

ORIGINAL

Decision No. 79483

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 any and all commodities between and within all points and places in the State of California (including, but not limited to, transportation for which rates are provided in Minimum Rate Tariff No. 2).

Case No. 5432
Petition for Modification
No. 665
(Filed August 13, 1971;
Amended September 1, 1971
and September 13, 1971)

In the Matter of the Application of Pacific Southcoast Freight Bureau for authority to make effective increases in certain railroad rates and charges.

Application No. 52834
(Filed August 31, 1971;
Amended September 14, 1971)

(Appearances are shown in Appendix A)

INTERIM OPINION

Minimum Rate Tariff 2 (MRT 2) contains statewide minimum rates for the transportation of general commodities by highway permit carriers. Highway common carriers and express corporations are required to maintain rates no lower in volume or effect than said minimum rates. Rail carriers are required to maintain less-carload rates no lower in volume or effect than the less-truckload rates in said tariff.

The last general increase in MRT 2 rates and charges was made effective January 1, 1971, pursuant to Decision No. 78030 dated December 18, 1970, in Case No. 5432, Petition No. 596. Said adjustment reflects the average wages and other costs incurred by highway carriers during the year 1971.

In Petition No. 665, California Trucking Association (CTA) seeks a general increase in the minimum rates in MRT 2 to reflect therein the increased wages, fringe benefits, and related payroll expenses (including taxes) which will become effective in the 1972 calendar year. CTA requests that the increases sought in MRT 2 rates and charges be made effective January 1, 1972, the date that highway carriers will incur increased wage costs resulting from previously negotiated collective bargaining agreements with Teamster Unions. In Application No. 52834, the Pacific Southcoast Freight Bureau (railroads) seeks on behalf of the California railroads, increases in the less-carload minimum charges in Item 205-U of Pacific Southcoast Tariff Bureau Tariff No. 1016, and in accessorial labor charges in Item 220-E and split delivery charges in Item 320-E of Pacific Southcoast Tariff Bureau Tariff No. 294-F. The increases sought in Application No. 52834 are of the same magnitude as the corresponding charges sought in Petition No. 665.

Public hearing in these matters was held before Examiner Mallory at San Francisco on September 15 and November 8, 11, 15 and 17, 1971 in San Francisco and September 21, 1971 in Los Angeles. The matters were submitted for interim relief on November 17, 1971.

The Executive Order of the President of the United States, announced August 15, 1971, imposed a freeze on price and wage increases for a nety days (until November 13, 1971). Upon expization of said freeze, wages and prices are allowed to be increased to the extent provided in the rules and regulations governing economic stabilization.^{1/}

^{1/} As published in the Federal Register Vol. 36, No. 220, Saturday, November 13, 1971.

At the hearing on November 17, CTA made a motion that the proceedings be submitted for the purpose of considering CTA's and the railroads' requests for interim relief; that interim relief be granted effective January 1, 1972 in the form of a surcharge supplement; and that the matters be set for hearing when it is certain whether or not additional wage increases effective July 1, 1972 are within the federal government guidelines and rules governing economic stabilization. The CTA request for interim relief encompasses highway carrier wage increases effective July 1, 1971 (cost of living) and January 1, 1972, pursuant to existing three-year wage contracts with Teamster Unions.^{2/}

Evidence was presented on behalf of CTA, the railroads, the Commission staff, Pacific Salt and Chemical Company, the Cannery League of California, Shell Oil Company and Humble Oil and Refining Company.

Cost evidence was developed by CTA's Director of its Division of Transportation Economics and by a Senior Transportation Engineer from the Commission staff. Both witnesses presented studies measuring the impact on total costs of the wage and related payroll increases effective in 1972. Said cost data were compared with total average costs for the year 1971 and the percentage increases in costs between said periods were determined. The cost development of the CTA witness followed the method approved by the Commission in Decision No. 78030 (supra) and in Decision No. 76353, dated October 28, 1969, in Case No. 5432, et al. The Commission staff

^{2/} Teamster Union wage contracts negotiated for the period 1970 to 1973 provide for semi-annual increases for highway carrier employees. Wage increases for the forthcoming year are effective January 1 and July 1, 1972. The current minimum rates reflect the weighted average labor costs for the year 1971, except the cost of living increase of 8 cents per hour effective July 1, 1971.

recommends a different method of cost calculation.^{3/} Except for the manner in which indirect expenses are determined, the methods used by CTA and the staff are essentially the same. CTA modified its cost study data to show the effect of considering only the cost of living increase effective July 1, 1971 and the wage and fringe benefits increase of January 1, 1972. The CTA studies showed that approximately 80 percent of the cost increases which will be in effect at the close of 1972 will become effective January 1, 1972 or before. No similar calculation was made by the Commission staff.

