

**ORIGINAL**Decision No. 73416

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. 5432  
 Petition for Modification  
 No. 414

ADDITIONAL APPEARANCES

Irving R. Segal, for United Parcel Service, Inc.;  
Franklin L. Knox, Jr., for 20th Century Delivery  
 Service, Inc., and 20th Century Trucking Co.,  
 respondents.  
W. A. Dillon and A. D. Maruna, for California  
 Trucking Association, petitioner.

OPINION FOLLOWING PROCEEDINGS  
ON ORDERS TO SHOW CAUSE

By Decision No. 71900, dated January 24, 1967, on petition of California Trucking Association, the Commission reconsidered the exemptions from the requirements of Minimum Rate Tariff No. 2 granted to certain carriers by Decisions Nos. 31600 and 52199, as amended. The Commission concluded that the exemptions granted by said decisions to certain carriers should be revoked, those granted to other carriers should be modified, and that further investigation was required in order to determine to what extent, if at all, Peninsula Delivery Service Corp., 20th Century Delivery Service, Inc., 20th Century Trucking Company, United Parcel Service, Inc., with respect to its operations conducted under permits, and Russell S. Stowell, dba Western Parcel Service, should be authorized to depart from the rates

and rules in Minimum Rate Tariff No. 2. It concluded that pending completion of such investigation and ultimate determination said carriers should be authorized to depart from said rates and rules as provided by paragraphs 10 to 14, inclusive, of the order therein. To supply needed information, it was ordered that the carriers specified should appear before the Commission at a public hearing and show cause why the authority granted to them respectively in paragraphs 10 to 14 of said decision should not be revoked.

The opinion and order herein concern the responses to said order to show cause.

Peninsula Delivery Service Corp.

Respondent, by letter dated June 8, 1967 from its vice-president, requested that the authority granted to it in ordering paragraph No. 11 of Decision No. 71900 be revoked and that it be excused from appearing before the Commission at a public hearing to respond to the order to show cause.

We conclude, therefore, that said authority should be revoked and respondent should be excused from making its response to the order to show cause at a public hearing.

20th Century Delivery Service, Inc.

Respondent appeared at a public hearing held June 6, 1967 before Examiner Thompson at Los Angeles. Counsel for respondent stated that no express corporation operations were being conducted by it and that transportation performed by it under permits do not require authority to depart from the rates and rules in Minimum Rate Tariff No. 2.

We find that necessity for the authority granted in ordering paragraph No. 13 of Decision No. 71900 has not been shown. We conclude that said authority should be revoked.

20th Century Trucking Company

Respondent appeared at a public hearing held June 6, 1967 before Examiner Thompson at Los Angeles. Evidence was presented showing that 20th Century Trucking Company transports drugs and cosmetics from Monrovia to points and places in Southern California at rates set forth in its Local Parcel Tariff No. 1. Exhibit A-1 discloses that the traffic moving for one company under said rates provides revenues averaging on the order of about \$15,000 to \$20,000 per month. The rates in said tariff are maintained at levels approximating those applied by United Parcel Service, Inc.

We find that the authority granted in ordering paragraph No. 12 of Decision No. 71900 is necessary for respondent to continue to enjoy said traffic and that good cause has been shown why said authority should not be modified or revoked.

Russell S. Stowell, dba Western Parcel Service

The official files and records of the Commission disclose, and we find:

1. On January 26, 1967 a copy of Decision No. 71900 was mailed to "Western Parcel Service".
2. On March 7, 1967 there was deposited in the United States mail a sealed envelope with postage prepaid, containing a true copy of Decision No. 71900 and addressed to Russell S. Stowell, c/o Western Parcel Service, P. O. Box 1070, San Diego, California 92101, which was the last address of said Russell S. Stowell as shown by the records of the Commission.
3. On March 12, 1967 the highway common carrier tariff of Russell S. Stowell, dba Western Parcel Service, was suspended.
4. On April 14, 1967 a letter from the Secretary of the Commission was sent to Russell S. Stowell at the aforementioned address directing attention to the order of the Commission in

Decision No. 71900, stating that records of the Commission and other information received indicate that he may have terminated operations, and containing a request that he suggest a time and place satisfactory to him for a public hearing in this matter. Response to said letter has not been received by the Commission.

