

ORIGINAL

Decision No. 71040

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, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma.

) Case No. 5441
) Petition for Modification
) No. 103
) (Filed March 14, 1966)

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 within San Diego County (including transportation for which rates are provided in Minimum Rate Tariff No. 9-B).

) Case No. 5439
) Petition for Modification
) No. 43
) (Filed March 14, 1966)

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 Los Angeles and Orange Counties (transportation for which rates are provided in Minimum Rate Tariff No.5.)

) Case No. 5435
) Petition for Modification
) No. 74
) (Filed March 14, 1966)

Arlo D. Poe, J. C. Kaspar and H. F. Kollmyer, for California Trucking Association, petitioner.
Philip A. Winter, for Delivery Service Company;
Edward J. Maurer, for General Delivery Service;
E. H. Griffiths, for Aero Special Delivery & Messenger Service and Sparkie's Special Delivery and Messenger Service, Inc. and Hugh N. Orr, for Ace Delivery Service, respondents.
Russell Bevans, for Draymen's Association of San Francisco, Inc., interested party.
Arthur F. Burns, for the Commission staff.

O P I N I O N

The California Trucking Association seeks modification of certain provisions governing the parcel delivery rates named in

Item 425 of City Carriers' Tariff No. 1-A (San Francisco Drayage Area), Item 850 of Minimum Rate Tariff No. 1-B (East Bay Drayage Area) and Item 325 of Minimum Rate Tariff No. 5 (Los Angeles Drayage Area).^{1/}

Public hearing was held and the matters submitted before Examiner Gagnon at San Francisco on April 22, 1966.

The parcel delivery rates involved herein are what may be characterized as competitive rates, in that they were established to meet the so-called "going rates" of United Parcel Service, Inc. (United Parcel). Historically, the parcel rates named in the local drayage tariffs have not been made subject to the usual adjustments in rates or rules typical of other tariff provisions but have been adjusted only when necessary to reflect prior authorized adjustments in the competitive rates of United Parcel.

The basic justification for establishing parcel delivery rates in the Commission's minimum local drayage tariffs, on a competitive basis with the intercity common carrier rates of United Parcel, is set forth in Decision No. 48269, in Cases Nos. 4084, 4108 and 4109, dated February 10, 1953 (unreported), pertinent portions of which are as follows:

"...Decision No. 47716 in Application No. 33086, which became effective on November 3, 1952... United Parcel, was granted a certificate of public convenience and necessity whereby it was authorized... to establish highway common carrier operations involving the transportation of packages in wholesale parcel delivery..."

^{1/} The California Trucking Association has requested that its Petition No. 43, in Case No. 5439, be dismissed without prejudice. It will be dismissed.

"Decision No. 47716 also provided for exemption of United Parcel from the minimum rates in connection with this transportation. The exemption applies only to transportation conducted under the certificate... It does not pertain to intracity transportation..."

"Testimony...for United Parcel discloses that it is essential...that rates for intracity wholesale parcel delivery service be uniform with those applicable under its common carrier certificate and that there is no apparent sound reason for higher intracity rates than the intercity rates to more distant points...Such action...would promote an equality of competitive opportunity for all city carriers engaged in wholesale parcel deliveries within the Bay Area..."

With the establishment of parcel delivery rates in the minimum local drayage tariffs, a certain degree of competitive equality as between intercity and intracity parcel deliveries was achieved. The common carrier tariff provisions governing the parcel delivery rates of United Parcel were never completely duplicated in the minimum local drayage tariffs and, to the extent such common carrier tariff provisions were adopted for minimum rate purposes, they were not reflected uniformly in each of the local drayage tariffs. For example, only the parcel rates in Items 425 and 850 of City Carriers' Tariff No. 1-A (San Francisco Drayage Area) and Minimum Rate Tariff No. 1-B (East Bay Drayage Area), respectively, are limited to deliveries from:

"...manufacturers, manufacturers' agents, wholesales, jobbers, commercial distributors and warehouses."

"Weight Per Package, 70 Pounds or Less"

The parcel delivery rates named in Item 325 of Minimum Rate Tariff No. 5 (Los Angeles Drayage Area) are not subject to the above origin limitations and apply to shipments weighing less than 100 pounds. In addition, the United Parcel service charge of \$2.00 per week, for daily pickup service at shipper's place of business, is reflected in but one of the minimum drayage tariffs.

