

ORIGINALDecision No. 65919

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)
 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 for Modification
 No. 197
 (Filed August 6, 1960
 Amended March 22, 1961)

Case No. 5435
 Petition for Modification
 No. 26

Case No. 5439
 Petition for Modification
 No. 12

Case No. 5441
 Petition for Modification
 No. 48
 (Filed March 22, 1961)

And Related Matters.

Russell & Schureman, by Theodore W. Russell, for
Campbell's Service, National Trailer Convoy,
Inc., and Vesper Company, petitioners.
John M. Martin and Paul D. McCormick, for Trailer
Coach Association; James Quintzall, Arlo D. Poe
and J. C. Kasper, for California Trucking
Association, interested parties.
Leonard Diamond, R. A. Lubich and J. M. Jenkins,
for the Commission staff.

O P I N I O N

Petitioners are engaged in the transportation of house trailers and related articles between points in California as well as between California and other states. They ask the Commission to establish minimum rates for the transportation of those articles.

Public hearings were held before Examiner Thompson at Los Angeles on August 15 and 16, and October 16, 17 and 18, 1961; and at San Francisco on October 19, 1961, when the matters were continued to a date to be set. On April 30, 1962, petitioners filed Exhibits 8 and 9 and, by letter, a copy of which was served on all parties, moved for the submission of the matters without further hearing. Trailer Coach Association supported the motion and no one informed the Commission of any opposition to it. The Commission, by order dated June 12, 1962, took the matters under submission.

The commodities involved herein are units in which people live, work, or conduct a business and which can be, and are, moved from place to place. The majority are dwelling units. For purposes herein, we shall classify the commodities into four groups: campers, vacation trailers, house trailers and mobile homes; it should be understood, however, that units within those groups can be, and are, used as offices, advertising display rooms, restaurants, laundries, and scientific laboratories as well as dwelling units. Campers are units that are not towed on wheels but are ordinarily placed on other vehicles, such as pickup trucks. Vacation trailers are units having their own wheels which are towed behind automobiles and the dimensions of which ordinarily are less than 8 feet wide and 20 feet long. House trailers are vehicles with dimensions not exceeding 8 feet in width and 35 feet in length. Mobile homes are units with dimensions exceeding house trailers.

The for-hire transportation of campers and vacation trailers ordinarily is from the manufacturer to a dealer or from

one dealer to another dealer. Those units ordinarily are transported in truckaway service, that is to say, the units are loaded onto the carrier's equipment rather than being towed. House trailers ordinarily are transported in tow-a-way service, that is, the carrier tows the unit on its own wheels or on an undercarriage provided for that purpose. Tow-a-way service is the usual method of transport for new trailers for dealers as well as used trailers, which are those registered to owners other than dealers. Mobile homes are transported by both methods; those exceeding ten feet in width must be transported in truckaway service because of provisions of the Vehicle Code.

The equipment used to transport campers and vacation trailers consists of semitrailers of the truck-body type, commonly used in the transportation of automobiles, or flat beds. Some equipment can handle as many as five 15-foot vacation trailers on one load. The carriers engaged in this service are either large companies, such as petitioners, who perform both truckaway and tow-a-way service, or smaller carriers who are engaged exclusively in truckaway service. The movement of campers and vacation trailers is seasonal, beginning in March and ending in September. The physical transportation is similar to that of automobiles in initial movement.

The equipment used in tow-a-way service consists of a tractor with a shortened wheelbase. The carrier's activities in the transportation of new trailers in tow-a-way service usually consist of hitching the trailer to the tow vehicle, inspecting the contents of the trailer as listed on the manufacturer's check sheet, driving to destination, unhitching, and accompanying the consignee while the latter inspects the trailer. The services performed are

