

Decision No. 75979**ORIGINAL**

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. 40

And Related Cases

<u>Case No.</u>	<u>Petition No.</u>
5432	540
5433	29
5435	121
5436	92
5437	182
5438	71
5439	90
5440	61
5441	162
5603	68
5604	19
6008	9
7783	18
7857	24
8808	3

(Filed April 25, 1969; Amended
 May 12, 1969 and May 13, 1969)

In the Matter of Application for)
 authority to make effective)
 increases in certain railroad)
 rates and charges.)

Application No. 50757
 (Motion filed June 4, 1969)

A. D. Poe, Richard W. Smith and H. F. Kollmyer, for
California Trucking Association, petitioner.
John MacDonald Smith, for Pacific Southcoast Freight
Bureau, applicant.
Armand Karp and John MacDonald Smith, for various
highway carriers, respondents.
E. J. Bertana, James M. Gallagher, S. A. Moore, John
T. Reed, Eugene R. Rhodes, George H. Roe, and
George B. Shannon, for various shippers and
associations, protestants.
Russell Bevans, Thomas E. Carlton, Ken Delaney,
Ernest E. Gallego, Don Marken, William D. Mayer,
William Mitze, Harry C. Phelan, Jr. and R. M.
Zeller, for various shippers and associations,
interested parties.
Robert W. Walker, for the Commission staff.

O P I N I O N

The California Legislature during its 1969 session enacted Assembly Bill No. 76, which increased motor vehicle fuel taxes one cent per gallon effective June 1, 1969, and, to expire not later than November 30, 1969, to provide funds for highway repairs made necessary by storm damage early this year.

By these petitions California Trucking Association (CTA) asks that all the minimum rate tariffs be amended by increasing the rates to offset the added cost of the emergency fuel tax. The CTA made no proposal as to the form or amount of the increase. By Application No. 50757, the rail lines seek similar increases in certain carload rates that historically have been maintained at the same level as the truck rates for competitive reasons.

Public hearing was held, and the matters submitted, on the petitions and application on June 9, 1969, at San Francisco, before Examiner Turpen.

A rate expert from the Commission's staff presented an exhibit detailing suggested rate increases in the form of surcharges if the Commission should decide that increases should be authorized. He emphasized that the staff was not recommending adoption of the increases, but just supplying this method in the absence of a definite proposal by petitioner. Basically the staff's suggestion is a surcharge amounting to 25 cents per \$100 of transportation charges, with minor variations, and including no surcharges on Minimum Rate Tariffs 7 and 17 (Dump Truck).

Representatives of a number of cement shippers opposed any increase in the cement rates, and the traffic manager of the California Manufacturers Association opposed increases in any of

the tariffs. Their position can be summed up by a quotation from a formal filing of a request for denial by the California Dump Truck Owners Association. It stated: "The said Board felt that the temporary nature of the tax, its minimal impact on dump truck rates in terms of cents per ton, and the confusion resulting to both shippers and carriers from such small rate changes makes [the petition] undesirable if not frivolous. It is obvious that a rate increase premised on the subject cost change would tend to establish a precedent necessitating a decrease on the termination of this cost. It is the considered opinion of this Association's Directors that the Commission, the trucking industry and the public would be better served by spending time and attention on a broader cost and rate spectrum."

Minimum rates set by the Commission are not exact rates. They are the minimum rates to cover the cost of a theoretical reasonably efficient carrier. Minute cost increments, such as represented by the temporary increased fuel tax involved here, cannot accurately be reflected in the costs, as is shown by the staff's suggestions for rate changes. The margin of difference between calculated costs and the rate levels, and the indefiniteness of many cost factors make it impossible for us to find that this temporary minor tax increase removes the minimum rates from the zone of reasonable rates. In the past periodic adjustments of the minimum rates have been made when there have been major cost changes, usually changes in wage levels. At those times other minor cost changes have been taken into account. A change in rates such as sought here would, if granted, set a dangerous precedent. It would mean numerous and frequent petitions for

minimum rate changes every time a minor cost increase is encountered. This is especially true in the case of a temporary increase as is involved here. Not only is the increase minor and temporary, but it would cause confusion.

The CTA cites the increase in the minimum rates authorized in 1965 to cover a similar situation and the subsequent Decision No. 69753, dated October 5, 1965, reducing the minimum rates due to cancellation of the emergency tax, as a precedent to the current action sought. However, there are differences in the conditions. The increases cited by CTA due to the then emergency gas tax increases were considered along with other general cost increases taken into consideration on an annual basis, and this did not involve any rate increase specifically based on the then emergency gas tax increase which would expire, but included it for the entire year that was expected to elapse before the next consideration of increased costs. When the tax was canceled earlier than expected it was obvious that there was an element of cost in the rates that inflated truck costs, and as these are minimum rates, under the statutes where carriers cannot charge less than the minimum rates it was necessary to reduce the minimum rates, as carriers could not reduce their rates to reflect the cancellation of the temporary tax increase without a corresponding decrease in the minimum rates.

However, here it is different. Permitted carriers can impose higher rates due to the temporary tax without authority from the Commission. Common carriers, if they feel it necessary, can seek authority to publish such an increase.

Accordingly, we feel that any increase in the minimum rates, as proposed by petitioner, would set a precedent for minor and frequent unwarranted changes in the minimum rates.

The Commission therefore finds that:

1. The vehicle fuel tax has been increased one cent a gallon effective June 1, 1969, to expire November 30, 1969.
2. The increased costs to truckers have not been shown to be sufficient to affect the minimum rates.
3. Accordingly, the minimum rates should not be changed.

We conclude that the subject petitions should be denied.

In view of the above, the motion in Application No. 50757 should be denied.

O R D E R

IT IS ORDERED that:

1. The following petitions, as amended, filed by California Trucking Association, are denied:

Case No. 5330,	Petition No. 40
Case No. 5432,	Petition No. 540
Case No. 5433,	Petition No. 29
Case No. 5435,	Petition No. 121
Case No. 5436,	Petition No. 92
Case No. 5437,	Petition No. 182
Case No. 5438,	Petition No. 71
Case No. 5439,	Petition No. 90
Case No. 5440,	Petition No. 61
Case No. 5441,	Petition No. 162
Case No. 5603,	Petition No. 68
Case No. 5604,	Petition No. 19
Case No. 6008,	Petition No. 9
Case No. 7783,	Petition No. 18
Case No. 7857,	Petition No. 24
Case No. 8808,	Petition No. 3

C. 5330 (Pet. 40), et al. ds

2. The motion filed June 4, 1969, in Application No. 50757, is denied.

This order shall be effective twenty days after the date hereof.

Dated at San Francisco, California, this 24th day of JULY, 1969.

William S. Brown, Jr.
President
Augustine
Richard P. Mussey
William
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.