

63234

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
R. C. Ellis, Agent, for permission
to publish a revised "Exclusive Use
of Carrier's Equipment" provision
in lieu of a presently published
"Exclusive Use of Carrier's Equipment"
provision.

Application No. 43473
(Filed June 5, 1961)

In the Matter of the Application of
California Cartage Company, Inc., a
corporation, for permission to establish
a revised "Exclusive Use of Carrier's
Equipment" provision.

Application No. 43524
(Filed June 21, 1961)

In the Matter of the Application of
Smith Transportation Co., for per-
mission to publish a revised "Exclusive
Use of Carrier's Equipment" provision
in lieu of a presently published
"Exclusive Use of Carrier's Equipment"
provision.

Application No. 43575
(Filed July 3, 1961)

Application No. 43473

Berol, Loughran and Geernaert, by Frank Loughran,
for applicant.

F. S. Kohles, for Valley Express Co., and Valley
Motor Lines, Inc.; B. E. Rowland, for Delta
Lines, Inc.; W. M. Greenham, for Pacific Motor
Trucking Co.; D. H. Culbertson, for Fortier
Transportation Co.; interested parties.

Henry G. Frank, for the Commission staff.

Application No. 43524

Ivan McWhinney and C. N. Bailey, for applicant.

Herbert J. Griley, for Griley Security Freight
Lines, interested party.

Carl B. Blaubach, for the Commission staff.

Application No. 43575

George C. Smith, for applicant.

Carl B. Blaubach, for the Commission staff.

O P I N I O N

These are applications by common carriers or their authorized agents for authority to establish rules governing "Exclusive Use of Carrier's Equipment". The applications were heard on separate records and will be determined upon the individual records made. Although separate findings will be made in connection with each application, for purposes which will be discussed later herein, the Commission deems it to be appropriate and desirable to set forth those findings in a single opinion.

Application No. 43473, R. C. Ellis

Public hearing was held September 6, 1961, before Examiner J. E. Thompson at San Francisco and upon the conclusion thereof the matter was taken under submission.

R. C. Ellis is the General Traffic Manager, and is the tariff publishing agent, for California Motor Transport Co. Ltd., and California Motor Express, Ltd. Item No. 185 of applicant's Local and Joint Freight and Express Tariff No. 14-A (Cal. P.U.C. No. 1) provides generally that when exclusive use of carrier's equipment is requested or demanded by the shipper, charges shall be assessed at the applicable rate and actual weight of the shipment subject to a minimum charge computed by applying the applicable Fifth Class rate to the following minimum weight:

<u>Length of Equipment in Lineal Feet</u>	<u>Minimum Weight in Pounds</u>
Not over 25 feet	20,000
Over 25 but not over 33 feet	30,000
Over 33 feet	36,000

Applicant proposes to cancel the foregoing rule and to publish the following new rule:¹

(1) Exclusive Use of Carrier's Equipment.

- (a) When a single shipment requires the full utilization of one or more units of carrier's equipment, or when a shipper requires equipment to meet the needs of special conditions, the charges shall be assessed by applying the applicable class rates named in this tariff, based upon the total weight of the shipment subject to a minimum charge per unit of equipment equivalent to the minimum weights per unit of equipment as shown below at the applicable Class E Rate, and to the other following conditions:

<u>Length of Equipment Unit in Lineal Loading Space</u>	<u>Minimum Weight in Pounds per Unit of Equipment</u>
Not over 27 feet	24,000
Over 27 feet	48,000

- (1) The provisions of this rule will not apply in connection with rates contained in Section 3 hereof.

Section 3, referred to, contains commodity rates.

The proposed rule would result in both increases and reductions in charges, depending upon the shipment, in connection with equipment furnished at shipper's request or demand. It would result in increases in connection with the establishment of minimum charges for shipments requiring the full utilization of the vehicles.

