

ORIGINAL

Decision No. 80088

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).

And Related Matters.

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 sand, rock, gravel and related items (commodities for which rates are provided in Minimum Rate Tariffs Nos. 7 and 17).

Case No. 5432

OSH 601

(Dated September 22, 1970)

Case No. 5330, OSH 53
Case No. 5433, OSH 34
Case No. 5435, OSH 160
Case No. 5436, OSH 102
Case No. 5437, OSH 203
Case No. 5438, OSH 79
Case No. 5439, OSH 127
Case No. 5440, OSH 70
Case No. 5441, OSH 206
Case No. 5603, OSH 91
Case No. 5604, OSH 24
Case No. 6008, OSH 14
Case No. 6222, OSH 4
Case No. 7783, OSH 34
Case No. 7857, OSH 37
Case No. 8808, OSH 11

(Dated September 22, 1970)

Case No. 5437

Order Granting Rehearing

Decision No. 77776

(Dated September 29, 1970)

Investigation on the Commission's
own motion to determine procedure
and rules for administration of
Public Utilities Code Sections 3575
and 1074, including amount, form
and content of bond required
thereby.

Case No. 5670
Order Granting Rehearing
Decision No. 77776
(Dated September 29, 1970)

(For List of Appearances see Appendix A)

OPINION ON ORDER SETTING HEARING AND
ORDER GRANTING REHEARING - DECISION NO. 77776

Order Setting Hearing, dated September 22, 1970, in Case No. 5432 (OSH 601) et al., was issued, upon request of the Commission's Transportation Division, for the purpose of receiving evidence relative to the need to establish or revise rules concerning collection of charges, credit provisions and payment of moneys due shippers on claims in the applicable minimum rate tariffs. It was also determined that evidence concerning OSH 601 et al. should be heard on a common record with Order Granting Rehearing (Decision No. 77776, dated September 29, 1970) of Decisions Nos. 77668 and 77669, dated August 25, 1970, in Cases Nos. 5437 and 5670, respectively.^{1/}

Public hearings were held before Examiner Gagnon at San Francisco on November 23 and December 14, 1970. The latter hearing was limited to the taking of evidence pertaining to the Order Granting Rehearing in Decision No. 77776. Further adjourned hearing was also held in Los Angeles on January 6, 1971, at which time the matter was taken off calendar. Thereafter, additional hearings were held on December 7, 1971 in San Francisco and December 14 and 15, 1971 in Los Angeles, whereupon the proceeding was adjourned to February 23, 1972 at San Francisco. At this latter date all matters were submitted for decision.

^{1/} Petitions for rehearing of Decisions Nos. 77668 and 77669 filed by the California Dump Truck Owners Association and Associated Independent Owner Operators, Inc.

Case No. 5432 (OSH 601) et al.

At the November 23, 1970 hearing the Commission's Transportation Division staff requested that a report, concerning credit provisions in the Collection of Charges Rules published in the various minimum rate tariffs, be identified (Exhibit 1). The report contains suggested amendments to the established provisions governing the extension of credit by highway carriers in the collection of their freight charges. The staff, however, did not offer its rate proposal in evidence, thereby precluding any subsequent consideration thereof by the Commission.

The Industrial Traffic Association of San Francisco presented a motion to vary the order of proceedings and requested an interim order granting said motion prior to the receipt of any evidence pertaining to OSH 601 et al.^{2/}

^{2/} The motion, as summarized in Decision No. 78436, dated March 16, 1971, in this proceeding, is set forth below:

"THE INDUSTRIAL TRAFFIC ASSOCIATION OF SAN FRANCISCO... believes that enforcement of existing minimum rate tariff credit rules against shippers...is an appropriate, practical and heretofore untried means of accomplishing compliance with such rules. Such means of enforcing compliance is desirable in that it imposes no additional burden upon...majority of shippers who... comply with existing credit rules. It is our opinion that this course of action should be taken by the Commission before considering any changes in the credit rules...

"THE ASSOCIATION therefore moves:

- "1. ...That no evidence be received in these proceedings...And that this hearing be continued pending...further order of the Commission.
- "2. That...the Commission issue an interim order directing its staff:
 - "(a) To enforce strictly the credit rules...
 - "(b) To...enforce...Sections 3802 and 3804 of the Public Utilities Code against shippers...in willful violation of the existing credit rules."

