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Decision No. 79490

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 and highway)
carriers relating to the transpor-)
tation of property in the City and)
County of San Francisco and the)
Counties of Alameda, Contra Costa,)
Lake, Marin, Mendocino, Monterey,)
Napa, San Benito, San Mateo, Santa)
Clara, Santa Cruz, Solano, and)
Sonoma.)

Case No. 5441
Petition for Modification No. 232
(Filed August 13, 1971; Amended
September 1 and 22, 1971)

And Related Matters.)

Case No. 5432
Petition for Modification No. 666
(Filed August 13, 1971; Amended
September 1 and 22, 1971)

Richard W. Smith and A. D. Poe, Attorneys at Law,
and H. F. Kollmyer, for California Trucking
Association, petitioner.
William D. Mayer, for Cannery League of California;
and Jess Butcher, for California Manufacturers
Association, interested parties.
Eugene Q. Carmody and Robert W. Stich, for the
Commission staff.

O P I N I O N

The California Trucking Association (CTA) seeks a wage offset increase of approximately 12 percent in the rates contained in Minimum Rate Tariff 1-B (East Bay Drayage), Minimum Rate Tariff 19 (San Francisco Drayage), and the pool shipment rates named in Minimum Rate Tariff 2 (Statewide).

Public hearing was held on September 27, 1971, before Examiner Gagnon in San Francisco. Evidence was presented by a

transportation analyst employed by the CTA and by the Commission's Transportation Division staff. The matters stand submitted without protest.

The minimum drayage rates involved herein were last generally adjusted, effective January 1, 1971, by Decisions Nos. 78031 and 78032, dated December 8, 1970, in Cases Nos. 5441 and 5432. Said adjustment reflected the weighted average increase in wage costs, plus increases in allied payroll expenses, which occurred during the calendar year 1971. Petitioner contends that, since the rates were last generally adjusted, the cost of transporting property by motor vehicle has increased, and further substantial increases will become effective during 1972 pursuant to current labor agreements with the Teamster Unions. Increases in payroll taxes and workmen's compensation insurance rates are also anticipated. The hourly wage rates are scheduled to be raised 25 cents per hour on January 1, 1972, in addition to an 8 cents per hour cost of living allowance. On July 1, 1972, said wage contracts provide for an additional increase of 25 cents per hour, thereby making a total hourly wage adjustment of 58 cents for the calendar year 1972. Petitioner contends that the increases in labor and allied payroll expenses during 1972 require that the present level of rates, which are predicated upon cost circumstances occurring during 1971, be increased by appropriate wage offset procedures.

On August 15, 1971 the President of the United States issued an Executive Order imposing a suspension on price and wage increases for a period of ninety days. The California Trucking Association fully supports the President's wage and price stabilization program. If such federal economic controls are not lifted or otherwise modified, the CTA states it will withdraw or otherwise amend its Petitions 232 and 666 so as to remain in complete conformity with said federal regulations. In the interim, petitioner seeks Commission consideration of its present rate proposal in the light of current known contingencies.

The CTA presented cost data designed to show the increases which will occur during 1972 in the wage costs and allied payroll expenses reflected in the level of the existing minimum rates. To establish a weighted average of the 1972 wage costs, those increases in wages which become effective with January 1, 1972, were accorded a weight of 46 percent and those occurring as of July 1, 1972 were given a weight of 54 percent. The CTA witness estimates that the weighted average wage increase will amount to 46-1/2 cents per hour during the year 1972. The Commission staff also employed the aforementioned weighting factors in its development of 1972 weighted average wage costs.

