

ORIGINAL

Decision No. 74678

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 household goods carriers,)
common carriers, highway carriers,)
and city carriers, relating to the)
transportation of used household)
goods and related property.)

Case No. 5330
Petition for Modification No. 35
(Filed March 14, 1968;
Amended April 30, 1968)

(Appearances are listed in Appendix A)

O P I N I O N

This matter was heard and submitted May 13, 1968 before Examiner Thompson at San Francisco. Copies of the petition and notice of hearing were served in accordance with the Commission's procedural rules.

California Moving and Storage Association, Inc., requests that the local hourly moving rates and accessorial rates for the transportation of household goods prescribed in Minimum Rate Tariff No. 4-B be increased. Evidence was presented by petitioner and by the Commission staff.

The rates involved are those prescribed in Item No. 330 (Local Moving Rates) and Item No. 350 (Packing and Unpacking Rates) which were last adjusted by Decision No. 73386, dated November 27, 1967, in Petition for Modification No. 32.

In said decision the Commission found:

1. The cost estimates of performing service by household goods carriers transporting hourly-rated shipments and for accessorial labor presented by the staff represent the costs of reasonably efficient carrier operations and are adopted for the purpose of adjusting the minimum hourly rates and accessorial charges set forth in Items Nos. 330 and 350 of Minimum Rate Tariff No. 4-B.

2. The rates, rules and accessorial charges, including revisions in the rate territories, proposed by the staff, will result in reasonable and nondiscriminatory minimum rates and charges for the services to which they apply, and should be adopted.

In the development of the cost estimates in Petition No. 32, data was selected reflecting the operations of 38 carriers operating in various areas of the state. Petitioner and the Commission staff presented exhibits purporting to be the cost estimates presented in Petition No. 32 revised to incorporate present labor costs. The results set forth in the two exhibits differ because of different approaches being taken in developing labor costs in Territory B and because of the use of different techniques in the application of the factor for indirect expense.

The labor costs for Territory B considered in Petition No. 32 were based upon the experiences of three carriers in Santa Rosa, all operating under the same or a similar agreement with Local 980 of the Brotherhood of Teamsters, one carrier in Vallejo which has an agreement with another local, one carrier at Fresno and one carrier at Sacramento. The hourly labor costs were developed for each one of those carriers and were accorded the following weightings to determine the hourly labor cost for operations in Territory B:

3 Santa Rosa Carriers	36.68%
1 Vallejo Carrier	42.28
1 Fresno Carrier	12.36
1 Sacramento Carrier	<u>8.68</u>
	100.00%

At the time of the hearing, the labor agreement entered into by the Vallejo carrier was scheduled to expire in about 45

days and the terms of a new contract for the ensuing year had not been negotiated. The terms of the contracts entered into by the other carriers, to become effective on July 1, 1968 were known to petitioner and the staff. Because of this circumstance petitioner developed a labor cost for Territory B by taking the wage rates and fringe benefits contained in labor contracts negotiated in all counties in Territory B, which will become effective either July 1, 1968, or August 1, 1968, and by weighting said data in proportion ✓ to the populations of said counties. On the other hand, the staff used the then existing wage rates of the Vallejo carrier in developing its estimates. Inasmuch as that carrier's labor costs were weighted 42.28 percent, this has the result of nullifying almost one-half of the increases incurred by the other carriers. We do not accept either the staff's method of computation or that used by petitioner.

We have held that the so-called "offset" or datum plane method is reasonable for use in minimum rate making. Under that method, the original cost development, which is the datum plane, is revised by substituting therein any changes in the cost factors, such as wages and payroll taxes. The difference between the full costs shown in the original study and the costs shown in the revised study provides a measure for changing the rates. A necessary condition of the reliability of the datum plane method is that the basic criteria and techniques used in the cost development remain constant because the result desired is a measure of change. The method used in Petition 32 to develop the labor costs was to measure the experience of a sample of carriers (the aforementioned six in the case of Territory B). The method used herein by

petitioner differs from that procedure. The method used by the staff ignores the fact that the cost development is to be used to prescribe rates for the future; in effect, it anticipates that the wage rates for the Vallejo carrier during the year ending June 30, 1969, will be the same as the 1967-68 wage rates. In view of the fact that the evidence shows that the wage contract of this carrier was subject to negotiation and that all of the other carriers included in the sample will incur substantial increases in labor cost during the coming year, such reasoning flies in the face of reality. Under such circumstances, the proper method to utilize is to anticipate or estimate the future labor costs of the Vallejo carrier by obtaining data from other carriers that compete in the same labor market. Such data is not before us in this record. Reopening this proceeding to obtain such data would defeat the purpose of making a timely adjustment of the minimum rates.