There is only an occasional use of the present rule. Applicant estimated that shippers make request or demand of California Motor Express for exclusive use of equipment on an average of less than 12 times per month. The carrier issues approximately 6,500 freight bills per day and they are filed in such a manner as to require a great expenditure of time and manpower to extract the records of all shipments transported under the present rule for any sample period which would be representative or typical of the operations. It would also be exceedingly expensive to extract the records

¹ Paragraph (a) only. Paragraphs b, c, and d are set forth in Appendix A attached hereto.

of all shipments which would come under the proposed minimum charge rule. Applicant testified that he was certain that if a study were made of the effect of the proposed rule on past shipments it would show a very minor increase in the percentage of gross revenue and that such a study would not be indicative of additional revenues that would be earned under the proposed rule in the future because shippers who may have shipments of such a nature as to come under the rule would probably divert them to other transportation agencies. He stated that the proposed rule is not intended as a revenue measure but as a means of limiting the losses incurred from transportation of light and bulky shipments tendered in such quantities as to require the full use of one or more vehicles. Exhibit No. 3 sets forth a number of shipments illustrating applicant's contention, one of which we shall mention here.

On February 3, 1961, California Motor Express was tendered a shipment of airplane wing tanks weighing 25,080 pounds for transportation from Mira Loma to Lathrop, a distance of 419 constructive miles. The revenue on said shipment was \$290.93. Under the proposed rule the revenue would have been \$1,972.21 or an increase of 578 percent. Eleven semitrailer units of between 24 feet and 27 feet, and three 40-foot semitrailer units were required. The movement of this shipment required full use of a tractor for eight complete trips and the partial use for a ninth trip.² Considering the transportation to be 8½ round trips, the carrier received less than 4.1 cents per round-trip constructive mile and under the proposed rule would have received 27.7 cents per round-trip constructive mile.

The class rate structure maintained by applicant is substantially the same as that established in Minimum Rate Tariff No. 2. There is a well-defined pattern of relationships of rates among the

²The 24 and 27-foot trailers are moved in a train of a tractor and two trailers so that the tractor on the ninth trip had one trailer of the wing tanks and one trailer load of other freight.

various classes. The relationship is expressed as a percentage of first class. For equipment over 27 feet the proposed rule would become applicable for the various classes of freight at the weights shown below.

<u>Class Rating</u>	<u>Percentage of First Class</u>	<u>Weight at Which Rule Applies</u>
1	100	19,200
2	90	21,334
3	80	24,000
4	70	27,429
5	60	32,000
A	65	29,539
B	55	34,910
C	50	38,400
D	45	42,667
E	40	48,000

For units less than 27 feet the weight would be one half that shown above.

The record shows that California Motor Express and its underlying carrier California Motor Transport ordinarily operate two semitrailers of not more than 27 feet in a train, commonly called double-headers. Most of the equipment exceeding 27 feet are semitrailers of 40 feet. The vast majority of line-haul trailers are of the closed van type.

Application No. 43524 - California Cartage Company, Inc.

Public hearing was held September 19, 1961, before Examiner J. E. Thompson at Los Angeles. The matter was taken under submission September 21, 1961, upon the filing by applicant of Exhibit No. 3.

Applicant is a highway common carrier of general commodities with operations in Southern California. Its local rates are published in Western Motor Tariff Bureau, Inc., Tariff No. 18-B,

Cal. P.U.C. No. 19 (hereinafter sometimes referred to as WMTB-18B).

Item 260 of said tariff reads as follows:

Exclusive Use of Carrier's Equipment

When exclusive use of carrier's equipment is requested by shipper or consignee, charges shall be assessed by applying the applicable class rate or commodity rates, or a combination thereof as provided herein, subject to the following minimum weight:

<u>(1) Length of Equipment in Lineal Feet</u>	<u>Minimum Weight in Pounds</u>
Not over 22 feet	20,000
Over 22 feet but not over 35 feet	30,000
Over 35 feet	40,000

(1) Means Loading Space.

Applicant proposes that the application of said rule be canceled as to its operations and that the following rule be published:³

(1) Exclusive Use of Carrier's Equipment

When a single shipment requires the full utilization of one or more units of carrier's equipment, or when a shipper requires the exclusive use of carrier's equipment to meet the needs of special conditions, applicable rates and charges shall apply on the entire shipment, subject to the following minimum charges:

- (a) Shipments moving not over 150 miles apply minimum weight shown at applicable Class A rate.
- (b) Shipments moving over 150 miles apply minimum weight shown at applicable Class 5 rate.