similar to those performed by carriers engaged in transporting general freight or packaged goods. The services provided in the transportation of used trailers are more extensive and, in some respects, are more like those provided by a carrier of used household goods. A typical shipment of a used house trailer or used mobile home transported in tow-a-way service begins with the carrier's arrival at the trailer court and includes taking down awnings, securing all loose articles in the trailer and in some cases packing the articles, taping shut all cupboards and doors, disconnecting gas, water, electricity and sewer services, removing the blocks or piers that support the trailer, hitching up, and transporting the trailer to the destination, which usually is a trailer court. At the destination the trailer is spotted at the place indicated; it is then blocked up so as to be level, with the weight off of the wheels, utility services are connected when not prohibited by local ordinance, awnings are set up, and the trailer is made habitable. Some of the carriers assess charges separately for the various services performed while others include compensation for such services in the rate for transportation. The time involved and the cost to the carrier of performing the various services at origin and destination vary with the type and size of trailer. Some mobile homes have portions that telescope one part within another for transportation purposes. When set up, such a trailer may have the appearance of an "L" shaped house with a patio overhang. The setting up of that type of trailer requires considerably more time than the setting up of a house trailer that does not telescope.

While used trailers are transported from points of origin throughout the State, new trailers ordinarily are shipped

from Los Angeles and vicinity. There are several plants in the San Francisco Bay area which manufacture campers and vacation trailers but most campers, trailers and mobile homes are manufactured in southern California. For that reason, the larger carriers, including petitioners, maintain their principal California offices in southern California. A share of the new trailer traffic is obtained by smaller carriers in other parts of the State because some of those carriers have made arrangements with dealers in their respective areas to transport trailers purchased from the manufacturers.

In addition to representatives of petitioners, a number of other carriers testified at the hearings. They included one-truck operators as well as large carriers, with places of business at such points as Redding, San Jose, Bakersfield, Fresno and San Pablo, as well as points in southern California. All urged the Commission to establish minimum rates for the transportation they perform. The Trailer Coach Association, whose members are manufacturers and dealers, supports the establishment of minimum rates. According to the testimony, the competition among the carriers regularly engaged in this business, and with individuals who own trucks and occasionally engage in this transportation, is such that there is little stability in the rates being charged and, as a result, the transportation of trailers in California is not a profitable venture.

The proposed minimum rates, rules and regulations were developed by petitioners after discussions with shippers and other carriers. A number of changes in the originally proposed rates, rules and regulations were made at and following the hearings as a result of suggestions made by witnesses, by the Commission staff

and by California Trucking Association. Portions of the proposed tariff were taken from Mobile Housing Carriers Conference, Inc., Tariff No. 1-E, M.F.I.C.C.9, Minimum Rate Tariff No. 2, and Minimum Rate Tariff No. 12. The carriers and Trailer Coach Association are of the opinion that the proposal adequately meets the needs of the industry. Petitioner presented estimates of the results of operations of five carriers for the year 1960 under the proposed rates. Had the carriers assessed the proposed rates during that year they would have obtained operating ratios of 89.5%, 90.2%, 92.8%, 99.8% and 104.9%. Petitioners showed that operating expenses have increased since 1960. Petitioners stated that they were financially unable to employ a cost analyst to prepare studies of the cost of providing the services they perform, that they had requested assistance from the Commission's Transportation Division, and that they had been informed that its work load prevented the staff from initiating a cost study.

Section 3662 of the Public Utilities Code provides that the Commission shall, upon complaint or upon its own initiative without complaint, establish or approve just, reasonable, and non-discriminatory maximum or minimum or maximum and minimum rates to be charged by any highway permit carrier for the transportation of property and for accessorial service performed by it. Petitioners have requested the establishment of minimum rates. They have shown that minimum rates are necessary for the stability of their industry.

Section 3662 of the Public Utilities Code also provides that in establishing or approving minimum rates the Commission shall give due consideration to the cost of all of the transportation services performed, including length of haul, any additional transportation service performed, or to be performed, to, from, or

beyond the regularly established termini of common carriers, any accessorial service, the value of the commodity transported, and the value of the facility reasonably necessary to perform the transportation service. In this record there is no specific cost evidence of all or any of the transportation services performed. The only evidence submitted, other than the opinions of the individual carriers, concerning the reasonableness of the proposed rates was the operating statements of the carriers referred to above. The operations of four of those carriers are predominantly in interstate commerce. The evidence does not provide any basis for evaluating the individual rates proposed for specific services and lengths of haul.

In Decision No. 48943, dated August 10, 1953, in Case No. 4808 (unreported), concerning the establishment of minimum rates for the transportation of automobiles, the Commission stated:

"This Commission will not establish minimum rates for the transportation of property based solely on the desire of carriers for such rates, nor upon agreement among the carriers concerning the form and level of such rates. Minimum rates, rules and regulations will be established or approved only upon adequate and convincing evidence that such rates, rules and regulations, will be just, reasonable and nondiscriminatory for the transportation in question. When such evidence is lacking there is no alternative to withholding the establishment of minimum rates."

We find that it has not been shown that the proposed rates are just, reasonable and nondiscriminatory minimum rates to be charged by any highway carrier for the transportation of house trailers and related articles and for accessorial services performed by it. We further find that the evidence does not provide a basis upon which the Commission can determine the just, reasonable and nondiscriminatory minimum rates for the services involved.

Based on the foregoing findings, we conclude that the petitions herein should be denied, and, in order to obtain data from which just, reasonable and nondiscriminatory minimum rates can be determined, the Commission staff should be directed to develop studies, including analyses of the costs of providing the services involved herein, for presentation at a public hearing.

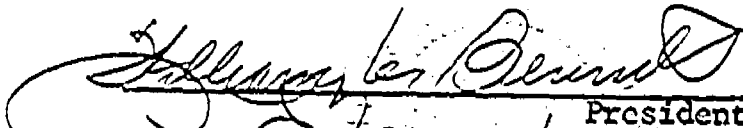
The staff is directed to undertake the preparation of the aforesaid studies and to notify the Commission upon their completion. At that time, hearings may be ordered by the Commission on its own motion to receive such evidence. There is no need to keep this proceeding open for the receipt of such evidence.

O R D E R

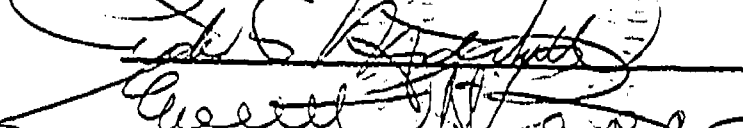
IT IS ORDERED that Petition No. 197 in Case No. 5432, Petition No. 26 in Case No. 5435, Petition No. 12 in Case No. 5439, and Petition No. 48 in Case No. 5441 are denied.

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

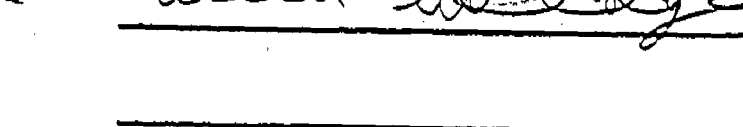
Dated at San Francisco, California, this 20th day of August, 1963.



President



Commissioner



Commissioner

Commissioners

We dissent.

The critical question is whether or not the cost evidence presented at the hearing is adequate to justify the establishment of minimum rates. In our opinion, it was. The various shipper interests who appeared did not oppose the general rate proposal and advanced no objection to the cost evidence.

Our truck rate program is expressly commanded by statute, and the majority opinion itself concedes that minimum rates are necessary for the stabilization of this segment of the industry. To refuse to fix any rates at all is to elevate a secondary consideration (quality of cost evidence) above the more important objective of the minimum rate program itself. It is true that more comprehensive evidence of cost is often presented by our staff, but in this case the staff made no study and even now is not in a position to do so. The directive that they do so will not increase our budget or our personnel; that directive can be obeyed only if men are taken from other equally urgent assignments. The fact is that we do not have the resources to produce studies of the quality called for in the majority opinion. The trailer industry is but one of many whose relatively small volume of business makes such studies economically impractical. And even in the larger cases the staff has been unable to keep up with the work load; rates based on old cost evidence are no better than rates based on poor cost evidence.

*4/26/51
FDH*
The best cost evidence is imperfect; necessarily, the rates only approximately correspond to cost even when established. The real danger in this and other minimum rate cases is that we will set an unrealistically high standard for our performance and thereby fail to do the job. *FDH* at all.

George F. Grover

Commissioner

Fredrick B. Hallock

Commissioner