The evidence shows that the new wage contracts of the Santa Rosa carriers call for increases in wages of 8 cents per hour and the new contracts for the Sacramento and Fresno carriers call for increases of 16 cents per hour. The basic wage rate per hour in Territory A was increased between 14 cents and 18 cents and in Territory C between 10 and 16 cents. There were also changes in certain fringe benefits in the contracts with some of the carriers in Territory B which result in increases in labor cost. We are of the opinion that for the purpose of this proceeding a reasonable estimate of the increase in basic wages that will be incurred by the Vallejo carrier will be about 11 cents per hour. Using the weightings of the original cost study, this will result

in an increase in the basic wage rate per hour for Territory B of 11 cents. That amount corresponds to the amount estimated by petitioner, therefore, for the purpose of this proceeding we will use the labor costs per hour for Territory B suggested by petitioner.

In the basic cost study the indirect expenses were estimated at a ratio of 38 percent of direct costs. The supplementary cost study presented by the staff herein has adjusted the indirect expense in the following manner: It was estimated that 60 percent of the indirect expenses are related to labor and it was assumed that the wages or salaries included in indirect expense would be increased by the same percentage (3.7 percent) as the average labor expense increase in the direct expenses. The dollar amount of indirect expense shown in the basic cost study was therefore increased by 60 percent of 3.7 percent, or 2.2 percent. This has the effect of reducing the indirect to direct expense ratio to 37 percent and thereby provides a full cost per hour about ten cents less than if the 38 percent factor is used.

The staff's position in general in offset proceedings is that only known and measurable changes in costs should be recognized. The consideration to the Vallejo carrier in the development of the hourly labor cost for Territory B typifies that position. With respect to indirect expenses there is no direct evidence presented herein from which changes in the indirect expenses of the 38 sample carriers can be measured. There is no evidence of increases in operating rents, stationery and supplies expense or expense for utilities that will be sustained by the 38 carriers in the future, therefore, the staff excludes any such changes in expenses from consideration in its supplementary cost study. There is no direct evidence in this record

that the wages and salaries charged to indirect expense will increase; however, on the basis of experience, the staff assumes that there will be a change and that such change will be at the same rate of increase as the direct labor expense. Petitioner, on the other hand, takes the position that the ratio of indirect expenses to direct expenses remains fairly constant. Experience shows that there is merit to that position. For the purposes of this proceeding we shall adopt the use of the indirect expense ratio of 38 percent. By so doing we do not imply that such method will provide a reasonable measure of changes in costs for minimum rate-making purposes in any case where the evidence shows a fairly constant relationship between indirect expenses and direct expenses. The effect of the treatment of indirect expense upon rates in the instant case is not significant. We recognize, however, that the method of estimating indirect expenses in other proceedings involving minimum rates would have greater effect upon the determination of reasonable minimum rates. This case is not one in which the Commission should enunciate any policy or make any determination of any cost-finding procedure that should be followed in evaluating indirect expenses in the so-called offset proceedings in minimum rate cases.

In developing a schedule of rates from the cost data the staff utilized the same formulae for assignment of costs that it used in Petition 32 in developing the rates which were adopted by the Commission in its decision. That is the proper procedure to be used in the offset or datum plane method.

Petitioner, on the other hand, contends that the rates to be established herein should reflect a cost-rate relationship of 93 percent - which was not done in Decision No. 73386 - and that the formulae used in the prior proceeding for the assignment of "Bobtail" vs "Semi" costs is erroneous and should be changed. The latter contention concerns the weighting of the truck costs and the tractor and semitrailer costs in the ratio of 90 to 10 and 80 to 20 utilized by the staff. Petitioner contends that the equipment of the 38 carriers (176 trucks vs 179 semitrailer equipment) indicates a proper ratio of 50 to 50. Petitioner's principal witness testified that he had analyzed the trip reports utilized by the staff in its cost study and found that on an overall basis 60 percent of the trips were made in bobtail equipment and 40 percent made in semitrailer equipment, however, an analysis of those same trip reports also shows that on hauls in which only one man was involved, 80 percent of the trips were made in bobtail equipment and 20 percent in semiequipment. It is his suggestion that if the weighting of the costs is to be the same for the rates for a vehicle and one man and the rates for a vehicle and 2 men, then the 50 to 50 relationship of the number of pieces of equipment should be used, otherwise the proper weighting of the costs would be 80 to 20 for the rates for vehicle and one man and 55 to 45 for the rate for vehicle and 2 men.