By Decision No. 70125, dated December 21, 1965, in Application No. 47874, the Commission authorized United Parcel to extend service to all points and places within California, subject to the following restrictions:

- "(a) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment.
- (b) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location during a single day.
- (c) No service shall be rendered between retail stores and their branches or warehouses, or between retail stores and their branches or warehouses, on the one hand, and the premises of the customers of such stores, on the other hand."

The California Trucking Association contends that the sought changes in the application of the minimum parcel delivery rates, so as to correspond to the extended parcel delivery service recently authorized United Parcel, are necessary and proper. Other related changes proposed by petitioner are also intended to bring the minimum parcel delivery rates into greater conformity with the existing competitive rates of United Parcel and to establish uniform tariff rules in the local drayage tariffs. Except for the proposed addition of the \$2.00 weekly pickup service charge, no significant amendment is sought by petitioner in the existing minimum parcel delivery rates.

Evidence was also presented by representatives of Delivery Service Company and General Delivery Service, respectively. The Delivery Service Company representative noted that the rates of United Parcel apply only in connection with "next day delivery service", which means that packages tendered to the carrier on one day are scheduled for delivery not earlier than the next business day.^{2/}

^{2/} Item 120 (Note 3) of United Parcel Service, Inc. Local Parcel Tariff No. 17.

It was suggested that this same common carrier tariff provision be reflected in the minimum drayage tariffs. The "next day delivery" service limitation of United Parcel is considered to be peculiar to certificated common carriage in that such service contemplates handling parcel delivery shipments through the carrier's terminal facilities which, in most instances, are not maintained by permitted carriers. The sought equality of competitive service, as between United Parcel and permitted carriers, operating under the minimum local drayage tariffs, is not without merit. The "next day delivery" service limitation referred to above should be incorporated into the rules governing the application of the minimum parcel delivery rates to the extent possible and consistent with the service performed by permitted carriers.

The representative of General Delivery Service presented testimony suggesting that the Commission retain the existing tariff provisions restricting the minimum parcel rates within the San Francisco Drayage Area to deliveries "from manufacturers, manufacturers' agents, wholesalers, jobbers, commercial distributors and warehouses." He also stated that the parcel rates named in City Carrier's Tariff No. 1-A should not be reduced but, on the contrary, reflect current costs of operations to the extent previously recognized by the Commission when authorizing increases in the local San Francisco minimum drayage rates other than for parcel delivery service.

No evidence has been presented which would justify disturbing the equality of competitive opportunity for all city carriers engaged in parcel deliveries within the San Francisco Drayage Area previously found to be essential by Decision No. 48269. Moreover, no sound reason has been demonstrated justifying the establishment of higher intracity parcel rates than are concurrently maintained for intercity parcel deliveries to more distant points.

Upon consideration of all the facts and circumstances, the Commission finds that the modifications in the minimum rates established by the order which follows and by the companion orders in Cases Nos. 5441 and 5435, will be just, reasonable and nondiscriminatory minimum rates for the transportation of property by city carriers within the City and County of San Francisco and by city carriers and highway carriers within the East Bay and Los Angeles Drayage areas, respectively, and that the increases resulting from the establishment of such rates have been shown to be justified. We further find that, pursuant to petitioner's request, its Petition No. 43, in Case No. 5439, should be dismissed without prejudice.

The Commission concludes that, except to the extent granted herein and in the companion orders, Petition No. 103, in Case No. 5441, and Petition No. 74, in Case No. 5435, should be denied; that City Carrier's Tariff No. 1-A and Minimum Rate Tariffs Nos. 1-B and 5 should be amended accordingly and that Petition No. 43, in Case No. 5439, should be dismissed without prejudice. In order to avoid duplication of tariff distribution, City Carriers' Tariff No. 1-A will be amended by the ensuing order and Minimum Rate Tariffs Nos. 1-B and 5 will be amended by separate orders. Petition No. 43, in Case No. 5439, will also be dismissed by a separate order.

