

ORIGINAL

Decision No. 66984

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 property in the City and County of San Francisco, and the Counties of Alameda, Contra Costa, Marin, Monterey, Napa, Santa Clara, Santa Cruz, San Benito, San Mateo, Solano and Sonoma (transportation for which rates are provided in City Carriers' Tariff No. 1-A; Minimum Rate Tariff No.1-B))

Case No. 5441  
(Petition for Modification No. 72)

SUPPLEMENTAL OPINION AND ORDER

By Decision No. 66981, entered today, the Commission revised the provisions of Minimum Rate Tariff No. 1-B 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 duplication of tariff distribution, each tariff should be amended by separate order.

IT IS ORDERED that:

1. Minimum Rate Tariff No. 1-B (Appendix "B" of Decision No. 65834, as amended) is further amended by incorporating therein, to become effective April 25, 1964, Third Revised Page 19, 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. 65834, 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 17<sup>th</sup> day of MARCH, 1964.

William L. Bennett  
President  
Richard E. Mitchell  
Robert W. Page  
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Commissioners

-2- Commissioner Frederick B. Hylboff  
present but not voting.

- 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 <sup>may</sup> 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

SECTION NO. 1 - RULES AND REGULATIONS (Continued)	Item No.
<p style="text-align: center;">APPLICATION OF RATES</p> <p>Rates provided in this tariff are for the transportation of shipments, as defined in Item No. 11, from point of origin to point of destination and include tailgate loading into and tailgate unloading from the carrier's equipment. (See Item No. 110.)</p>	90
<p style="text-align: center;">APPLICATION OF GOVERNING CLASSIFICATION</p> <p>(a) Except as otherwise provided, class rates in this tariff are subject to the ratings shown in the Governing Classification. Rates in this tariff are subject to the provisions of the following rules only of the Governing Classification:</p> <p style="text-align: center;">1, 75, 80, 115 (Table A)</p> <p>(b) Where the ratings are in conflict with those provided in this tariff, the provisions of this tariff will apply.</p> <p>(c) Commodity rates named in this tariff are governed by the Governing Classification to the extent that commodity rate items make specific reference thereto.</p>	100
<p style="text-align: center;">ACCESSORIAL CHARGES</p> <p>(a) For pickup or delivery or for stacking, sorting or other accessorial service which is not authorized to be performed under the rates named in this tariff and for which a charge is not otherwise provided, an additional charge of \$6.00 per man per hour, minimum charge \$1.50 shall be made.</p> <p>(b) When carrier is required to provide additional labor, at point of origin or point of destination, for the handling of articles or packages which, because of their weight or bulk, cannot be handled by one man, an additional charge of \$6.00 per man per hour, minimum charge \$6.00 shall be made.</p>	110
<p style="text-align: center;">ADVANCE CHARGES</p> <p>All charges on shipments advanced by a carrier for the account of a shipper or consignee will be payable on demand of the carrier making the advance.</p>	120
<p style="text-align: center;">ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</p> <p>Common carrier 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>	130

EXCEPTION: The provisions of this item do not apply on services performed under the provisions of Item No. 900.

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)

- (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) 4 cents per 100 pounds.

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.

CHARGES FOR SERVICE AT OTHER THAN REGULAR WORKING HOURS

Rates named in Sections 2, 3, 4 and 5 apply for service performed during regular working hours of 8:00 a.m. to 5:00 p.m. except Saturdays, Sundays and the holidays shown.

For services performed at the request of the shipper or consignee at other than those hours specified above and on Saturdays, Sundays or the holidays shown, an additional charge equal to the additional cost of overtime will be made.

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Holidays referred to above mean that the following: New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Admission Day, Thanksgiving Day, and Christmas Day. When such holidays fall on Sunday, the following Monday shall be considered a holiday.

♂ Change )  
 ◊ Increase ) Decision No.      **66984**  
 † Reduction )

EFFECTIVE APRIL 25, 1964

Issued by the Public Utilities Commission of the State of California,  
 San Francisco, California.  
 Correction No. 36