The California Trucking Association (CTA), in supporting the Industrial Traffic Association's motion, submitted a proposed Commission staff program of enforcement activities which it believes would be consistent with the contention of the moving party. The CTA's suggested credit rule enforcement program is summarized in Appendix B hereof.

The Commission's Transportation Division took the following position on the motion:

1. To continue the enforcement of the credit rules as they now stand;
2. Part of the motion which would direct the staff to prepare costly and time consuming shipper penalty actions in the courts should be rejected;
3. Shippers, in violation of the credit rules, should be named as respondents in O.I.I.'s, similar to the procedure now employed in undercharge cases; and
4. CTA's program should not be adopted but that a brief letter such as the one read into the record be sent to all carriers.

The representative for Transport Clearings of Los Angeles, which also supported the motion in its totality, expressed concern as to the possibility that the limited activity proposed by the staff would, in effect, render the motion non-productive. Those who opposed the motion contend that it would only delay needed accelerated staff enforcement and revision of the Commission's established credit regulations.

The Commission's ruling on the motion (Decision No. 78436) is hereinafter set forth:

- "1. The motion of the Industrial Traffic Association of San Francisco to vary the order of procedure of these proceedings is hereby partially granted as follows:

The Commission's Transportation Division is authorized to initiate staff action and studies, to be completed within 120 days from the date hereof, which will initially be developed and employed substantially in conformity with the suggested procedures summarized in the Opinion hereof as Step 1 as modified.

- "2. Upon completion of its study, the staff will request a hearing to be scheduled at which time a staff exhibit will be offered setting forth the results of its study.

- "3. To the extent not authorized herein, the motion of the Industrial Traffic Association of San Francisco is hereby denied.
- "4. Final disposition of the Commission's Orders Setting Hearing, in Case No. 5432 (OSH 601) et al., and Order Granting Rehearing (Decision No. 77776), ... shall be deferred pending completion of staff studies..."

In partially granting the traffic association's motion the Commission, in Decision No. 78436, expressed the opinion that the resulting staff action would develop "...information pertinent to a determination of the issues involved in these proceedings. Staff studies conducted initially in substantial conformity with Step 1 outlined above...should establish a basis for developing the desired additional information... The desirability and/or feasibility of Steps 2, 3, 4 and 5...are not fully apparent at this time and should not be initiated by the staff unless subsequent events and circumstances should dictate otherwise."

The tariff rule governing the collection of freight charges, including the related provisions for the extension of credit for said charges, set forth in Item 250 of Minimum Rate Tariff 2 is, except for the length of the authorized credit period, generally typical of the Collection of Charges rules published in the other minimum rate tariffs of the Commission.^{3/} A summary of the pertinent provisions of Item 250 of Minimum Rate Tariff 2 are hereinafter set forth:

MRT 2 - Item 250: Collection of Charges

- "(a) Except as otherwise provided...charges shall be collected by the carrier prior to relinquishing physical possession of shipments...
- "(b) Upon taking precautions...to assure payment of charges within the credit period herein specified, carriers may relinquish possession of freight in advance of the payment of the charges...and may extend credit in the amount of said charges... for a period of seven days, excluding Sundays and legal holidays other than Saturday half-holidays.

^{3/} Minimum Rate Tariffs 7 and 17 (Dump Trucks), 1-B (East Bay Drayage), 9-B (San Diego Drayage), and 19 (San Francisco Drayage) provide for the extension of credit on a calendar month basis.

- "(c) Where a carrier has relinquished possession of freight and collected the amount of charges... and another freight bill for additional charges is thereafter presented...the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days...from the first 12 o'clock midnight following presentation of the subsequently presented freight bill.
- "(d) Freight bills for all transportation and accessorial charges shall be presented to the shippers within seven calendar days from the first 12 o'clock midnight following delivery of the freight.
- "(e) Shippers may elect to have their freight bills presented by...mail, and...the time of mailing...as evidence by the postmark, shall be...the time of presentation of the freight bills.
- "(f) The mailing by the shipper of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period...may be deemed to be collection of the charges within the credit period..."

From the above summary it will be noted that the maximum credit period for the payment of charges is generally 14 days following delivery of freight. It is to this limitation upon the carriers' extension of credit that the contemplated staff investigation and report was to address itself.

