

ORIGINALDecision No. 65169

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the Operations,
Rates, Charges, and Practices of
Azusa Transport Company, a
corporation, and Eagle Express, Inc.

Case No. 7240

ORDER DENYING REHEARING
AND MODIFYING DECISION

Azusa Transfer Company and Eagle Express, Inc., having filed a petition for rehearing of Decision No. 64449, and the Commission having considered said petition and each and every allegation therein, and being of the opinion that no good cause for rehearing has been made to appear, and further being of the opinion that said Decision should be amended in certain respects, including the deletion of freight bill No. 52597 from the summary of undercharges, and the Commission having reconsidered the penalty imposed by said Decision and being of the opinion that said penalty should remain unchanged,

IT IS ORDERED that said petition is hereby denied.

IT IS FURTHER ORDERED that said Decision No. 64449 is amended as follows:

1. The summary of undercharges on sheet 2 of the Decision is amended in the following respects: (1) All reference to freight bill No. 52597 (Part 13 of Exhibit No. 2) is deleted; (2) the figure \$2,049.48, representing the total undercharges, is amended to read \$1,967.55.

2. On sheets 3 and 4 of the Decision, paragraph number 4 of the findings is amended to read as follows:

"4. The aforesaid undercharges resulted from the following reasons:

The charges assessed by respondent in parts 1 and 21 were computed to take advantage of the multiple-lot provisions of Minimum Rate Tariff No. 2 (Item 85). In both of these parts the documentation requirement of Item 85 was not complied with in that a single multiple-lot document covering the entire shipment was not issued at the time of or prior to the initial pickup, so that the shipments must be rated separately.

The charges assessed by respondent in parts 2, 3, 4, 5, 6, 7, 27, 28, and 29 were computed as though all the consignees were on rail. In each of the aforesaid parts one or more of the consignees was off-rail and the lowest lawful combinations of rail and off-rail rates are higher than the rates assessed.

The charges assessed by respondent in part 9 omitted the charge for the movement from San Leandro to Los Angeles. The destination of the shipment in part 9 is off-rail. The lowest lawful rate from the point of origin to the point of destination would be the rail rate from San Leandro to Los Angeles plus the truck rate from Los Angeles to the destination. Only the truck rate from Los Angeles to the destination was charged.

The charge assessed by respondent in part 10 was computed to take advantage of paragraph (g) of Item 170 of Minimum Rate Tariff No. 2. The documentation requirements of said paragraph (g) were not complied with in that respondent did not prepare proper re-shipping instructions. The charge computed without the benefit of paragraph (g) of Item 170 is higher than the charge assessed by respondent.

The charges assessed by respondent in parts 11, 12, 14, and 15 were computed to take advantage of multiple-lot shipment benefits. The multiple-lot rule (Item 85 of MRT 2) is not applicable because a single multiple-lot document was not issued at the time of or prior to the initial pickup, as required by paragraph (a) 3 of Item 85.

The charges assessed by respondent in parts 16, 19, and 20 were computed to take advantage of rail rates and multiple-lot shipments benefits. The consignees were off-rail and the documentation requirement of paragraph (a) 3 of Item 85, Minimum Rate Tariff No. 2 was not met in that no master bill of lading or other multiple-lot document was issued. Application of the lawful tariff rates for off-rail shipment without benefit of the multiple-lot rule results in higher charges than those assessed.

The charge assessed by respondent in part 17 was based upon a truckload rate requiring a minimum weight of 40,000 lbs. The lawful minimum rate for the less-than-truckload weight transported produces a charge higher than that assessed.

The charges assessed by respondent in parts 18, 22, 23, and 24 have no basis in any tariff schedule in existence in California. The lowest rates lawfully applicable to these shipments produce charges higher than the charges billed by respondent.

The charges assessed by respondent in parts 25 and 26 were computed to take advantage of rail rates and multiple-lot shipment benefits. The consignees were off-rail and the documentation requirements of paragraph (a) 3 of Item 85, Minimum Rate Tariff No. 2 were not met in that a single multiple-lot document was not issued at the time of or prior to the first pickup. The pickups were not made within the two-day period as required by paragraph (a) 4 of Item 85. Application of the lawful tariff rates for off-rail shipment without benefit of the multiple-lot rule results in higher charges than those assessed."

3. On sheets 5 and 6 of the Decision, paragraph number 7 of the findings is amended to read as follows:

"7. The aforesaid undercharges resulted from the following reasons:

The charges assessed by respondent in parts 1, 3, 6, 7, and 8 were computed to take advantage of rail rates and privileges, including stopping in transit to partially unload. There is no single authorized route from point of origin to point of destination via the delivery points. The charges assessed were computed as though there had been a single authorized route from point of origin to point of destination via the stopping in transit points. Rates computed over authorized routes are higher than those assessed by respondent.

The charge assessed by respondent in part 2 was computed as though the consignee was on rail. The consignee was off-rail and the combination of rail and off-rail rates is higher than the rail rate assessed.

The charges assessed by respondent in parts 4, 10, and 11 were computed to take advantage of the multiple-lot provisions of Minimum Rate Tariff No. 2, Item 85. In each of these parts Item 85 was not applicable because the pickups were not made within the two-day period required by paragraph (a) 4 of Item 85. Each separate pickup therefore must be rated as a separate shipment under other provisions of the tariff, requiring in each instance a higher rate than that billed.

The charge assessed by respondent in part 5 was computed to take advantage of the multiple-lot provisions of Item 85 of Minimum Rate Tariff No. 2. The documentation requirement of this Item was not complied with in that no master bill of lading was issued at the time of or prior to either pickup. Rating each pickup separately requires a higher charge than that billed.

The charge assessed by respondent in part 9 was computed erroneously. It appears that a rail rate was used, but one of the two consignees is off-rail. Respondent assessed a switching charge but it should have assessed an off-rail charge from the spur track to consignee. The off-rail charge would be higher than the switching charge assessed."

Dated at San Francisco, California, this 2nd day of April, 1963.

Henry G. Grover
 President
William C. Bennett
 Commissioner
Frederick B. Halachoff
 Commissioner
William W. Bennett
 Commissioner