

Decision No. 71461

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into the rates, rules and 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  
Petition for Modification No.405  
(Filed January 24, 1966)

Case No. 5433  
Petition for Modification No.22  
Case No. 5436  
Petition for Modification No.74  
Case No. 5438  
Petition for Modification No.54  
Case No. 5440  
Petition for Modification No.32  
Case No. 5603  
Petition for Modification No.27  
Case No. 5604  
Petition for Modification No.17  
Case No. 7857  
Petition for Modification No. 8  
(Filed January 24, 1966)

AND RELATED MATTERS

Arlo D. Poe, J. C. Kaspar and Richard Smith, for California Trucking Association, petitioner.  
John T. Reed, for California Manufacturers Association, protestant.  
A. E. Norrbom, for Traffic Managers Conference of California; Kenneth C. Delaney, for Los Angeles Chamber of Commerce; Charles T. Elkins, for Kaiser Cement and Gypsum Corporation, interested parties.  
T. H. Peceimer, for the Commission staff.

O P I N I O N

These matters were heard on a consolidated record and were submitted July 26, 1966, before Examiner Gagnon at Los Angeles.

Copies of the petitions and notice of hearing were served in accordance with the Commission's procedural rules.

The California Trucking Association (CTA) requests revision of the rules governing the issuance of shipping documents as set forth in the various Commission's minimum rate tariffs.<sup>1/</sup> The proposed revisions are intended to prohibit the apportioning or prorating of freight charges and provide that such charges shall be billed to or collected from only one debtor.

The CTA contends that the demand for the service of apportioning or prorating of freight charges among the components of shipments has created a considerable degree of uncertainty and confusion on the part of the carrier. The petitioner further states that there is also uncertainty among both shippers and carriers alike as to the party responsible for payment of accessorial service charges. In support of its position the CTA cites the Commission's Transportation Division's Informal Ruling No. 109, dated July 9, 1963, which reads as follows:<sup>2/</sup>

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1/ The minimum rate tariffs involved herein are as follows: Minimum Rate Tariff No. 2 (Statewide-General Commodities); Minimum Rate Tariff No. 3-A (Livestock); Minimum Rate Tariff No. 6-A (Petroleum); Minimum Rate Tariff No. 8 (Fresh Fruits and Vegetables); Minimum Rate Tariff No. 10 (Cement); Minimum Rate Tariff No. 11-A (New Furniture); Minimum Rate Tariff No. 12 (Motor Vehicles); Minimum Rate Tariff No. 14-A (Grain).

2/ The informal ruling of the Transportation Division of the Public Utilities Commission of the State of California is made in response to questions propounded by the public, indicating what is deemed by the Division to be the correct application and interpretation of the particular tariffs involved. This ruling is tentative and provisional and is made in the absence of formal decisions upon the subject by the Commission.

"Question has been asked whether, under Items Nos. 160 and 170 of Minimum Rate Tariff No. 2, a carrier may, without extra charge, comply with requests of shippers to inform them of the charges applicable to each component part of a split pickup or split delivery shipment in addition to issuing a freight bill covering the shipment as a whole.

"With respect to the computation of freight charges, Minimum Rate Tariff No. 2 requires only that the freight bill show the rate and charge assessed and such other information as may be necessary to an accurate determination of the applicable minimum rate and charge. Prorating or apportioning the transportation charges among components of a shipment, whether by weight percentages or other arbitrary method, is a service not authorized to be performed under the tariff. Accessorial charges would be applicable under Items Nos. 140 and 145 of Minimum Rate Tariff No. 2."

It is the general objective of the instant petitions to have the tariff interpretation set forth in the staff's informal ruling noted above reflected in the Commission's various minimum rate tariffs.