At the December 7, 1971 adjourned hearing, the staff presented (Exhibit 3) the results of its investigation and study of the carriers' delinquent freight accounts. The report shows that on April 9, 1971, a "Collection of Freight Charges" questionnaire was mailed to 14,340 intrastate highway carriers. Of the 13,448 questionnaires returned, 2,005 carriers (approximately 15 percent) listed delinquent accounts. Some 125,000 past due freight bills were listed from which the staff took a 10 percent sample for its study. A summary of the dollar volume of delinquent freight accounts reflected in the staff's study is set forth below:

Table 1

Size of Carrier (Net Annual Taxable Revenues)	1-30	Number of Days Past Due (In Dollars)			Total
		31-60	61-90	Over 90	
0 - 49,999	21,719	23,487	13,814	35,619	94,639
50,000 - 199,999	25,447	13,728	9,579	27,796	76,550
200,000 - 499,999	35,921	23,518	15,937	44,387	119,763
500,000 - 999,999	68,444	20,503	7,185	50,988	147,120
1,000,000 or More	182,460	81,337	31,996	123,772	419,565
Transport Clearings	<u>346,055</u>	<u>110,138</u>	<u>58,777</u>	<u>143,837</u>	<u>658,807</u>
Total	680,046	272,711	137,288	426,399	1,516,444
	44%	18%	9%	29%	100%

It will be noted from Table 1 that the largest amount of delinquent freight charges occurs in the 1-30 days past due period and that carriers most affected are in the \$500,000 to over \$1,000,000 revenue groupings. The second largest overextended credit period for these same classes of carriers occurs in the 91-over days past due period. The staff freight bill study also included a comparison of delinquent freight charges with the 1970 net gross operating revenues of all carriers. The resulting percentage relationships are set forth in Table 2:

Table 2

Size of Carrier (Annual Taxable Revenue)			Number of Days Past Due				Total
			1-30	31-60	61-90	90-Over	
\$ 0-49,999	(A)	0.02%	0.02%	0.01%	0.03%	0.08%	
	(C)	0.62	3.48	1.49	5.46	11.05	
	(P)	0.16	0.11	0.08	0.15	0.50	
50,000-199,999	(A)	0.02	0.01	0.01	0.02	0.06	
	(C)	0.24	0.08	0.04	0.15	0.51	
	(P)	0.13	0.07	0.05	0.15	0.40	
200,000-499,999	(A)	0.03	0.02	0.01	0.04	0.10	
	(C)	0.19	0.12	0.17	0.20	0.68	
	(P)	0.18	0.12	0.05	0.23	0.58	
500,000-999,999	(A)	0.05	0.02	0.01	0.04	0.12	
	(C)	0.39	0.13	0.05	0.14	0.71	
	(P)	0.30	0.08	0.03	0.34	0.75	
1,000,000-over	(A)	0.15	0.06	0.02	0.10	0.33	
	(C)	0.35	0.14	0.07	0.21	0.77	
	(P)	0.33	0.18	0.04	0.29	0.84	
Transport Clearings			(A) 0.28	0.09	0.05	0.11	0.53
(C), (P) Not Computed			-	-	-	-	-
Totals	(A)	0.55	0.22	0.11	0.34	1.22	
	(C)	0.34	0.15	0.08	0.23	0.80	
	(P)	0.21	0.11	0.05	0.23	0.60	

(A) All Carriers
 (C) Certificated Carriers
 (P) Permitted Carriers

The staff conclusions, as to a recommended course of Commission action in this matter, took into consideration the percentage relationships summarized in Table 2 above. It is the staff's view that, while their study indicates the carriers' delinquent account ratio to be only approximately one percent overall, such over extension of carrier credit constitutes a clear violation of the Commission's minimum rate tariffs as well as the otherwise governing tariffs of certificated carriers.

From its investigation and study the staff draws the following conclusions:

"It is obvious that numerous debtors pay their freight bills on a thirty-day basis. This may be due to any number of

reasons, such as (1) use of computers, (2) home office policy, (3) consolidation of a large volume of small bills into one payment, and (4) other reasons known only to the debtor.

"Several alternatives are available, including but not limited to the following:

1. No change in the credit rules and enforcement of these rules.
2. Provide for payment thirty days after receipt of a freight bill.
3. Amend present rules to provide for a penalty or carrying charge for all freight bills not paid within the credit period now established.
4. Require all carriers to put debtors on a cash basis who are delinquent in payment of any freight bills."

The staff recommends there be no changes made in the existing credit rules and that when carriers do not elect to challenge alleged violations, said tariff rules be enforced through use of the Citations Forfeiture Procedure. This is an informal course of action employed by the staff which can result in the levy of fines upon the carrier ranging anywhere from \$150 up to and including \$2,000.

