

ORIGINALDecision No. 62416

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 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 No. 222

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 livestock and related items (commodities for which rates are provided in Minimum Rate Tariff No. 3-A).

Case No. 5433

Petition No. 15

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 petroleum and petroleum products in bulk (commodities for which rates are provided in Minimum Rate Tariff No. 6).

Case No. 5436

Petition No. 43

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 fresh or green fruits and vegetables and related items (commodities for which rates are provided in Minimum Rate Tariff No. 8).

Case No. 5438

Petition No. 28

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 cement and related products (commodities for which rates are provided in Minimum Rate Tariff No. 10).

Case No. 5440

Petition No. 12

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 motor vehicles and related items (commodities for which rates are provided in Minimum Rate Tariff No. 12).

Case No. 5604

Petition No. 9

(For appearances, see Appendix "A")

O P I N I O N

By these petitions the California Trucking Associations, Inc., seeks modification of authority which has been granted heretofore to certain common carriers to assess charges for the transportation of split pickup and split delivery shipments on a different basis than that upon which charges for said transportation are computed under minimum rate orders of the Commission.

Public hearing on the petitions was held before Examiner C. S. Abernathy at San Francisco on June 15, 1961. Evidence was submitted by petitioner's director of research and by a rate expert of the Commission's staff. Representatives of several shippers and shippers' organizations participated in the development of the record.

The basis of charges which is in issue herein was established by Decisions Nos. 32495, dated October 24, 1939 (unreported), and 33738, dated December 17, 1940 (43 C.R.C. 198). These decisions authorized highway common carriers, common carriers by railroad, and various other common carriers to charge for the transportation of split pickup and split delivery shipments at the rate applicable from the highest rated point of origin or to the highest rated point of destination, as the case may be. Said charges were authorized as an alternative to those prescribed in Minimum Rate Tariff No. 2 for split pickup or split delivery service. Minimum Rate Tariff No. 2 then provided that the charges for the transportation of a split delivery shipment should be the lower of the charges that would apply for the transportation of a single shipment of like kind and quantity of property,

- (a) from point of origin to point of destination of any component part via the points of destination of all other component parts; or
- (b) for one-half the distance from point of origin to that same point via each of the points of destination to which deliveries were made.

Charges for split pickup service were to be computed at the rate for the transportation of a single shipment of like kind and quantity of property from point of origin of any component part to point of destination via the points of origin of all other component parts.¹

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In addition to the charges for split pickup or delivery service which apply under the aforesaid bases, certain other charges also apply. These charges are based on the weights of the component pickups or deliveries. They are only mentioned here, inasmuch as they are not involved in these matters.

The carriers for whom the basis of charges was authorized by Decisions Nos. 32495 and 33738 are carriers whose established or prescribed routes are such that they are not able to traverse routes that provide in every instance the shortest constructive distances between the points involved. Were these carriers required to charge for their split pickup or split delivery services on the basis of the longer distances they traverse along their authorized or established routes, they would be unable to meet the charges of carriers such as highway contract carriers and radial highway common carriers that are not restricted to specified routes and that may provide the same services at the rates for the shortest constructive distances between origin(s) and destination(s) of the split pickup and split delivery shipments. The authority to depart from the split pickup and delivery charges which Minimum Rate Tariff No. 2 prescribes was granted as a measure toward offsetting the competitive disadvantage imposed upon the affected common carriers by the routing restrictions.

The modifications in said authority which the California Trucking Associations, Inc., seeks by its petitions in these matters would, if adopted, result in the cancellation of the authority for all of the carriers to whom it applies with the exception of common carriers by railroad. Petitioner points out that since the establishment of the authority in 1939 and 1940, the split pickup and split delivery provisions in Minimum Rate Tariff No. 2 have been changed substantially.² It states that other conditions

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One of the principal changes was the cancellation of the provisions which permitted the computation of charges for split delivery shipments on one-half of the distance from point of origin to that same point via each of the points of destination to which deliveries are made. This change was made by Decision No. 50297, dated July 20, 1954 (unreported), on a finding that the computation of charges in this manner results in lower charges than are justified by cost and distance considerations.

affecting the carriers' operations with respect to split pickup and split delivery services have also changed, and it alleges that the continuation of the authority in present circumstances is unreasonable, discriminatory and unlawful.

Petitioner particularly assails the authority on the grounds that it is susceptible to use in a manner that permits carriers to provide transportation at lesser rates and charges than those that have been prescribed as reasonable minima. Petitioner's allegations in this respect were supported by evidence which was presented by the rate expert of the Commission's staff. According to this witness, the lesser rates and charges apply in situations where the transportation consists of movements over routes of such circuitry that the rate from the highest rated point of pickup or to the highest rated point of delivery, as the case may be, is less than the rate for the shortest constructive distance between the point(s) of pickup and point(s) of delivery involved. An exhibit was submitted by the witness to show representative examples of such situations as reflected in the tariffs of various common carriers.

Petitioner's director of research testified that if the authority which was granted by Decisions Nos. 32495 and 33738 is modified as sought herein, the rates and charges of the common carriers that would be affected would not be greatly changed. He said that notwithstanding the existent authority a number of such carriers are already assessing charges for their split pickup and delivery services in conformity with the minimum rate provisions. He asserted that a principal effect of the modification would be

the removal of a potential basis for unjustified reductions in rates. With the cancellation of the present authority, all of the common carriers involved (with exception of the common carriers by railroad for whom the authority would be retained) would be made uniformly subject to the Commission's minimum rate regulations governing split pickup and split delivery transportation.