The CTA's witness determined the percentage increase in the 1972 weighted average labor costs over the like 1971 cost elements reflected in the existing level of minimum rates. The resulting percentage was then employed as the datum plane for CTA's proposed rate increase. This labor offset procedure is not one of the methods suggested in Decision No. 76353, dated October 28, 1969, (Case No. 5432, Petition 523 et al.) and, accordingly, differs from the "Wage Offset" method employed in the last wage offset rate adjustment authorized by Decisions Nos. 78031 and 78032. This latter procedure, in addition to adjusting the historical cost estimates underlying the minimum rates, assumes that only those expenses included in the indirect expense ratios related to salaries and wages will increase proportionately with the increases in direct labor costs. Except for the sought upward adjustment in pool shipment rates, petitioner's proposed rate increase is predicated upon the total percentage increase in the 1972 weighted average wage costs plus like increases in related payroll expenses. The CTA's witness explained that this procedure was used because the historical cost studies underlying the San Francisco and East Bay Drayage rates were authored by the Commission staff. The labor cost offset method

employed by the CTA is predicated upon the erroneous assumption that all cost elements other than labor, contained in the various cost factors supporting the existing level of rates, are increased at the same rate as the labor cost elements increase. To the extent that the cost elements other than labor do not increase by the same amount as labor, the datum plane resulting under CTA's wage offset method is overstated.

Pursuant to the recently announced Phase II of the federal government's economic stabilization program, petitioner filed, on November 19, 1971, a motion requesting that it now be granted, on an interim basis only, that portion of its current sought rate relief pertaining to the labor cost increases contemplated by carriers as of January 1, 1972. Specifically, the CTA now urges that rates in MRT 1-B, 19 and the pool shipment rates in MRT 2 be made subject to an 8 percent surcharge, in lieu of its initial overall proposal that such rates be increased by 12 percent in order to offset a weighted average increase in carriers' labor costs which are scheduled to occur as of January 1, 1972 and July 1, 1972, respectively. The CTA employed the same labor cost offset procedure in the development of its suggested 8 percent surcharge as was used for the computation of the trucking association's original 12 percent wage offset rate proposal for the year 1972. The former partial relief now sought by the CTA reflects, therefore, the same infirmities previously noted herein in connection with petitioner's latter original rate proposal.

In developing its initial wage offset rate proposal the staff rate witness also used a labor cost offset procedure not heretofore accepted by the Commission. Said procedure was specifically rejected in the last wage offset rate adjustment (Decision No. 78031) in favor of the prior "Wage Offset" method developed and used by the staff. It should be noted, however, that Decision No. 76353 specifically invites wage offset procedures other than those specified therein:

"The ultimate burden of proof as to the proper cost offset method to use in any given situation should rest, in the first instance, with the party presenting the cost offset rate proposal. The Commission should not rigidly harness itself to any single cost offset procedure for adjusting its minimum rates and thereby preclude the presentation of evidence in justification of other desired cost offset proposals."

In this proceeding, the staff cost witness adopted the previously accepted "Wage Offset" method for determining the percentage increase, when the 1972 weighted average labor and allied payroll expenses are substituted for the like 1971 cost data, in the underlying historical cost studies supporting the current level of rates (Exhibit 2). The resulting datum plane averages approximately 9 percent as compared to the overall 12 percent labor offset adjustment proposed by petitioner.

Prior to utilizing the 9 percent datum plane for rate-making purposes, the staff rate expert, in effect, discounted the 9 percent datum plane by 7 percent; thereby reducing the labor cost offset factor to an average of about 8-1/2 percent. The staff witness reasoned that a wage offset rate adjustment should reflect only the actual increase which has occurred in the labor cost elements embodied in the rate structure, all other cost and rate factors reflected in said rate scales being held constant. The staff rate witness, therefore, endeavored to back out of the current minimum rates involved in this proceeding that amount by which the rates exceed the fully distributed cost estimates. While the art of rate making cannot be reduced to a simple mechanical percentage markup over estimated full costs, it is the staff rate expert's contention that his 7 percent estimate of the margin by which the level of the minimum rates in question exceed full costs represents a reasonable approximation thereof and is, therefore, acceptable in a wage offset proceeding.

The staff's labor cost offset rate proposal, in this particular instance, is persuasive and presents the most rational and equitable approach of record for the following major reasons:

1. The basic historical cost studies underlying the minimum drayage rates involved in this proceeding are contained in staff reports dated 1962-63. Since that time such cost data has been up-dated on several occasions in order to reflect increases in wage costs and allied payroll expenses.
2. "When the original cost and rate studies have been up-dated over the years by successive offset adjustments, the resulting cost and rate information tends to become vulnerable to an attack upon its continued competency...." (Decision No. 76353.)
3. In view of the date of the basic historical full scale cost and rate studies supporting the current minimum rates, the staff rate proposal presents a cautious and reasonable effort to offset the increases in carriers' labor costs scheduled to occur during the calendar year 1972.
4. The staff's wage offset rate proposal is responsive to the federal government's current wage-price stabilization efforts.