Shipper opposition to the CTA proposal centered upon the suggested elimination of what is claimed to be a long-standing practice of shippers to advance or partially prepay freight charges in connection with straight shipments. It was explained that shippers will frequently partially prepay freight charges in order to equalize such charges with those applicable from a more favorably located competitor. It was strongly urged that the highway carriers continue to accord shippers this highly desirable service and that there were no objections to the establishment of a reasonable charge therefor, if such service was not now covered in the basic minimum rates. It was generally agreed, however, that the multiple billing which would be required to comply with requests to prorate or apportion freight charges among components of a split pickup or split delivery shipment is not justified.

The CTA proposal is predicated upon the contention that the costs for multiple billing and collection services, highway carriers are now being called upon to perform, are not covered in the existing level of line-haul minimum rates and, in the absence of specific accessorial charges therefor, the CTA suggests that the minimum rate tariffs be so revised as to clearly exclude such services. The assistant director of petitioner's Division of Transportation Economics testified that numerous small lot minimum charge shipments are being tendered with partial prepayment of charges in amounts less than one dollar. The witness explained that any such partial prepayment, apportionment or prorating of freight charges requires multiple billing by the carrier in order to insure proper accounting of all freight charges. The CTA witness also stated that the real problem was not so much the partial prepayment of charges but rather the subsequent collection of the apportioned or prorated freight charges, frequently involving trivial amounts.

It has been clearly demonstrated that the current level of minimum rates does not include the accessorial services of apportioning or prorating freight charges, including the ensuing required multiple billing and collection thereof. Tariff rules governing the issuance of shipping documents, such as Item No. 255 of Minimum Rate Tariff No. 2, provide that the carrier shall issue a freight bill for each shipment transported. In addition, the general accessorial charges, such as named in Item 145 of Minimum Rate Tariff No. 2 for accessorial services not included in the actual transportation rates, are not tailored to reflect the specific accessorial services involved. No evidence was introduced which would support the establishment of appropriate accessorial charges.

A shipper's partial prepayment or absorption of freight charges in order to equalize a customer's transportation costs with those from a competing shipper, or the apportionment or prorating of freight charges among components of a single split delivery or split pickup shipment, involve matters of commerce which may best be channeled through the terms of the purchase or sales invoice. In any event, the existing provisions of the Minimum Rate Tariff are not compatible with the accessorial service involved and it is somewhat debatable whether the transportation functions of the highway carrier should be so directly commingled with the competitive trade practices of their shippers. On the other hand, highway carriers are frequently called upon to advance, apportion or prorate the charges of other carriers when involved in a joint movement of property over the lines of two or more carriers. Such accessorial services are of long standing and are generally recognized by the Commission in its minimum rate tariffs. For example, in connection with pool shipments, Minimum Rate Tariff No. 2 provides specific charges to cover the accessorial service of a carrier advancing, prorating and collecting the inbound charges of other carriers.

Upon consideration of all the facts and circumstances, the Commission finds that, except for minor changes in phraseology, petitioner's proposed revision of the tariff rules governing the issuance of freight bills is reasonable and should be adopted; that the resulting minimum rates established by the order which follows and by the companion orders, will be just, reasonable and non-discriminatory minimum rates for the transportation involved; and that any increases resulting from the adoption of the proposals herein are justified. We also find that common carriers should be authorized and directed to modify their tariffs to conform with the minimum rate tariff provisions established herein; and, to the extent that long- and short-haul relief has heretofore been granted

to common carriers, their outstanding authorities should be amended to the extent necessary to carry out the effect of the order herein and in the companion orders.

We conclude that the amended tariff rules found to be reasonable herein and in the companion orders, should be adopted. The minimum rate tariffs will be amended accordingly. In order to avoid duplication of tariff distribution, Minimum Rate Tariff No. 2 will be amended by the ensuing order and Minimum Rate Tariffs Nos. 3-A, 6-A, 8, 10, 11-A, 12 and 14-A will be amended by separate orders.

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 December 3, 1966, the revised pages which are attached hereto and by this reference made a part hereof, which revised pages are numbered as follows:

Tenth Revised Page 12-A

Tenth Revised Page 27-A

2. The tariff rules established in ordering paragraph 1 hereof may also be established by common carriers in connection with the transportation of:

- (a) Commodities for which minimum rates have not been established, or
- (b) Commodities which are subject to higher rates than, or more restrictive provisions than, the minimum rates or provisions otherwise applicable.

