

**ORIGINAL**Decision No. 75692

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of UNITED PARCEL SERVICE, INC.,  
for authority to increase certain  
of its rates for common carrier  
parcel delivery service.

And Related Matters.

Application No. 50760  
(Filed December 19, 1968)

Cases Nos. 5432, 5435,  
5439, 5441  
(Order Setting Hearing in  
Decision No. 75206)

Roger L. Ramsey and Preston W. Davis, for applicant.  
Richard W. Smith, Arlo D. Poe and H. F. Kollmyer,  
for California Trucking Association; John T. Reed,  
for California Manufacturers Association,  
interested parties.  
Phillip A. Winter, for Delivery Service Company,  
respondent.  
Dale R. Whitehead and Robert W. Stich, for the  
Commission staff - Transportation Division;  
A. L. Gielegem, for the Commission staff -  
Finance and Accounts Division.

O P I N I O N

These matters were heard and submitted February 25, 1969,  
before Examiner Thompson at San Francisco. Copies of the application  
and notice of hearing were served in accordance with the Commission's  
procedural rules.

United Parcel Service, Inc., seeks authority under Section  
454 of the Public Utilities Code to increase rates by three cents per  
package from the present basic rate of 29 cents per package to 32  
cents. The rates per pound would not be changed.

The Commission ordered hearings in the minimum rate cases  
for the purpose of determining whether the present 29 cents per  
package plus 3 cents per pound parcel rate maintained in its minimum

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rate tariffs should be adjusted if the application is granted. In said minimum rate cases the Commission has heretofore found that United Parcel Service is the rate-making carrier for parcel delivery of articles sold at wholesale. It has concluded that because highway carriers may apply the published rates of highway common carriers as minimum rates, the effective rates of United Parcel Service, Inc., should be included in the aforesaid minimum rate tariffs.

The present 29 cents per package rate was made effective September 9, 1968, pursuant to authority granted by the Commission in Decision No. 74488, dated August 6, 1968, in Application No. 50030. The authority to publish said rate was based upon wages and fringe benefits and other cost levels which became effective on or before April 1, 1968. Since that date applicant has entered into a new labor agreement which substantially increased wages and fringe benefit costs in Southern California effective November 1, 1968. Pursuant to terms of an existing collective bargaining agreement entered into in 1967, the wage rate and fringe benefits of applicant's Northern California employees will increase effective April 1, 1969.

Applicant presented an estimate of the results of California intrastate highway common carrier operations at the present rates and at the proposed rates for a rate year at April 1, 1969 cost levels. Decision No. 74488 sets forth an estimate of the operating results at the 29 cents per package rate for a rate year at April 1, 1968 cost levels. A summary of those estimates follows.

Estimates of the Results of  
Highway Common Carrier California Intrastate Operations  
Of United Parcel Service, Inc.  
At Present Rates and at Proposed Rates  
At Cost Levels of the Dates Shown

	Present Rates		Proposed Rates
	Cost Level as of:		Cost Level as of:
	April 1, 1968*	April 1, 1969	April 1, 1969
Operating Revenues	\$32,201,016	\$34,676,171	\$36,035,137
Operating Expenses	29,953,651	33,295,871	33,318,280
Net Revenues	\$ 2,247,365	\$ 1,380,300	\$ 2,716,857
Income Taxes	794,325	575,052	1,157,258
Net Income	\$ 1,453,040	\$ 805,248	\$ 1,559,599
Operating Ratio before Taxes	93.02%	96.02%	92.46%
Operating Ratio after Taxes	95.49%	97.68%	95.67%
Rate Base	\$13,047,510	\$12,964,332	\$12,964,332
Rate of Return	11.1%	6.2%	12.0%

\* Finding of Commission in Decision No. 74488.

The following is the closing statement of the Commission staff - Transportation Division:

"The Transportation Division staff has reviewed applicant's cost study and the underlying work papers and it is the opinion of the Transportation Division staff that applicant's showing in this proceeding fairly reflects their cost of operations. I would also like to point out that while, as has been brought out by the evidence, the applicant did not use what I would consider to be a rational method for development of working capital requirements, an independent review of working capital requirements by the staff confirmed the amounts utilized by applicant. With regard to the income tax rate which applicant has applied, it was developed by the Transportation Division staff in the proceeding for Application No. 50030...based on the effective income tax rate paid in the State of California and expanded to provide a Federal income tax rate...and in reviewing applicant's records it is again the opinion of the Transportation Division staff that the rate applicable to the current period would not be less than that used by applicant."