We are not persuaded by such testimony that the procedures used in the development of the rates prescribed in Decision No. 73386 were in any way erroneous.^{1/} But even if we accept the

^{1/} The staff member who developed the rates in Petition No. 32 adopted by Decision No. 73386 testified in this proceeding that he had purposely set certain rates at cost-rate relationships of other than 93 percent in certain areas because of certain economic factors.

petitioner's contentions regarding the weighting of the costs of bobtails and semis, it is doubtful that it would have any significant effect upon the rates. The staff member who prepared the scale of rates in Petition 32 testified herein that he applied various weightings to the costs ranging from 100 - 0 to 50 - 50 and found that except for one instance the results would not have been different. In any event, if the procedures used were erroneous, and the rates established unreasonable, the proper vehicle in which to raise such issues would have been in a petition for rehearing.^{2/} Under such procedure the Commission and all parties would have had notice of the issues involved and the entire record in the original proceeding would have been before the Commission. Petition No. 35, herein as amended does not allege that the methods or the weighting factors used in the development of the minimum rates in Petition No. 32 were erroneous. It merely states that carriers have incurred increased labor costs of such a consequence that minimum rates established and now in effect in Items Nos. 330 and 350 of the minimum rate tariff are and will be unduly and unreasonably low.

Paragraph VI of the petition states:

"Petitioner and its members are prepared to present at any hearing schedules (sic) in the within petition evidence of the impact of increased labor costs together with these needs and requirements for the proposed increases in rates."

The petition, and the amendment thereto placed the Commission and all parties on notice that only the wage increases

^{2/} A petition for rehearing filed prior to the effective date of the order, but not prior to ten days before said effective date, would not automatically stay the effectiveness of the minimum rates established therein.

and their effect upon the cost of performing the services were in issue and that the so-called "offset" or datum plane procedures were involved. The latter method assumes that the minimum rates in effect were reasonable at the time of their establishment, that the cost data or studies which were the basis for the establishment of such rates were reasonable at the time, and that all cost factors except those in issue (in this case the wage rates and related expenses) are unchanged. Proper procedure and fair play require petitioner, the staff or any other party who desires to present issues not specifically mentioned in the petition (or Order Setting Hearing), such as allegations of changes in other cost factors and weighting factors in the datum plane, to file a pleading which will provide notice of the issues which will be raised at the hearing.

We find that:

1. By Decision No. 73386, dated November 27, 1967, in Case No. 5330, Petition No. 32, the Commission established in Items Nos. 330 and 350 of Minimum Rate Tariff No. 4-B just, reasonable and nondiscriminatory rates for local moving and accessorial services.
2. Said minimum rates were based upon a cost study (Exhibit 32-1) and a rate study (Exhibit 32-2) which consider among other things the labor costs incurred by the carriers at October 1967 expense levels.
3. By Petition No. 35 herein filed March 14, 1968, as amended April 30, 1968, California Moving and Storage Association alleged that by reason of increases in labor costs incurred by or to be incurred by carriers on April 1, 1968, July 1, 1968 and August 1, 1968, the costs of performing services for which minimum rates have been established in Items Nos. 330 and 350 will be increased and as a consequence the said minimum rates will be unreasonably low.

4. A survey conducted by the Commission staff in May 1968 of the 38 carriers used as a random sample in the cost study in Exhibit 32-1 discloses that as of August 1, 1968 the prevailing labor costs of carriers have been or will be increased.

5. The impact of the said increases in labor costs when measured against the cost data set forth in Exhibit 32-1 is as follows.

	<u>Percentage Increase in Full Cost</u>		
	Territory		
	A	B	C
Vehicle with Driver and Helper	4.3	3.0	3.5
Vehicle with Driver only	3.9	2.8	3.0
Extra Helper	5.0	4.2	3.8
Packing and Unpacking Labor	4.8	3.8	4.2

6. Increases in the presently established minimum rates set forth in Items Nos. 330 and 350 by applying percentages set forth in Finding No. 5 above in accordance with the methods and procedures used in the development of the rates set forth in Exhibit No. 32-2 will result in just, reasonable and nondiscriminatory minimum rates for local moving of household goods and accessorial services.