3. Tariff publications required or authorized 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; such tariff publications as are required shall be made effective not later than December 3, 1966; and as to tariff publications which are authorized but not required, the authority herein

granted shall expire unless exercised within sixty days after the effective date hereof.

4. 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.

5. In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

6. Except to the extent granted herein and in the companion orders, Petitions for Modification Nos. 405, 22, 74, 54, 32, 27, 17 and 8 in Cases Nos. 5432, 5433, 5436, 5438, 5440, 5603, 5604, and 7857, respectively, are denied.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of OCTOBER, 1966.

[Signature]  
President  
George E. Grover  
Fredrick B. Hallock  
[Signature]  
[Signature]  
Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
ø12	<p data-bbox="459 443 1239 517">) DEFINITION OF TECHNICAL TERMS (Concluded) (Items Nos. 10, 11 and 12)</p> <p data-bbox="361 570 1410 817">SPLIT PICKUP SHIPMENT means a shipment consisting of two or more component parts picked up by a carrier within a period of two calendar days from one consignor at more than one point of origin, the composite shipment weighing (or transportation charges computed upon a weight of) not less than 5,000 pounds, said shipment being consigned and delivered to one consignee at one point of destination. (See Note)</p> <p data-bbox="361 853 1427 988">NOTE.--In addition to the component parts picked up by the carrier, a split pickup shipment will include other component parts delivered to carrier's established depot by the consignor or the consignor's agent.</p> <p data-bbox="361 1011 1427 1268">SPLIT DELIVERY SHIPMENT means a shipment consisting of two or more component parts delivered to (a) one consignee at more than one point of destination, or (b) more than one consignee at one or more points of destination, the composite shipment weighing (or transportation charges computed upon a weight of) not less than 5,000 pounds, said shipment being shipped by one consignor from one point of origin. (See Note).</p> <p data-bbox="361 1289 1394 1416">øNOTE.--All *transportation charges must be prepaid and, *except as provided in paragraph 3 of Item No. 255, the carrier shall not collect charges of any nature from any consignee.</p> <p data-bbox="361 1439 1394 1536">STRINGING means the progressive delivery of a shipment at spaced intervals or designated points along a predetermined route.</p> <p data-bbox="361 1577 1394 1765">TEAM TRACK means a point at which property may be loaded into, or upon, or unloaded from rail cars by the public generally. It also includes wharves, docks and landings at which the public generally may receive and tender shipments of property from and to common carriers by vessel.</p> <p data-bbox="361 1803 1427 1931">TEMPERATURE CONTROL SERVICE means the protection from heat by the use of ice (either water or solidified carbon dioxide), by mechanical refrigeration, or by release of liquefied gases.</p>



APPLICATION OF TARIFF - CARRIERS

Rates provided in this tariff are minimum rates established pursuant to the Highway Carriers' Act and the Household Goods Carriers' Act and apply for transportation of property by radial highway common carriers, highway contract carriers, cement contract carriers and household goods carriers as defined in said Acts.

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When property in continuous through movement is transported by two or more such carriers, the rates (including minimum charges) provided herein shall be the minimum rates for the combined transportation.

Rates, rules and regulations named in this tariff shall not apply to transportation by independent-contractor subhaulers when such transportation is performed for other carriers defined in this tariff or for common carriers defined in the Public Utilities Act.

