

ORIGINALDecision No. 70385

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. 5432Petition No. 384
(Filed June 14, 1965)

Arlo D. Poe, J. C. Kaspar, and H. F. Kollmyer, for the California Trucking Association, petitioner.
V. A. Bordelon, for the Los Angeles Chamber of Commerce, interested party.
E. J. Langhofer, for the San Diego Chamber of Commerce, interested party.
A. E. Norrbom, for the Traffic Managers Conference of California, interested party.
John P. Kellman, for Allied Chemical Corporation, interested party.
Eugene A. Read (by John P. Hellman), for California Manufacturers Association, interested party.
Ralph J. Staunton, for the Transportation Division of the Commission's staff.

O P I N I O N

On August 30, 1965, public hearing was held on a petition of the California Trucking Association (CTA) seeking modification of a rule in Minimum Rate Tariff No. 2 which applies in connection with small shipment service -- the transportation of certain types of small shipments under specified conditions.

Evidence was presented by petitioner's director of research, by a witness for the California Manufacturers Association and the Allied Chemical Corporation, and by a witness for the Los Angeles Chamber of Commerce.

The rule in question is set forth in Item No. 149 of Minimum Rate Tariff No. 2. It reads (in part) as follows:

"Rates in this item will apply only to prepaid shipments, released to a value of 50 cents per pound or less, weighing not over 500 pounds . . ."

The CTA requests that this part of the rule be amended to read:

"Rates in this item will apply only to prepaid shipments, released to a value of 50 cents per pound or less per article, weighing not over 500 pounds . . ."
(emphasis supplied)

The quoted portion of Item No. 149 was established by Decision No. 60621, dated August 23, 1960. The provisions thereof have since been interpreted by the Commission's Transportation Division as follows:

One of the requirements in Item No. 149 (Small Shipment Service) of Minimum Rate Tariff No. 2 is that the shipment shall be released to a value of 50 cents per pound or less.

It has been asked whether the released valuation provision is to be construed to mean that (1) a claim for up to the maximum amount of the carrier's liability may be proper even though less than the entire shipment is damaged or lost, or (2) recovery may be allowed for loss or damage up to the amount of the released value times the weight of the lost or damaged article or the actual loss, whichever is less.

Item No. 149 applies only when the shipment is released to a value of 50 cents per pound or less. The requirement is not restricted to apply per pound per article. Therefore, the item allows recovery to be made up to the carrier's maximum amount of liability even though only a part of the shipment is damaged or lost.

(Informal Ruling No. 146, December 16, 1964)

Petitioner alleges that this interpretation negates the purpose of the released valuation provisions as originally established, said purpose being a limitation upon the liability of carriers for loss and damage on shipments transported in small shipment service. According to testimony of petitioner's research director, in the majority of the instances in which small shipments are lost or damaged in transit, the extent of the losses is only partial. Where the carrier's liability per shipment is computed on the total weight of the shipment lost or damaged, the amount of said liability may be more than sufficient to require the carrier to make full restitution for partial losses. In such instances a limitation upon the carrier's liability for loss and damage does not become actually operative.

Petitioner's director of research and the witness for the California Manufacturers Association and the Allied Chemical Corporation both testified that they had participated in extensive discussions between carriers and shippers that had led up to the establishment of the rule in question, and that it had been the shippers' and carriers' intent that an effective limitation be imposed on the carriers' liability for loss and damage in connection with shipments transported in small shipment service. They urged amendment of the rule as now proposed in order that such purpose be accomplished.

The Los Angeles Chamber of Commerce and the Commission's Transportation Division opposed the sought change in the small shipment rule. A representative of the Los Angeles Chamber of Commerce urged that no action be taken which would limit the liability of carriers unless such action were fully justified. The opposition of the Commission's Transportation Division was on the grounds that a change in the rule as sought would constitute, in effect, an increase in the applicable rates. Moreover, the representative of the Transportation Division developed that the sought change would introduce uncertainties as to how the rule should be applied. For example, were the released valuation to be 50 cents per pound per article, what would be a carrier's liability when the article damaged is a component of another article in the same shipment -- would it be for the component only or for the article as a whole?

It is evident from the questions and differences in interpretation which have arisen concerning the meaning of Item No. 149 of Minimum Rate Tariff No. 2 that said item should be amended for purposes of clarity of application. The amendments to be made should make the item clearly conform to the original intent thereof, as reflected by the testimony both of petitioner's director of research and of the witness for the California Manufacturers Association and the Allied Chemical Corporation.

We hereby find that the amendment as proposed by the petitioner will result in just, reasonable and nondiscriminatory minimum rate provisions to govern the transportation to which

it applies and should be adopted. We conclude that the petition in this matter should be granted.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix D to Decision No. 31606, as amended) is hereby further amended by incorporating therein, to become effective April 2, 1966, Ninth Revised Page 19-C, which revised page is attached hereto and by this reference made a part hereof.
2. 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 pages incorporated in this order.
3. Common carriers, in establishing and maintaining the rules 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 rules 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. 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 23rd day of FEBRUARY, 1966.

Frederick B. Hallock
President
Ed. E. Mitchell
George H. Grover
Augustan
William V. Dennis
Commissioners

Ninth Revised Page 19-C

Cancels

Eighth Revised Page 19-C

MINIMUM RATE TARIFF NO. 2

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">SMALL SHIPMENT SERVICE (Not subject to the provisions of Item No. 150)</p> <p>✓ Rates provided in this item shall apply only when the shipping document is annotated by shipper with the words: "Small Shipment Service Requested." By such request, the shipper agrees to the requirements set forth in this item as prerequisite to application of the charges provided herein. Rates in this item will apply only to prepaid shipments, released to a value of 50 cents per pound or less per article, weighing not over 500 pounds and moving for distances not in excess of 400 constructive miles or under the provisions of Item No. 510.</p> <p>Rates in this item will not apply to:</p> <ol style="list-style-type: none"> 1. Shipments including any commodity rated above 1st Class (100); nor 2. Shipments weighing less than 100 pounds which contain more than five pieces, or any shipment which contains more than 5 pieces per 100 pounds, or fraction thereof, of total shipment weight; nor 3. Shipments which require temperature control service, COD or order notify service, or which have origin or destination on steamship docks or oilwell sites; nor 4. Shipments picked up or delivered at private residences of retail customers; nor 5. Shipments containing personal effects, baggage or used household goods; nor 6. Shipments moving on government bill of lading. <p>Rates provided in this item do not alternate with other rates and charges in this tariff, and rates provided in this item may not be used in combination with any other rates.</p>

(E)

✓ 149

The charge per shipment for Small Shipment Service shall be as follows:

Weight of Shipment (In Pounds)		Charge in Cents	
Over	But Not Over	(1)	(2)
0	25	215	350
25	50	260	350
50	75	305	350
75	100	330	350
100	150	410	495
150	200	480	600
200	250	550	715
250	300	630	815
300	400	750	990
400	500	875	1130

- (1) Apply only on shipments moving distances not exceeding 150 constructive miles.
- (2) Apply only on shipments moving distances exceeding 150 constructive miles, but not more than 400 constructive miles, and shipments moving under the provisions of Item No. 510.

(E) This item expires with June 30, 1966.

φ Change)
* Addition) Decision No. 70385

EFFECTIVE APRIL 2, 1966

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 1688