O R D E R

IT IS ORDERED that:

1. City Carriers' Tariff No. 1-A (Appendix A of Decision No. 41363, as amended) is hereby further amended by incorporating therein, to become effective September 3, 1966, the revised pages which are attached hereto and by this reference made a part hereof. which revised pages are numbered as follows:

Thirteenth Revised Page 12
Second Revised Page 18-B
Eighteenth Revised Page 40

2. In all other respects, Decision No. 41363, as amended, shall remain in full force and effect.

3. Except to the extent granted herein and in the companion orders, Petitions for Modification Nos. 103 and 74, in Cases Nos. 5441 and 5435, respectively, are denied.

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

Dated at San Francisco, California, this 26th day of JULY, 1966.

John H. Mitchell
President

George J. Thayer

Fredrick B. Holcroft

Augusta

William L. Bennett
Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>§ 10</p>	<p style="text-align: center;">DEFINITION OF TECHNICAL TERMS (Items Nos. 10 and 20)</p> <p>ARMORED CAR means any motor truck and/or other highway vehicle which has been armored with bullet resistant metal and/or bullet proof glass, and which is manned by an armed crew.</p> <p>CARRIER'S EQUIPMENT means any motor truck or other self-propelled highway vehicle, trailer, semi-trailer, or any combination of such highway vehicles operated by the carrier.</p> <p>CITY DELIVERY or CITY DELIVERIES means the transportation of property to retail stores or direct consumers of the property transported when the shipment originates within the City and County of San Francisco at other than a carrier's depot, dock, wharf, pier or landing.</p> <p>*DANGEROUS ARTICLES means articles described in Motor Carriers' Explosives and Dangerous Articles Tariff 12, C.S.L.P.U.C. 7, or American Trucking Associations, Inc., Agent, and supplements thereto or releases thereof.</p> <p>ESCORT SERVICE means the furnishing of pilot cars or vehicles by a carrier as may be required by any governmental agency to accompany a shipment for highway safety.</p> <p>GOVERNING CLASSIFICATION means National Motor Freight Classification A-2 (C.M.) as governed by National Motor Freight Classification A-2.</p> <p>HOLIDAYS means New Year's Day, Washington's Birthday, Memorial 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 as a holiday.</p> <p>INDEPENDENT-CONTRACTOR SUBHAULER means any carrier who renders service for a principal carrier, for a specified recompense, for a specified result, under the control of the principal as to the result of the work only and not as to the means by which such result is accomplished.</p> <p>INHAUL means transportation of property received from another carrier at a depot, dock, wharf, pier, landing or other point at which facilities are maintained for the loading of property into or upon, or the unloading of property from rail cars or vessels, or received from another carrier at truck loading facilities of plants or industries located at such rail or vessel loading or unloading point, when originating beyond the limits of the City and County of San Francisco; and also means transportation of property from public warehouses to wholesalers.</p> <p>OUTHAUL means transportation of property in City Delivery and Shipping as defined in Items Nos. 10 and 20.</p> <p>PERMIT SHIPMENT means a shipment which because of its width, length, height, weight or size requires special authority from a governmental agency regulating the use of highways, roads or streets for the transportation of such shipment in whole or in part.</p> <p>POINT OF DESTINATION means the precise location at which property is tendered for physical delivery into the custody of the consignee or his agent.</p>

POINT OF ORIGIN means the precise location at which property is physically delivered by the consignor or his agent into the custody of the carrier for transportation.

POOL SHIPMENT means a shipment consisting of component parts which are for reshipment to two or more points of destination, such shipment being consigned to:

1. A carrier with instructions for unloading, distribution and delivery of one or more component parts to consignees, their agents, or to other carriers; or
2. A consignee (other than a carrier) in connection with which pool shipment a carrier is instructed to unload, distribute and deliver one or more component parts to the consignee, subconsignees, their agents or to other carriers.

The term "delivery" as used in this definition means relinquishing the property to the consignee, his agent, or another carrier entitled to receive such property, whether at the point of distribution or elsewhere.

POWER EQUIPMENT means any gasoline, diesel, electric or gas driven equipment including electric powered cranes and lift truck equipment.

(Continued in Item No. 20)

∅ Change)
* Addition) Decision No. 71040

EFFECTIVE SEPTEMBER 3, 1966

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 555

Item No.

