

SW /bjh

ORIGINAL

Decision No. 78135

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 highway carriers relating to )  
the transportation of property in )  
Los Angeles and Orange Counties )  
(transportation for which rates are )  
provided in Minimum Rate Tariff 5).

Case No. 5435  
Petition for Modification  
No. 158

(Filed August 14, 1970;  
amended August 31, 1970  
and October 5, 1970)

In the Matter of the Investigation )  
into the rates, rules, regulations, )  
charges, allowances, and practices )  
of all highway carriers relating to )  
the transportation of property in )  
San Diego County (transportation )  
for which rates are provided in )  
Minimum Rate Tariff 9-B).

Case No. 5439  
Petition for Modification  
No. 125

(Filed August 14, 1970;  
amended August 31, 1970  
and October 5, 1970)

(Appearances--See Appendix A)

INTERIM OPINION

Petitioner, the California Trucking Association, seeks increases of about 9 to 13 percent in the rates in Minimum Rate Tariffs 5 and 9-B (MRT 5, MRT 9-B). MRT 5 sets forth rates which the Commission has prescribed as minimum rates for the transportation of general commodities by for-hire highway carriers within the Los Angeles Drayage Area and the Metropolitan Los Angeles Zone, defined areas in and about the City of Los Angeles.<sup>1/</sup> MRT 9-B sets

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<sup>1/</sup>The Los Angeles Drayage Area consists of the area which lies within a radius of about seven miles from central Los Angeles. The Metropolitan Los Angeles Zone consists of Los Angeles and Orange Counties. MRT 5 sets forth hourly rates which apply within the Metropolitan Los Angeles Zone. Otherwise the rates in MRT 5 apply only within the Los Angeles Drayage Area.

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forth minimum rates for the transportation of general commodities by for-hire highway carriers within the San Diego Drayage Area, a defined area in and about the City of San Diego.

Petitioner also asks (a) that common carriers who assess rates which are greater than the minimum rates, or who maintain provisions which are more restrictive than, and thereby produce greater charges than, the minimum rates, be authorized to effect corresponding increases in their rates and charges; (b) that common carriers be authorized to effect corresponding increases in their rates and charges for the transportation of commodities which are not subject to the provisions of MRT 5 and MRT 9-B; and (c) that common carriers be authorized to depart from the long- and short-haul prohibitions of Article XII, Section 21 of the State Constitution, and of Section 460 of the Public Utilities Code, to the extent necessary to carry into effect said rate increases.

Public hearings on Petition for Modification No. 158 in Case No. 5435 were held before Examiner Abernathy at Los Angeles on October 27, 28 and on November 17 and 18, 1970.<sup>2/</sup> Public hearings on Petition for Modification No. 125 in Case No. 5439 were held before Examiner Abernathy at San Diego on October 13 and November 6, 1970, and at Los Angeles on November 16 and 18, 1970. Evidence was presented in both matters by petitioner's assistant director of research and by an engineer and by a rate expert of the Commission's staff. On November 18, 1970, petitioner presented motions that the Commission order interim

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<sup>2/</sup>

Public hearing on Petition No. 158 was also called on November 6, 1970, in San Diego, but was adjourned to November 17, 1970, without the receipt of evidence.

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increases, to become effective January 1, 1971, in the minimum rates involved, and that in other respects further hearings be held to complete development of the record sufficiently to permit full disposition of the issues. The Commission's staff representatives joined in this motion.

These two matters involve substantially similar issues. Although separately heard, they are herein consolidated for decision on the question of interim rate increases pursuant to petitioner's and the staff's motions.

The substance of petitioner's showing in support of the sought rate increases is as follows:

The for-hire highway carriers who are subject to the provisions of MRT 5 and 9-B are confronted with substantial increases in their operating costs as a result of wage increases which they have had to grant their drivers and various other employees, effective January 1 and July 1, 1971. The combined effect of these increases is that the carriers' labor costs for 1971 will be about 12 percent higher than their present costs. Furthermore, in conformity with past experience, corresponding increases will be realized in certain other costs also. As applied to the various services to which the rates in MRT 9-A apply, the increases in labor and other costs will result in increases of about 8 to almost 13 percent in the carriers' total costs of performing said services.<sup>3/</sup> The margin between the

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<sup>3/</sup> The differences in the increases in total costs are due to the fact that the ratio of labor costs to total costs varies with size of shipment and length of haul. Hence, a uniform increase in labor costs would be reflected by different increases in total costs, depending upon the amount of labor involved in the haul in question.

