

Decision No. 62211**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 property in the City)
 and County of San Francisco and the)
 Counties of Alameda, Contra Costa,)
 Lake, Marin, Mendocino, Monterey,)
 Napa, San Benito, San Mateo, Santa)
 Clara, Santa Cruz, Solano and Sonoma.)

Case No. 5441
 (Order Setting Hearing
 Dated December 28, 1960)

(Appearances are listed in Appendix A)

O P I N I O N

On the recommendation of the Transportation Division, the Commission ordered that a hearing be held in this proceeding for the purpose of receiving evidence concerning the question of whether it is necessary and desirable in the public interest that a single minimum rate tariff be developed and established by the Commission for transportation of general commodities within the area, or any portion thereof, encompassed in this case. Pursuant to such order dated December 28, 1960, public hearing was held before Commissioner Peter E. Mitchell and Examiner Jack E. Thompson on April 5, 1961 at San Francisco.

Copies of the Order Setting Hearing, notices of hearing and the recommendations of the Transportation Division were mailed on or about January 27, 1961 to approximately 570 parties, including representatives of the cities and counties within the area, the chambers of commerce, the principal carrier and shipper organizations and all persons and organizations who had appeared in any prior proceeding in Case No. 5441.

At present there are three minimum rate tariffs applicable to certain transportation of general commodities within the 14-county area. Highway Carriers' Tariff 1-A^{1/} is applicable to shipments having point of origin in Alameda, Albany, Berkeley, Emeryville, Oakland or Piedmont, and point of destination in another of those cities. Minimum Rate Tariff No. 2 is applicable to all highway carrier operations in the 14-county area other than those specified above.

City Carriers' Tariff No. 1-A names minimum rates for transportation within the City and County of San Francisco. City Carriers' Tariff No. 2 contains minimum rates for transportation performed wholly within the incorporated limits of Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont. No other minimum rates for the transportation of general commodities by city carriers within the area under consideration have been established.

The minimum rates prescribed in Minimum Rate Tariff No. 2 for transportation within the area are, for the most part, distance rates. The minimum rates in the San Francisco and East Bay drayage tariffs are generally zone rates so the rate structures are completely different from the rate structure in Minimum Rate Tariff No. 2. The drayage rates are substantially lower for small shipments and substantially higher for large shipments than those prescribed in Minimum Rate Tariff No. 2. As a result, at the boundary lines of the areas covered by the drayage tariffs, and in the immediate vicinity thereof, there are differences in rates for comparative distances. Illustrative of this situation are the minimum rate comparisons set forth in Table I below.

^{1/} City Carriers' Tariff 2-A, Highway Carriers' Tariff 1-A is one tariff publication naming minimum rates for highway carriers operating between cities and minimum rates for city carriers transporting property within the named cities. The tariff is commonly called the East-Bay Drayage Tariff.

TABLE I
 COMPARISON OF MINIMUM
 ANY QUANTITY THIRD CLASS RATES
 AND TRUCKLOAD FIFTH CLASS RATES
 BETWEEN POINTS SHOWN

<u>Between</u>	<u>And</u>	<u>Rates in Cents Per 100 Lbs.</u>	
		<u>A.Q.</u>	<u>T. L.</u>
Albany (Zone 2)	Albany (Zone 2)	136	18½
Albany (Zone 2)	Berkeley (Zone 2)	136	18½
Albany (Zone 2)	El Cerrito	142*	12*
El Cerrito	El Cerrito	None	None
Oakland (Zone 1)	Oakland (Zone 1)	125	17
Oakland (Zone 1)	San Leandro	145*	14*
Oakland (Zone 1)	Hayward	148*	16*
San Leandro	Hayward	145*	14*
San Francisco (Zone 1)	Treasure Island	116	24
San Francisco (Zone 1)	Oakland	151*	20*
San Francisco (Zone 1)	San Francisco (Zone 3)	116	24
San Francisco (Zone 1)	Daly City	145*	14*

* Subject to Central Coastal Territory
 Surcharges.