The Transportation Division recommends the granting of the application and the increasing of the minimum parcel rate of 29 cents per package plus 3 cents per pound now maintained in Minimum Rate Tariffs Nos. 1-B, 5, 9-B and 19 to 32 cents per package plus 3 cents per pound to conform with the proposed rate of applicant. It also

asserts that other highway common carriers publish rates for whole-sale parcel delivery transportation which are below the minimum rate levels and comparable to the rates of United Parcel Service. It recommends that these common carriers be authorized and directed to increase such rates in a manner corresponding to the increases in the minimum rates.

California Trucking Association joins in the recommendation of the Transportation Division that the minimum rate tariffs be modified to reflect any increases resulting from this proceeding and that the common carriers maintaining rates based upon the parcel delivery rates in the minimum rate tariffs or upon the rates of applicant be directed to adjust their rates accordingly.

California Manufacturers Association and other interested parties did not oppose the granting of the application nor the recommendations of the Transportation Division.

The Commission staff - Finance and Accounts Division did not offer evidence in this proceeding. In a closing statement it recommended certain methods be utilized for the determination of working cash capital requirements and income taxes different from those utilized by applicant and by the Transportation Division. It also recommends that before adjusting the minimum rates to conform to those of United Parcel Service an examination be made of the operating results of other carriers.

In making its estimates of operating results applicant has followed the procedures, including separations and allocations, suggested by the Transportation Division and approved by the Commission in Decision No. 72241, dated April 4, 1967, in Application No. 49009. It has utilized the procedure followed by the Transportation Division in the determination of estimated income taxes which

that Division asserts is the only way in which interest expense and various other items such as investment credit could be reflected in the California intrastate operation. In Application No. 50030, an engineer of the Commission's staff made a comprehensive lead-lag study of applicant's accounts for the purpose of estimating applicant's requirements for working cash capital. That study is discussed in Decision No. 74488. Applicant's provision in rate base for working cash capital is approximately the same as that found by the Commission to be reasonable. We do not criticize the methods suggested by the Division of Finance and Accounts; however, in this proceeding there is no evidence to support such methods or recommendations. Applicant and the Transportation Division have followed procedures heretofore approved by the Commission and in the absence of any evidence to the contrary we consider such procedures still to be suitable and proper.

We find that:

1. By Decision No. 74488, dated August 6, 1968, applicant was authorized to publish its present rates, which rates were estimated to provide an operating ratio after income taxes of 95.49 percent and a rate of return of 11.1 percent.
2. The foregoing operating results were predicated upon cost levels of April 1, 1968 and earlier.
3. Since April 1, 1968 applicant has incurred increases in operating expenses.
4. For the purposes of rate making in this proceeding the operating results set forth in the preceding tabulation providing an operating ratio after income taxes of 97.68 percent and a rate of return of 6.2 percent under present rates, and an operating ratio after income taxes of 95.67 percent and a rate of return of 12.0

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percent under proposed rates, reasonably represent the results of operation by applicant for a rate year commencing April 1, 1969 under said rates.

5. Said operating results under proposed rates are reasonable for this carrier.

6. No shipper opposed the granting of the authority sought by applicant.

7. The increases resulting from the establishment of the proposed 32 cents per package rate are justified.

8. In proceedings in Cases Nos. 5432, 5435, 5439 and 5441 the Commission has heretofore found that for certain types of wholesale parcel delivery, applicant is the rate-making carrier for the purpose of establishing minimum rates, and has included in certain of the minimum rate tariffs the 29 cents per package rate now maintained by applicant.

9. The just, reasonable and nondiscriminatory minimum rate for such wholesale parcel delivery services to which the 29 cents per package rate is now applicable is, and for the future will be, the 32 cents per package rate proposed by applicant.

We conclude that:

1. The application to establish the proposed 32 cents per package rate on not less than five days' notice should be granted.

