

ORIGINAL

Decision No. 64191

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 com-)
 modities between and within all points)
 and places in the State of California)
 (including, but not limited to, trans-)
 portation for which rates are provided)
 in Minimum Rate Tariff No. 2).

Case No. 5432
 (Order Setting Hearing
 dated November 21, 1961)

And related matters.

Cases Nos. 5435 and 5441

E. J. McSweeney, for Pacific Motor Trucking Co. and Pacific Motor Transport Co.; Robert Ellis, for California Motor Transport Co. and California Motor Express, Ltd.; Armand Karp, for Callison Truck Lines, Inc.; respondents. Eugene A. Read, for California Manufacturers Association; C. F. Campbell, for California Packing Corporation; Leo V. Cox, for Safeway Stores, Inc.; T. W. Curley, for Swift & Co.; A. E. Evers, for National Lead Company; Ralph Hubbard, for California Farm Bureau Federation; Jefferson Myers, for San Francisco Port Authority; Gordon A. Rodgers, for Union Carbide Corporation and Union Carbide Plastics Co.; J. C. Kaspar, A. D. Poe and J. X. Quintrall, for California Trucking Associations, Inc.; interested parties.
M. J. Gagnon, for the Commission staff.

O P I N I O N

These proceedings were initiated by the Commission in order to clarify the application of exception ratings in the minimum rate tariffs governed by the Western Classification.

Public hearing was held before Examiner J. E. Thompson at San Francisco on May 28, 1962, on which date the matters were submitted.

For purposes of brevity, our discussion of the evidence will refer to Minimum Rate Tariff No. 2; the facts, however, are similar in the cases of the other minimum rate tariffs.

Minimum Rate Tariff No. 2 is governed by the Western Classification and by Pacific Southcoast Freight Bureau Exception Sheet. The ratings in the foregoing publications are designated as carload or less than carload ratings. Generally speaking, the carload ratings are subject to minimum weights whereas the less than carload ratings are not. The minimum rate tariff contains a number of exception ratings which are not in all instances designated as carload or less than carload, and in some cases are subject to minimum weights. Those circumstances result in some uncertainties regarding the application of ratings. In the application of rates, the provisions of Minimum Rate Tariff No. 2 apply when the provisions of the Western Classification or Exception Sheet are in conflict with those provided in the tariff. The difficulty is in determining which ratings may be said to be in conflict when different ratings and minimum weights are provided on the same article.

All participants at the hearing agreed that the minimum rate tariffs should be amended so as to clearly show the application of the exception ratings. The Commission's staff presented exhibits which reflect the tariff adjustments which would be required under two different methods of clarifying the tariffs.

One method is to set forth in the tariffs as exception ratings not only the exception ratings presently shown but also the classification ratings presently applicable to the articles.

The other method is to clarify the tariff by means of a rule. The rule suggested by the staff for use under this method is as follows:

Minimum Rate Tariff No. 2

Proposed Item No. 285

APPLICATION OF EXCEPTION RATINGS NAMED IN THIS TARIFF

Unless otherwise specifically provided in individual items in this Section, the exception ratings named herein apply as follows:

(a) Exception ratings provided in this Section which are designated as carload ratings or are made subject to specified minimum weights supersede the "carload" ratings and minimum weights in the Current Classification and Exception Sheet, but do not supersede "less-than-carload" or "any quantity" ratings provided in the Current Classification or Exception Sheet.

(b) Exception ratings provided in this Section which are designated as "less carload" or "any quantity" ratings, or are not subject to specified minimum weights, supersede the "less-than-carload" and "any quantity" ratings shown in the Current Classification and Exception Sheet, but do not supersede the "carload" ratings and minimum weights in the Current Classification, Exception Sheet, or in this tariff.

Although either method would clarify the present tariff provisions, both have their advantages and disadvantages. California Trucking Associations, Inc., advocates the first method because of its completeness. Under that method there could be no question regarding the applicable rating because all ratings which could be applied would be in the tariff itself. It was asserted that this would be advantageous to the smaller carriers who do not employ rate specialists. California Manufacturers Association opposes the first method because it would tend to result in "freezing" those ratings which would be taken from the classification and placed into the tariff. It was asserted that unless there are special circumstances and conditions in California different from those elsewhere, it is desirable that ratings governing California traffic be the same as those applicable to interstate commerce. That situation normally occurs when the applicable ratings are maintained in the Western Classification.

The Commission staff recommends the second method. It was asserted that the clarification by rule provides flexibility not only in connection with present tariff provisions but also with the establishment of exception ratings in the future. It was pointed out that not only are there changes in the class ratings in the classification from time to time but also there frequently are changes in the minimum weights governing the carload ratings.

