

ORIGINAL

Decision No. 68324

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of National Motor Freight Traffic)
Association, Inc., Agent, for)
authority to make certain revisions)
in the National Motor Freight)
Classification.)

Application No. 46909
(Filed August 20, 1964)
(Amended October 9, 1964)

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
(Order Setting Hearing of
September 22, 1964)

And related matters.

Cases Nos. 5435, 5439, 5440,
5441, 5603 and 7858
(Order Setting Hearing of
September 22, 1964)

Arlo D. Poe, F. G. Freund and N. F. Behme, Jr.,
for National Motor Freight Traffic Association,
Inc., applicant.

Arlo D. Poe, J. C. Kaspar, H. F. Kollmyer, for
California Trucking Association, interested
party.

W. N. Greenham, George E. Sloat, Armand Karp, and
R. C. Ellis, interested parties and respondents.

David B. Porter, Ralph Hubbard, W. R. Donovan,
Loren D. Olsen, Charles R. Harryman, Eugene A.
Read, C. H. Costello, E. J. Langhofer, George
W. Burns, R. J. Springer, W. Paul Tarter, and
James H. Mullen, for various shippers and
organizations, interested parties.

Arthur F. Burns, for the Commission staff.

O P I N I O N

Public hearing was held at San Francisco before Examiner
Gagnon on October 19, 1964, on which date the matters were taken
under submission.

Applicant requests authority to make certain changes in the description of articles, ratings, rules, minimum weights, and other regulations in the National Motor Freight Classification.^{1/} The proposed changes involve several hundred items. The revisions pertain to (1) format of classification; (2) correction of publishing errors and omissions; (3) packaging rules; and (4) changes in ratings which result in both increases and reductions in rates. The proposed classification revisions were established by applicant and are now, or will be in the near future, effective for tariffs covering areas other than California. Applicant desires to maintain uniform classification regulations in all areas.^{2/}

On September 22, 1964, the Commission ordered that hearings in several of the minimum rate proceedings be held concurrently with the hearing in the application for the specific purpose of determining whether the changes which may be approved in the National Motor Freight Classification should be adopted to govern the aforesaid minimum rate tariffs.^{3/}

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- ^{1/} National Motor Freight Classification No. A-7 (Cal.) as governed by National Motor Freight Classification No. A-7 are collectively referred to herein as the National Motor Freight Classification.
- ^{2/} The following supplements to National Motor Freight Classification No. A-7 are applicable in areas other than California: Supplement No. 7, effective March 10, 1964 (Exhibit No. 1); Supplement No. 12, effective August 12, 1964 (Exhibit No. 2); Supplement No. 14, effective September 24, 1964 (Exhibit No. 3); Supplement No. 15, effective October 30, 1964 (Exhibit No. 6).
- ^{3/} The tariffs are Minimum Rate Tariff No. 2 (General Commodities, Statewide), City Carriers' Tariff No. 1-A (San Francisco Drayage), Minimum Rate Tariff No. 1-B (Eastbay Drayage), Minimum Rate Tariff No. 5 (Los Angeles Drayage), Minimum Rate Tariff No. 9-B (San Diego Drayage), Minimum Rate Tariff No. 10 (Cement, Statewide), Minimum Rate Tariff No. 11-A (Uncrated New Furniture) and Exception Ratings Tariff No. 1.

The proposed changes and the reasons given by applicant for such changes are set forth in the exhibits attached to the application, as amended, and received in evidence as Exhibits Nos. 1 through 6. Applicant's Exhibit No. 7 contains references to current class ratings which are proposed to be changed, thus providing a vehicle for measuring the sought level of increase or reduction in ratings.

Continental Can Company, Inc., protests the proposed revisions in Items Nos. 40400-A and 20480-B (Sub. 3), which results in increases in rates, unless several other ratings on certain alleged low density articles, contained in National Motor Freight Classification No. A-7 (Cal.), are reduced to what shipper believes to be the basis for rating such articles by the National Classification Board.

The Commission's staff urged the adoption of whatever ratings are found to be reasonable to govern the minimum rates now subject to ratings in the National Motor Classification. The staff also suggested ordering language which would enable common carriers, maintaining classification exceptions which produce rates or charges lower in volume or effect than those found to be reasonable herein, to revise such exceptions to the extent necessary to produce rates and charges no lower in volume or effect than the corresponding specific minimum rates and charges.