7. The rates which will be provided for in the order that follows were determined by the procedures described in Finding No. 6.

8. Increases resulting from the establishment of the increased minimum rates are justified.

We conclude that Petition No. 35 should be granted to the extent provided in the order which follows and in other respects said petition should be denied.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 4-B (Appendix C of Decision No. 65521, as amended) is further amended by incorporating therein, to become effective October 12, 1968, the revised pages attached hereto, and by this reference made a part hereof, which pages are numbered as follows:

Seventh Revised Page 28

Seventh Revised Page 29

2. In all other respects said Decision No. 65521, as amended, shall remain in full force and effect.

3. Except as provided for in Paragraph 1 hereof, Petition No. 35 is denied.

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

Dated at San Francisco, California, this 17th day of SEPTEMBER, 1968.

William Symons Jr.
President

W. E. R. [Signature]

William [Signature]

August [Signature]

Fred P. Monsey
Commissioners

APPENDIX A

LIST OF APPEARANCES

Petitioner: Wyman C. Knapp of Knapp, Gill, Hibbert & Stevens, Paul Rieder and Charles A. Woelfel, for California Moving and Storage Association.

Respondents: O. I. Groff, for Foster's Transfer and Storage; Donald Winkowski, for Settles Van and Storage; John E. Miller, for Miller's Transfer and Storage; Patrick J. Walsh, for James Transfer and Storage Company; James A. Nevil, for Nevil Storage Company; William W. Edmond, for Acme Transfer and Storage; Thomas F. Smith, for The San Diego Van and Storage Company; Charles L. Reed, for Whittier Transfer and Storage Company; A. L. Chipman, for Chipman Van and Storage Company; Cuig M. Driver, for Stringer Driver Moving and Storage; William N. Mosier, for Arrow Moving and Storage; R. L. Reeves and Frank A. Payne, Jr., for Lyon Van and Storage Company; Maurice T. Hesterman, for Smyth Market Street Van and Storage Company, Inc.; Thomas R. Travers, for Western Van-Storage; F. J. O'Reilly, for Mission Van and Storage Company; Gerald M. Poznanovich, for Schultz Bros. Van and Storage; W. F. Goines, for Bekins Van and Storage; George E. Thomas, for Thomas Transfer and Storage Company, Inc.; Robert C. Johnson, for Bekins Van Lines Company; Larry Mandot, for Slocum Van and Storage Company, Inc.; Robert S. Reils, for City Transfer and Storage Company; Roeder S. Stinson, for Owens Bros. Transfer and Storage; Giles W. Stadler, for Torrance Van and Storage Company; A. A. Colwell, for U. C. Express and Storage Company; Roger H. Druehl, for Erickson Van and Storage, Inc.; Sam S. Blank, for Dependable Moving and Storage Company; and Jim Garvey, for Kozy Moving and Storage.

Interested Parties: John T. Reed, for California Manufacturers Association; and Tad Muraoka, for I B M Corporation and California Manufacturers Association.

Commission Staff: E. H. Burgess and Robert W. Stich.