5. On May 16, 1967 respondent's permits authorizing operations as a radial highway common carrier and as a highway contract carrier were revoked.

From the foregoing facts we conclude that because of termination of respondent's highway carrier operations the authority granted in ordering paragraph No. 14 of Decision No. 71900 is not necessary and should be revoked.

United Parcel Service, Inc.

United Parcel Service, Inc., hereinafter sometimes called United, appeared at a public hearing held May 18, 1967 before Examiner Thompson at San Francisco. United contends that the authority granted in ordering paragraph No. 10 of Decision No. 71900, as amended by Decision No. 71996, is necessary to its operations as a highway contract carrier of property transported for retail stores. It presented evidence to support that contention.

A & B Garment Delivery of San Francisco, sometimes hereinafter called A&B, opposes the said authority and contends that United should be required to propose minimum vehicle unit rates (rental for equipment with drivers) for the transportation of property between the retail stores, their branches or warehouses and to make a showing as required by Section 3666 of the Public Utilities Code that said rates are reasonable.

California Trucking Association, sometimes hereinafter called CTA, takes the position that any exemptions, including that

sought by United, should be subject to the policy enunciated by the Commission in J. S. Aaronson (Peninsula Delivery and Transport Co.), 58 Cal.P.U.C. 533,<sup>1/</sup> and in connection therewith any carrier seeking exemption should be required by the Commission to (1) set forth rates and rules which would be applied in lieu of any minimum rates, (2) delineate the extent and limitations of the type of service to be performed and the points to be served, (3) show the necessity for the exemption sought, and (4) show that the rates and rules proposed to be applied in lieu of the minimum rates are reasonable. CTA contends that any order of the Commission granting an exemption should set forth the limitations and conditions of service, the rates to be applied in lieu of the minimum rate, and should be effective only for one year so that there would be a review annually of the exemption.

United described its permit carrier operations in detail.

The services it performs may be characterized as:

- (1) Delivery (or pickup of returns) of merchandise sold by the store, which merchandise is in packages or parcels of a size that a customer might carry (ordinarily not exceeding 6 cubic feet or 50 pounds).
- (2) Delivery (or pickup of returns) of merchandise sold by the store, which merchandise may or may not be packaged, and is of a size that a customer may not carry, such as furniture, large appliances, outboard motors, canoes, and portable cement mixers.

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<sup>1/</sup> "We are of the opinion that henceforth, whenever any highway carrier requests authority to depart from the provisions of the established minimum rates, the order granting such relief should prescribe the minimum rates to be assessed by that carrier in lieu thereof. In the case of a parcel delivery carrier, the establishment or approval of minimum parcel rates to be assessed by it will remove the possibility of any abuse of the exemption granted."

- (3) Delivery or pickup of articles not sold by the store, such as customers' fur coats to be placed in or taken out of storage, furniture and other articles to be upholstered or repaired, books loaned from the store's circulating library and decorator samples and other articles sent to customers on approval.
- (4) Transportation of merchandise, and other articles such as store decorations and show cases, between the retail store, its branches and warehouses.

Items Nos. 40 and 41 of Minimum Rate Tariff No. 2 list certain transportation performed for retail stores which is exempt from the provisions of that tariff. Those exemptions are listed in Decision No. 71900. There are a number of reasons why the exemptions do not cover all of the services performed by United, including among others; the deliveries in many instances involve transportation for distances exceeding 35 constructive miles, certain articles (such as outboard motors, etc.) weigh in excess of 100 pounds and are not classified as furniture or household appliances, some of the goods transported have not been sold at retail, and only in relatively few instances are the vehicles used in such transportation in the exclusive use of the retailer. Respondent has shown that if it were not exempted from the rates and rules in Minimum Rate Tariff No. 2 a substantial portion of the transportation it performs for retail stores would be subject to the minimum rates in said tariff.

United has entered into written contracts with approximately 400 retail stores in Southern California and with approximately 200 retail stores in Northern California. The terms of the individual contracts vary with respect to the types of services to be performed and the rates for providing such services; however, all of the contracts provide that the merchant will utilize the services of United for the delivery of all merchandise within the territory covered by

the contract except articles United is not equipped to transport (such as pianos), special deliveries of packaged merchandise, and packages not exceeding 8 ounces delivered by first and third class mail. The rates charged the individual retailers are based, among other things, upon volume of traffic, type or class of merchandise, territories in which deliveries are made and the average cost of making deliveries to nearby and distant points. In some instances the contracts prescribe a fixed rate of a certain number of cents per package plus a certain number of cents per pound and in others there is a fixed rate "per package count" and the contract specifies a certain number of package counts for various sized packages. In such instances the rates also apply for transportation between the store, its branches or warehouses. In the case of the larger retail stores having a substantial volume of traffic<sup>2/</sup> the contracts do not specify a fixed rate but provide for rate formulae for delivery of parcels, deliveries of larger articles (furniture, etc.) and for transportation of goods between the store, its branches and warehouses. A typical formula is that a "base rate" will be determined at the beginning of each quarterly period which will be equal to United's average cost per package-count of performing the service for the immediately preceding three months for all retail stores located in the origin area of the retail store.<sup>3/</sup> The billing rate for the

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2/ For example, Macy's, The May Company, Bullocks and The Emporium.

3/ The stated "base rate" formula is for the parcel service. In the case of the delivery of furniture and other large articles the base rate per unit is determined from the cost to United for the preceding three months of delivering furniture from the individual store, and in the case of interstore and warehouse transfer where rates are on a vehicle rental basis, the base rate is determined from the cost to United for the preceding three months of providing such service to the individual store.

fiscal quarter is provided in the contract as the base rate plus a certain amount or percentage. In some instances the contracts have a recapture clause, or what United calls a cost sharing adjustment, which provides that if the amount of money equal to the base rate times the package-counts (or units as the case may be) for the fiscal quarter is less than, or in excess of, the cost to United of performing the service during that fiscal quarter, the merchant shall pay United, or shall receive from United, as the case may be, one-half of the difference between the cost and the "base rate revenue".

In some of the contracts, particularly those with the recapture clause, there are provisions calling for automatic adjustments in the base rates at the time of any change in driver wage rates or fringe benefits.

Setting aside for the moment United's operations at vehicle rental rates and considering only the transportation performed at package rates, package-count rates and furniture unit rates, it is apparent that the procedure described in Aaronson and recommended by CTA would be feasible only in those instances where United's contracts with the stores provide for a fixed rate and not for a rate formula. The contracts containing rate formulae contemplate the probability of there being a change in rates every three months. In those instances where the contracts call for the cost sharing adjustment, the exact charges for the transportation performed during a three month period are not known until the end of the period after the transportation has been performed. It would be impossible for United to specify the rates it proposes to charge in lieu of the otherwise applicable minimum rates unless the present contracts were abrogated.

The foregoing raises the question of whether United should be required to change its pricing practices and establish fixed rates.



The reason why certain carriers were exempted from the minimum rates established by Decision No. 31606 is set forth in that decision.<sup>4/</sup>

Generally speaking, the principal reason was that those carriers were providing services of a peculiar nature for which the minimum rates were not suitable. We have found that the minimum rates in Minimum Rate Tariff No. 2 are not the reasonable minimum rates for parcel delivery service by carriers wholly engaged in conducting parcel delivery operations and, hence, have exempted carriers from said minimum rates. (Aaronson, supra.) The policy expressed in Aaronson was responsive to protests of CTA, United, and Delivery Service Company. The positions of those protestants, as set forth in Aaronson, are recited in the margin.<sup>5/</sup> To the extent that United assesses parcel

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4/ The portions of Decision No. 31606 setting forth the reasons are found in Footnote 1 of Decision No. 71900.

5/ J. S. Aaronson, 58 Cal.P.U.C. 533.

At Page 535: "CTA argues that if exemptions are granted to carriers for parcel delivery, the Commission should make certain that the carrier can only be engaged in transportation of parcels under parcel rates."

At Page 536: "Aside from that aspect, protestant (United) is also concerned over the granting of exemptions to carriers who can transport property under parcel rates or freight rates as they see fit and as it is to their own advantage to do so. United Parcel Service asks that if exemptions are sought on the basis of parcel delivery operations, the Commission require the carrier to assess parcel rates on all transportation."

"Like CTA and United Parcel Service, it (Delivery Service Company) urges that if a carrier is going to engage in parcel operations, it be restricted to such operations under parcel rates and if a carrier intends to conduct freight operations, it be required to assess freight rates, but that a carrier not be authorized to assess alternatively and interchangeably rates in cents per parcel and rates in cents per shipment."

rates, that is a charge assessed for each individual parcel or article tendered, its pricing practices are not inconsistent with the objectives of the policy expressed in Aaronson.

The assessment of vehicle unit rates for transportation performed for retail stores, and more particularly the transportation of goods between the store, its branches and warehouses, is an entirely different matter. The transportation of property at vehicle unit rates contemplates the movement of goods in quantity and is a freight transportation operation and is not a parcel transportation service. The transportation by United of goods between the retail store, its branches and warehouses at vehicle unit rates is the subject matter of A&B's protest. It contends that such type operation, which it terms a shuttle service, is one performed by a number of carriers, including A&B, which carriers are either required to charge rates no lower than the minimum vehicle unit rates established in Minimum Rate Tariff No. 15,<sup>6/</sup> or to obtain authority from the Commission, upon a proper showing under Section 3666 of the Public Utilities Code, to charge a lesser rate. It is the position of A&B that an exemption would provide United with a special privilege not enjoyed by the many other carriers engaged in shuttle service operations, and would be unjustly discriminatory because the authority for such exemption has not been justified by any showing of the reasonableness of the rates United assesses, which showing would be required of any other carrier.

The vice-president of United testified that it is his understanding that Minimum Rate Tariff No. 15 was established as an alternative to Minimum Rate Tariff No. 2 and since United is not subject to Minimum Rate Tariff No. 2 it is therefore not required to observe Minimum Rate Tariff No. 15. There also is indication

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<sup>6/</sup> Minimum Rate Tariff No. 15 prescribes minimum yearly, monthly and weekly vehicle unit rates and rules for the transportation of property over the public highways within the State of California by city carriers, radial highway common carriers and highway contract carriers.

in the record that United may be under the impression that the Commission's order in Decision No. 31606 granted it exemption from any minimum rate regulation. Said understanding and impression are not correct.

Counsel for United stated that it is the position of United that there is no showing or contention, by A&B or any other party appearing, that United's rates for any service, including the service of transferring merchandise between retail stores and their branches and warehouses with vehicles and drivers furnished on a time basis, have been unreasonably low or noncompensatory or have resulted in unfair or destructive competition; that the exemption has not been shown to be unreasonable or improper in any respect and, therefore, there has not been a prima facie showing as to why the exemption should be removed, as required to substantiate an order to show cause. Counsel's position is not well founded.

In Decision No. 31606 the Commission found that certain carriers, including express and parcel delivery carriers offering highly specialized services in competition with the United States Parcel Post, were rendering services of a peculiar nature at published rates which the record in that proceeding did not show to what extent, if at all, were unreasonable, discriminatory, <sup>7/</sup>unjustified by transportation conditions, or otherwise unlawful. The Commission ordered that except for the rates of said carriers (including the rates of United) the rates established in Highway Carriers' Tariff No. 2 (Minimum Rate Tariff No. 2) shall be the minimum rates to be observed by all highway carriers. As stated in Decision No. 71900, over the years that order was construed to mean that the carriers listed in Finding 14 of Decision No. 31606

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<sup>7/</sup> See Decision No. 71900, supra, Footnotes 1 and 2.

were fully exempted from Minimum Rate Tariff No. 2. That construction has not been extended by the Commission to mean that carriers listed in said Finding 14 were also exempt from the rates and rules in other minimum rate tariffs established by it, including Minimum Rate Tariff No. 15.