Discussion

No good purpose would be served by reciting herein the facts concerning each of the several hundred proposed changes. Only a few items were questioned by the parties and, except for two items, applicant's proposal was unopposed. All ambiguous matters were clarified. The Rules of Procedure for Changes in the

National Motor Freight Classification are generally well known to carriers and shippers.^{4/} The proposed classification revisions were authorized by the National Classification Board after due process under established procedures, including public hearings conducted by the Board in California. No appeals are pending before the National Classification Committee and the period for filing such appeals has expired.

The application embraces numerous changes which would result in neither increases nor reductions in rates. Changes of this type include cancellation of obsolete items, clarification of existing descriptions of articles and establishment of ratings for newly designed or manufactured articles. Other revisions in descriptions of articles and rules governing the application of particular ratings would result in reductions in freight rates. Several changes in descriptions and rules would result in increases in rates. Some of these involve cancellation or ratings on articles no longer moving regularly or, on the other hand, articles of recent design or manufacture which are presently covered by ratings intended for articles having different transportation characteristics. Other proposals to increase or reduce ratings on articles presently described reflect applicant's re-evaluation of such articles in the light of additional technical information concerning their transportation characteristics.

^{4/} National Motor Freight Traffic Association, Inc., a nonprofit corporation consisting of common carriers of property, is the agent and publisher of the National Motor Freight Classification. Under the corporation by-laws, the Association appoints a National Classification Committee to consider and prescribe the ratings and rules, and to publish the provisions of the Classification. The National Classification Board, consisting of a fixed number of employees of the Association, considers all proposals for changes in the Classification. Rules of Procedure of the Board call for the filing of proposals by shippers or carriers and public hearings thereon in locations throughout the United States. Appeals to the full Classification Committee may be filed relative to the disposition taken by the Board within 30 days after notice of such disposition. Further details of the organization and procedures are set forth in exhibits and testimony in California Trucking Association, National Motor Freight Classification, 61 Cal. P.U.C. 655.

The Issuing Officer for applicant testified relative to the functions of the National Motor Freight Traffic Association, Inc., which publishes and distributes the National Motor Freight Classification. The Chairman of the National Classification Board also testified in behalf of applicant. The latter's testimony was directed toward the established rules of the Board for processing requested classification changes by carriers and shippers. He also explained some of the facilities and criteria utilized by the Board in its disposition of requests for classification changes. The witness alluded to the extensive library available to the Board, which contains a vast fund of technical information relative to the transportation characteristics of literally thousands of commodities. Reference was made to the general expertise of the Board members relative to classification matters. It was explained that the fund of knowledge represented by the National Classification Committee, currently composed of one hundred transportation representatives from all parts of the United States and Canada, is also available to the Board.

On cross-examination, the Chairman of the National Classification Board stated that, among others, density and value were the two major classification factors to be considered.^{5/} He stated that while there was no precise formula to relate class ratings with density of articles, the following density ranges were used as a guide.^{6/}

<u>Pounds Per Cubic Foot</u>	<u>Less Truckload Rating</u>
less than 9	Light & Bulky Articles
9 but less than 12	1
12 but less than 16	2
16 but less than 24	3
24 or over	4

^{5/} Witness also referred to such factors as: Liability, damage, fragility, hazard, package requirements, shipping characteristics, stow-ability, risk, competition, volume and cost of service.

^{6/} Based on 54 formal cases before the Interstate Commerce Commission relative to classification of light and bulky articles.

The development of classification descriptions, ratings, minimum weights, packaging and other classification provisions is highly complex. Classification is not an exact science. The ultimate goal is to assign the same rating to those articles which have essentially similar shipping characteristics. When this is accomplished, the function of classification ratings, which is to distribute equitably and without discrimination the transportation burden as between the various classes of commodities, is attained. This function of classification ratings is not static, but ever changing with the emergence of new commodities, improved transportation facilities and the interplay of competitive economic forces. Applicant's proposed classification revisions, alleged to be responsive to the announced needs of shippers and carriers, appear to be reasonably developed within the framework of the aforementioned criteria.