SECTION NO. 1--RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)

COLLECT ON DELIVERY (C.O.D.) SHIPMENTS (Concluded)
(Items Nos. 110, 111 and 112)

10. If, in any particular case, exemption or deviation from any of the requirements herein is deemed necessary by the carrier concerned, the Commission will consider the application of such carrier for such exemption or deviation when accompanied by a full statement of the conditions existing and the reasons why such deviation is considered necessary.

11. A carrier not electing to undertake transportation of C.O.D. shipments shall be deemed to have given notice of such election by not filing the bond provided for herein for carriers handling such shipments.

112. The charges for collecting and remitting the amount of C.O.D. bills collected on C.O.D. shipments transported under the provisions of Item No. 425 shall be 30 cents for each C.O.D. without regard to the amount collected.

113. Except as otherwise provided, the charges for collecting and remitting the amount of C.O.D. bills collected on C.O.D. shipments shall be as follows:

When the amount collected is	Charge for collecting and remitting will be
Not over \$20.00	\$0.81
Over 20.00 not over \$25.00	0.85
Over 25.00 not over 40.00	0.93
Over 40.00 not over 50.00	1.06
Over 50.00 not over 60.00	1.32
Over 60.00 not over 80.00	1.38
Over 80.00 not over 100.00	1.44
Over 100.00 not over 102.50	1.78
Over 102.50 not over 105.00	1.84
Over 105.00 not over 110.00	1.91
Over 110.00 not over 120.00	1.96
Over 120.00 not over 140.00	2.04
Over 140.00 not over 150.00	2.09
Over 150.00 not over 160.00	2.24
Over 160.00 not over 180.00	2.29
Over 180.00 not over 200.00	2.32
Over 200.00 not over 250.00	2.62
Over 250.00 not over 300.00	3.01
Over 300.00 not over 350.00	3.41
Over 350.00 not over 400.00	3.79
Over 400.00 not over 450.00	4.19
Over 450.00 not over 500.00	4.60
Over 500.00 not over 550.00	4.97
Over 550.00 not over 600.00	5.34
Over 600.00 not over 650.00	5.75
Over 650.00 not over 700.00	6.14
Over 700.00 not over 750.00	6.54
Over 750.00 not over 800.00	6.92
Over 800.00 not over 850.00	7.33
Over 850.00 not over 900.00	7.71
Over 900.00 not over 950.00	8.10
Over 950.00 not over 1,000.00	8.48
Over 1,000.00 at rate of \$8.48 per \$1,000.00	

(1) Provisions in this paragraph transferred from Item No. 425.

∅ Change
Δ Change, neither increase nor reduction } Decision No. 71040
* Addition

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San Francisco, California.
Correction No. 556

Item No.	SECTION NO. 4 - COMMODITY RATES (Continued) In cents per 100 lbs. except as noted	
	COMMODITY	RATES
	<p>◊◊FREIGHT, REGARDLESS OF CLASSIFICATION, transported within and between all zones:</p> <p>PARCEL DELIVERIES</p> <p>1. The rates and provisions of this item are limited in their application to shipments of general commodities, except articles of unusual value, dangerous articles (Class A and B explosives), household goods, commodities in bulk, and commodities requiring temperature control or special equipment. Each package or article shall be considered as a separate and distinct shipment.</p> <p>2. The provisions of this item will not apply to the transportation of:</p> <ul style="list-style-type: none"> (a) Any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined. (b) Any packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location during a single day. (c) Any package or article when consignor requests delivery on the same day that package or article is picked up at consignor's place of business or delivered to carrier's terminal. (d) Any shipment between retail stores and their branches or warehouses on the one hand, and on the other hand, the premises of the customers of such stores. <p>3. Rates and charges in this item shall apply only on prepaid shipments and only where the shipper elects in writing in advance to utilize the rates and charges herein for all packages weighing 50 pounds or less tendered by said shipper to the carrier for delivery during the same calendar week.</p>	<p>In Cents Per Package</p> <p>19 Plus 3 cents for each pound or fraction thereof (See Note)</p>

(1)
0425

NOTE.--In addition to the rates named herein the carrier shall assess a service charge of \$2.00 per week unless all packages or pieces are tendered at carrier's terminal.

(1) C.O.D. provision formerly shown in this item transferred to Item No. 112.

∅ Change)
◊ Increase) Decision No. 71040
◊ Reduction)

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