On cross-examination it was demonstrated that, due to the statistical methods employed by the staff, the delinquent account ratios it developed (Table 2) grossly under-estimates the magnitude of current credit rule tariff violations. Such de-emphasis of the present credit rule problem is caused by staff efforts to relate the past due freight charges reported by only those carriers included in its freight bill study with the net gross operating revenues of all for-hire highway carriers subject to the Commission's several minimum rate tariffs. While the staff witness explained (RT. 96) that he could not attach any particular significance to the individual delinquent account ratios shown in his Exhibit 3, it was conceded that such percentage ratios were considered when arriving at the staff's conclusions herein (RT. 99).

Transport Clearings of Los Angeles, a co-operative of some 130 highway carriers, is engaged in the business of processing the collection of freight charges for its members. An official for Transport Clearings presented a statistical analysis (Exhibit 5) of the co-operative's experience in the collection of its members' freight charges. A summary of said analysis is set forth in Table 3:

Table 3

Status Of Uncollected Commercial Bills Assigned
To Transport Clearings At Los Angeles By Member
Carriers On Various Specified Dates, 1967-1971

<u>Status</u>	<u>Test Periods</u>				
	<u>9-15-67</u>	<u>9-17-68</u>	<u>10-17-69</u>	<u>9-17-70</u>	<u>9-16-71</u>
Current	66.3%	66.1%	58.6%	58.2%	61.6%
1-30 days past due	23.7	22.0	24.7	25.2	25.6
31-60 days past due	4.2	5.2	6.6	6.3	5.2
61-90 days past due	1.8	2.0	3.7	2.8	2.2
Over 90 days past due	1.3	2.2	3.1	3.5	2.3
In Litigation	<u>2.7</u>	<u>2.5</u>	<u>3.3</u>	<u>3.7</u>	<u>3.1</u>
Total	100.0	100.0	100.0	100.0	100.0

It will be noted from Table 3 that Transport Clearings delinquent account ratios and the attendant credit rule tariff violations are far more serious than indicated by the staff's like freight bill analysis. For example, in Table 3, Transport Clearings indicates that approximately 25 percent of its commercial accounts are 1-30 days past due; whereas the staff's analysis of Transport Clearings billing indicates a 1-30 day delinquent account ratio of less than one percent. On an overall basis, Transport Clearings shows its delinquent account ratio to be about 40 percent; whereas the staff study implies said ratio is less than one percent.

The General Manager for the California Dump Truck Owners Association also presented a report (Exhibit 6) concerning delinquent freight charges due dump truck carriers subject to the credit rule provisions named in Minimum Rate Tariffs 7 and 17. The report is a summary of the results of a questionnaire survey mailed to the members of the dump truck association. A total of 318 dump truck operators responded to the survey. The study shows that as of November 1, 1971, said carriers had some \$850,000 in delinquent freight charges of which \$640,000 were 1-30 days past due. -10-

The CTA concurs in that portion of the staff's recommendation wherein it is suggested that no changes be made in the present credit rules named in the various minimum rate tariffs. The CTA takes issue, however, with the staff's proposal that compliance with current tariff credit rules be achieved through a continuance of the existing level of staff enforcement and compliance efforts, with perhaps some acceleration of such efforts together with increased use of the Citation Forfeiture Procedure. The CTA contends that the current problems involved in the collection of freight charges within the prescribed credit period have all existed and grown to serious proportions under the present level and form of staff rate enforcement. The CTA has, therefore, reintroduced (Exhibit 8) its recommended procedures for the enforcement of credit regulations which were partially adopted previously in this proceeding by Decision No. 78436.

The Director for CTA's Division of Transportation Economics contends that the only way reasonable compliance with the Commission's minimum rate tariff credit regulations can be attained is by requiring carriers to periodically report their delinquent freight charges to the Commission. Such action, the CTA director explains, would bring to the Commission's attention violations not otherwise obtainable on any fair and equitable basis. The CTA witness also states that the reporting of all credit rule violations places the burden upon the carriers and if they either falsify or fail to make such reports, appropriate corrective action can be taken. The CTA recommends that its credit extension reporting procedures (Appendix B) be further implemented substantially as follows:

Step 1. Require carriers to report all delinquent accounts in excess of 45 days.