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carriers' present revenues and costs is not sufficient to enable the carriers to absorb the cost increases. The sought rate increases are designed to permit the carriers to recover the increases in their operating costs plus a provision for profit.

The evidence which was presented by the Commission's staff witnesses is similar to that of petitioner in that the staff witnesses also undertook to show the amount of the carriers' cost increases and the increases in the minimum rates that would be necessary to compensate for said cost increases. The staff's presentation with respect to adjustments in the minimum rates for the San Diego area was developed on the same basis as that of petitioner, namely, the carriers' labor and related cost increases during 1971. With respect to adjustments in the minimum rates for the Los Angeles area, however, the staff's presentation was limited to the labor and related cost increases which will become applicable on January 1, 1971. The limitation of the staff's presentation to the January 1, 1971, cost increases was on the grounds that, in a different proceeding, Case No. 6322, the Commission has before it proposals which, if adopted, would result in a complete supersedure of MRT 5, and that, as a consequence, changes in MRT 5 should be confined to those which are impelled by immediate circumstances.

According to the staff's evidence, the increases in labor and related costs which the carriers in the San Diego area will experience in 1971 will raise the carriers' 1971 operating costs by 8.64 to 9.15 percent over the 1970 level of operating costs. These amounts are from .75 to 2.65 percent less than the

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corresponding cost forecasts of petitioner. In contrast to petitioner's showing that rate increases of 8 to 13 percent are necessary to compensate for the increased costs, the staff's showing is that rate increases of 7 to 9 percent would be sufficient to compensate for the increased costs.

The staff's evidence regarding the carriers' costs in the Los Angeles area is to the effect that the increases in labor and related costs as of January 1, 1971, will raise the carriers' total operating costs by 7.5 to 7.7 percent and that, in general, increases of 7 percent in the rates in MRT 5 would be sufficient to compensate for the increased costs.<sup>4/</sup>

As a consequence of the differences between petitioner's presentation, on the one hand, and that of the staff, on the other hand, petitioner asked for further hearings for the purpose of presenting rebuttal evidence and otherwise developing the record. It asserted, however, that, pending the time that the further hearings can be held and decision on the full record can be reached and become effective, interim increases in the minimum rates should be prescribed in order to enable the carriers to meet the cost increases which will become effective January 1, 1971. The interim increases which petitioner requests are 7.71 percent in the rates and charges in MRT 5 and 9 percent in the rates and charges in MRT 9-B.

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<sup>4/</sup> No provision for profit was included in the rate increases recommended by the rate witness. The applicable profit factor, if added, is about 7 percent of the percent of increases in the rates.

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The joinder of the staff in petitioner's request for the prescription of interim increases was subject to a proviso that the increases be limited to 7 percent in the rates and charges in MRT 5 and to 8 percent in the rates and charges in MRT 9-B.

The representative of the Highway Carriers Association supported without preference the interim increase proposals.

The granting of interim rate relief is generally confined to instances where it is shown that the carriers' needs for additional revenues cannot be reasonably met by ordinary procedures. It appears that such is the situation here. In view of the magnitude of the cost increases that will become applicable to the carriers' operations as of January 1, 1971, the carriers should be afforded some relief therefrom pending the completion of the hearings on these matters and decision thereon. The interim rate increases should be limited to those which are unequivocally justified.

On this basis it appears that the increases which should be prescribed are 7-1/2 percent with respect to the rates and charges in MRT 5 and to 8 percent with respect to the rates and charges in MRT 9-B.<sup>5/</sup>

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<sup>5/</sup> These conclusions do not extend to the following: charges under the alternative application of common carrier rates, C.O.D. fees, charges for delayed delivery of shipments, and parcel rates. Petitioner excepted said charges, fees and rates from its rate increase proposals. Accordingly, our findings and order herein will not apply thereto.

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Inasmuch as the rate recommendations of petitioner and of the Commission's staff representatives concerning the rates and charges in MRT 9-B were developed upon both the cost increases of January 1, 1971, and of July 1, 1971, it is evident that the interim rate increases which petitioner and the staff propose are higher than those which would apply were they developed only on the cost increases of January 1, 1971. Since the primary purpose of the sought interim rate increases is to provide relief from the most immediate cost increases -- those which will become effective January 1, 1971 -- the lower increase of 8 percent in the rates in MRT 9-B which was recommended by the Commission's staff representatives appears sufficient for this purpose. This recommendation should be adopted.