The three minimum rate tariffs were established prior to World War II. Since the war a number of cities have incorporated and a number of cities have greatly extended their boundaries. In 1956 the City of Fremont was incorporated. It is approximately 100 square miles in area. Since 1945 the corporate limits of the City of San Jose have been greatly extended. At present they extend from Sunnyvale to Morgan Hill. Many of the extensions were "strip" annexations so that a map of the San Jose area shows the City of Campbell almost completely surrounded by small strips of the City of San Jose. Interspersed among those blocks and strips are other blocks of unincorporated area.

The Commission's staff contends that the circumstances and conditions recited above result in discriminations, or at least provide a high potential for rate discriminations. It was stated that

the existence of regulated and unregulated areas, as more particularly described in the case of the San Jose area, can cause serious place discriminations because where ratepayers have some traffic subject to minimum rates and some not, the possibility exists that the minimum rates on regulated hauls can be offset partially by application of unreasonably low rates on hauls within rate-exempt city areas. It was also stated that although it is normal to find rate disconformities whenever the geographical jurisdictions of two tariffs developed in separate proceedings and on separate records meet, those involved along the boundaries of the San Francisco and East Bay areas are serious because they are within the heart of the large industrial and commercial complex which has developed around and beyond them. The staff recommends that the Commission direct it to initiate studies looking towards the development of a rate structure for what might be termed the San Francisco Bay industrial commercial complex, the boundaries of the area to be determined by the Commission after the receipt of further evidence.

California Trucking Associations, Inc., supports the staff's recommendation. It was asserted that for-hire transportation within the San Francisco Bay Area is performed by the same group of carriers whether it is subject to one or the other of the drayage tariffs, Minimum Rate Tariff No. 2, or is exempt from rate regulation, so that from a cost standpoint, the substantial differences in minimum rates are difficult to reconcile. It was stated that the association may or may not agree with whatever proposals the staff may make in future proceedings herein but in light of the present conditions resulting from the different minimum rate structures in the area, it had to agree that an investigation should be made to improve the conditions. The Draymen's Association of San Francisco concurred in that position.

Shippers, both as individuals and as groups, opposed the staff's recommendation. They are apprehensive that a change in rates portends an increase in rates. Aside from that, however, they point

out that wherever there are zones for the application of rates there are necessarily differences in rates at points near the zone boundaries which provide for possible discriminations. For discrimination to be unlawful it must be unjust and no shipper has complained of any unjust discrimination arising from the conditions resulting from the difference in rates. There were a number of shippers with plants located in the San Jose area outside the city limits who were represented at the hearing. Those shippers do not complain of any competitive advantages of shippers located within the City of San Jose, and, in fact were opposed to the recommendation of the staff. Shippers with plants in San Francisco, as well as the San Francisco Chamber of Commerce, did not assert unjust discrimination resulting from higher rates on large shipments from plants in San Francisco than the rates from Daly City to San Francisco. They also are opposed to the staff's recommendation. Shippers with plants in the East Bay Drayage Area with higher truckload rates than shippers outside the area also were opposed to the suggestion that a single rate structure be established.

We are impressed by the fact that rate disconformities exist where the present drayage and over-the-road tariffs meet. We are also impressed by the fact that a cross-section of shippers with plants within the drayage area and shippers with plants outside the drayage area, on whom the establishment of a single minimum rate structure would have opposite effects, were unanimous in their opposition to a contemplated change in the rate structures.

In Case No. 6322, Order Setting Hearing dated July 12, 1960, the Commission had before it the question of whether it is necessary and desirable in the public interest that a single minimum rate tariff be developed and established within that part of Southern

California area lying generally between the San Gabriel Mountains on the north, the Pacific Ocean on the south, Ontario and Santa Ana on the east, and San Fernando and Santa Monica on the west. In Decision No. 61419, dated January 24, 1961, in that proceeding, the Commission stated that if a reasonable minimum rate structure is to be developed within the above-described area, attention, necessarily, must be given to the interrelationships of the rates to be applied throughout the area in order to avoid unreasonable and unlawful discriminatory results; and concluded that it is necessary and desirable in the public interest that a single minimum rate tariff should be developed for the area. Studies looking to that end were directed and are presently under way.

The general drayage rate problems in both the Los Angeles-Orange-San Bernardino counties area referred to in Decision No. 61419, and in the area within the scope of this proceeding, are substantially similar; however, in view of all of the circumstances of record, we find it is not necessary nor desirable at this time to proceed with studies for the development of a single minimum rate tariff applicable to the transportation of general commodities within the area, or any portion thereof, encompassed within the Order Instituting Investigation, as amended.

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 hearings in this proceeding ordered December 28, 1960, are discontinued.

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.

Creighton Page
President
W. L. ...
E. Lynn Fox
George H. Hoover
Fredrick B. Holoboff
Commissioners

LIST OF APPEARANCES

FOR THE COMMISSION STAFF

J. W. Mallory and Grant L. Malquist.

FOR RESPONDENTS

Richard D. Stokes, for Howard Terminal; Armand Karp, for Callison Truck Lines, Inc.; Philip A. Winter, for Delivery Service Co.; E. J. McSweeney, for Pacific Motor Trucking Company and Pacific Motor Transport Company; and Richard I. Prosser, for C. A. Worth & Co.

FOR PROTESTANTS

Jack Clodfelter, for McCormick & Co., Schilling Division; Andrew D. E. Robertson, for Wesson Oil & Snowdrift; Ralph J. Graffis, for Morton Salt Company; Roy J. Varni, for Wm. Volker & Co.; Eugene A. Read, for California Manufacturers Association; Charles C. Miller, for San Francisco Chamber of Commerce; W. M. Cheatham, for Northern California Shippers League; and M. E. Schibler, for Westinghouse Electric Corp.

FOR INTERESTED PARTIES

Allen K. Penttila, for Sherwin Williams Co.; Keith M. Brown, for Spreckels Sugar Company; H. Russ Davis and J. G. Vollmar, for Crown Zellerbach Corp.; Michael Goldsmith and T. L. Carothers, for Kaiser Aluminum & Chemical Corp.; Frank E. Lawless, for Masonite Corporation; Stuart F. Ogle, for American Can Co.; Philip J. Ryan, for Union Oil Co. of California; C. M. Costello, for Continental Can Co., Inc.; Geoffrey B. Fink, for The Dow Chemical Co.; Jack P. Sanders, for Gerber Products Co.; Sherman B. Erickson, for the Dow Chemical Co.; E. Nicholas Ferretta, for Bethlehem Steel Co.; W. D. Wall, Jr., for Dried Fruit Assn. of California; Noel Dyer & Emerson Bolz, for The Western Union Telegraph Co.; Alan Silvius, for Bauer-Schweitzer Malting Co.; Clifford F. Campbell, for California Packing Corporation; William D. Wagstaffe, for Cannery League of California; Meyer L. Kapler, for American Forest Products Corp.; Lloyd W. Gragg, for Kaiser Gypsum Co., Inc.; Loren D. Olsen, for Kaiser Gypsum Co., Inc.; Scott D. Flegal, for Safeway Stores, Inc.; S. F. White, for W. P. Fuller; James H. McJunkin, for Northern California Ports & Terminals Bureau; Clifford J. Van Duker, for United Shippers Assn.; Jefferson H. Myers, for San Francisco Port Authority; T. H. Grinstead, for San Francisco Port Authority; E. H. Griffiths and George B. Dill, for

LIST OF APPEARANCES
(Continued)

West Coast Freight Traffic Bureau and West Coast Warehouse
Tariff Bureau; Russell Bevans, for Draymen's Association
of San Francisco, Inc.; J. C. Kaspar, Arlo D. Poe, and
James X. Quintrall, for California Trucking Associations;
W. R. Donovan, for C&N Sugar; Don Sheers, for Lincoln
Electric Co.; Albert Kasenheimer, for Stauffer Chemical Co.;
R. E. Campbell, for Freight Traffic Service; Pete J. Antonio,
for Rheem Mfg. Co.; Dion R. Holm, Thomas M. O'Connor and
Robert R. Laughead, for the City and County of San Francisco;
R. A. Dahlman, for R. J. Reynolds Tobacco Co.; Ernest J.
Leach, for Economics Laboratory, Inc.; Robert E. Bava, for
Johnson & Johnson; A. E. Evers, for National Lead Company;
Milton A. Walker, for Fibreboard Paper Products Corporation;
Ralph Hubbard, for California Farm Bureau Federation;
Larry Binsacca, for M. J. B. Co.; and John P. Hellmann, for
Allied Chemical Corp.