Minimum Weight

<u>Length of Equipment</u>	<u>Minimum Weight in Pounds</u>
To and including 24 feet	20,000
24 feet to 35 feet	26,000
35 feet or over	28,000

(1) Applies only in connection with Class Rates contained in Section 3 of this tariff.

³ Applicant proposes that the rule include paragraphs c and d of Appendix A but not paragraph b.

As in the case of the rule proposed by R. C. Ellis, this proposed rule would result in both increases and reductions in charges. As in the prior matter, applicant issues such a large number of freight bills every day (about 1,600) and maintains them in such a manner that it is not feasible to prepare a study of the effect of the proposal on a representative period of past operations. Applicant's traffic manager testified that the proposal would have only a minor effect upon its operating revenues. He estimated that possibly one shipment per month was tendered under the present rule. For the six months ended June 30, 1961, applicant had an operating ratio before taxes of 94.96 percent.

The traffic manager stated that the proposal is designed to curtail losses incurred from transportation of shipments of light and bulky articles requiring full utilization of one or more vehicles. Its principal concern is with shipments tendered by the United States Government, which we shall discuss more fully later herein. However, applicant also has shipments tendered by commercial establishments to which the proposed rule is intended to apply. We shall set forth one of the illustrations presented in Exhibit No. 1.

Applicant transported a shipment of 19,715 pounds of cellulose wadding from San Dimas to Los Angeles (distance between San Dimas and Los Angeles Zone 1 is 29.5 constructive miles) and received \$56. The shipment required the use of four 40-foot trailers so that the revenue amounted to \$14 per load. Under the proposed rule the revenue would have been \$212.80 or \$53.20 per load. Applicant pointed out that the revenue on 40,000 pounds of Class 5 commodities would be \$72 and of Class C commodities \$64.

The class rate structure maintained by applicant has the same relationships among classes as that in Minimum Rate Tariff No. 2. The following tabulation shows the weight at which the proposed rule

would become applicable on shipments transported in various sizes of equipment for distances of not more than 150 miles. It is to be noted that the weights would be less for shipments over 150 miles.

Weight in Pounds at Which Proposed
Rule Would Become Applicable for
Distances of Not Over 150 Miles

<u>Classification Rating</u>	<u>Length of Equipment</u>		
	<u>Not Over 24 Feet</u>	<u>Over 24 Feet but Less than 35 Feet</u>	<u>35 Feet or Over</u>
1	13,000	16,900	18,200
2	14,445	18,778	20,223
3	16,250	21,125	22,750
4	18,572	24,143	26,000
5	21,667	28,167	30,000
A	20,000	26,000	28,000
B	23,636	30,728	33,091
C	26,000	33,800	36,400
D	28,889	37,556	40,445
E	32,500	42,250	45,500

Applicant has numerous semitrailers of various sizes. The preponderance of semitrailers have loading lengths of 22 feet, 35 feet and 40 feet. While most of the equipment is of the closed van type, applicant does operate open-type trailers. The extreme height permissible under State laws for all roads and highways traversed by applicant is 13 feet 6 inches. Applicant's traffic manager stated that, for purposes of applying the proposed rule to shipments transported on open-type equipment, the vehicle would be considered to be fully loaded if no additional increments of any of the articles can be loaded thereon without exceeding the said maximum legal height.

The manager testified that tender to applicant of shipments rated Class D or Class E has been exceedingly rare.

Application No. 43575 - Smith Transportation

Public hearing was held September 19, 1961, before Examiner J. E. Thompson at Los Angeles and upon the conclusion thereof the matter was taken under submission.

Applicant is a highway common carrier with principal operations between Los Angeles and Santa Maria Valley points. Its local rates are published in WMTB-18B and it participates in Item 260 of the said tariff, which item has been set forth hereinabove.