The conditional objection of Continental Can Company, Inc., to the proposed revisions in two items of the National Motor Freight Classification appears to be more in the nature of an objection to applicant's failure to reflect offsetting reductions in certain other ratings. No evidence was presented which would permit a finding that the proposed revisions in question are unreasonable or otherwise not justified.

In classification proceedings of this kind, the Commission has consistently held that ratings found reasonable and justified for common carriers participating in the Classification were also reasonable and justified to govern the minimum rates subject to the ratings in that same Classification. The same course of action will be pursued here, as recommended by the staff, thereby preserving the basic objectives of the Commission's minimum class rate program.

Certain ordering language has been proposed with respect to common carriers maintaining exception ratings which produce rates or charges lower in volume or effect than those as may be authorized herein. In Decision No. 64946, dated February 13, 1963, in Application No. 44480 et al., the Commission held, under similar circumstances, that such ordering language was unnecessary, since it merely reiterated the same requirements contained in the Commission's outstanding minimum rate orders.

The period of time between the publication of the changes in Classification and the date on which the changes become effective ordinarily is not sufficient to enable the common carriers to effect changes in their tariffs. In order to afford common carriers reasonable opportunity to comply with the order issued herein, the staff recommends that such carriers be authorized to continue to maintain said exception ratings for a period not to exceed sixty days after the effective date of the classification revisions established in the National Motor Freight Classification. The recommendation presents a practical solution to a tariff publishing problem and will be adopted.

Findings and Conclusions

The Commission finds that:

1. The proposed classification revisions set forth in Application No. 46909, as amended, are reasonable and, to the extent that said ratings, rules and regulations will result in increases, such increases are justified.

2. The proposed ratings, rules and regulations which applicant will be authorized to establish, except to the extent that

said ratings, rules and regulations are different from and are superseded by present exceptions contained in the respective minimum rate tariffs and the governing exception sheet, are suitable to govern the minimum rates established by the Commission.

3. The rates and charges resulting from the application of the aforesaid ratings, rules and regulations are, and for the future will be, the just, reasonable and nondiscriminatory minimum rates for the transportation of property by city carriers and highway carriers subject to the applicable minimum rate tariffs.

4. The departure from the long- and short-haul provisions of the Constitution of the State of California and of the Public Utilities Code requested by applicant are merely continuations of outstanding authorizations granted by the Commission and are reasonable.

Based on the above findings, we conclude that the proposed classification changes set forth in Application No. 46909, as amended, should be authorized, and that such ratings, rules and regulations should be adopted and approved to govern the minimum rates established by the Commission. We also conclude that participating common carriers in applicant's National Motor Freight Classification Nos. A-7 and A-7 (Cal.) should be authorized to depart from the provisions of Article XII, Section 21 of the Constitution of the State of California and Section 460 of the Public Utilities Code, to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations.

O R D E R

IT IS ORDERED that:

1. National Motor Freight Traffic Association, Inc., Agent, on behalf of participating common carriers in National Motor Freight Classification No. A-7 (Cal.) as governed by National Motor Freight Classification No. A-7, is authorized to establish and publish the classification ratings, rules and regulations set forth in Application No. 46909, as amended.

2. The classification ratings, rules and regulations authorized herein are approved and adopted as the just, reasonable and nondiscriminatory ratings, rules and regulations to govern the minimum rates, rules and regulations promulgated by the Commission in City Carriers' Tariff No. 1-A (San Francisco Drayage), Minimum Rate Tariff No. 1-B (East Bay Drayage), Minimum Rate Tariff No. 2 (General Commodities, Statewide), Minimum Rate Tariff No. 5 (Los Angeles Drayage), Minimum Rate Tariff No. 9-B (San Diego Drayage), Minimum Rate Tariff No. 10 (Cement, Statewide), Minimum Rate Tariff No. 11-A (Furniture, Statewide).

3. Common carriers maintaining classification exceptions lower in volume or effect than the ratings, rules and regulations authorized in paragraph 1 of this order are authorized to continue to maintain said exceptions until sixty days after the effective date of the classification changes provided for in paragraph 1 hereof.

4. The tariff publications required or authorized to be made as a result of the order herein may be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and to the public.

5. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby 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.

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

Dated at San Francisco, California, this 9th day of DECEMBER, 1964.

Fredrick B. Holloff
President

George H. Crower

William M. Bennett

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.