking Associations, petitioner
in Petition for Modification No. 212.
Armand Karp, for Callison Truck Lines, Inc.; and
W. G. Walkup, Jr., for Merchants Express of
California; respondents.
R. J. Carberry and John R. Laurie, for the
Commission's staff.

SUPPLEMENTAL OPINION AND ORDER
AFTER REHEARING AND RECONSIDERATION

This Opinion and Order results from a rehearing and reconsid-
eration of Decision No. 61736, dated March 28, 1961.

Decision No. 61736 was rendered pursuant to Petition No. 212,
filed February 8, 1961, by the California Trucking Associations, Inc.,
hereinafter referred to as CTA, by which it sought an extension until
December 31, 1961, of certain minimum rate differentials scheduled to
expire May 1, 1961. After a hearing¹ on the aforesaid Petition
No. 212, the Commission concluded that extension of the rate differen-
tials for a further period of six months was justified, and issued

¹ A representative of the Arcata Area Chamber of Commerce was present
throughout said hearing, stated the position of the Chamber, but
did not offer evidence.

Decision No. 61736 authorizing said differentials to continue to remain in effect beyond May 1, 1961, to October 31, 1961.

Rehearing of said decision was granted pursuant to a Petition for Reconsideration filed on April 18, 1961, by the Arcata Area Chamber of Commerce, referred to herein as the Chamber. A hearing was held in Eureka on April 27, 1961, before Commissioner Frederick B. Holoboff and Examiner Carter R. Bishop, at which time evidence in behalf of the Chamber was received, arguments heard, and the matter duly submitted for decision.

By Decision No. 56458, dated April 1, 1958, rendered pursuant to Petition No. 103, the Commission determined that the then prevailing minimum class rates prescribed by Minimum Rate Tariff No. 2 for shipments subject to minimum weights of 10,000 pounds or less, for the transportation of such shipments to and from points and places in Humboldt and Del Norte Counties, were and would be insufficient and therefore found that an increase of 10 percent in such rates was "necessary to assure the public adequate and dependable transportation service". Accordingly, the Commission authorized said rates to be increased by 10 percent, with the proviso that such minimum rate differentials should be "maintained only so long as they are urgently needed to assure the maintenance of dependable service". In order to insure periodic review of such rate differentials, they were made effective for one year subject to cancellation, modification or extension upon further order of the Commission. By Decision No. 58231, dated April 7, 1959, rendered pursuant to Petition No. 143, and Decision No. 59919, dated April 12, 1960, rendered pursuant to Petition No. 179, the differentials were extended for periods of one year in each instance upon a showing that the conditions which originally compelled the Commission to conclude that the differentials were justified continued to exist. In Decision No. 59919 the

Commission concluded that three years represented the maximum length of time that such rate differentials should be continued on a temporary and limited-term basis and admonished CTA, petitioner therein, and other interested parties that any request for further extension should be made sufficiently in advance to permit full hearing and orderly disposition, and that evidence would be expected "from which it may be determined whether or not the rate differentials continue to be urgently needed to insure the maintenance of dependable service".

The finding that the aforesaid rate differential of 10 percent was justified stemmed from evidence (in Petition for Modification No. 103) that carrier operating costs on less-than-truckload shipments were higher on traffic from and to Humboldt and Del Norte Counties (also known as Redwood Empire Territory) than on other California traffic. These higher costs were due, fundamentally, to an imbalance of traffic as between northbound and southbound movements. Northbound, the predominant movement by for-hire carriers, was less-than-truckload traffic, which required the use of van type vehicles. Southbound, there was a heavy movement, consisting almost entirely of lumber and forest products, in truckloads. These commodities could not be transported efficiently in van type equipment. Another circumstance which contributed materially to the higher operating costs in Redwood Empire traffic was the fact that all traffic from San Francisco to points intermediate to Eureka necessarily moved to Eureka, then back to the respective destinations in a peddle trip operation. This was necessary because the northbound trip from San Francisco was an overnight haul, as a consequence of which the northbound truck passed through said intermediate points prior to the start of the business day.

As stated in Decision No. 61736 of March 28, 1961, CTA is now conducting comprehensive studies of the costs of transporting

property by highway carriers throughout the State of California, including transportation to and from Redwood Empire Territory. Current wage agreements covering highway carrier operating employees will expire on June 30, 1961. The above-mentioned studies cannot be completed until after the new wage rates are known. Because of these circumstances CTA requested, in Petition No. 212, that the May 1, 1961, expiration date of the rate differentials here in issue be extended for a temporary period, sufficient to enable it to complete its studies and to prepare appropriate rate proposals, predicated thereon, for presentation at a future hearing.

In the meantime, however, other evidence was presented at the original hearing on Petition No. 212 which tended to show that the substantial conditions which prevailed when the differentials were first authorized continued to exist; and, therefore, there was a need to maintain said differentials. It was upon such evidence that Decision No. 61736 was based. Thus, the principal issue to be determined herein is whether such evidence has been successfully rebutted by evidence adduced upon rehearing.

In its presentation at the rehearing of Decision No. 61736, petitioner Arcata Area Chamber of Commerce sought to show that the existence of the 10 percent differential discriminated against the Redwood Empire Territory, that it tended to discourage the establishment of new industries in the Territory, and that circumstances had so changed since the institution, in 1958, of said differential as to no longer require its continuance beyond the May 1, 1961, expiration date.

Evidence relative to the alleged changed circumstances was adduced through two representatives of the Division of Highways of the State of California and through several shipper witnesses. The Highway representatives testified to the improvements which have been made on

U. S. Highway 101 in Humboldt and Mendocino Counties and to the ratios of four-lane to two-lane highway in the several counties from the north shore of San Francisco Bay to Crescent City. In this regard, attention is directed to the fact that the rates here in issue are distance rates, governed by the constructive highway distances set forth in Distance Table No. 4. The constructive distances set forth therein are designed to reflect operating conditions, including such matters as grades, curves, number of highway lanes, density of traffic, and bridge tolls, encountered on the routes over which said distances are calculated. Any improvements in highways, therefore, should be reflected, for minimum rate purposes, in adjustments in the applicable constructive mileages rather than in the rates. We take official notice of the fact that hearings are now in progress, in Case No. 7024, in which evidence is being received relative to adjustments in constructive mileages throughout the State, proposed by the Commission's staff to give effect to changed highway conditions, including those which have transpired in Redwood Empire Territory.

Testimony of the shipper witnesses disclosed that they use for-hire carriers for less-than-truckload shipments, which move predominantly northbound. Several of the companies represented, however, have their own trucks, which they use for the transportation of their truckload shipments. If anything, therefore, this testimony tends to show that the imbalance of traffic from and to Redwood Empire Territory which prevailed in 1958 still exists.

The shipper witnesses expressed the view that all of their less-than-truckload shipments might well be transported on flat-bed equipment. The record shows that, in the case of shipments of glass for one of the witnesses, a shift from movement via van type to flat-bed vehicles had resulted in a reduction in damage claims. As a general proposition, however, the shipper testimony on this point is not persuasive.

An exhibit introduced by the manager of the Chamber showed that the bulk of the population of Del Norte and Humboldt Counties lies within a strip extending ten miles on either side of U. S. Highway 101. The exhibit also contrasted the 1960 population of the two counties with the figures for 1950. The purpose of the comparison was to show the substantial population growth experienced in the area during the decade in question, and was taken by the witness as an indication of future population growth. A comparison of these figures with the population figures for 1956, as set forth in Exhibit 212-1,² however, indicates that there was a tapering off in population growth after that year.

The evidence adduced by the Chamber's manager and its rate committee chairman in support of the allegation that the maintenance of the 10 percent differential is discriminatory was too general to be persuasive. This is also true of the testimony concerning the alleged adverse effect of the differential on the encouragement of new industries to locate in Redwood Empire Territory.

Adequate notice of the rehearing was given. Nevertheless, no Chambers of Commerce or shipper or civic organizations other than petitioner Arcata Area Chamber of Commerce appeared at said hearing. Likewise no shippers appeared or testified concerning the matter at interest other than those members of the Chamber who testified in its behalf.

Conclusions

The sole issue before us is whether the 10 percent rate differentials here in issue are urgently needed to insure the maintenance of dependable service by for-hire carriers from and to Humboldt and Del Norte Counties. As pointed out in Decision No. 61736

² Introduced in the original hearing on Petition No. 212 by a witness for California Trucking Associations.

of March 28, 1961, the great preponderance of the transportation involved herein is performed by two highway common carriers.³ Calculations from figures of record indicate that approximately 80 percent of the total revenues of one of these carriers is involved in this proceeding. The 1960 operating ratio of this carrier, after income taxes, was 98.2 percent. Had the 10 percent differentials not been in effect during that year the operating ratio would have been 105.4 percent.

While the 1960 revenues of the second principal carrier which are involved herein constituted only 8 percent of that carrier's total revenues, nevertheless they were substantial. The 1960 overall operating ratio of said carrier, after income taxes, was 98.7 percent. Had the differentials not been in effect during that year the resulting operating ratio would have been 99.5 percent. The 1960 revenues involved herein were, of the first carrier, \$1,268,487, and of the second carrier, \$714,483.

It is apparent, therefore, that since the movement of the great preponderance of the traffic involved herein depends upon these two carriers, and since the rate differentials play a significant role in the operating results of these carriers, the maintenance of dependable service can reasonably be said to be directly related to the differentials. While the Commission is mindful of the desirability of low transportation rates, where as here, to the extent that lowering rates can reasonably be expected to jeopardize essential services, the desirability of such lower rates must be subordinated in favor of the more important public interest consideration, namely the need for dependable service.

The foregoing evidence relative to the principal carriers operating from and to Humboldt and Del Norte Counties was adduced at

³ According to the record, approximately 98 percent of all traffic subject to the surcharge is handled by four highway common carriers.

the original hearing in Petition No. 212. That evidence, together with other evidence offered by the original petitioner, California Trucking Associations, compelled the finding, in the absence of any other evidence to the contrary, that the Redwood Empire rate differentials continued to be urgently needed to insure the maintenance of dependable service. The evidence relative to the two principal carriers has not been controverted by any of the evidence presented by petitioner upon rehearing.

Upon careful consideration of all the facts and circumstances of the complete record we hereby find that the extension of the expiration date of the rate differentials in question from May 1, 1961, to October 31, 1961, heretofore authorized by the aforesaid Decision No. 61736, was justified. Said decision will be affirmed.

O R D E R

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

IT IS ORDERED that Decision No. 61736, dated March 28, 1961, in this proceeding, is hereby affirmed.

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

Dated at San Francisco, California, this 27th day of June, 1961.

Arthur B. Rame
President
Ed. J. H. Hill
E. J. Fox
George J. Grover
Fredrick B. Holmoff
Commissioners