Step 2. Commission to inform shippers (debtors) involved in Step 1 relative to governing tariff credit regulations; direct said parties to comply with such tariff rules; and acknowledge, in writing, to the Commission that (a) shipper (debtor) is aware of the tariff rules involved and (b) has complied with same.

- Step 3. Commission to initiate formal enforcement action against those carriers who (a) falsify or otherwise ignore Step 1 reporting requirements; (b) continue to extend credit to delinquent accounts after said accounts have been notified under Step 2; and (c) otherwise continue to violate the credit regulations prescribed in the several minimum rate tariffs or the lawful published tariffs of the carriers.
- Step 4. Repeat Steps 1-3 above periodically for successive shorter periods of credit delinquency until reasonable tariff compliance with prescribed credit regulations has been achieved.
- Step 5. Commission staff to report results of its credit rule enforcement and compliance program at further hearing in this matter.

Order Setting Hearing 601 et al., was issued upon request of the Commission's Transportation Division who desired to present suggested solutions to the problem of excessive violations of the credit regulations prescribed in the several minimum rate tariffs. Having now been apprised of the problem, the Commission has been presented with two contrary and rather extreme proposed courses of remedial action. First, the staff, in effect, urges a continuance of the existing level of staff enforcement activity as an appropriate response to the problem of tariff violations it laid before the Commission. Secondly, the California Trucking Association stresses the need for the Commission's adoption of special credit rule enforcement procedures which, if fully implemented, would literally install the Commission as the official credit and collection clearing house for the highway carriers in California.

The Commission is not so privileged as to be able to assume the agnostic attitude toward known violations of its minimum rate program such as proposed by its staff in this proceeding. On the other hand, the Commission should not be called upon by carriers to sacrifice certain essential functions and regulatory obligations

in order to provide a credit and collection service for the carriers' past due freight charges; said delinquent accounts being largely the direct result of carriers' failure to comply with their tariffs and/or the several minimum rate tariffs involved herein. Obviously, any minimum rate enforcement or tariff compliance efforts of the Commission, designed to reduce the present delinquent account ratios of carriers, rest somewhere in between the proposed inaction of the staff and the overreaction urged by the trucking interests.

In spite of carrier assertions to the contrary, the collection of their lawful freight charges within the credit periods specified in the governing tariffs is not the sole prerogative of the Commission. It should be clearly understood that this Commission's minimum rate enforcement and tariff compliance program, if it is to experience any reasonable measure of success, must, in the first instance, be "supplemental to" and not "in lieu of" the basic overall tariff integrity of the carriers.

The Commission's Transportation Division staff has initiated from time to time accelerated enforcement programs designed to resolve a particular tariff compliance problem. A like staff effort with respect to the existing high instances of tariff credit rule violations is deemed both necessary and feasible. To this end, the Commission's Transportation Division should be directed to activate an accelerated minimum rate enforcement and tariff compliance program in Northern, Central and Southern California which will be of sufficient magnitude to insure attainment of the following major objectives:

- A. Reduction of current high delinquency account ratios of highway carriers.
 1. Methods to be employed.
 - a. Field investigation and research.
 - b. Admonishment letters.
 - c. Citation forfeiture procedure.
 - d. Formal investigation.

B. Evaluation of credit rule violations.

1. Commercial trade practices.
2. Accounting procedures.
3. Deliberate acts of carrier and/or shipper (debtor).
4. Unrealistic or otherwise non-responsive tariff credit regulation.

C. Conclusions and Recommendations.

1. Minimum rate enforcement and tariff compliance procedures.
2. Minimum rate tariff credit rules.

If, upon completion of the aforementioned staff investigation and study, it is determined that the credit regulations contained in the several minimum rate tariffs need to be revised, a request for the issuance of an appropriate Order Setting Hearing therefor should be addressed to the Commission.

Cases Nos. 5437 and 5670

(Order Granting Rehearing Decision No. 77776)

Rehearing of the Commission's ex parte orders in Decisions Nos. 77668 and 77669, dated August 25, 1970, in Cases Nos. 5437 and 5670, respectively, was granted by Decision No. 77776. Accordingly, the effective dates of Decisions Nos. 77668 and 77669 were stayed pending further order herein.