The CTA witness and a Senior Transportation Rate Expert from the Commission presented exhibits containing proposed rates and charges for application during the year 1972. The witnesses also presented supplemental exhibits setting forth the surcharge increases which are recommended to become effective January 1, 1972 pursuant to the request for interim relief. CTA's proposal in Exhibit 665-20 assertedly reflects the average percentage increases in costs for various weight groups as measured in its cost studies. The surcharge proposal of the Commission staff assertedly reflects wage and price guidelines announced by the federal government, but are not bottomed on cost study information. The staff proposal, in addition to providing lesser increases than CTA's proposal, would exclude from the adjustment certain tariff items which historically have been excluded from offset rate adjustments in past proceedings, or which have the effect of providing duplicative increases.

A representative of the Canners League of California pointed out in his testimony that the interim adjustment for certain

^{3/} CTA studies reflect the "Wage (Cost) Offset" method described in Decision No. 76353; the staff studies reflect the "Wage Offset" method described in that decision.

truckload class rates exceed that which would be applicable under CTA's final proposal. The Cannery League requested that the interim increase not exceed three percent for said truckload rates.

The representative of Pacific Salt and Chemical Company seeks definitive class or commodity rates on salt in bulk to apply in lieu of present class rates and hourly rates, for transportation within the Metropolitan Los Angeles Area. Such issue is not related to the request for interim rate relief and cannot be disposed of in the interim phase of these proceedings.

Representatives of Shell Oil Company and Humble Oil and Refining Company opposed the granting of any rate relief in this proceeding which would be duplicative, or in addition to the rate relief sought by CTA in Case No. 5432, Petition No. 636, and related proceedings involving adjustment of the class and commodity rates in MRT 2 for movements within the Metropolitan Los Angeles Area. No such action will result from the granting of interim relief herein.

Findings and Conclusions

1. Highway carriers subject to collective bargaining agreements with Teamster Unions will incur further wage increases effective January 1, 1972, amounting to 25 cents per hour, and fringe benefit increases amounting to \$1.00 per week in health benefits and \$1.00 per week in welfare benefits.

2. Said wage increases are being made pursuant to existing three-year wage contracts and said increases appear to be permissible within the federal government's economic stabilization rules and guidelines.

3. The existing minimum rates (except woodchips and wood refuse) in MRT 2 reflect the weighted average wages and fringe benefits reflected in Teamster wage contracts applicable during the year 1971, except that the eight-cent per hour cost of living increase effective July 1, 1971, is not included therein. (Woodchips and wood refuse rates are based upon a 1969 level of wage costs.)

4. The wage increases effective January 1, 1972, and the July 1, 1971 cost of living increase referred to above are not reflected in the current minimum rates in MRT 2.

5. To the extent that existing minimum rates do not reflect said wage increases said rates, on January 1, 1972, and thereafter, will be deficient and will be below the level of just, reasonable and non-discriminatory minimum rates.

6. The so-called "Wage Offset" method of cost calculation as described in Decision No. 76353 (70 Cal. P.U.C. 277) is suitable to measure the percentagewise increases in costs for the purposes of determining increases in rates to apply pending a final determination of the issues raised in the proceedings herein, in view of the new "full-scale" cost and rate studies now in progress by petitioner and the staff.

7. Petitioner's cost calculations in Exhibits 665-18 and 665-19 show that the January 1, 1972 level of carrier costs will exceed cost levels underlying existing minimum rates by amounts ranging from 5.68 to 8.23 percent. Said percentage increases should be reduced by an average of one percentage point to reflect the "Wage Offset" method of cost calculation (Exhibit 665-1 versus Exhibit 665-3).

8. The Federal Government's economic stabilization guidelines require that rate increases granted to offset labor cost increases should be the minimum necessary to assure continued and adequate service. The rate increase authorized herein is designed to produce an overall average increase in revenues of 5-1/2 percent, which we find is the minimum necessary to assure continued and adequate service by highway carriers operating in this state, as a group.

9. The increases in revenues resulting from the interim increases authorized herein average 5-1/2 percent.

10. The increases in rates and charges set forth in the interim surcharge supplement attached to the order herein will result in just, reasonable and nondiscriminatory minimum rates and charges to apply pending a final determination of the issues herein, and said increases are justified.

11. The publication by common carriers of foregoing rate increases in the form of a surcharge is justified.

12. To the extent that the provisions of MRT 2 have been found heretofore to constitute reasonable minimum rates and rules 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 that 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, to the same extent the rates and charges of said carriers are, and for the future will be, unreasonable, insufficient and not justified by the actual competitive rates of competing carriers or by the costs of other means of transportation.

13. In addition to the increases in rates and charges in MRT 2, petitioner requests that common carriers be authorized to make corresponding increases in their rates and charges that are more restrictive, or produce greater charges than those contained in MRT 2; that are applicable to transportation of exempt commodities; and that are applicable in connection with all other transportation for which said common carrier rates and charges are based upon the provisions of MRT 2. The increased costs and transportation conditions demonstrated in this proceeding are equally applicable to the aforesaid transportation of common carriers. The sought increases in common carrier rates applicable to said transportation have been shown to be justified.

14. The interim increases in rail rates and charges proposed in Application No. 52834 are justified.

15. Where common carriers have been heretofore authorized to depart from the so-called long- and short-haul prohibitions of Article XII, Section 21, of the Constitution of the State of California and of Section 460 of the Public Utilities Code, such outstanding authorities should be modified, as requested by petitioner, to the extent necessary to carry out the effect of the order herein.

16. The rate increases authorized by the order which follows are consistent with the purposes of the Federal Government's Economic Stabilization Program in that said rates are designed to return to highway carriers only the increased wages and related costs to be incurred

pursuant to labor contracts effective January 1, 1972, and said highway carriers will not receive increased net earnings from said rates.

The Commission concludes that the following interim order should issue and that further hearings should be held with respect to final determination of the issues raised in the petition and application herein.

INTERIM ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision No. 31606, as amended) is further amended by incorporating therein, to become effective January 1, 1972, Supplement 80, attached hereto, which supplement by this reference is made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject to said Decision No. 31606, as amended, are directed to establish in their tariffs the increases necessary to conform with the further adjustments herein of that decision.

3. Any provisions currently maintained in common carrier tariffs which are more restrictive than, or which produce charges greater than, those contained in Minimum Rate Tariff 2, are authorized to be maintained in connection with the increased rates and charges directed to be established by ordering paragraph 2 hereof.

4. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff 2 are authorized to increase such rates by the same amounts authorized for Minimum Rate Tariff 2 rates herein.

5. Common carriers maintaining rates on the same level as Minimum Rate Tariff 2 rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 2 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff 2 rates herein.

6. 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 2 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff 2 rates herein.

7. Pacific Southcoast Freight Bureau, on behalf of the California railroads, is authorized to establish the interim increased rates proposed in Application No. 52834.

8. Common carriers maintaining, under outstanding authorizations permitting the alternative use of rail rates, rates below specific minimum rate levels otherwise applicable on commodities and between the points for which increases are authorized in ordering paragraph 7 hereof, are authorized and directed to increase such rates, on not less than five days' notice to the Commission and to the public, to the level of the rail rates established pursuant to paragraph 7 hereof, or to the level of the specific minimum rates, whichever is the lower. To the extent such common carriers have maintained such rates at differentials above previously existing rail rates, they are authorized to increase such rates by the amounts authorized in ordering paragraph 7 hereof; provided, however, that such increased rates may not be lower than the rates established by the rail lines pursuant to the authority granted in ordering paragraph 7, nor higher than the otherwise applicable minimum rates. Such adjustments shall be made effective not later than thirty days after the effectiveness of the increased rail rates.

9. Except for tariff publications required to be made by ordering paragraph 8 hereof, tariff publications resulting in increases 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, 1972, on not less than five days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than January 1, 1972; as to increases which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

10. 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.

11. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the Commission's tariff publishing rules to the extent necessary to publish said rate increases in the form of a surcharge supplement.

12. Common carriers, to the extent they maintain rates not otherwise specifically referenced in other ordering paragraphs hereof, are authorized to increase such rates by 5-1/2 percent.

13. In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

The effective date of this order shall be ten days after the date hereof.

Dated at Los Angeles, California, this 14th day of DECEMBER, 1971.

William J. ... Chairman
...
Vernon L. Sturgeon
... Commissioners

I dissent. I do not believe the way offset rate increases should be granted

W. ...

APPENDIX A

LIST OF APPEARANCES

Petitioner in Petition No. 665: Richard W. Smith and A. D. Poe, Attorneys at Law, and H. F. Kollmyer, for California Trucking Association.

Applicant in Application No. 52834: Charles Burkett, Richard S. Kopf, and Walt A. Steiger, Attorneys at Law, for Pacific Southcoast Freight Bureau.

Protestants: Earl W. Gerloff, for Humble Oil and Refining Co.; and James L. Raney, for Dart Transportation Service.

Respondents: John Odoxta, for Shippers Encinal Express, Inc.; T. W. Curley, for Western Milk Transport; Ray Mitchell, for System 99; Frank J. Corsello, for Pacific Motor Trucking Co.; John McSweeney and T. R. Dwyer, for Delta Lines; Armand Karp, for Alltrans Express California, Inc.; Ron Davis, for Associated Freight Lines; Joe MacDonald, for California Motor Express, Ltd.; Lee Pfister and Eric Anderson, for Willig Freight Lines; and George Russell, for Russell Truck Co.

Interested Parties: Jess J. Butcher, for California Manufacturers Association; Don C. Newkirk and Don B. Shields, for Highway Carriers Association; Harvey E. Hamilton, for Certain-Teed Products Corporation; William D. Mayer, Howard C. Bailor and Raymond E. Healy, for Canners League of California; Herbert Wolff and Milton A. Walker, for Fibreboard Corporation; J. J. Wynne, for Owens-Illinois, Inc.; R. M. Zaller, for Continental Can Company; Tad Muraoka, for IBM Corporation; Philip G. Blackmore, Jr., for California & Hawaiian Sugar Co.; Patrick F. Murphree, for Traffic Managers Conference of California; R. G. Moon, for Western Motor Tariff Bureau; W. F. Krause and Ben Roth, for Crown Zellerbach Corporation; Harry W. Timmerman, for Zellerbach Paper Company; Richard A. Starr, for Morton Salt Co.; Robert A. Kormel, for Pacific Gas and Electric Company; Charles Gilbert, for Standard Brands; Richard I. Siudzinski, for Kraft Foods; Raymond D. Vinick, for Hunt Wesson Foods, Inc.; R. C. Fels, for Furniture Manufacturers Association of California and California Lamp and Shade Association; Calvin G. Chew and Otha Brooks, for Shell Oil Company; Warren P. Mayhugh, for Mobil Oil Corp.; James Quintrall, for Los Angeles Warehousemen's Association; Frank A. Riehle, Jr., Attorney at Law, for Pacific Salt & Chemical Co.; W. Paul Tarter and M. E. McCune, for William Volker & Company; Kris Morrison, for United Shippers Association; Gordon G. Gale, for The Clorox Company; and Richard Austin and L. D. Olsen, for Kaiser Gypsum Company.

Commission Staff: E. O. Carmody, George H. Morrison and George L. Hunt, for the Commission staff.

SUPPLEMENT 80

(Interim Tariff Supplement Extending Expiration Dates and Supplements 73, 75, 77, 79 and 80 Contain All Changes)

TO

MINIMUM RATE TARIFF 2

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF PROPERTY OVER THE

PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

RADIAL HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

CEMENT CONTRACT CARRIERS

DUMP TRUCK CARRIERS

AND

HOUSEHOLD GOODS CARRIERS

APPLICATION OF SURCHARGES
(See Page 2 of This Supplement)

Decision No. 79483

EFFECTIVE

APPLICATION OF SURCHARGES

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in this tariff (including any surcharges otherwise applicable) and increase the amount so computed as follows:

- (a) By three percent (3%) on charges computed upon rates which are subject to class ratings of 35.1, 35.2, 35.3 and 35.4; also rates in Items 620 and 630;
- (b) By five percent (5%) on charges computed upon rates, other than those included in subparagraph (a) hereof, which are subject to minimum weights of 30,000 pounds, and greater;
- (c) By six percent (6%) on charges computed upon rates subject to minimum weights of 5,000 pounds but less than 30,000 pounds;
- (d) By seven percent (7%) on all other rates and charges.

In computing the amount of the surcharge, fractions of less than one-half cent shall be dropped; fractions of one-half cent or greater shall be increased to one cent.

EXCEPTIONS.-- The surcharges herein shall not apply to:

- (a) Deductions in Item 110;
- (b) Mileage charge in Item 124;
- (c) Storage charges in Item 141;
- (d) Demurrage charge in Item 143;
- (e) Accessorial charges in subparagraph (b) of Item 145;
- (f) Advertising on equipment charge in Item 147;
- (g) Pool shipment charges in Items 177 and 179;
- (h) C.O.D. charges in Item 182;
- (i) Temperature control service charges in Items 185-1 through 187-3;
- (j) Railhead-to-railhead charges used under provisions of Items 200 through 230;
- (k) Column 2 forklift charge in Item 260; and
- (l) Parcel delivery charges in Item 265.

THE END