SECTION NO. 3 - RATES (Continued)	Item No.																				
<p>RATES IN CENTS PER HOUR (1) (2) (Applies for Distances of 50 Constructive Miles or Less)</p> <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th style="border-bottom: 1px solid black;"></th> <th colspan="3" style="border-bottom: 1px solid black; text-align: center;">TERRITORY (3)</th> </tr> <tr> <th style="border-bottom: 1px solid black;"></th> <th style="border-bottom: 1px solid black; text-align: center;">A</th> <th style="border-bottom: 1px solid black; text-align: center;">B</th> <th style="border-bottom: 1px solid black; text-align: center;">C</th> </tr> </thead> </table> <p>Unit of Equipment:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">(a) with driver</td> <td style="width: 15%; text-align: center;">1185</td> <td style="width: 15%; text-align: center;">1090</td> <td style="width: 10%; text-align: center;">1030</td> </tr> <tr> <td>(b) with driver and 1 helper</td> <td style="text-align: center;">2085</td> <td style="text-align: center;">1895</td> <td style="text-align: center;">1760</td> </tr> <tr> <td>Additional helpers, per man</td> <td style="text-align: center;">735</td> <td style="text-align: center;">625</td> <td style="text-align: center;">540</td> </tr> </table> <p>Minimum charge - the charge for one hour.</p> <p>(1) See Item No. 70 for application of rates. (2) See Item No. 95 for computation of time. (3) See Item No. 210 for territorial descriptions.</p>		TERRITORY (3)				A	B	C	(a) with driver	1185	1090	1030	(b) with driver and 1 helper	2085	1895	1760	Additional helpers, per man	735	625	540	0330
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<p>DISTANCE RATES IN CENTS PER PIECE (1) (2) (Applies to Shipments of Not More Than 5 Pieces for Distances of 50 Miles or Less)</p> <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th colspan="3" style="border-bottom: 1px solid black; text-align: center;">FIRST PIECE</th> <th rowspan="2" style="border: none;"></th> </tr> <tr> <th colspan="3" style="border-bottom: 1px solid black; text-align: center;">MILES (3)</th> </tr> <tr> <th style="border-bottom: 1px solid black; text-align: center;">Not Over 10</th> <th style="border-bottom: 1px solid black; text-align: center;">Over 10 but not Over 20</th> <th style="border-bottom: 1px solid black; text-align: center;">Over 20</th> <th style="border: none;"></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">955</td> <td style="text-align: center;">1780</td> <td style="text-align: center;">2490</td> <td style="text-align: center; border: 1px solid black;">330</td> </tr> </tbody> </table> <p>(1) See Item No. 70 for application of rates. (2) Rates in this item will not apply to split pickup or split delivery shipments, or storage in transit privileges. (3) See Item No. 50 for computation of distances.</p>	FIRST PIECE				MILES (3)			Not Over 10	Over 10 but not Over 20	Over 20		955	1780	2490	330	340					
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955	1780	2490	330																		
<p>◊ Increase, Decision No. 74678</p>																					
<p>EFFECTIVE OCTOBER 12, 1968</p>																					
<p>Issued by the Public Utilities Commission of the State of California, San Francisco, California.</p> <p>Correction No. 102</p>																					

SECTION NO. 3 - RATES (Concluded)			Item No.	
ACCESSORIAL RATES				
Rates in Cents per Man per Hour (1) (2) (3)				
	TERRITORY (4)			
	A	B	C	
Packing)	830	810	750	
Unpacking)				
Minimum Charge - The charge for one hour.			0350	
<p>(1) See Item No. 70 for application of rates.</p> <p>(2) See Item No. 95 for computation of time.</p> <p>(3) Rates do not include cost of materials. (See Item No. 360.)</p> <p>(4) See Item No. 210 for description of territories.</p>				
RATES AND CHARGES FOR PICKING UP OR DELIVERING SHIPPING CONTAINERS AND PACKING MATERIALS.				
<p>1. In the event new or used shipping containers, including wardrobes, are delivered by the carrier, its agents, or employees, prior to the time shipment is tendered for transportation, or such containers are picked up by the carrier, its agents or employees subsequent to the time delivery is accomplished, the following transportation charges shall be assessed: (See NOTE 1)</p> <p style="margin-left: 40px;">Each container, set up ----- 155 cents</p> <p style="margin-left: 40px;">Each bundle of containers, folded flat --- 155 cents</p> <p style="margin-left: 40px;">Minimum charge, per delivery ----- 730 cents</p>				360
<p>2. (a) Shipping containers, including wardrobes (See NOTE 2) and packing materials which are furnished by the carrier at the request of the shipper will be charged for at not less than the actual original cost to the carrier of such materials, F.O.B. carrier's place of business.</p> <p>(b) In the event such packing materials and shipping containers are returned to any carrier, participating in the transportation thereof when loaded, an allowance may be made to the consignee or his agent of not to exceed 75 percent of the charges assessed under the provisions of paragraph 2(a).</p>				

NOTE 1.--If the hourly rates named in Item No. 330 provide a lower charge than the charge in paragraph 1 of this item such lower charge shall apply.

NOTE 2.--No charge will be assessed for wardrobes on shipments transported at the rates provided in Item No. 330.

◇ Increase, Decision No. **74678**

EFFECTIVE OCTOBER 12, 1968 ✓

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 103