Applicant proposes to cancel its participation in said Item 260 and to publish the following rule:⁴

(1) Exclusive Use of Carrier's Equipment

- (a) When a single shipment requires the full utilization of one or more units of carrier's equipment, or when a shipper requires equipment to meet the needs of special conditions, the charges shall be assessed by applying the applicable class rates named in this tariff, based upon the total weight of the shipment, subject to a minimum charge per unit of equipment equivalent to the minimum weights per unit of equipment as shown below at the applicable class rates shown below, and to the other following conditions:

<u>Length of Equipment Unit in Lineal Loading Space</u>	<u>Minimum Weight in Pounds per Unit of Equipment</u>	<u>Applicable Class Rate</u>
Not over 24 feet	12,000	4
Over 24 feet but not over 30 feet	20,000	A
Over 30 feet	30,000	5

- (1) The provisions of this rule will not apply in connection with rates contained in Section 4 hereof.

The aforementioned Section 4 covers commodity rates.

Applicant operates a number of sizes and types of equipment. Its general operations are conducted, in the main, with 24-foot van-type equipment in a train of two semitrailers and one tractor (commonly called a double-header). It transports general commodities, including a substantial volume of fresh fruits and vegetables which latter would not be covered by the proposed rule.

⁴

Applicant proposes that the rule include paragraphs b, c, and d of Appendix A.

Applicant's president testified that the proposed rule is designed to recover the costs of transporting certain shipments of light and bulky freight which are tendered in volume. He described a number of examples of shipments in that category, one of which will be related here.

In May 1961, applicant was tendered 85,685 pounds of office equipment to be transported 225 constructive miles. It received \$418.68 in revenue. Ten 24-foot high-cube van-type semitrailers were required to handle the shipment. They were hauled in five trains of two semitrailers per train. This resulted in revenue of \$41.86 per trailer or \$83.72 per trip. That amounts to approximately 37 cents per constructive mile per train. It was contended that this amount does not approach applicant's cost per line-vehicle-mile exclusive of terminal costs. The president testified that applicant's vehicle cost per mile, excluding terminal costs, is on the order of \$1.13. This figure was compared to an asserted average for carriers in the Pacific Coast Region of 67 cents per vehicle mile. Under the proposed rule applicant would have received \$162 per train of two semitrailers or 72 cents per constructive mile.

While the above example concerns a so-called commercial shipment, the proposed rule is intended to plug a loophole in applicant's quotation of rates to the United States Government. Smith participates in Western Motor Tariff Bureau U. S. Government Quotation No. 1 (as does California Cartage). Said quotation contains a rule similar to the rule proposed herein; however, under the terms of the quotation whenever the carrier's common carrier tariff provides for a lower charge than that which would accrue by applying the rates in the quotation, said lower charge shall apply. As a result, transportation of wing tanks and other light and bulky articles shipped by the United States Government is charged at the

rates in applicant's common carrier tariff. The Commission is not concerned with rates for transportation performed for the United States Government, the Supreme Court of the United States having held that the State may not infringe upon the right of the Federal Government to obtain transportation at such rates as it may negotiate, Public Utilities Commission of the State of California v. United States, 2 L.ed. 2d, 470.

Applicant's schedule of class rates conforms to the class rate structure of Minimum Rate Tariff No. 2. The following table shows the weights at which shipments would be subject to the proposed rule when transported in various sizes of equipment.

Weight of Shipment in Pounds at
which Smith Transportation Company's
Proposed Rule would Apply

<u>Classification Rating</u>	<u>Length of Equipment in Feet</u>		
	<u>Not Over 24</u>	<u>24 to 30</u>	<u>Over 30</u>
1	8,400	13,000	18,000
2	9,334	14,445	20,000
3	10,500	16,250	22,500
4	12,000	18,572	25,715
5	14,000	21,667	30,000
A	12,923	20,000	27,693
B	15,273	23,637	32,728
C	16,800	26,000	36,000
D	18,667	28,889	40,000
E	21,000	32,500	45,000

Discussion of the Problem:

The proposed rules would in most instances result in reduction of charges when the shipper requires exclusive use of equipment. A number of shippers who had used the services of applicants under the present rule were notified of the authorization being sought. None of them appeared nor has the Commission been informed of any opposition to the establishment of the proposed rules.