The increases which are hereinafter prescribed in the rates in MRT 5 and MRT 9-B will apply to highway permit carriers (radial highway common carriers and highway contract carriers). They will apply also to various common carriers subject to Part I of the Public Utilities Code to the extent that said carriers are subject to the provisions of MRT 5 and MRT 9-B. Said common carriers will be authorized and directed to make corresponding increases in their tariff rates. However, such authorization may not be utilized by said common carriers to maintain differentials which result in rates and charges which are higher, in

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volume or effect, than the rates and charges in MRT 5 and MRT 9-B as the case may be.

The evidence which was submitted in these matters relates only to the rates and charges in MRT 5 and MRT 9-B. Petitioner did not present any evidence to support its requests for increases in common carrier rates and charges which exceed, or exceed in effect, the rates and charges in said minimum rate tariffs. Hence, there is no evidentiary basis to justify increases in rates and charges which are higher than the rates and charges which apply as minimum.

The rate increase authority which petitioner seeks in connection with exempt commodities would apply to the rates of common carriers for the transportation of exempt commodities within the San Diego Drayage Area, within the Los Angeles Drayage Area, and (with respect to said transportation under hourly rates) within the Los Angeles Metropolitan Zone.<sup>6/</sup> Petitioner did not submit evidence relative to the costs which the carriers incur in the transportation of the exempt commodities or the level and form of the rates which the carriers assess for said transportation. Nevertheless, where the exempt commodities are being transported by the carriers under the minimum class or hourly rates, it appears that as increases are made in the minimum rates corresponding increases should be made in the rates for the exempt commodities in order to avoid rate discrimination of the type prohibited by Article XII, Section 21 of the State Constitution and by Section 453

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<sup>6/</sup> The commodities which are exempted from the rates in MRT 5 are listed in Items Nos. 40 and 41 of the tariff. The commodities which are exempted from the rates in MRT 9-B are listed in Items Nos. 50 and 51 of the tariff.



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of the Public Utilities Code. To this extent the sought increases in the rates for the exempt commodities should be granted. In other respects decision on the requests should be deferred pending the receipt of whatever showings petitioner may wish to make in this regard at the further hearings to be held in these matters.

#### Findings

Upon consideration of the facts and circumstances of record the Commission finds that:

1. For-hire highway carriers who are engaged in transportation subject to the provisions of MRT 5 and/or MRT 9-B will experience substantial increases in their operating costs as of January 1, 1971, and as of July 1, 1971.
2. In relation to the carriers' costs of service subsequent to January 1, 1971, the present rates in MRT 5 and MRT 9-B are unreasonably low and insufficient.
3. The needs of the carriers for increased revenues to compensate for increases in operating costs which the carriers will experience as of January 1, 1971, requires the prescription of interim increases in the rates in MRT 5 and MRT 9-B pending completion of the hearings in these matters and decision thereon.
4. The increased minimum rates and charges which are prescribed in the following order have been shown to be justified.
5. Pending such modifications and changes as may ensue as a consequence of the further hearings in these matters, the increased minimum rates and charges are, and will be, just, reasonable and nondiscriminatory minimum rates and charges for the transportation and related services to which they will apply.

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6. To the extent that the provisions of MRT 5 and MRT 9-B have been found heretofore to constitute reasonable minimum rates, rules and regulations for common carriers as defined in the Public Utilities Act, said provisions, as hereinafter adjusted, are, and will be, reasonable minimum rate provisions for said common carriers. To the extent the existing rates and charges of said common carriers for the transportation involved are less in volume or effect than the minimum rates and charges herein designated as reasonable for said carriers, such rates and charges of said carriers are hereby found to be, now and for the future, unreasonable, insufficient and not justified by the actual competitive rates of competing carriers or by the costs of other means of transportation.

7. Increases in the class and hourly rates and in the minimum charges and accessorial charges of common carriers for the transportation of exempt commodities are justified to the extent that increases in said rates and charges for said commodities are authorized by the following Order.

Increases as hereinafter provided in the rates and charges in MRT 5 and in MRT 9-B may result in the applicability of higher rates and charges within the Los Angeles and San Diego Drayage Areas than those which are concurrently applicable under other minimum rate tariffs of the Commission for like transportation between points within said drayage areas, on the one hand, and points outside said drayage areas, on the other hand. In order that common carriers may not be chargeable with violations of the so-called long- and short-haul prohibitions of Article XII,

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Section 21 of the State Constitution and of Section 460 of the Public Utilities Code in carrying out minimum rate orders of the Commission, the Commission also finds as a fact that departures by common carriers from said long- and short-haul prohibitions are justified to the extent hereinafter provided.