Decision No. 71900 pointed out that exemptions from the rates and rules in Minimum Rate Tariff No. 2 to certain named carriers is undesirable because it affords said carriers an undue advantage and opportunity to engage in transportation at less than the minimum rates for which the so-called exemption was not intended. The record made at the hearing of May 18, 1967 discloses that United has in fact taken such advantage and opportunity. At the time Decision No. 31606 was issued (December 27, 1939), United performed parcel delivery service for retail stores as a common carrier under parcel rates set forth in its tariff. It continued such operations as a common carrier until 1943 in Northern California and until 1949 in Southern California. It was after the issuance of Decision No. 31606, and probably after the discontinuance of its highway common carrier operations as a parcel carrier, that United commenced the shuttle service operation at vehicle unit rates.<sup>8/</sup>

Except in the cases of certain specific commodities such as oil well supplies, until 1957 there were no vehicle unit rates in Minimum Rate Tariff No. 2. Until that time all highway carriers performing transportation subject to the minimum rates established

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<sup>8/</sup> Testimony of United's Vice-president at RT 88, "On the store transfer operation, that's a service we provide the store or not as the store may elect. For many years we did not do that work. In fact, that work didn't exist because stores didn't have branches 20 or so, 30 years ago."

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in Decision No. 31606 were expressly prohibited from assessing vehicle unit rates for such transportation.<sup>9/</sup> United, under the construction given Decision No. 31606, was not considered to be subject to that prohibition. By Decision No. 54617, dated March 5, 1957, in Case No. 5432, Petition No. 77, the Commission established monthly vehicle unit rates in Minimum Rate Tariff No. 2. Under the aforementioned interpretation of Decision No. 31606, United was not required to observe said minimum monthly vehicle unit rates. On March 12, 1963, the Commission issued Decision No. 65072 which established, in Minimum Rate Tariff No. 15, minimum vehicle unit rates for the transportation of property by highway common carriers, highway permit carriers and city carriers. The said minimum vehicle unit rates were weekly rates, monthly rates and yearly rates. By companion orders issued the same day, all monthly rates in Minimum Rate Tariff No. 2 and all monthly and weekly rates in other minimum rate tariffs were canceled. The order in said Decision No. 65072 requires all carriers, without exception, to charge vehicle unit rates no lower in volume or effect than those prescribed in Minimum Rate Tariff No. 15. United is subject to the minimum rates and rules established therein. Except as provided in Decision No. 71900, as amended by Decision No. 71996, which concerns only the rates and rules in Minimum Rate Tariff No. 2, United is subject to the minimum rates and rules set forth in all of the minimum rate tariffs promulgated by the Commission whenever it performs

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<sup>9/</sup> There are a few exceptions; for example, by Decision No. 52367, dated December 20, 1955, in Case No. 5432, Pet. 72, A&B was authorized to publish and maintain hourly rates for the transportation of garments between retail stores and their warehouses. Pursuant to Item 200 of MRT 2, other highway carriers could meet the rates published by A&B under that authority.

any transportation for which minimum rates are provided in said tariffs. In that connection the record herein discloses that in performing service for retail stores where transportation is performed within the so-called drayage areas of San Francisco, Los Angeles, East Bay and San Diego, United could be, and probably is, transporting property at rates less than the minimum rates in City Carriers' Tariff No. 1-A, and Minimum Rate Tariffs Nos. 5, 1-B, and 9-B. If it transports fresh fruit, it no doubt is violating the minimum rates and rules established in Minimum Rate Tariff No. 8. Such circumstance not only appears with respect to its permitted carrier operations but also concerning its highway common carrier service. There is good cause to believe that United's operations require authority to depart from the minimum rate provisions of those other tariffs. Such matters, however, are not within the scope of this proceeding.

The record shows that to the extent that United may be violating minimum rate orders of the Commission, such circumstance has resulted from reliance upon a mistaken construction of the authority that had been granted to it. Such reliance may have been implemented by the fact that no action concerning the situation has heretofore been taken by the Commission although the operations conducted by United have been well known these many years. In reliance upon such mistaken interpretation of its authority, United has entered into contracts with shippers to provide transportation services. Its services are utilized by a large number of persons. The rates that it charges have not been shown to be unreasonable, except to the extent that they may be lower than the established minimum rates when such minimum rates are applicable to those services. Section 3666 of the Public Utilities Code recognizes that in unusual

situations rates lower than the established minimum rates may be reasonable and empowers the Commission to authorize the charging of such lower rates. The services provided by United, and particularly the parcel service, are for the most part unusual. It must also be noted that the possibility of rate violations was revealed only by the full disclosure by United of its operations and practices. In the circumstances the situation does not call for the imposition of sanctions. It does, however, indicate the need for clarification so that everyone, including United and its competitors, know exactly just what United is authorized to do and what it may not lawfully do. We are also of the opinion that United should be given opportunity to get its house in order and to acquire whatever authorities may be necessary for it to conduct its operations.

After full consideration of all of the facts and circumstances, we find that:

1. United, as a highway permit carrier and as a city carrier, performs services for retail stores under written contracts calling for the transportation of property between said retail stores, its customers, its branches and its warehouses.
2. Some of the transportation performed by it as a highway permit carrier is subject to the minimum rates established by the Commission in Minimum Rate Tariff No. 2.
3. The transportation by United of packages and individual articles at rates in cents per package, in cents per package count, in cents per article, or in cents per furniture and unit count, is a parcel carrier operation and is a specialized type of service for which the minimum rates and rules provided in Minimum Rate Tariff No. 2 are not suitable.

4. The transportation of property between retail stores, their branches and warehouses at vehicle unit rates, including hourly rates, weekly rates, monthly rates and yearly rates is a freight transportation operation of a type performed by numerous other carriers who are required to observe the minimum rates and rules established by the Commission or who have obtained authority under Section 3666 of the Public Utilities Code to charge rates less than the established minimum rates.

5. The vehicle unit rates specified in contracts between United and retail stores in some instances are different from and less than the minimum rates established by the Commission applicable to such transportation.

6. It has not been shown by United on this record that the hourly rates, weekly rates or any other vehicle unit rates specified in said contracts are reasonable.

7. United does not have authority to perform such transportation at rates or rules less than the applicable minimum rates.

8. For the transportation of such articles as merchandise not sold at retail and articles weighing over 100 pounds that are not classified as furniture or household appliances (such as outboard motors), within the boundaries of the drayage areas of San Francisco, the East Bay, Los Angeles or San Diego, the contracts entered into by United with retail stores in many instances call for the transportation of property at rates less than the minimum rates established by the Commission in City Carriers' Tariff No. 1-A, Minimum Rate Tariff No. 1-B, Minimum Rate Tariff No. 5 and Minimum Rate Tariff No. 9-B.



9. The contracts between United and the retail stores call for the transportation by United of all merchandise, with certain limited exceptions, which the retail store sells or is accustomed to sell and to the extent that pursuant to such contracts United may be obligated to transport such commodities as ordinary livestock, used household goods for which the retailer is not a dealer, fresh fruits or vegetables or uncrated furniture over the public highways of this State, said contracts provide for transportation to be performed at rates and rules less than the minimum rates established by the Commission in Minimum Rate Tariffs Nos. 3-A, 4-B, 8 and 11.

10. This record does not indicate that United performs any transportation of the following commodities in truckload quantities: cement, grain, hay, fodder, straw; nor does it indicate that United performs any transportation of automobiles, trailers or portable campers, or commodities transported in dump trucks, tank vehicles or vacuum tank vehicles; however, if any such transportation is performed by United, it is required to charge rates not less than the minimum rates established by the Commission for such transportation.