The proposals, however, appear to be attempts to establish minimum charges for shipments requiring the full use of one or more units of equipment. They might literally be called minimum charges

for truckloads. The target of the proposed minimum charges is the shipment of light and bulky freight that is tendered in such quantity so as to require the full use of one or more pieces of equipment.

The Commission has received a number of applications from common carriers proposing substantially the same type of rules as those proposed herein. Several of those applications which were filed prior to the instant matters have been granted without hearing. Those filed subsequent to the instant applications were held for consideration.

By Decision No. 56266, dated February 18, 1958, in Case No. 5840, the Commission ordered the cancellation of cubic measurement rules of all common carriers, with a few exceptions, on the finding that said rules were unjust, discriminating and preferential. Numerous shippers and shipper groups participated in Case No. 5840. The Commission set the three instant applications for hearing because it desired to obtain additional facts regarding the problem encountered by the carriers and facts regarding the applications of the proposed minimum charges. The proposals involve the problem of light and bulky freight and, because of the participation by shippers in Case No. 5840, it was deemed desirable to afford the shippers opportunity to be heard with respect to these applications. The number of filings similar to these applications, together with the fact that, other than the charges themselves, the proposals are virtually the same indicate that the Commission might receive filings of similar nature by other common carriers. In those circumstances, it was deemed appropriate to obtain sufficient facts to determine whether this is a matter which might warrant institution of proceedings under Public Utilities Code Sections 730, 726 and 3662 or any of them, so as to enable the Commission to exercise

its powers of establishing a uniform rule for all common carriers or a rule to be included in the minimum rates prescribed by the Commission.

We find that the institution of such proceedings is not warranted for a number of reasons, the principal one being that the operations and practices of common carriers are so dissimilar that it does not appear feasible to establish uniform minimum charges that would be just and reasonable for all such carriers. Because of the circumstances mentioned hereinabove, however, we are of the opinion that it is desirable to recite the Commission's findings and conclusions in the instant applications in one opinion in order to inform carriers contemplating the establishment of similar minimum charges of the problems in connection therewith and of the showings necessary to justify such charges.

The class rates of applicants, as well as most of the California intrastate motor carriers, are governed by the Western Classification which provides ratings designed primarily for transportation by railroad. It is significant that the ratings in that classification are termed "Less Carload" and "Carload". One general exception to that classification applicable to highway carriers is that where the classification provides a carload minimum weight in excess of 40,000 pounds the latter weight shall be considered as the carload minimum weight. Said exception gives consideration to the legal carrying capacities of motor vehicle equipment.

There is a substantial difference between less carload service and carload service provided by a railroad. The latter, in fact, covers the exclusive use by a shipper of a rail car or cars. The shipper orders the number, type and size of the car that will be required and upon being furnished his order, loads the car or cars and tenders the shipment to the carrier ready for movement. The

minimum charge for each rail car not exceeding 40 feet 7 inches in length is the applicable rate at the carload minimum weight. Rule 34 of the Western Classification prescribes increases in the carload minimum weights for cars over 40 feet 7 inches in length. Another distinguishing characteristic is that the shipper has the right to have the shipment transported over the most direct authorized route or an alternative authorized route.

There is no substantial difference in the service provided by motor carriers under less than truckload rates from that performed under truckload rates. In both instances shipments are tendered in the same manner and, generally speaking, it may be said that the only characteristic distinguishing a truckload shipment from a less than truckload shipment is the rate. It is true that ordinarily truckload shipments do involve the exclusive use of the vehicle and that ordinarily a truckload shipment is dispatched directly from the consignor to the consignee without stops at terminals for reloading or handling.

When a carrier provides to a shipper full use of equipment or facilities it has a right to just and reasonable compensation therefor regardless of whether those facilities are ordered or are necessitated by reason of the nature of the shipment. As a general proposition, carriers should be authorized to establish minimum charges for providing the facilities and service under those conditions. It necessarily follows that said charges and the method of their application must be just, reasonable and nondiscriminatory.