### Conclusions

The Commission concludes that:

1. The rates and charges in MRT 5 and MRT 9-B should be increased as hereinafter provided in order that said rates and charges may be just, reasonable and nondiscriminatory minimum rates and charges for the transportation and related services to which they apply.
2. Common carriers should be authorized to increase their rates for the transportation of exempt commodities to the extent hereinafter provided.
3. Common carriers should be authorized to depart from the long- and short-haul prohibitions of Article XII, Section 21 of the State Constitution and of Section 460 of the Public Utilities Code to the extent hereinafter provided.

### INTERIM ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff 5 (Appendix A of Decision No. 32504, as amended, is further amended by incorporating therein, to become effective January 1, 1971, Supplement 6 attached hereto, which supplement by this reference is made a part hereof.

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2. Minimum Rate Tariff 9-B (Appendix A of Decision No. 67766, as amended) is further amended by incorporating therein, to become effective January 1, 1971, Supplement 5 attached hereto, which supplement by this reference is made a part hereof.

3. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to said Decision No. 32504, as amended, or Decision No. 67766, as amended, are directed to establish in their tariffs the rate increases necessary to conform to the further increases herein in the rates and charges established by said decisions.

4. Except as is otherwise provided in paragraph 6 below, the increased class and hourly rates and the increased minimum charges and accessorial charges which, in effect, are established pursuant to ordering paragraph 1 hereof are authorized as rates and charges to be assessed by common carriers subject to Decision No. 32504, as amended (except common carriers by railroad with respect to their carload rates and charges and common carriers by vessel), for the transportation of the commodities listed in Items Nos. 40 and 41 of MRT 5 provided that (a) said transportation is performed at class rates, including related minimum charges and accessorial charges, between origins and destinations which are both located within the Los Angeles Drayage Area (as described in MRT 5), or (b) the transportation is performed at hourly rates, including related minimum charges and accessorial charges, between origins and destinations which are both located within the Los Angeles Metropolitan Zone (as described in MRT 5).

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5. Except as is otherwise provided in paragraph 6 below, the increased class and hourly rates and the increased minimum charges and accessorial charges which, in effect, are established pursuant to ordering paragraph 2 hereof are authorized as rates and charges to be assessed by common carriers subject to Decision No. 67766, as amended (except common carriers by railroad with respect to their carload rates and charges and common carriers by vessel), for the transportation of the commodities listed in Items Nos. 50 and 51 of MRT 9-B provided that (a) said transportation is performed between origins and destinations which are both located within the San Diego Drayage Area (as described in MRT 9-B).

6. The authority which is granted by ordering paragraphs 4 and 5 hereof does not apply:

- (a) To transportation for which minimum rates apply in accordance with the provisions of other minimum rate tariffs of the Commission; and
- (b) To transportation which is being performed by dump or tank vehicles.

7. Tariff publications required or authorized to be made by common carriers as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier than January 1, 1971, on not less than two days' notice to the Commission and to the public; that such tariff publications as are required shall be made effective not later than January 1, 1971, and that 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.

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8. Common carriers and other transportation companies, in establishing and maintaining the increased rates and charges provided by this order, are authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California, and Section 460 of the Public Utilities Code, to the extent necessary to assess said increased rates and charges prescribed or authorized herein. Common carriers, in publishing rates under the authority conferred in this ordering paragraph, shall make reference to this order and to prior orders authorizing long- and short-haul departures.

9. In all other respects said Decisions Nos. 32504 and 67766, as amended, shall remain in full force and effect.

Further hearings shall be held on Petition No. 158 in Case No. 5435 and on Petition No. 125 in Case No. 5439 for the purposes indicated in the preceding Opinion and at times and places to be determined.

The effective date of this order shall be  
December 28, 1970.

Dated at San Francisco, California,  
this 22nd day of DECEMBER, 1970.

*I will file a  
concurring opinion*

*J. P. [Signature]*  
*Chairman*

*[Signature]*  
Chairman  
*[Signature]*  
*[Signature]*  
*[Signature]*  
Commissioners

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Appendix A

Appearances

Case No. 5435

Richard W. Smith, attorney at law, A. D. Poe, attorney at law, and H. F. Kollmyer, for California Trucking Association, petitioner.  
Clyde Hoagland, for Redway Truck & Warehouse Co., respondent.  
Don B. Shields, for Highway Carriers Association, interested party.  
James Quintrall, for Los Angeles Warehousemen's Association, interested party.  
Raymond D. Vinick, for Cannery League of California and Hunt-Wesson Foods, Inc., interested parties.  
R. C. Fels, for Furniture Manufacturers Association of California, interested party.  
Jerry Kerns, for Western Motor Tariff Bureau, Inc., interested party.  
Fred P. Hughes, John R. Laurie, and Norman B. Haley, for the Commission's staff.

Case No. 5439

Richard W. Smith, attorney at law, A. D. Poe, attorney at law, and H. F. Kollmyer, for California Trucking Association, petitioner.  
John R. Chamberlain, for Aztec Transportation Co., Inc., respondent.  
Rodney Starkey, for Pacific Messenger, respondent.  
A. Davis (by J. B. Tweed), for California Manufacturers Association, interested party.  
Fred P. Hughes and Norman Haley, for the Commission's staff.

(End of Appendix A)

SPECIAL INCREASE SUPPLEMENT

SUPPLEMENT 6

(CANCELS SUPPLEMENT 5)

(Supplement 6 Contains All Changes)

TO  
MINIMUM RATE TARIFF 5  
NAMING  
MINIMUM RATES AND RULES  
FOR THE  
TRANSPORTATION OF PROPERTY OVER THE  
PUBLIC HIGHWAYS WITHIN  
DEFINED TERRITORY IN LOS ANGELES COUNTY

AND

MINIMUM VEHICLE UNIT RATES AND RULES  
APPLICABLE UNDER  
SPECIFIED CONDITIONS

FOR

TRANSPORTATION WITHIN LOS ANGELES  
AND ORANGE COUNTIES

BY

RADIAL HIGHWAY COMMON CARRIERS  
HIGHWAY CONTRACT CARRIERS

AND

CEMENT CONTRACT CARRIERS

APPLICATION OF SURCHARGE  
(See Page 2 of This Supplement)

Decision No.

78135

EFFECTIVE

Issued by the  
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
State Building, Civic Center  
San Francisco, California 94102



## APPLICATION OF SURCHARGES

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in this tariff and increase the amount so computed by 7½ percent.

EXCEPTION.—The surcharge herein shall not apply to:

- (a) Railhead to railhead charges used under the provisions of Item 140 other than the charges provided in subparagraphs a, b, c and d of said item;
- (b) C.O.D. charges in Item 152;
- (c) Storage charges in paragraph (a) of Item 170; and
- (d) Parcel rates in Item 325.

THE END

o Increase, Decision No. 78135

SPECIAL INCREASE SUPPLEMENT

SUPPLEMENT 5

(CANCELS SUPPLEMENT 4)

(Supplement 5 Contains All Changes)

TO

MINIMUM RATE TARIFF 9-B

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF PROPERTY OVER THE

PUBLIC HIGHWAYS WITHIN A

DEFINED SAN DIEGO DRAYAGE AREA

BY

HIGHWAY CONTRACT CARRIERS

CEMENT CONTRACT CARRIERS

AND

RADIAL HIGHWAY COMMON CARRIERS

APPLICATION OF SURCHARGE  
(See Page 2 of This Supplement)

Decision No. 78135

EFFECTIVE

Issued by the  
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
State Building, Civic Center  
San Francisco, California 94102

## APPLICATION OF SURCHARGE

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in this tariff and increase the amount so computed by 8 percent.

EXCEPTION.--The surcharge herein shall not apply to:

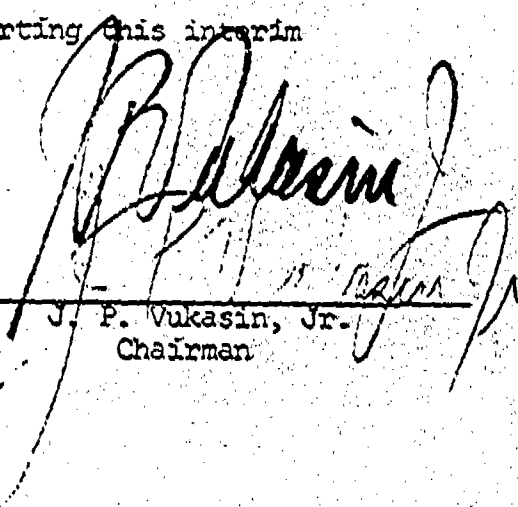
- (a) Railhead to railhead charges used under the provisions of Item 110 other than the charges provided in subparagraphs a, b, c and d of said item;
- (b) C.O.D. charges in Items 181 and 182; and
- (c) Parcel rates in Item 420.

THE END

o Increase, Decision No. 78135

J. P. VUKASIN, JR., CHAIRMAN, CONCURRING OPINION

I can concur in the foregoing interim opinion, despite the fact that it is essentially an offset against an inflationary wage settlement, only because eight days of hearing have produced a record supporting this interim increase.



J. P. Vukasin, Jr.  
Chairman

San Francisco, California

December 22, 1970