After consideration, we find that while either method will achieve the result of clarification of the present exception ratings, the method of providing clarification by rule is more desirable than that of publishing, as exceptions, all ratings pertaining to the particular articles involved. Minimum Rate Tariff No. 2 will be amended accordingly by the order herein. In order to avoid duplication of tariff distribution, City Carriers' Tariff No. 1-A and City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A will be amended by separate orders. The Commission finds that no revision of Minimum Rate Tariff No. 5 is required inasmuch as the class rates in that tariff are governed only by any-quantity or less carload ratings.

O R D E R

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

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended) is further amended by incorporating therein, to become effective October 20, 1962, Twenty-sixth Revised Page 2 and Seventh Revised Page 36, which revised pages are attached hereto and by this reference made a part hereof.

2. Tariff publications authorized to be made by common carriers as a result of the order herein may be made effective not earlier than the tenth day after the effective date of this order, and may be made effective on not less than ten days' notice to the

Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff pages incorporated in this order.

3. In all other respects said Decision No. 31606 shall remain in full force and effect.

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

Dated at San Francisco, California, this 4th day of September, 1962.

George G. Grover
President

J. Lynn Fox

Wendell H. Page

Fredrick B. Hobbloff

Commissioners

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* Addition, Decision No. **64191**

EFFECTIVE OCTOBER 20, 1962

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 1268

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)					
EXCEPTIONS TO WESTERN CLASSIFICATION AND EXCEPTION SHEET						
RULES						
Rates in this tariff are not subject to the provisions of the following rules of the Western Classification:						
1 3 4 5 6	7 8 9 10 11	13 14 15 16 23	24 27 28 29 30	31 32 34 35 38	39 40 41 42 43	44 47 49 50 53
28•	Rates in this tariff are not subject to the provisions of the following rules of the Exception Sheet:					
5 10 15 20 25 30 35	40 45 50 55 60 65 70	75 70 85 90 95 100 105	110 115 120 125 130 140 145	160 165 170 175 185 190 195	200 205 210 215 220 225 230	235 240 245 250 255 260
APPLICATION OF EXCEPTION RATINGS NAMED IN THIS TARIFF						
Unless otherwise specifically provided in individual items in this Section, the exception ratings named herein apply as follows:						
*285	(a) Exception ratings provided in this Section which are designated as carload ratings or are made subject to specified minimum weights supersede the "carload" ratings and minimum weights in the Western Classification and Exception Sheet, but do not supersede "less-than-carload" or "any quantity" ratings provided in the Western Classification or Exception Sheet.					
	(b) Exception ratings provided in this Section which are designated as "less carload" or "any quantity" ratings, or are not subject to specified minimum weights, supersede the "less-than-carload" and "any quantity" ratings shown in the Western Classification and Exception Sheet, but do not supersede the "carload" ratings and minimum weights in the Western Classification, Exception Sheet, or in this tariff.					
RATINGS						
290	Except as otherwise provided in this Section, class rates contained in Section No. 2 are subject to any quantity, less-carload and carload ratings (including minimum weights) as shown in the Western Classification and Exception Sheet. (See Exception.)					

EXCEPTION.-When the carload minimum weight provided in connection with ratings in the Western Classification or Exception Sheet exceeds 40,000 pounds, the minimum weight shall be considered as being 40,000 pounds for the purpose of applying rates in Section No. 2 of this tariff.

METHOD OF COMPUTING COMBINATION RATES

295

On a continuous through movement of commodities moving under ratings based on a multiple, percentage or proportion of another rate for which charges are obtained by use of two or more separately stated rates, the through charge shall be computed by combining the two or more separately stated rates before applying the multiple, percentage or proportion authorized.

ACCESSORIAL CHARGES NOT TO BE OFFSET BY TRANSPORTATION CHARGES

297

Accessorial charges set forth in this tariff for accessorial services not included in the rate for actual transportation shall be assessed and collected whenever such services are performed, regardless of the level of the transportation rate assessed. Such accessorial charges may not be waived on the basis that a higher-than-minimum transportation rate serves as an offset.

APPLICATION OF CLASS RATES THAT ARE PERCENTAGES, MULTIPLES OR PROPORTIONS OF SPECIFIC CLASS RATINGS

298

Class ratings which are based on percentages, multiples or proportions of first class or other specified class ratings are not restricted in their application solely to the minimum class rates in the any-quantity weight brackets but will apply in connection with the minimum weight brackets set forth in this tariff applicable to the shipment transported.

* Addition, Decision No.

64191

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Correction No. 1269