∅ Change            )  
\* Addition         ) Decision No. **71461**

EFFECTIVE DECEMBER 3, 1966

Issued by the Public Utilities Commission of the State of California,  
San Francisco, California.  
Correction No. 1811

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">ISSUANCE OF DOCUMENTS</p> <p>1. ISSUANCE OF SHIPPING DOCUMENT. A shipping document (bill of lading or comparable shipping order) (see Note) shall be issued by the carrier to the consignor for each shipment received for transportation. The shipping document (bill of lading or comparable shipping order) shall be issued at the time of or prior to the receipt of or pickup of the shipment and shall show the following information: (See Item No. 85, multiple lot shipment; Items Nos. 160 and 161, split pickup shipment; and Items Nos. 170 and 171, split delivery shipment, for special governing provisions.)</p> <ul style="list-style-type: none"> <li>(a) Name of carrier.</li> <li>(b) Date of shipment.</li> <li>(c) Name of consignor and name of consignee.</li> <li>(d) Point of origin and point of destination.</li> <li>(e) Description of property constituting the shipment (in terms of the Governing Classification or Exception Ratings Tariff or as provided in this tariff).</li> <li>(f) Weight of the shipment (or other factor or unit of measurement upon which the charges are based).</li> </ul> <p>NOTE.—If a shipping order form of shipping document is used, it may be issued either in individual or manifest form.</p> <p>2. ISSUANCE OF FREIGHT BILL. A freight bill shall be issued by the carrier for each shipment transported. *Only one freight bill shall be issued for each shipment transported, and the carrier shall not apportion, prorate, or otherwise divide the freight charges between or among the consignor(s), consignee(s), or any other parties. The freight bill shall show the following information:</p> <ul style="list-style-type: none"> <li>(a) Name of carrier.</li> <li>(b) Date of freight bill.</li> <li>(c) Date of shipment.</li> <li>(d) Name of consignor and name of consignee.</li> <li>(e) Point of origin and point of destination.</li> <li>(f) Description of shipment (in terms of the Governing Classification or Exception Ratings Tariff or as provided in this tariff).</li> <li>(g) Weight of the shipment or other factor or unit of measurement upon which the charges are based).</li> <li>(h) Rate and charge assessed.</li> <li>(i) Such other information as may be necessary to an accurate determination of the applicable minimum rate and charge.</li> </ul> <p>3. ISSUANCE OF ACCESSORIAL SERVICE DOCUMENT. An accessorial service document shall be issued by the carrier to the consignor or consignee *who requested or ordered the service for stacking, sorting, helpers for loading or unloading, vehicle detention or any other accessorial or incidental service when rendered by the carrier, but which is not authorized to be performed under the transportation rates named in Sections 2 and 3 of this tariff. The accessorial service document shall show the following information:</p> <ul style="list-style-type: none"> <li>(a) Name of carrier.</li> <li>(b) Date of issuance.</li> <li>(c) Name of consignor or consignee or their representative, ordering or requiring the services, or for whom they are rendered.</li> <li>(d) Shipping document numbers or other identification of the shipments in connection with which the services are rendered.</li> </ul>

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- (e) Time for which equipment ordered, if any, and time of constructive and actual placement.
- (f) Address at which the accessorial service is performed.
- (g) Weight, in pounds, loaded or unloaded.
- (h) Time loading or unloading begun and completed.
- (i) Free time allowable.
- (j) Time or weight on which charges are based.
- (k) Rate and charges assessed.
- (l) Such other information as may be necessary to an accurate determination of the applicable minimum rate and charge.

4. For the transportation of (1) permit shipments, (2) shipments which require circuitous routing, or (3) shipments requiring escort service, the following information, wherever applicable, shall be shown on all shipping documents issued by the carrier in connection therewith and shall be in addition to the information otherwise required to be shown by Paragraphs 1, 2 and 3 of this item:

- (a) Permit identification of all permit shipments. (See Item No. 10.)
- (b) Any circuitous routing required, and the authority therefor.
- (c) Any escort service furnished and the authority therefor. (See Item No. 10.)

5. The forms of documents in Items Nos. 910 and 912, or a consolidation thereof, will be suitable and proper.

6. A copy of each shipping document, freight bill, accessorial service document, single multiple lot document, single split pickup document, and single split delivery document, shall be retained and preserved by the issuing carrier, at a location within the State of California, subject to the Commission's inspection, for a period of not less than three years from the date of its issuance.

} Change  
 \* Addition } Decision No. 71461

EFFECTIVE DECEMBER 3, 1966

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 Correction No. 1812