The traffic manager for Sherwin Williams Company opposed the adoption of petitioner's proposals principally because of increases which would result in the rates and charges of some highway carriers. He declared that the carriers' rate authority should not be limited in the manner proposed.

The split pickup and delivery provisions that are in issue herein were authorized largely at the instance of common carriers by railroad in order to meet special problems which said carriers were experiencing in the conduct of their operations under the minimum rates, rules and regulations in Minimum Rate Tariff No. 2. The authority which was granted to the common carriers by railroad in this respect was made applicable to other common carriers also for similar reasons. It now appears from the record which has been developed in these matters that insofar as these latter common carriers are concerned the authority is no longer necessary. It appears that in relation to the minimum rates, rules and regulations which govern the operations of radial highway common carriers, highway contract carriers and certain other carriers the continuance of the authority under present conditions would result in unreasonable and discriminatory rate differentials. We therefore find and conclude that as to common

carriers other than common carriers by railroad the cancellation of the authority and the resulting rate changes have been shown to be justified. To this extent the authority will be cancelled.

With reference to the authority, as it applies to common carriers by railroad, petitioner asks that the authority be so limited that it "will not apply to any route other than the shortest direct highway route, except to the extent that the physical route of the rail carrier requires such circuitous routing." Petitioner's objective is simply to confine the application of the authority by rail carriers to the carriers' most direct routes between the points of origin and destination involved. The proposals in this respect are directed primarily to a limitation of the future exercise of the authority by the rail carriers. Authority which the rail carriers have heretofore exercised is not proposed to be affected. The extent and circumstances of the operation of the proposed limitation, and how it could be accomplished reasonably in relation to rates which the rail carriers have heretofore established under the authority granted them are not clear. The limitation should not be adopted without further information in these respects and justification therefor.

Inherent in the tariff adjustments that common carriers will be required to make as a consequence of the rate changes herein found justified is relief from the so-called long-and-short haul prohibitions of Article XII, Section 21, of the Constitution of the State of California, and of Section 460 of the Public Utilities Code. Relief from said prohibitions is necessary because of differences between the routes over which the carriers operate

and the routes over which constructive mileages are computed for minimum rate purposes. The carriers will be authorized to make such departures to the extent necessary to carry out the effect of the order.

The following order is limited in its application to provisions which have been established in Case No. 5432 or in corresponding antecedent cases. Although petitioner's proposals herein were also filed in Cases Nos. 5433, 5436, 5438, 5440 and 5604, they do not apply to said cases. The petitions in these cases will be dismissed.

O R D E R

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

IT IS HEREBY ORDERED that:

1. The authority which was granted to common carriers by Decision No. 32495, dated October 24, 1939, in Case No. 4246, and by Decision No. 33738, dated December 17, 1940, in Case No. 4246, be, and it hereby is, cancelled to the extent that common carriers (except common carriers by railroad) are thereby authorized to publish and maintain rules for the assessment of rates and charges for the transportation of split pickup and/or split delivery shipments which are different in effect than the rules for the assessment of rates and charges for said transportation which are promulgated in Minimum Rate Tariff No. 2.

2. The authority which was granted to common carriers by railroad by the aforesaid Decisions Nos. 32495 and 33738 in connection with charges to be assessed by said carriers for the transportation of split pickup and/or split delivery shipments shall remain in full force and effect.

3. To the extent that the above-numbered petition in Case No. 5432 seeks limitation of the authority described in Paragraph No. 2 above, said petition be, and it hereby is, denied.

4. Tariff publications required to be made by common carriers as a result of the order herein may be filed not earlier than the effective date hereof, to become effective on not less than five days' notice to the Commission and to the public, and shall be made effective not later than December 23, 1961.

5. Common carriers be, and they hereby are, authorized to depart from the provisions of Article XII, Section 21, of the State Constitution, and of Section 460 of the Public Utilities Code, to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations be and they are hereby modified only to the extent necessary to comply with this order; schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

6. The following petitions be, and they hereby are, dismissed:

<u>Petition No.</u>	<u>Case No.</u>
15	5433
43	5436
28	5438
12	5440
9	5604

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

Dated at San Francisco, California, this 15th day of August, 1961.

Robert W. Page
President
W. E. Marshall
E. J. Fox
George B. Brown
Frederic B. Hallock
Commissioners

List of Appearances

Arlo D. Poe, J. C. Kaspar, and James Quintrall,
for California Trucking Associations, Inc.,
petitioner.

F. S. Kohles, for Valley Express Co. and Valley
Motor Lines, Inc., respondent.

W. N. Greenham, for Pacific Motor Trucking Co.,
respondent.

Eugene A. Read, for California Manufacturers
Association, interested party.

Ralph Hubbard, for California Farm Bureau
Federation, interested party.

Jeff H. Meyers, for San Francisco Port Authority,
interested party.

W. M. Cheatham, for Traffic Managers Conference
of California, interested party.

Milton A. Walker, for Fibreboard Paper Products
Corporation, interested party.

Andrew D. E. Robertson, for Wesson Oil & Snowdrift
Division of Hunt Foods, Inc., interested party.

A. T. Eche, for F. W. Woolworth Co., interested
party.

A. E. Patton, by R. L. Haftorson, for Richfield
Oil Corporation, interested party.

Allen K. Pentilla, for Sherwin Williams Co.,
interested party.

M. J. Gagnon, for the Commission's staff.

(End of Appendix)