2. Minimum Rate Tariffs Nos. 1-B, 5, 9-B and 19 should be amended by separate orders to increase the present 29 cents per package rate to 32 cents.

3. Common carriers now maintaining, under outstanding authorizations permitting the alternative use of common carrier rates, parcel delivery rates comparable to the rates of United Parcel Service, Inc., but otherwise below the minimum rates established by the Commission,

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should be authorized and directed to increase such rates, on not less than five days' notice, to the level of the increased rates of United Parcel Service, Inc., authorized herein, or to the level of the minimum rates specified and established in the minimum rate tariffs, whichever is the lower.

4. Common carriers should be authorized to continue to depart from the long- and short-haul provisions of Section 460 of the Public Utilities Code to the extent necessary to establish the rate increases provided for in the preceding paragraphs.

O R D E R

IT IS ORDERED that:

1. United Parcel Service, Inc. is authorized to establish the increased rates proposed in Application No. 50760. Tariff publications authorized to be made as a result of the order herein may be made effective not earlier than five days after the effective date hereof on not less than five days' notice to the Commission and to the public.

2. The authority hereinabove granted shall expire unless exercised within ninety days after the effective date of this order.

3. Common carriers maintaining, under outstanding authorizations permitting the alternative use of common carrier rates, parcel delivery rates comparable to the rates maintained by United Parcel Service, Inc., but otherwise less than the minimum rates established by the Commission applicable thereto, are authorized and directed to increase such rates to the level of the rates authorized in paragraph 1 hereof, or to the level of the minimum rates specified and established in the Commission's minimum rate tariffs, whichever is the lower. Tariff publications authorized and required to be made by common carriers

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as a result of this ordering paragraph may be made effective not earlier than the fifth day after the publication by applicant made pursuant to the authority granted in paragraph 1 hereof on not less than five days' notice to the Commission and to the public; such tariff publications shall be made effective not later than thirty days after the effective date of the tariff publications made by applicant pursuant to the authority granted in paragraph 1 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.

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

Dated at San Francisco, California, this 20<sup>th</sup> day of MAY, 1969.

*I dissent and will file a separate statement  
Fred P. Monsey*

*William Synoux, Jr.*  
President

*Angela*

*[Signature]*

*[Signature]*

*[Signature]*  
Commissioners



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COMMISSIONER FRED P. MORRISSEY DISSENTING

I dissent. The end result of the action of my colleagues -- an initial increase in rates of about \$1.4 million per year -- may be justified but one could never determine this from the record. The review and investigation of the Commission staff was most superficial and the whole procedure is violative of well-established principles of transportation and utility rate making and regulation. For example, a cursory investigation shows that the number of parcels handled is increasing at the rate of about two and a half to three million a year. At average revenue of 80¢ per parcel (data easily derived from the record), the procedure used thus ignores over two to three millions of dollars of additional revenue that can reasonably be expected in the current year. What expenses, if any, might be associated with this additional revenue is impossible to determine from the facts provided.

In addition, while a 12 percent rate of return after income taxes might be justified under certain conditions, nowhere in the record is any justification offered for this profit rate. The return is all the more open to question when it is noted that United Parcel Service does no outside financing. In fact, all financing is out of retained earnings.

The gross disparities in the procedures of the Commission and its staff in this application and those adopted to protect the public interest in Greyhound applications\* should be readily apparent even to a neophyte.

My colleagues compound their error when they incorporate the increased rates adopted for United Parcel Service into the minimum rate tariffs for the trucking industry\*\* and enforce the rates upon all participating carriers. Are we deluding the public into believing we are their protectors by such procedures?

San Francisco, California

May 20, 1969

\*A. 49658 Greyhound Lines - Elimination of commutation fares and increases in commutation area casual fares. Filed September 1, 1967.

A. 50792 Greyhound Lines - Statewide increase in express rates and main line passenger fares. Filed January 2, 1969.

\*\*Companion orders D. 75693 in C. 5435 (MRT-5), D. 75694 in C. 5439 (MRT 9-B), D. 75695 in C. 5441 (MRT 1-B), and D. 75696 in C. 5441 (MRT-19).

  
Commissioner