Minimum Rate Tariffs 7 and 17 name rates and rules for the transportation of property in dump truck equipment. The tariffs currently provide that credit for transportation charges may be extended for a period not to exceed the 15th day following the last day of the calendar month in which transportation is performed. In connection with transportation performed on construction projects, pursuant to contracts of the Department of Public Works, a conflict occurs in that the prime contractor is paid on a different time cycle than the aforementioned credit period prescribed in the minimum rate tariffs. Such contracts generally provide for a billing period from the 21st of one month to the 20th of the next month.

In order to alleviate this credit problem Minimum Rate Tariffs 7, 17 and, to the extent involved, General Order No. 102-C were proposed to be revised by ex parte order in Decisions Nos. 77668 and 77669. Said tariff revisions were intended to permit the carrier to present freight bills to the debtor on or before the 25th day of the month for transportation performed within the period of time beginning with the 21st day of the previous month and ending with the 20th day of the current month when the ultimate payor of freight charges is under contract with the Department of Public Works, State of California.

On rehearing of the above ex parte matter, adoption of the proposed revised credit regulations was opposed by the California Dump Truck Owners Association, the Associated Independent Owner Operators, Inc., and the California Trucking Association. No one appeared in support of the tariff changes contemplated by Decisions Nos. 77668 and 77669.

In view of the further investigation and study to be conducted by the staff, relative to the highway carriers' practices in extending credit in the collection of their freight charges, Commission adoption of the revised credit rules in question by ex parte order, without benefit of a fully developed public record, appears to be highly premature and speculative at this time. The recommendations of the parties on rehearing of Decisions Nos. 77668 and 77669 have merit and should be adopted. Accordingly, the Commission's ex parte orders in said decision should be set aside and the subject decisions vacated.

Findings and Conclusions

The Commission finds that:

1. The rates and charges published in the Commission's several minimum rate tariffs are subject to provisions governing the collection of freight charges resulting from the application of said minimum rate structures. Said tariff provisions include credit rules whereby carriers are permitted to defer payment of their freight charges by debtors for a specified period of time.

2. An investigation of carrier records reveals that they are maintaining a high level of outstanding delinquent freight accounts in violation of credit rules set forth in the Commission's various governing minimum rate orders.

3. The evidence reveals that there are numerous reasons for the current lack of compliance with the Commission's credit rule requirements not the least of which are:

- (1) Commercial trade practices.
- (2) Accounting procedures of carriers and debtors.
- (3) Scarcity of working capital.
- (4) Intentional credit rule violations on part of both carriers and shippers (debtors).
- (5) Unrealistic tariff rules governing the extension of credit for the payment of freight charges.

4. The primary responsibility for the collection and payment of freight charges within the credit period specified in the Commission's several governing minimum rate tariffs rests with the for-hire carriers and shippers (debtors), respectively.

5. The supplementary enforcement and compliance efforts of the Commission's Transportation Division staff should be directed (on an accelerated basis as previously outlined in the opinion herein) toward attainment of carrier compliance with outstanding minimum rate orders governing the collection of freight charges within designated credit periods.

6. The evidence implies need for updating the established tariff rules for the collection of freight charges set forth in the Commission's several minimum rate tariffs.

7. The tariff proposals deemed necessary to resolve the issue set forth in Finding 6 hereof should be developed by the Commission's Transportation Division staff and presented to the Commission for its consideration.

8. Pending the results of the staff effort contemplated by Findings 5, 6 and 7, the adoption of revised credit rules by ex parte orders in Decisions Nos. 77668 and 77669 would be premature and highly speculative. Accordingly, such ex parte orders should be set aside and Decisions Nos. 77668 and 77669 vacated.

The Commission concludes that:

1. The relief sought in Case No. 5432 (OSH 601) et al. should be granted to the extent set forth in the order herein.
2. The ex parte orders in Decisions Nos. 77668 and 77669, dated August 25, 1970, in Cases Nos. 5437 and 5670, respectively, should be set aside and said decisions vacated.
3. To the extent the relief sought in this proceeding is not granted said relief should be denied.

In order to avoid unnecessary tariff distribution, Minimum Rate Tariffs 7 and 17 will be amended by separate order.

O R D E R

IT IS ORDERED that:

1. The Commission's Transportation Division staff conduct an accelerated enforcement and tariff compliance program, in Northern, Central and Southern California, for the purpose of attaining carrier compliance with outstanding minimum rate orders governing the collection of charges within prescribed tariff credit periods. Thereafter, the staff shall advise the Commission relative to:

- (a) The staff's evaluation of the credit rule violations disclosed pursuant to the aforementioned program, and
- (b) The changes in minimum rate tariff credit rules, if any, deemed necessary and justified to insure that said tariff rules are responsive to the present carrier-shipper (debtor) transportation requirements.

2. In the event it is determined that the present credit regulations named in the Commission's several minimum rate tariffs need to be revised, such rate proposals shall be made the subject of a separate order setting hearing therefor.

C. 5432 OSH 601 et al. JR

3. Decisions Nos. 77668 and 77669, dated August 25, 1970, in Cases Nos. 5437 and 5670, respectively, are hereby vacated and set aside.

4. To the extent not otherwise granted herein, the further relief sought in Case No. 5432 (OSH 601) et al. is denied.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 18th day of MAY, 1972.

William J. Vukasin, Jr. Chairman
John L. Stenger
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

Petitioner: E. O. Blackman, for California Dump Truck Owners Association and Associated Independent Owner Operators.

Respondents: T. W. Curley, for Western Milk Transport; Ron Davis, for Associated Freight Lines; Armand Karp, for Alltrans Express California, Inc.; J. McSweeney, for Delta Lines.

Interested Parties: Keith M. Brown, for The Industrial Traffic Association of San Francisco; Richard E. Costello, Attorney at Law, for Spreckels Sugar Division, Amstar Corp.; Donald R. Carnahan, for Shell Oil Co.; James R. Foote, by Ralph Grago, for Associated Independent Owner Operators; Bill Hata, for Sherwin Williams Co.; J. C. Kaspar, H. F. Kollmyer and Richard W. Smith, Attorney at Law, for California Trucking Association; Arlo D. Poe, Attorney at Law, for Transport Clearings of Los Angeles; William M. Larimore and A. L. Libra, Attorney at Law, for California Manufacturers Association; William D. Mayer, for Cannery League of California; Tad Muraoka, for IBM Corp.; Milton W. Flack, Attorney at Law, Don Newkirk and Don B. Shields, for Highway Carriers Association; Albert T. Suter, Attorney at Law, for Pacific Southcoast Freight Bureau; Raymond D. Vinick, for Hunt Wesson Foods, Inc.; Gary T. Ferrulli, for Simco-Pacific; C. T. Gratiot, for Continental Can Co.; N. I. Molaug, for Western Traffic Conference; Raymond Mosser, for J. C. Penney Company; C. Ralph Eighmy, for Bay Area Dump Truck Owner Operator Association; James Quintrall, for Los Angeles Warehousemen's Association; Kenneth C. DeLaney, for Los Angeles Area Chamber of Commerce; William D. Grindrod, for Norris Industries and Traffic Managers Conference of California; Eugene P. Sweet and Joseph T. Hill, for The Pillsbury Company; Howard E. Meyers, for Freight Advisory Service; Lloyd K. Hoffman, for Department General Services, State of California; R. W. Russell, by K. D. Walpert, for Department of Public Utilities, City of Los Angeles; and Warren P. Mayhugh, for Mobil Oil Corporation.

Commission Staff: Elinore C. Morgan, Attorney at Law, H. L. Farmer, Robert E. Walker and John R. Laurie.

APPENDIX B

CTA's Proposed Staff Enforcement Procedures

- STEP 1. Commission address letter of admonishment to all highway carriers, expressing concern over the apparent lack of knowledge and compliance by some carriers of the established credit regulations, plus the following attachments:
- a. Abstract of minimum rate tariff credit regulations and supporting statutory provisions.
 - b. Form and questionnaire to be filled out and returned to the Commission with the required information noted thereon:
 1. Acknowledgment of understanding of Step 1(a).
 2. Listing of all freight billings which remain unpaid beyond established credit period for given number of days.
- STEP 2. Commission address letter of admonishment to all shippers named in questionnaire supplied by carriers (Step 1, b-2), expressing concern with lack of understanding and compliance with credit regulations, plus the following attachments:
- a. Summary of applicable credit regulations and supporting statutory provisions.
 - b. List of shippers freight bills not paid within credit period, as disclosed under Step 1, b-2, with request for contemplated corrective shipper action.
- STEP 3. Formal enforcement action as indicated by responses to Steps 1 and 2, respectively.
- STEP 4. Repeat Steps 1, 2 and 3, modified as required.
- STEP 5. Summarize results of program, including conclusion and recommendations derived therefrom concerning:
- a. Enforcement of credit regulations.
 - b. Changes in the established credit rules.