The Commission's Transportation Division staff, on November 26, 1971, filed a reply to the CTA's motion for interim relief. The staff response shows that, in line with previous staff proposals of record (Exhibit 232-3) a surcharge increase of not more than 7 percent is required to reflect the expected increases in carriers' labor costs as of January 1, 1972. The staff, however, now recommends that a surcharge of no more than 4 percent be added to the minimum rates involved in this proceeding.

The minimum rates published for pool car shipments within the San Francisco and East Bay Drayage Areas have also been maintained in Minimum Rate Tariff 2 for trans-bay traffic, thereby maintaining an equality of competitive opportunity between the various metropolitan terminal areas. Said uniformity in pool shipment rates should be maintained in this proceeding.

The Commission finds that:

1. The rates and charges set forth in Minimum Rate Tariffs 1-B and 19 and the pool shipment rates named in Minimum Rate Tariff 2 reflect weighted average wage costs and allied payroll expenses for the calendar year 1971.
2. The transportation costs of highway carriers will be significantly increased during the calendar year 1972 should scheduled increases, under existing labor contracts, become effective as of January 1, 1972 and July 1, 1972. Additional increases in the carriers' payroll taxes and workmen's compensation insurance rates are also scheduled to occur during the year 1972.
3. The increases contemplated in carriers' 1972 costs for labor and certain allied payroll expenses are subject to appropriate authorization under effective federal economic regulations governing wage and price increases.
4. The wage offset rate adjustments proposed by petitioner and the Commission's Transportation Division staff, respectively, are recommended only upon the condition that the contemplated increases in the carriers' costs for labor and certain allied payroll expenses are actually put into effect during the calendar year 1972.
5. Under the provisions of Phase II of the federal government's stabilization program, as recently announced subsequent to the submission of this proceeding, it has been determined that the increase found justified herein should be expressed in the form

of a tariff surcharge in lieu of a proposed definitive upward adjustment in rates.

6. In recognition and support of Section 201.14 of the Regulations of the Cost of Living Council, the Pay Board and the Price Commission of the Federal Government (Vol. 36, No. 220, of the Federal Register, dated November 13, 1971) it has been further determined that the surcharge referred to in Finding 5 should reflect only the increases in labor costs as of January 1, 1972.

7. Under existing federal guidelines a surcharge of 5-1/2 percent would appear to be consistent with the Federal Government's economic stabilization program, within the lower zone of reasonableness and justified by transportation conditions.

8. To the extent that the provisions of Minimum Rate Tariffs 1-B, 2 and 19 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 that same extent the 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.

The Commission concludes that:

1. Subject to the limitations and/or conditions imposed under Phase II of the federal government's economic regulations, Petitions for Modification Nos. 232 and 666, as amended, in Cases Nos. 5441 and 5432, respectively, should be partially granted by the authorization of a surcharge of 5-1/2 percent and Minimum Rate Tariffs 1-B, 2 and 19 should be amended by the publication of appropriate surcharge supplements.

2. To the extent not granted herein, Petitions 232 and 666, as amended, and subsequent motion of petitioner for interim relief, including replies thereto, should be denied.

3. Further public hearing on petitioner's motion is unnecessary.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 1-B (Appendix B to Decision No. 65834, as amended) is further amended by incorporating therein, to become effective January 1, 1972, Supplement 7, attached hereto and by this reference made a part hereof.

2. 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 82, attached hereto and by this reference made a part hereof.

3. Minimum Rate Tariff 19 (Appendix A to Decision No. 41363, as amended) is further amended by incorporating therein, to become effective January 1, 1972, Supplement 18 attached hereto and by this reference made a part hereof.

4. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decisions Nos. 65834, 31606 and 41363, as amended, are hereby directed to establish in their tariffs the amendments necessary to conform with the further adjustments ordered herein of said decisions.

5. Any provisions currently maintained in common carrier tariffs which are more restrictive than, or which produce charges greater than, those contained in Minimum Rate Tariffs 1-B, 2 and 19 are authorized to be maintained in connection with the increased rates and charges directed to be established by ordering paragraph 2 hereof.

6. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariffs 1-B, 2 and 19 are authorized to increase such rates by the same amounts authorized for Minimum Rate Tariffs 1-B, 2 and 19 herein.

7. Common carriers maintaining rates on the same level as Minimum Rate Tariffs 1-B, 2 and 19 rates for the transportation of commodities and/or for transportation not subject to Minimum Rate

Tariffs 1-B, 2 and 19 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariffs 1-B, 2 and 19 rates herein.

8. 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 Tariffs 1-B, 2 and 19 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariffs 1-B, 2 and 19 rates herein.

9. 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, 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; and 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 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. In all other respects Decisions Nos. 65834, 31606 and 41363, as amended, shall remain in full force and effect.

12. To the extent Petitions for Modification Nos. 232 and 666, as amended, in Cases Nos. 5441 and 5432, respectively, are not granted herein, said petitions and subsequent motion and replies relative thereto are hereby denied.

The effective date of this order shall be December 23, 1971.

Dated at San Francisco, California, this 21st day of DECEMBER, 1971.

<u>William L. Sawyer, Jr.</u>	Chairman
<u>Thomas M. ...</u>	
<u>Verma L. ...</u>	
<u>...</u>	Commissioners

I dissent. This wage & rate increase should not be granted.

J. P. ... Chairman

SPECIAL INCREASE SUPPLEMENT

SUPPLEMENT 7

(Supplements 5, 6 and 7 Contain All Changes)

TO

MINIMUM RATE TARIFF 1-B

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF PROPERTY OVER THE

PUBLIC HIGHWAYS WITHIN AND

BETWEEN THE CITIES OF

ALAMEDA	ALBANY	BERKELEY
EMERYVILLE	OAKLAND	PIEDMONT

BY

RADIAL HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

CEMENT CONTRACT CARRIERS

AND

DUMP TRUCK CARRIERS

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 five and one-half (5½) percent, dropping fractions of less than one-half cent and increasing fractions of one-half cent or greater to one cent.

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

- (a) Accessorial service charges in Item 130;
- (b) C.O.D. charges in Item 152;
- (c) Mileage charge in Item 160;
- (d) Storage charges in Item 180; and
- (e) Parcel delivery rates and charges in Items 840 and 850.

◊ Increase, Decision No. 79490

EFFECTIVE

SUPPLEMENT 82

(Supplements 73, 75, 77, 79, 80, 81 and 82 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 SURCHARGE

Compute the amount of the charges in accordance with the rates and charges in Items 177 and 179 of this tariff for handling pool shipments in Central Coastal Territory and increase the amount so computed by five and one-half (5½) percent, dropping fractions of less than one-half cent and increasing fractions of one-half cent or greater to one cent.

o Increase, Decision No.

72490

EFFECTIVE

SUPPLEMENT 18
(Supplements 16, 17 and 18 Contain All Changes)

TO
MINIMUM RATE TARIFF 19

NAMING
MINIMUM RATES AND RULES
FOR THE
TRANSPORTATION OF PROPERTY OVER THE
PUBLIC HIGHWAYS
OF THE
CITY AND COUNTY OF SAN FRANCISCO

BY
RADIAL HIGHWAY COMMON CARRIERS
HIGHWAY CONTRACT CARRIERS
AND
DUMP TRUCK CARRIERS

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 five and one-half (5½) percent, dropping fractions of less than one-half cent and increasing fractions of one-half cent or greater to one cent.

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

- (a) Mileage charge in Item 104;
- (b) C.O.D. charges in Item 112;
- (c) Storage charges in Item 140;
- (d) Accessorial service charges in Item 265; and
- (e) Parcel delivery rates and charges in Item 425.

◊ Increase, Decision No.

79490

EFFECTIVE