

66611

ORIGINAL

Decision No. _____

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 car-)
 riers 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
 (Order Setting Hearing dated
 May 14, 1963)

And related matters.

Cases Nos. 5433 and 5438
 (Orders Setting Hearing dated
 May 14, 1963)

Wilfred N. Greenham, for Pacific Motor Trucking Co.;
 and E. J. Muzio, for Miles Motor Transport System;
 respondents.
J. C. Kaspar, J. X. Quintrall and A. D. Poe, for
 California Trucking Association; C. J. Van Duker,
 for Shasta Beverages, Soule Steel and Guild Wine;
G. B. Fink, for The Dow Chemical Co.; E. J.
Langhofer, for San Diego Chamber of Commerce;
Ralph Hubbard, for California Farm Bureau
 Federation; W. F. McCann, for Container Corp. of
 America and Traffic Managers Conference of
 California; E. A. Read and Allen K. Penttila, for
 California Manufacturers Association; Milton A.
Walker, for Fibreboard Paper Products Corporation;
Asa Button, for Spreckels Sugar Company; T. L.
Carothers, for Kaiser Aluminum & Chemical Co.;
W. L. Chessman, for Matthews-Silvius Traffic
 Service; C. H. Costello, for Continental Can Co.,
 Inc.; W. R. Donovan, for C & H Sugar; E. R. Garcia,
 for B. R. Garcia Traffic Service; R. H. Hackley,
 for Safeway Stores, Inc.; Jefferson H. Myers, for
 San Francisco Port Authority; Loren D. Olsen, for
 Kaiser Gypsum Co.; W. P. Pierce, for Kaiser Steel
 Corporation; and David B. Porter, for California
 Packing Corporation; interested parties.
Edward E. Tanner, for the Commission staff.

O P I N I O N

On May 14, 1963, the Commission ordered hearings in these proceedings for the purpose of receiving evidence related to a report prepared by the Commission's Transportation Division concerning the method of determining combinations of minimum rates and common carrier rates under the provisions of Minimum Rate Tariffs Nos. 2, 3-A and 8, and to the questions indicated therein concerning methods of constructing combinations of common carrier rates and minimum rates. The matters were heard and submitted August 13, 1963, before Examiner Thompson at San Francisco.

The staff report, Exhibit 1 herein, covers only the question of combining rates for the transportation within a single incorporated city from a team track or established depot to a point of destination with a rate of a railroad or other common carrier from point of origin to the team track or established depot. Some of the interested parties requested the Commission to consider other questions, such as the combining of rates in Minimum Rate Tariff No. 1-B for intercity transportation with the rates of the railroads. Some shippers stated that the charges resulting from the combinations of rates are too high and unduly prejudice intrastate commerce. The scope of this proceeding includes only the methods of combining rates contained in the tariffs of common carriers with other rates for transportation performed within a single incorporated city and does not include considerations of the level of the charges resulting from such combinations of rates. Minimum Rate Tariffs Nos. 2, 3-A and 8 contain rules for the making of the combinations of rates. The rules are similar, therefore we shall consider the problems relating to the provisions contained in Minimum Rate Tariff No. 2.

The rule in said tariff is in Item No. 210, the parts pertinent to this inquiry being:

"When lower aggregate charges result, rates provided in this tariff may be used in combination with common carrier rates, except rates of coastwise common carriers by vessel, for the same transportation as follows:"

* * *

"Note 1 - If the route from point of origin to the team track or the established depot, or from the team track or established depot to point of destination, is within the corporate limits of a single incorporated city, the rates provided in this tariff for transportation for distances of 3 miles or less, or rates established for transportation by carriers as defined in the City Carriers' Act, whichever are the lower, shall apply from point of origin to team track or established depot or from team track or established depot to point of destination as the case may be; ..."

The question presented involves the application of the rule to the combining of a rate for the transportation from a point of origin within an incorporated city to a team track within the same city with a common carrier rate from that city to a point beyond, and when the incorporated city is one, such as Sacramento, where the Commission has not established minimum rates for city carriers. Using Sacramento as an example, it is the staff's contention that Item No. 210 provides, or if it does not it was intended to provide, that the only rate that can be combined with the common carrier rate is the rate provided in Minimum Rate Tariff No. 2 for distances of three miles or less.

A traffic consultant appearing for Shasta Beverages and several other shippers contends that Item No. 210 authorizes the combining of the common carrier rate with any rate a city carrier desires to make for the transportation from the point of origin to the team track, both within the limits of a single incorporated city.

It was apparently the disagreement between the Rate Section of the Commission and the traffic consultant that led to the recommendation by the Transportation Division that the hearing be held

herein. These proceedings contemplate the establishment of minimum rates applicable to transportation to be performed by highway carriers. It is not the purpose of these investigations to determine the lawful minimum rates applicable to transportation that already has been performed.

Official notice was taken of all decisions and orders of the Commission which pertained to the subject matter of the rule in Item No. 210. The origin and the necessity of the rule in Item No. 210 is described in Inv. Minimum Rates, 41 C.R.C. 671 at pages 711 and 712. The Commission, in discussing the matter of the use of carload rail or vessel rates in combination with minimum rates, stated:

"A representative of certain northern highway carriers urged that a rate of 5 cents per 100 pounds be established to apply in constructing combinations over railheads when the point of origin or point of destination is within a city or town for which city drayage rates have not been established. ... He claimed that the use of higher rates would disadvantage highway carriers by making a lower through charge available via the physical truck-rail route than is produced by the truck-rail combination rate.

"... Ordinarily, transportation within the drayage areas would be expected to be as costly as transportation for equivalent distances outside such areas and it follows, therefore, that 5 cents per 100 pounds would not be compensatory for intracity transportation of shipments of all weights. In fact, it is so much below what the record shows to be a compensatory basis that unsupported statements that 5 cents per 100 pounds represents the 'going' drayage rates cannot be accepted.

"The proposal for establishment of a 5 cents per 100 pounds proportional rate for use in constructing combinations with rail and vessel rates will not be adopted at this time; however, instances in which city carriers are transporting property to and from railheads at rates less than those established as minimum for hauls of equivalent distances by highway carriers, should be brought to the Commission's attention. In the event highway carriers are found to be disadvantaged unduly at particular points, action may be taken to establish minimum drayage rates at those points or to provide proportional rates equivalent to what are shown actually to be the 'going' drayage rates."

The foregoing indicates the Commission determined that from a rate standpoint the highway carriers should be afforded opportunity to compete, but not necessarily be forced to compete, on an equal footing with other transportation agencies. It seems clear that in carrying out that policy in the establishment of minimum rates in Minimum Rate Tariff No. 2, the Commission intended the established minimum rates to apply to all through movements of freight and that the levels of the minimum rates so established, and more particularly the rail-truck combinations of rates, should not be greater than the through charge applicable via a physical rail-drayman route. It is also readily apparent from the language cited above, that it was intended that, except where a lower drayage rate has been established by the Commission, the 0-3 mile rate set forth in Minimum Rate Tariff No. 2 should be the proportional rate for the transportation of freight from a team track or established depot to destination within the same incorporated city to be used in combination with the rail rate in the construction of a minimum through rate applicable to transportation performed by highway carriers.

It is not our purpose here to determine whether the present language of Item No. 210 reflects that intention but rather to determine whether other language is more suitable to accomplish that result in order to remove the possibility of any contention that rates may be combined by some other method. In that respect, the Commission's Rate Section suggested certain modifications of provisions in Minimum Rate Tariffs Nos. 2, 3-A and 8.

The traffic consultant for Shasta Beverages contends that if it were the intention of the Commission to establish minimum rates in the manner described above, it lacks the power to do so and an attempt to require the assessment of the 0-3 mile rate as

a proportional rate would conflict with the provisions of Section 3663 of the Public Utilities Code which provides:

"In the event the commission establishes minimum rates for transportation services by highway permit carriers, the rates shall not exceed the current rates of common carriers by land subject to Part 1 of Division 1 for the transportation of the same kind of property between the same points."

It is apparently the traffic consultant's position that a railroad carload rate is applicable to all locations within a city if that city is described by the railroad tariff as a "point". Neither the order setting hearing nor the notice of hearing gave any indication that such a contention would be an issue. None of the other parties to this proceeding responded to this contention in any way; rather, they confined themselves to the methods to be used in determining the proportional rate for the movement from or to a team track with the railroad rate. In view of this circumstance, together with the fact that we are here considering only the matter of establishing a rule for determining a proportional rate for an intracity movement to be used in the construction of a through highway carrier rate, and there is no doubt, even assuming the traffic consultant's position is a valid one, that there are at least some instances where a "point" may not coincide with the limits of a single incorporated city so that such combinations of rates are necessary, the issue raised by the consultant need not be determined herein.

We have already stated that this proceeding contemplates the establishment of a rule for determining the intracity proportional rate to be used as part of a through rate. It should be pointed out, however, in connection with Fibreboard Paper Products Corporation's suggestion that Item No. 210 provide for combinations of rail rates with the intercity rates in Minimum Rate Tariffs Nos. 1-B (East Bay), 5 (Los Angeles), and 9-A (San Diego) that the rates in said minimum rate tariffs have in most cases been adopted by highway common carriers and are published and filed in common carrier tariffs such as Pacific Motor Tariff Bureau Tariff No. 6 series for transportation between East Bay cities, Western Motor Tariff Bureau Tariff No. 18 series for transportation within the Los Angeles Drayage Area, and Western Motor Tariff Bureau Tariff No. 104 for transportation in the San Diego Drayage Area. The provisions of Minimum Rate Tariff No. 2, as well as Nos. 3-A and 8, authorize the combination of two or more common carrier rates to be used as a through rate. While Fibreboard's suggestion appears to be consistent with the policy of the Commission in the establishment of minimum rates, it does not appear that there would be any untoward result if we consider only the issues within the limited scope of this proceeding.

We have considered the staff's suggestions and, while they conform generally to the policy of rate making stated hereinbefore, they do not provide precise language that might be used in limiting the proportional rates to rates established by the Commission as minimum rates.

We find that the application and enforcement of the minimum rates established or approved by the Commission can be

further enhanced by modification of the rules in Minimum Rate Tariffs Nos. 2, 3-A and 8 so as to more clearly provide for the limitation of proportional rates to the minimum rates established or approved by the Commission for transportation performed by city carriers.

We conclude that Note 1 of Item No. 210 of Minimum Rate Tariff No. 2 should be amended to read as follows:

NOTE 1-If the route from point of origin to the team track or the established depot, or from the team track or established depot to point of destination, is within the corporate limits of a single incorporated city, the rates provided in this tariff for transportation for distances of 3 miles or less, or the minimum rates established by the Commission for transportation within that city by carriers as defined in the City Carriers' Act, whichever are the lower, shall apply from point of origin to team track or established depot or from team track or established depot to point of destination as the case may be; except that if the route from team track or established depot is within the limits of the Los Angeles Drayage Area (see Item No. 30 for reference), rates no lower than those established for transportation therein shall apply in connection with shipments of alcoholic liquors originating in San Francisco Territory.

We further conclude that Items Nos. 220 and 230 of Minimum Rate Tariff No. 2, Item No. 221 of Minimum Rate Tariff No. 3-A and Item No. 220 of Minimum Rate Tariff No. 8 should also be amended in the same manner and form; and, that in order to avoid duplication of tariff distribution, the necessary amendments to Minimum Rate Tariff No. 2 should be accomplished by the order herein and the amendments to Minimum Rate Tariffs Nos. 3-A and 8 should be accomplished by separate orders.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix D of Decision No. 31606, as amended) is further amended by incorporating therein to become effective February 22, 1964, Twelfth Revised Page 24 and Sixth Revised Page 25, which revised pages are attached hereto and by this reference made a part hereof.

2. In all other respects, Decision No. 31606, as amended, 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 14th day of JANUARY, 1964.

William B. Bennett
President
George L. Traver
Fredrick B. Hallock
Commissioners

| Item No. | SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued) |
|----------|--|
| | <p style="text-align: center;">ALTERNATIVE APPLICATION OF COMBINATIONS WITH COMMON CARRIER RATES</p> <p>When lower aggregate charges result, rates provided in this tariff may be used in combination with common carrier rates, except rates of coastwise common carriers by vessel, for the same transportation as follows:</p> <p>(a) When point of origin is located beyond railhead or an established depot and point of destination is located at railhead or an established depot, add to the common carrier rate applying from any team track or established depot to point of destination the rate provided in this tariff for the distance from point of origin to the team track or depot from which the common carrier rate applies. (See Notes 1, 2, 3 and 4.)</p> <p>(b) When point of origin is located at railhead or an established depot and point of destination is located beyond railhead or an established depot, add to the common carrier rate applying from point of origin to any team track or established depot the rate provided in this tariff for the distance from the team track or depot to which the common carrier rate used applies to point of destination. (See Notes 1, 2, 3 and 4.)</p> <p>(c) When both point of origin and point of destination are located beyond railhead or an established depot, add to the common carrier rate applying between any railheads or established depots the rate provided in this tariff for the distance from point of origin to the team track or depot from which the common carrier rate used applies, plus the rate provided in this tariff for the distance from the team track or depot to which the common carrier rate used applies to point of destination. (See Notes 1, 2, 3 and 4.)</p> <p>NOTE 1.-If the route from point of origin to the team track or the established depot, or from the team track or established depot to point of destination, is within the corporate limits of a single incorporated city, the rates provided in this tariff for transportation for distances of 3 miles or less, for the minimum rates established by the Commission for transportation within that city by carriers as defined in the City Carriers' Act, whichever are the lower, shall apply from point of origin to team track or established depot or from team track or established depot to point of destination as the case may be; except that if the route from team track or established depot is within the limits of the Los Angeles Drayage Area (see Item No. 30 for reference), rates no lower than those established for transportation therein shall apply in connection with shipments of alcoholic liquors originating in San Francisco Territory.</p> <p>NOTE 2.-When a rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item.</p> |

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NOTE 3.-In applying the common carrier rate or charge under this item, a rate no lower than the common carrier rate and a weight no lower than the actual weight or published minimum weight (whichever is the higher) applicable in connection with the common carrier rate shall be used.

NOTE 4.-For the purpose of applying the provisions of this item, the definitions of Point of Destination and Point of Origin set forth in Item No. 10 will be applicable.

Change, Decision No.

66611

EFFECTIVE FEBRUARY 22, 1964

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

Correction No. 1423

| Item No. | SECTION NO. 1-RULES AND REGULATIONS OF GENERAL APPLICATION (Continued) |
|-------------|--|
| <p>6220</p> | <p style="text-align: center;">ALTERNATIVE APPLICATION OF SPLIT PICKUP UNDER RATES CONSTRUCTED BY USE OF COMBINATIONS WITH COMMON CARRIER RATES</p> <p>Charges on split pickup shipments may be computed by use of combinations with common carrier rates as follows, if a lower aggregate charge than that accruing under the basis provided in Item No. 160 results (See Note 1):</p> <p>(1) Compute the charge applicable under the rates named in this tariff for a split pickup shipment from the point or points of origin of the several component parts (See Item No. 160) to any team track or established depot. (See Note 2.)</p> <p>(2) Add to such charge the charge applicable under Items Nos. 200 and 210 for the weight of the composite shipment from such team track or established depot to point of destination.</p> <p>NOTE 1.-For the purpose of applying the provisions of this item, the definitions of Point of Destination and Point of Origin set forth in Item No. 10 will be applicable.</p> <p>NOTE 2.-If the points of origin of all component parts are within the limits of an incorporated city within which the team track or established depot is located, and no rate for transportation to the team track or established depot from such points of origin is named in this tariff, the rates named in this tariff for transportation for distances of 3 miles or less shall apply to the composite shipment, for the minimum rates established by the Commission for transportation within that city by carriers as defined in the City Carriers' Act, whichever are the lower, shall apply to such team track or established depot from such points of origin.</p> |
| <p>6230</p> | <p style="text-align: center;">ALTERNATIVE APPLICATION OF SPLIT DELIVERY UNDER RATES CONSTRUCTED BY USE OF COMBINATIONS WITH COMMON CARRIER RATES</p> <p>Charges on split delivery shipments may be computed by use of combinations with common carrier rates as follows, if a lower aggregate charge than that accruing under the basis provided in Item No. 170 results (See Note 1):</p> <p>(1) Compute the charge applicable under Items Nos. 200 and 210 for the weight of the composite shipment from point of origin to any team track or established depot.</p> <p>(2) Add to such charge the charges applicable under the rates named in this tariff for a split delivery shipment (See Item No. 170) from such team track or established depot to the point or points of destination of the several component parts. (See Note 2.)</p> |

NOTE 1.-For the purpose of applying the provisions of this item, the definitions of Point of Destination and Point of Origin set forth in Item No. 10 will be applicable.

NOTE 2.-If the points of destination of all component parts are within the limits of an incorporated city within which the team track or established depot is located, and no rate for transportation from the team track or established depot to such points of destination is named in this tariff, the rates named in this tariff for transportation for distances of 3 miles or less shall apply to the composite shipment, for minimum rates established by the Commission for transportation within that city by carriers as defined in the City Carriers' Act, whichever are lower, shall apply from such team track or established depot to such point of destination.

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Correction No. 1424