11. By Decision No. 71900 United is authorized to depart from the minimum rates established by the Commission in Minimum Rate Tariff No. 2 in the publication and maintenance of rates in its tariff and schedule of rates governing the transportation of property authorized in a certificate of public convenience and necessity granted by the Commission in Decision No. 70125, dated December 21, 1965, in Application No. 47874; however, said authority does not extend to transportation for which minimum rates have been established by the Commission in other minimum rate tariffs including, but not limited to, Minimum Rate Tariff No. 1-B, Minimum Rate Tariff No. 5 and Minimum Rate Tariff No. 9-B.

12. The certificate of public convenience and necessity issued to United in said Decision No. 70125 covers the transportation of general commodities between all points in California and therefore includes the transportation of property for which minimum rates have been established in Minimum Rate Tariffs Nos. 1-B, 5 and 9-B.

13. Cause has been indicated why United should be authorized to depart from the aforesaid established minimum rates in conducting operations as a highway common carrier, as a highway contract carrier and as a city carrier; however, the record herein does not delineate with particularity the specific minimum rates or rules from which United should be authorized to depart, nor are all of the matters involved therein within the scope of the issues in this proceeding.

14. Any publication, maintenance, charge or contract by United which may have resulted in the charging of rates less than the applicable minimum rates or rules established by the Commission was occasioned by a misunderstanding of the authority accorded it, which mistake is reasonable and warranted by the circumstances recited in this opinion.

We conclude that:

1. The authority granted to United in paragraph No. 10 of Decision No. 71900, as amended by Decision No. 71996, should be revoked.

2. United should be authorized to depart from the rates and rules in Minimum Rate Tariff No. 2 in the transportation of property transported under written contract with retail stores between said retail stores and their branches and warehouses, and between said retail stores, their branches and warehouses, on the one hand, and the premises of the customers of such stores, on the other hand, at rates in cents per package or per piece or at rates per package count or per piece unit count.

3. United should promptly file its application to deviate from minimum rates and rules established by the Commission and fully disclose its operations, rates and practices, and any charge, publication or contract at rates less than the established minimum rates.

4. Pending a determination of the issues in said application, United should be authorized for a period of not to exceed six months to depart from any and all of the minimum rates established by the Commission to the extent necessary to continue to perform transportation as a highway common carrier at the rates maintained in its tariff, and to continue to perform transportation as a highway contract carrier and as a city carrier for retail stores under the provisions of the written contracts entered into and in force with said retail stores.

O R D E R

IT IS ORDERED that:

1. The authority granted to Peninsula Delivery Service, a corporation, in ordering paragraph No. 11 of Decision No. 71900 is revoked.

2. The authority granted to 20th Century Delivery Service, Inc. in ordering paragraph No. 13 of Decision No. 71900 is revoked.

3. The authority granted to Russell S. Stowell in ordering paragraph No. 14 of Decision No. 71900 is revoked.

4. The authority granted to United Parcel Service, Inc. in ordering paragraph No. 10 of Decision No. 71900, as amended by Decision No. 71996, is revoked.

5. United Parcel Service, Inc. is authorized to depart from the rates and rules in Minimum Rate Tariff No. 2 in the transportation of property transported under written contract with retail stores between said retail stores and their branches and warehouses, and

between said retail stores, their branches and warehouses, on the one hand, and the premises of the customers of said stores, on the other hand, at rates per package, per parcel or per piece or at rates per package count or per piece unit count.

6. United Parcel Service, Inc. is authorized to depart until June 1, 1968 from any and all of the minimum rates established by the Commission to the extent necessary to continue to perform transportation as a highway common carrier at rates now maintained in its tariffs, and to continue to perform transportation as a highway contract carrier and as a city carrier for retail stores under the provisions of written contracts entered into and now in force with said retail stores.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of NOVEMBER, 1967.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners