

Decision No. 79340

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 common carriers, highway)
 carriers and city carriers relating)
 to the transportation of petroleum)
 and petroleum products in bulk)
 (commodities for which rates are)
 provided in Minimum Rate Tariff No.)
 6-A).

Case No. 5436
 Petition for Modification
 No. 98
 (Filed May 4, 1970)

J. C. Kaspar, H. Kollmyer and A. D. Poe (Attorney
 at Law), for California Trucking Association,
 petitioner.

Earl W. Gerloff, for Humble Oil and Refining
 Company, protestant.

Charles G. Adler, for Phillips Petroleum Co.;
John W. Bohannon, for Mobil Oil Corp., Cleo
Evans, for Evans Tank Line, Inc.; Robert S.
Greitz, for Western Motor Tariff Bureau, Inc.;
Ralph C. Snyder, for V. B. Morgan Co.; and
W. J. Willis, for Hitchcock Transportation
 Co.; interested parties.

Gary E. Haas, for the Commission staff.

O P I N I O N

Minimum Rate Tariff 6-A names minimum rates and rules for the transportation of petroleum and petroleum products in bulk in tank vehicles by petroleum contract carriers between points in the State of California. By this petition, California Trucking Association (CTA) sought revision of various rules and certain accessorial charges in the above tariff. Petitioner asked that common carriers be directed to establish in their respective tariffs such modifications as may be prescribed by the Commission's order in this proceeding, including relief from the long- and short-haul provisions of Section 460 of the Public Utilities Code.

Petitioner proposed to: (1) amend the commodity descriptions by relating them to their corresponding descriptions in National Motor Freight Classification A-11; (2) group such commodities according to homogeneous transportation characteristics; (3) amend various rules to reflect the proposed commodity groupings; (4) revise the estimated weights on various commodities; (5) exclude cash as a form of payment of C.O.D. amounts by restricting such payments to checks or drafts; (6) establish a charge of \$3.00 per collection for collecting and remitting amounts on C.O.D. shipments; (7) increase from \$2.90 to \$3.75 for each one-quarter hour the charge for detention of carrier's equipment in connection with spreading service; (8) increase from \$6.70 to \$7.00 per hour the charge for picking up and delivering extra equipment; (9) increase from \$7.70 to \$8.50 the stop-in-transit charge for partial loading or unloading; and (10) cancel certain rates on asphalt, carbon black oil and petroleum crude residum.

All of these proposals, except for that involving payment of C.O.D. amounts, were granted by ex parte order by Decision No. 77305, dated June 3, 1970. The proposal on the C.O.D. was set for public hearing. Hearing was held on October 30, 1970, at San Francisco before Examiner Turpen.

Petitioner's proposal in regard to C.O.D. collections is that all such collections be by check or draft, and not in cash. Petitioner's witness pointed out the increasing incidence of truck drivers being held up and robbed of cash in their possession. Petitioner's proposal is that the C.O.D. rule specifically require that payment be made by a check or draft payable to the consignor.

Humble Oil and Refining Company (Humble Oil) objects to this proposal on the basis that as it is fairly new in the retail trade in California, it has many dealers who do not have the capital or credit rating to pay by check or draft, and accordingly requests that they be permitted to pay the C.O.D. charges by submission of credit card sales slips, which are non-negotiable except between the

service station and the oil company. The record shows that Humble Oil is the only major oil company in California operating in this manner, so the problem is unique with them. It is apparent that Humble Oil has a special problem that the other oil companies do not face. It is only fair that we recognize Humble Oil's special problem. While we recognize the collection problems of the other companies, we must recognize those of Humble Oil and provide for them.

Humble Oil supported petitioner's proposal, provided that the following exception was included to take care of its situation:

"EXCEPTION: The carrier may accept executed credit card sales invoices made payable to the consignor and the carrier shall not be liable if the invoice is dishonored, except for the exercise of due care and diligence in securing and forwarding such credit card sales invoices to the consignor."

Petitioner objected to this wording as putting too much liability on the carrier. Petitioner's witness explained that this exception could conceivably require the carrier to add all the credit slips before accepting them. He said that the CTA would be willing to accept a provision such as used in Oregon and Washington which provides for the acceptance of credit slips with no liability of the carrier for the validity or value of the credit slips. This provision reads as follows:

"...properly itemized credit card slips, in which case the carrier shall not be liable for the validity of...nor for the value of the credit card slips."

The Commission finds that the use of credit card slips in lieu of checks or drafts is sometimes necessary, and the tariff rules should so provide. We find further that the C.O.D. rule proposed by CTA, as modified by the proposals discussed above, will be reasonable. We conclude that the petitioner's proposal, as modified above, should be adopted. The resulting minimum rates

and charges will be just, reasonable and nondiscriminatory minimum rates and charges for the transportation involved, and to the extent that increases are involved, such increases are justified.

The charge authorized herein for C.O.D. shipments is consistent with the purposes of the Federal Government's economic stabilization program but whether or not it is in the lower zone of reasonableness is not known. There was no charge being made for collecting and remitting amounts on C.O.D. shipments, hence this is a new rate based on the cost of providing such service.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 6-A (Appendix A of Decision No. 67154, as amended) is hereby further amended by incorporating therein to become effective December 28, 1971, Third Revised Page 13 and Third Revised Page 14, also attached hereto, which pages by this reference are made a part hereof.
2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision No. 67154, as amended, are hereby directed to establish in their tariffs the rates and provisions necessary to conform with the further adjustments ordered herein.
3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff 6-A are authorized to increase such rates by the same amounts authorized for Minimum Rate Tariff 6-A rates herein.
4. Common carriers maintaining rates on the same level as Minimum Rate Tariff 6-A rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 6-A are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff 6-A rates herein.

5. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 6-A are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff 6-A rates herein.


6. 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 shall be made effective on not less than ten days' notice to the Commission and to the public.

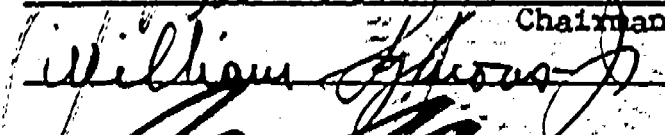
7. Common carriers, in establishing and maintaining the rules and charges authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rules and charges published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

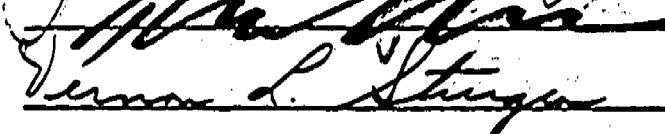
8. In all other respects Decision No. 67154, as amended, shall remain in full force and effect.


This order shall become effective twenty-four days after the date hereof.

Dated at San Francisco, California, this 22nd day of NOVEMBER, 1971.



Chairman






Commissioners

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">COLLECT ON DELIVERY (C.O.D.) SHIPMENTS (Items 130 and 131)</p> <p>§1A Collect On Delivery (C.O.D.) shipment means a shipment upon which the consignor has attached, as a condition of delivery, the collection (by the carrier making delivery) of a specific sum in the form of a check or draft and the return of said check or draft to the consignor or other payee designated by the consignor. Such shipments shall be subject to the following conditions:</p> <p>*01. Except as otherwise provided in this item, collection of C.O.D. amounts by the carrier will be limited to pickup or receipt of a check or draft made payable to the consignor or other payee so designated on the shipping order or Bill of Lading. Under no circumstances may a carrier accept cash or other form of tender nor may he accept a check made payable to himself or his agent. (See Exception)</p> <p>EXCEPTION.--The carrier may accept executed credit card sales invoices made payable to the consignor, in which case the carrier shall not be liable for the validity nor for the value of the credit card slips.</p> <p>*2. Consignor shall indicate on the Bill of Lading or shipping document the precise name and mailing address of the payee of the C.O.D. amount.</p> <p>3. No carrier shall handle C.O.D. shipments unless and until it has on file with the Commission a good and sufficient bond in such form as the Commission may deem proper, in a sum of not less than Two Thousand Dollars (\$2,000). The principal amount of the bond of any particular carrier may be increased from time to time where the Commission finds that the public interest so requires.</p> <p>4. The bond required by paragraph 3 hereof shall be filed by the carrier as principal and by a qualified surety insurer, authorized to do business in the State of California, as surety, payable to any person or persons to whom any amount may be due on any C.O.D. shipment transported by the carrier and not remitted to the person or persons to whom it is due within 10 days after delivery of any such C.O.D. shipment; that each bond filed pursuant to the foregoing shall specify the extent to which the carrier's operations are covered thereby; that such a bond may cover more than one operative authority held by the same carrier; that when a carrier with such a bond on file with the Commission obtains additional operative authority, said bond shall be revised or reissued to show whether or not the additional operative authority is covered thereby; and that the name of the carrier's surety company in any bond filed pursuant hereto will be made public by the Commission upon reasonable request therefor.</p> <p>5. The term of the bond shall include: that any person or persons to whom an amount may be due on any C.O.D. shipment transported by a carrier and not remitted within 10 days after delivery of said shipment may file a claim therefor with the surety; that upon the filing of the claim, the surety shall notify the Commission and the carrier in writing of such filing; that such notification to the Commission shall be addressed to the Public Utilities Commission of the State of California at its office in San Francisco; that suit against the surety shall be commenced within one year after the date the shipment was tendered to the carrier; and that the surety waives any rights it may have under Section 2845 of the Civil Code of the State of California.</p> <p>6. The bond required herein may be canceled by the surety by written notice to the Public Utilities Commission of the State of California at its office in San Francisco, such cancellation to become effective thirty days after receipt of said notice by the Commission.</p> <p style="text-align: center;">(Continued in Item 131)</p>	<p>(1) 6130</p>
<p>(2) Paragraphs 6, 7 and 8 formerly shown herein transferred to Third Revised Page 14 as paragraphs 7, 8 and 9 of Item 131.</p> <p> § Change) * Addition) Decision No. 79340 o Increase) </p>	
EFFECTIVE	
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">COLLECT ON DELIVERY (C.O.D.) SHIPMENTS (Concluded) (Items 130 and 131)</p> <p>7. Claims arising from failure to remit C.O.D. moneys may be filed by any person or persons to whom an amount may be due directly against the surety company and any suits against the surety must be commenced within one year from the date the shipment was tendered.</p> <p>8. The name and address of the surety company may be obtained from the Public Utilities Commission, State Building, San Francisco, California 94102.</p> <p>9. The bond prescribed herein shall not be required of carriers while engaged as independent-contractor subhaulers; or carriers operating within lawfully established pickup and delivery limits as agents of a common carrier in the performance for such common carrier of transfer, pickup or delivery services provided for in the lawfully published tariffs of such common carrier.</p> <p>10. Every carrier handling C.O.D. shipments shall:</p> <p>(a) **</p> <p>(b) Establish and maintain a record or records of all C.O.D. shipments in such manner and form as will plainly and readily show the following information with respect to each shipment:</p> <ol style="list-style-type: none"> (1) Number and date of freight bill. (2) Name and address of consignor or other person designated as payee. (3) Name and address of consignee. (4) Date shipment delivered. (5) Amount of C.O.D. moneys collected. (6) Date C.O.D. moneys remitted. (7) Check number or other identification of remittance to payee. <p>(c) Collect the full amount of the C.O.D. moneys at the time C.O.D. shipments are delivered to the consignee and remit all such collections to consignor, or to other persons designated by the consignor on such shipments, promptly and in no event later than 10 days after delivery to the consignee, unless consignor instructs otherwise in writing. All remittances for C.O.D. shipments shall refer to or otherwise identify the C.O.D. shipment or shipments covered by the remittance.</p> <p>(d) **</p> <p>(e) Notify the consignor immediately if a C.O.D. shipment is refused or cannot be delivered on the carrier's initial attempt. Upon instructions from the consignor the carrier may attempt subsequent deliveries, the charge for each such delivery, or attempted delivery, being determined by the applicable freight charges from carrier's terminal to the point of destination, but in no event less than the rate provided for mileages of less than 3 miles. The carrier may also return the shipment to the consignor upon his request, subject to a charge equal to the applicable freight charges on the original outbound movement.</p> <p>11. If, in any particular case, exemption or deviation from any of the requirements herein is deemed necessary by the carrier concerned, the Commission will consider the application of such carrier for such exemption or deviation when accompanied by a full statement of the conditions existing and the reasons why such exemption or deviation is considered necessary.</p> <p>12. A carrier not electing to undertake transportation of C.O.D. shipments shall be deemed to have given notice of such election by not filing the bond provided for herein for carriers handling such shipments.</p> <p>13. The charge for collecting and remitting amounts collected on C.O.D. shipments transported under the provisions of this item shall be \$3.00 per collection.</p>	<p style="text-align: right; vertical-align: middle;">(1) 131</p>
<p>(1) Paragraphs 7, 8 and 9 shown in this item formerly appeared as paragraphs 6, 7 and 8 of Item 130 on Second Revised Page 13.</p> <p> ◊ Change ◊ Increase * Addition ** Eliminated </p>	<p>Decision No. 79340</p>
EFFECTIVE	
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA