

Decision No. 66983

ORIGINAL

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 car-)
riers relating to the transportation of)
property within San Diego County (trans-)
portation for which rates are provided)
in Minimum Rate Tariff No. 9-A).)

Case No. 5439
(Petition for Modifica-
tion No. 29)

SUPPLEMENTAL OPINION AND ORDER

By Decision No. 66981, entered today, the Commis-
sion revised the provisions of Minimum Rate Tariff No. 9-A and of
three other minimum rate tariffs relating to the alternation of
common carrier rates with the rates specifically published in said
tariffs. That decision also found that, in order to avoid duplica-
tion of tariff distribution, each tariff should be amended by
separate order.

IT IS ORDERED that:

1. Minimum Rate Tariff No. 9-A (Appendix "B" of Decision
No. 55256, as amended) is further amended by incorporating therein,
to become effective April 25, 1964, Eighth Revised Page 20,
which page is attached hereto, and by this reference made
a part hereof.

2. Tariff publications required 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 on not
less than ten days' notice to the Commission and to the public and
such tariff publications shall be made effective not later than
April 25, 1964; and the tariff publications which are
authorized but not required 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 page incorporated in this order.

3. Common carriers, in establishing and maintaining the rates authorized hereinabove, are authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

4. In all other respects said Decision No. 55256, 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 17th day of MARCH, 1964.

William W. Bennett
President
[Signature]
[Signature]

Commissioners

Commissioner Frederick B. Holboff
present but not voting

SECTION NO. 1 - RULES AND REGULATIONS (Continued)	Item No.
<p style="text-align: center;">ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</p> <p>Common carrier rates (including common carrier rail-road switching rates) may be applied in lieu of the rates provided in this tariff when such common carrier rates produce a lower aggregate charge for the same transportation between the same points of origin and destination and for the same accessorial services than results from the application of the rates herein provided.</p> <p>When the common carrier rate used does not include accessorial services performed by the carrier, the following charges for such accessorial services shall be added: (See Note)</p> <ul style="list-style-type: none"> (a) For loading onto carrier's equipment, the charges provided in paragraph (d). (b) For unloading from carrier's equipment, the charges provided in paragraph (d). (c) For other accessorial services for which charges are provided in this tariff, the additional charge or charges so provided. (d) Class 100 Commodities — 5 cents per 100 pounds. <p>NOTE.—In applying the provisions of 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.</p> <p style="text-align: center;">***</p>	<p>180</p>
<p> ⚡ Change) ◊ Increase) ** Note 2) eliminated) Decision No. 65983 </p>	
<p>EFFECTIVE APRIL 25, 1964</p>	
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California. Correction No. 104</p>	

A. 45661
C. 5432 (Pet. 306)
C. 5435 (Pet. 49)
C. 5439 (Pet. 29)
C. 5441 (Pet. 72)

DISSENTING OPINION OF COMMISSIONER GROVER

With respect to the drayage tariffs, the decision recites that the proposed revision is "desirable from the standpoint of consistency and uniformity with the corresponding provisions of Minimum Rate Tariff No. 2." Nevertheless, neither the proposal nor the decision would achieve consistency and uniformity, for they omit from the drayage tariffs the charge of 2¢ per 100 pounds when the shipper assists in the loading and unloading. No reason for this lack of consistency and uniformity is presented in the decision, and petitioner offered only negligible explanation when the question was raised at the hearing. On this record, the 2¢ proposal should be made applicable to the three drayage tariffs.

City carriers should not be given the alternative of applying common carrier rates for city carrier movements. Although the Legislature has required such alternative rates for radial highway carrier operations (Public Utilities Code §3663), it has included no such provision for city carrier operations. The statutes governing these two types of carriers are in pari materia, and we must assume that the Legislature acted deliberately in making this distinction. The majority decision, however, comes to the startling conclusion that the absence of a statute requiring alternative rates leaves the Commission "free to provide for the rate alternation, or not, as the needs of commerce ^{may} require."

Wholly aside from the refusal to accept legislative direction with respect to alternative rates, the decision is significant for the standard allegedly used in adopting the alternative rate rule. Heretofore, our standard has most frequently been said to be cost;

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repeatedly and emphatically, minimum rate proposals not based on complete cost data have been rejected. This time, however, the standard is suddenly "the needs of commerce" -- a wide-open concept which could be used to justify anything. Like consistency and uniformity, cost criteria apparently are easily abandoned when they become inconvenient hurdles in the rate-fixing process.

Even the needs of commerce receive casual treatment from the Commission majority. We are told no more than that the case against alternative rates is "not persuasive." This is not the explanation of our decisions which the law requires us to supply. (See Calif. Motor Transport Co. v. Pub. Util. Comm., 59 Cal. 2nd 270, 274-275.)

March 18, 1964.


Commissioner