First of all, every one of the minimum charge rules proposed herein would, in at least a few instances, provide greater charges for the full use of their largest piece of equipment than

the applicable truckload rate at the carload minimum weight maintained in their respective tariffs.⁵

None of the applicants made any showing that their present truckload or carload ratings are unreasonable nor did they present any evidence which would tend to show that increases in the charges under those ratings for shipments transported in one unit of carrier's equipment are justified. Under the circumstances, the Commission cannot authorize such increases. Such problem might be resolved by providing that the minimum charges per unit of equipment shall be the applicable rate at the carload minimum weight or those set forth in the proposed rule, whichever is the lower. Such modification, however, has not been proposed or suggested by applicants.

Other considerations involved in determining the reasonableness of the proposed minimum charges are the relationships of the charges for various sizes of equipment and the relationships of the charges to the carload rate structure generally.

Applicants conduct their principal operations with trains of two semitrailers. California Motor Express and California Cartage also operate 40-foot semitrailers. The record does not disclose the type of equipment over 35 feet operated by Smith; however, in order to make a comparison most favorable to Smith, we will assume that it also operates 40-foot semitrailers. Smith's train of "doubles" provides 48 feet of loading space, whereas the 40-foot trailer provides 40 feet. This is a ratio of 6 to 5. California Cartage operates "doubles" of 22 feet each which provides loading space of 44 lineal feet, or a ratio to a 40-foot trailer of 11 to 10. California Motor Express operates 24-foot and 27-foot semitrailers in a train. For purposes here we will consider the train ordinarily used to be two 24-foot semitrailers.

⁵Including, but not limited to, such articles as musical instruments, certain furniture items, stands, apple cores and old shoes.

It would appear to be reasonable to assume that the weight at which the minimum charge becomes applicable for providing "doubles" should be equal to or greater than the weight at which the charge becomes applicable for providing one trailer of less loading space. It also follows that the minimum charge for furnishing 44 to 48 feet of loading space should not be less than the minimum charge for providing 36 to 40 feet of loading space. The following tabulation shows the weights at which the minimum charges proposed by applicants would become applicable on shipments rated Class 5 for distances of more than 150 miles when transported in "doubles" and when transported on a semitrailer over 35 feet in length. It also shows the relationship of the minimum charges proposed.

<u>Carrier</u>	<u>Two Trailers</u>		<u>One Trailer over 35 Feet</u>	
	<u>Weight in Pounds</u>	<u>Minimum Charge</u>	<u>Weight in Pounds</u>	<u>Minimum Charge</u>
California Motor Express	32,000	1920 ⁽¹⁾	32,000	1920 ⁽¹⁾
California Cartage Co.	40,000	2400 ⁽¹⁾	28,000	1680 ⁽¹⁾
Smith Transportation	28,000	1680 ⁽²⁾	30,000	1800 ⁽¹⁾

(1) Weight shown at 60 (Relationship of Class 5)

(2) 2400 pounds at 70 (Relationship of Class 4)

In the case of California Motor Express, the weight and the charge are the same in both instances. While a ratio of 6 to 5 might provide a more reasonable relationship, if the shipper has the right to specify and be furnished the larger equipment the relationship of the proposed charges does not appear to be unreasonable. It is noted that the weight at which the minimum charge would become applicable for shipments rated Class 5 is 32,000 pounds. The carload minimum weights specified in the classification for articles rated Class 5 generally range from 30,000 pounds to 36,000 pounds. If the proposal were modified to provide that the minimum charge would not exceed the minimum carload weight at the applicable rate,

it does not appear that the proposal herein would unduly affect applicant's rate structure.

Under California Cartage Company's proposal the weight shown above and the minimum charge for "doubles" exceeds that which normally would result from the carload minimum weight at Class 5. As it pertains to a "doubles" operation the proposal could only result in a "paper rate" which type of rate should not be authorized. Additionally, assuming the single trailer is 36 feet in length, which gives applicant the most favorable premise, the relationship of loading space would be 44 feet to 36 feet or a ratio of 11 to 9 (81.8 percent) whereas the ratio of the charges is 10 to 7 (70.0 percent). Such relationship between charges for the services to be performed is not reasonable.

It will be noted that under Smith Transportation's proposal the minimum charge for providing 48 feet of lineal feet of loading space in two units is less than the charge for one unit of 40 feet or less. That is not reasonable. It would appear that this might be remedied by increasing the minimum weight for equipment with length of 24 feet or less from 12,000 pounds to 13,000 pounds. The weight of 30,000 pounds gives recognition to the normal carload minimum weight for commodities rated Class 5.

In these proceedings questions arose concerning the meaning of the term "loaded capacity" as used by applicants when applied to shipments transported on open flat-bed equipment. From the evidence, it appears that this question may be resolved by a modification of proposed paragraph "d" (see Appendix A) to provide that such equipment will be considered loaded to capacity and fully utilized when it cannot accommodate any additional increments of any of the articles in the shipment without exceeding the maximum height which

may be safely transported in accordance with existing highway and safety regulations via the route of movement.

In proceedings in the Smith Transportation matter, the president of applicant was asked whether, in an instance where no additional increments of a shipment of one shipper could be loaded on the vehicle and said shipment was made subject to the proposed minimum charge, additional freight of another shipper would be loaded in that vehicle. The president replied in the affirmative. When asked the same or a similar question, the manager of California Cartage Company replied in the negative. The proposed minimum charges are under the heading "Exclusive Use of Carrier's Equipment". In addition, the proposed rule covers minimum charges for what might be called truckload service. Although in the case of motor carriers, there are very few characteristics, other than the rate, which distinguish carload service from less than carload service, if the shipper is required to pay a carload rate or charge, he is entitled to the exclusive use of the vehicle and such advantages as direct routing and no further handling of cargo resulting therefrom. Because there was a difference of opinion regarding that subject, it is desirable that the rule specifically provide that the charges are applicable only if the shipper is provided the exclusive use of the vehicle.

It is readily apparent from the records herein that in instances where the shipment closely approximates a single truckload that the application of the rule may be avoided easily by the shipper. We do not consider this to be a serious defect. The type of rule proposed will afford some degree of protection to the carriers on shipments requiring the use of more than one vehicle.

The charges proposed by applicants have not been shown to be reasonable or justified and, therefore, their applications must be denied. As indicated above, the defects in the proposed rules may be overcome so that the denial herein will be without prejudice.

As stated hereinabove, it is desirable that carriers, as well as applicants, be informed of the showing which will be required in matters involving rules of the type proposed herein. Applicants should show the following:

1. The type of operations conducted, including the nature of the commodities transported, the areas served, any special restrictions regarding weights and heights of vehicles over routes served, and the types of units or combinations of units ordinarily used in providing service under truckload rates.
2. The types and sizes of vehicles as well as their maximum legal carrying capacities in pounds and the number of vehicles in each category.
3. A description of the rate structure maintained with particular reference to any differences from the minimum rate structure.

In addition, applicants will be required to make a showing in justification of any increase in carload rates or charges for one truckload that might result from the proposal.

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 the applications of R. C. Ellis, California Cartage Company, Inc., and Smith Transportation Company are denied without prejudice.

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

Dated at San Francisco, California, this 6th day of February, 1962.

Charles W. Page
President
John E. Zytner
E. J. Fox
George J. Dwyer
Fredrick B. Hubbell
Commissioners

APPENDIX A

(a) If actual weight transported on any unit of carrier's equipment is greater than the minimum weight, such actual weight will apply for such unit of carrier's equipment.

(c) On overflow freight which exceeds the loaded capacity of other unit or units of carrier's equipment and which only partially loads the last unit of carrier's equipment provided for the shipment, charges for such overflow freight will be at the actual weight of said overflow freight at rate or rates applicable to the entire shipment.

(d) A unit of carrier's equipment will be considered loaded to capacity and fully utilized when it cannot accommodate any additional increments of any of the articles comprising the entire shipment. Loading shall in no case exceed the maximum weight which may be transported per unit of carrier's equipment in accordance with existing highway and safety regulations via the route of movement.