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Decision No. 81518

**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 household goods carriers, )  
common carriers, highway carriers, )  
and city carriers relating to the )  
transportation of used household )  
goods and related property. )

Case No. 5330, OSH 68  
(Filed November 21, 1972)

(Appearances are shown in Appendix A of Decision No. 81138)

Additional Appearances

Ralph E. Rose, for City Transfer and Storage  
Company; James F. Bartholomew, R. L. Reeves,  
and Gerald Evans, for Lyon Moving and  
Storage Company; Robert S. Ford, for himself;  
and John J. Canova, for Canova Moving and  
Storage Company; respondents.  
Rex S. Hime, for the State of California, Depart-  
ment of Consumer Affairs, interested party.

O P I N I O N

This proceeding was initiated in response to House  
Resolution No. 57 of the California State Assembly which requested  
the Commission to investigate the problems associated with deliberate  
underestimating by household goods carriers as a competitive  
practice.<sup>1/</sup>

1/ House Resolution No. 57, appearing in the Assembly Journal of  
May 22, 1972, reads, in part, as follows:

"Resolved by the Assembly of the State of California, That  
the Public Utilities Commission is hereby requested to  
accumulate evidence involving its experience under its new  
estimating rules; to institute proceedings concerning the  
problem of deliberate underestimating by household goods  
carriers; and therefrom to develop regulations and orders  
which are designed to eliminate deliberate underestimating  
as a competitive practice; and be it further

"Resolved, That the Commission is requested to complete its  
investigation and to prepare and issue orders and regulations  
designed to eliminate deliberate underestimating by household  
goods carriers as a competitive practice by March 15, 1973."

The Assembly requested that the Commission issue an order by March 15, 1973. Following public hearings in January and February, the Commission issued an interim order (Decision No. 81138 dated March 13, 1973) establishing additional rules in Minimum Rate Tariff 4-B (MRT 4-B) designed to eliminate the practice of deliberate underestimating by household goods carriers. That decision describes in detail the additional proposals of the Commission staff designed to eliminate other problem areas associated with the estimating practices of household goods carriers and set further hearings for the receipt of evidence on said proposals.<sup>2/</sup>

2/ It is the staff position that in order to eliminate the problems related to underestimating, tariff revisions in addition to those directed specifically to deliberate underestimating are required. These rule changes are as follows:

- (1) On shipments for which an estimate has been issued by the carrier, the carrier shall assess (a) on distance movements no more than the amount of the estimate plus 10 percent or \$25 (whichever is greater) and (b) on hourly moves no more than the amount of the estimate plus 25 percent or \$25 (whichever is greater), plus all charges resulting from any Addendum Order for Service; or the total charges resulting from application of the rates and charges agreed to in the Confirmation of Shipping Instructions and Rate Quotation issued for the transportation services covered by the estimate and any Addendum Order for Service, whichever is lower. (Proposal 11 in the staff report.)
- (2) Provide that estimates can be furnished only in writing and only after visual inspection. Oral estimates would be prohibited. (Proposal 12.)
- (3) Establish standards for the preparation of accurate estimates. (Proposal 13.)
- (4) Publish, on a quarterly basis, a report of the number of underestimates and total estimates made by individual household goods carriers, as a basis for evaluation and selection of carriers by the public. (Proposal 14.)
- (5) Provide that household goods carriers may accept credit cards as payment for services, on an optional basis. (Proposal 15.)
- (6) Require monthly reporting of all underestimates, including estimates for hourly moves. (Proposal 16.) (This proposal was deleted during the course of the second set of hearings because, upon further analysis, it became apparent that monthly reporting could not be accomplished with available staff.)

Further hearings were held before Examiner Mallory in San Francisco on April 30, May 1 through 4, and May 15 and 16, 1973, and the matter was submitted. In this phase of the proceeding evidence was received from witnesses for fifteen household goods carriers and by a witness appearing for the California Moving and Storage Association (CMSA).<sup>3/</sup>

The carrier witnesses selected by CMSA to testify assertedly represent a broad cross-section of the household goods carriers operating in the State. Witnesses appeared for four large household goods carriers which engage primarily in operations in excess of 50 miles; for several carriers which engage primarily in transporting local moves (50 miles or less); and for carriers which engage in special fields such as movement of complete offices and movement of fragile office machines (computers, auxiliary computer hardware, and copy machines).

The carrier witnesses presented evidence bearing on the staff proposals described in footnote 2 (page 2), and on the use of the Addendum Order for Service document which was incorporated in the rule changes adopted in Decision No. 81138. The testimony of the carrier witnesses also was directed to the complaints received from public witnesses in the initial series of hearings, and to explanations of the basis for the underestimates reported to the Commission covering transportation conducted in the second and third quarters of 1972.

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<sup>3/</sup> In the initial phase of the proceeding, evidence was presented by two witnesses appearing for the Commission staff; by witnesses appearing for the County of Orange - Office of Consumer Affairs, the Sacramento County Consumer Protective Bureau, and the Public Interest Law Center; by three members of the public who testified concerning problems arising from household goods moves; and by five household goods carriers, three of whom were testifying on behalf of the California Moving and Storage Association.

The several carrier witnesses appearing for CMSA opposed all of the proposals of the Commission staff that remain for consideration in this phase of the proceeding, as well as the requirement for an Addendum Order for Service document established by the order in the interim phase of this proceeding.

At the conclusion of this phase of proceeding, counsel for CMSA summarized the position of that association with respect to the staff proposals which remain for consideration. The position of the association expressed at the conclusion of the hearings differs in several respects from the position expressed by individual carrier witnesses.

The background of the proceeding, the proposals of the Commission staff, the evidence adduced in connection therewith, and the positions of the parties will be discussed under appropriate topic headings.

#### The Need for Estimates

The average householder has occasion to move from one residence to another only once in several years. It is axiomatic that the householder is unaware of the terms and conditions and services offered by household goods carriers. The householder generally relies upon the representative of the carrier for information on these subjects.

An estimate of the probable cost of services is a valuable tool to the shipper in determining the services desired to be performed. Based on the information in the estimate, the shipper can determine whether it is economical to use a for-hire carrier or arrange to transport the goods himself. If he decides to use a carrier, he can determine whether it is more economical to dispose of part of his goods rather than to ship them and can also

determine whether to pack some or all of the goods or have the carrier do the packing. More importantly, the estimate shows the probable total cost of the transportation services and indicates to the shipper the amount of money he must have on hand to pay for the transportation services when the goods are delivered.

It is apparent that the furnishing of estimates of probable cost of service serves several useful purposes and is beneficial to the shipper. No one advocated discontinuance of the practice of furnishing estimates by household goods carriers. The proposals of the Commission staff and suggestions by other parties are designed to eliminate the abuses involved in estimating.

#### Underestimating

This Commission and the Interstate Commerce Commission have promulgated rules and regulations governing estimating practices of household goods carriers.

The most recent order of this Commission is Decision No. 79571 dated January 11, 1972 in Case No. 5330, OSH 49. That decision, among other things, (a) provided that estimates on distance moves (over 50 miles) shall be in writing and shall follow visual inspection of the goods, (b) required reporting of written estimates, and (c) provided that credit shall be extended for the amount of the underestimate whenever the final charges exceeded the estimate by 10 percent or \$25 (whichever is greater) on distance moves, and by 25 percent or \$25 (whichever is greater) on local moves.

For the purposes of presenting data in this proceeding, the Commission staff assumed that underestimates on distance moves are those on which the final charge exceeds the estimate by 10 percent or \$25 (whichever is greater). The reports filed by household goods carriers covering transportation services conducted

during the second and third quarter of 1972 were analyzed by the staff in Exhibit 68-1. That exhibit shows that there continues to be a substantial number of underestimates. The data in Exhibit 68-1 applicable to the nine largest carriers (based on total gross revenue) show the following:

TABLE 1  
Analysis of Reports of Underestimates  
Filed by Household Goods Carriers

	Distance Shipments	Number of Written Estimates	Under- Estimates	Col. (4) as % Col. (3)
	(2)	(3)	(4)	(5)
Bekins Moving & Storage	6,942	3,347	985	29.4
Lyon Van & Storage <sup>1/</sup>	1,407	635	161	25.3
Pacific Van & Storage	738	147	22	15.0
DeWitt Transfer & Storage	67	34	11	32.3
Chipman Moving & Storage	183	115	30	26.1
Allied Van Lines	1,412	407	91	22.4
Nacal	1,937	615	186	30.2
U. C. Moving Service	312	109	32	29.4
Republic Van & Storage	346	116	43	37.1

<sup>1/</sup> Lyon Van Lines, Inc. and Lyon Van & Storage Co.

It is apparent from the data shown in Table 1 that underestimates frequently result under regulations in effect in the second and third quarter of 1972.

Underestimating can be used as a practice to secure business, for the reason that the shipper usually employs the carrier that furnishes the lowest estimate. Uninformed shippers believe the estimate to be a firm price and do not understand that charges will be based on the actual weight transported or number of hours

required to perform the packing or other accessorial services. This proceeding is directed to the adoption of rules that will prevent underestimating as a competitive practice, and will provide to shippers all the information they require concerning their residential moves.

Addendum Order for Service

Interim Decision No. 81138 established the requirement for the issuance by the carrier of an Addendum Order for Service document to cover additional services required or requested by shippers and not covered in the carrier's original estimate.

Testimony and exhibits were introduced by respondent carriers to explain the reasons for the underestimates in Exhibit 68-1. The reason advanced most often as the basis for the under-estimate was that the shipper added articles to the shipment after the estimate was prepared, or that the shipper requested additional packing or unpacking not covered by the original estimate.

Testimony was received from carrier witnesses that they had issued instructions to their employees and agents to implement the use of the Addendum document. These witnesses stated that they could foresee difficulty in the use of this document; but, inasmuch as they had little experience with its use, they could refer to no actual incidents where difficulties had arisen.

The Addendum Order for Service document is designed to eliminate underestimates arising from the request for additional services by the shipper and thus should eliminate the greatest cause, in the eyes of the carriers, for underestimates.

With the elimination of underestimates caused by action of the shipper, it is reasonable to assume that the remaining underestimates result from actions of the carrier. The proposals of the staff discussed hereinafter are directed to underestimates resulting from the latter cause.

Estimate as the Maximum Charge

The Commission staff witness proposed the following new tariff rule:

Delivery when Actual Charges Exceed Probable Cost of Services. On shipments for which a probable cost of services has been issued by the carrier, the carrier shall assess and collect no more than either the total amount of the probable cost plus 10 percent or \$25.00 whichever is greater, on distance moves or, on hourly moves 25 percent, or \$25.00, whichever is greater, of the probable cost of services for transportation, accessorial services and materials it provides, plus all charges resulting from any Addendum Order for Service; or the total charges resulting from application of the rates and charges provided in the tariff for transportation and accessorial services.

The foregoing rule, in effect, requires that the carrier assess no more than the final estimate plus an allowable overage of 10 percent on distance moves and 25 percent on hourly moves.

The staff witness testified that the purpose of the rule is to increase the accuracy of carrier's estimates and to penalize the carrier for gross inaccuracies in making estimates.

The staff witness stated that current estimating rules established in Decision No. 79571 did not result in reducing the incidence of underestimates. It was his conclusion that underestimating would continue unless the Commission established sanctions against the carrier for its underestimates. The staff witness concluded that most appropriate form of sanction was to place a ceiling on the amount that the carrier could assess, and that the appropriate ceiling is the amount of estimate (plus the allowable overage, and the charges on the Addendum Order for Service).



In its closing argument CMSA agreed that penalties for underestimating are appropriate, but proposed a different solution. CMSA urged that the Commission raise the allowable overage from 10 percent to 15 percent on distance moves, and that the carrier be penalized for an underestimate by paying a fine to the General Fund in the amount that the actual charges exceed the estimate (plus the allowable 15 percent overage, and the charges on the Addendum Order for Service).

The principal reasons advanced by CMSA for this proposal is that it will protect the minimum rates for household goods transportation while providing a penalty for underestimating, and that the staff proposal would allow unscrupulous carriers to continue to use underestimating as a competitive tool and would not prevent such carriers from undercutting the minimum rates.

The Public Interest Law Center and other consumer groups supported the staff proposal as the best means of reducing deliberate underestimates.

The parties to this proceeding are in agreement that a penalty must be provided in order to provide an incentive to carriers to provide accurate estimates to shippers. Our purpose, then, is to select an appropriate penalty which will minimize underestimates.

We believe that the proposals of the staff and CMSA have merit, but each also has infirmities. The proposal of the CMSA would not provide sufficient inducement because it would merely deprive the carrier of the amount he should have collected, but no more. A fine of the difference between the underestimate and the minimum rate would deprive the carrier of revenue he would forego by his underestimate plus an added amount from his own pocket.

The proposal of the staff has a serious defect in that it could readily be used as a tool or weapon to defeat the minimum rates. A similar proposal was considered by the Commission in OSH 49. Decision No. 79571 found that establishing the estimate, or 110 percent of the estimate, as a firm price from which the carrier cannot deviate is an indirect attack on the minimum rate structure and would encourage rate wars. However, if the estimate (plus an allowable overage) is established as the maximum that the shipper must pay and the carrier is penalized the difference between that amount and the charges under the minimum rates, the ability to use the underestimate as a tool to defeat the minimum rates would be removed.

In our view, the purpose for the establishment of additional rules concerning estimating is to protect the shipper from paying charges substantially exceeding those which would accrue under the carrier's estimate. Therefore, the allowable overage for error on the estimate should be reduced to 2-1/2 percent or \$15, whichever is greater, on distance moves and 10 percent or \$15, whichever is greater on local moves. This would decrease the difference between the estimate and the final charges, and thus increase the amount of penalty against the carrier for an underestimate.

#### Standards for Estimating

The Commission staff urged that standards be set for the preparation of estimates. As part of this proposal, the staff proposed, and the Commission adopted in its interim order, a requirement that seven pounds per cubic foot be the lowest density that could be used as a multiplier when using the "cube sheet" provided in the tariff. CMSA urged that this multiplier be set at eight pounds per cubic foot. There is no evidence in the record to show that CMSA's proposal would be reasonable; therefore, it will not be adopted.

The Commission staff witness also presented suggestions concerning the employment, training, and supervision of estimators (Exhibit 68-4). It was not shown that it is necessary at this time for the Commission to supervise in detail the activities of the estimators employed by household goods carriers. The suggestions made by the staff along such lines will not be adopted herein.

### Specialized Services

MRT 4-B applies to used office and store fixtures, including furniture, furnishings, and equipment such as used in an office, store, hospital, library, museum, place of learning, or other institution. [Item 20, paragraph (a)(2)].

Certain household goods carriers specialize in the transportation of office, store, and institutional furniture and fixtures. Carriers who engage in this transportation testified that the services performed in connection therewith differ materially from the services performed in connection with residential moves, and that the shippers are industrial or commercial firms which have traffic managers who are familiar with transportation costs and services.

When entire offices are to be moved, extensive preplanning is necessary. Generally such moves are made after regular working hours of the firms' employees. Goods to be moved are marked for precise placement in the new location. The estimates, if any, furnished by the carrier, often are for budgeting purposes only.

Other carriers specialize in the movement of large office machines such as computers and related hardware, and document reproduction machines. These machines are delicate and require special handling in connection with dismantling and reassembly. Often special equipment is necessary. Estimates are not generally required for these types of moves.

The carriers engaged in specialized services showed that these services are substantially different from the movement of the household goods and personal effects of individuals from and to residences, and that the additional rules proposed by the Commission staff are not appropriate for such special services. Therefore, the discussion of evidence which follows and the rule changes adopted herein will not apply to the transportation of office, store, and institutional furniture and fixtures.

Written Estimates - Local Shipments

Item 31 of MRT 4-B provides that upon request of the shipper the carrier shall give the shipper a statement of probable costs of service (estimate). For distance moves (over 50 miles) all probable cost of services must be in writing and be issued on prescribed forms, and the probable cost of service must be based on visual inspection of the goods. For local moves under hourly rates the probable cost of service need not be given after visual inspection of the goods and the requirement for a written probable cost of service can be complied with by noting the probable cost of service in the Confirmation of Shipping Instructions and Rate Quotation document.

The Commission staff proposes that if probable costs of service are given on hourly-rated shipments such estimates must be in writing and may only be issued after visual inspection of the goods.

The position of CMSA is that the rules established in our preceding investigation of estimating practices (Decision No. 79571 dated January 11, 1972 in Case No. 5330, OSH 49) are adequate to protect the public and that no changes in said rules are required.

CMSA iterated the position of that association taken in OSH 49, as set forth in the margin, concerning the furnishing of

written estimates after visual inspection on hourly-rated shipments.<sup>4/</sup>

In support of the proposal regarding written estimates for local moves, the staff witness testified that the adoption of the proposal would eliminate oral estimates which are most inaccurate,

4/ The following appears at mimeographed pages 22 and 23 of Decision No. 79571:

"CMSA asserts that regulation of estimating on local moves is impractical and would impose unfair hardships on both shippers and carriers. It argues that where the average revenue from a local move ranges from \$52 for some companies to \$140 for other companies, it is impossible to estimate, with sufficient accuracy, the final cost in any given move. CMSA cites the various imponderables discussed above, such as traffic congestion, traffic accidents, shippers changing their minds as to the amount of goods shipped and packed, etc. CMSA argues that the prudent carrier could not allow itself to be caught in the trap of being committed to a figure without regard to these imponderables.

"Finally, CMSA states that large and small carriers provide a high percentage of their estimates over the telephone on the basis of information provided by shippers. The carrier witnesses unanimously testified to the substantial expense involved in visual inspections in connection with written estimates and noted the impossibility on local moves of being bound by all estimates based on unconfirmed facts obtained over the telephone. Yet, CMSA acknowledges that customers expect and most carriers prefer to give oral estimates over the telephone to shippers upon request. The carriers say that in large towns, some shippers' concern for privacy make telephone estimates desirable and in small towns, friends, and neighbors of the carriers expect rough approximations over the telephone rather than formal written estimates based on visual inspections. (CMSA's position is in some degree contradictory. In one breath it requests a prohibition on all estimating and in the next breath it says, in regard to local moves, 'customers expect and most carriers prefer to give oral estimates over the telephone to shippers upon request.')."

and also would eliminate estimates where the Addendum Order for Service could not be effectively used. The witness stated that carriers still would be allowed to quote rates, but would not be allowed to give oral approximations of the number of hours, weights, or final charges.

No statistics were available to the staff concerning accuracy of estimates on hourly-rated moves, as such estimates are not now required to be reported to the Commission.

Two public witnesses testified concerning the difference between the oral estimates furnished to them and the actual charges assessed on local shipments under hourly rates. Both witnesses desired that their goods be placed in storage. The record indicates that misunderstanding occurred concerning the number of men required to perform the transportation service and amount of packing and other accessorial services required.

The CMSA carriers that engage primarily in local service under hourly rates presented analyses of the revenue derived from local moves. The witnesses showed that their average revenue for local moves ranges from \$80 to \$175 per shipment. The witnesses also described their current practices with respect to furnishing estimates based on visual inspections. The witnesses indicated that written estimates based on visual estimates were seldom given because the revenue from average-sized shipments is too small in relationship to the time and effort involved in making the estimate. The witnesses testified that they generally quote rates over the telephone and indicate to prospective shippers the approximate time required for each room to be moved. The witnesses also stated that if a so-called "national account" shipper requests an estimate or if any exceptionally large or difficult move is to be made, a visual inspection would be made and a written estimate would be furnished.

Several of the witnesses offered their opinion of the cost of making an estimate based on visual inspection of the goods.<sup>5/</sup> These range from \$8 to \$60. The latter figure was based on the furnishing of an estimate anywhere within a 50-mile service area. This testimony was presented to back-up the claim that it is uneconomical to make estimates on local moves.

The carrier witnesses also described the problems they would foresee if an Addendum Order for Service is required to be issued. The witnesses indicated that on hourly-rated moves no detailed estimate sheet is completed because weight is not a factor. Therefore, it would be difficult to recognize whether the same amount of goods is made available to the carrier at time of transportation as was covered by the written estimate.

It is clear that household goods carriers do not desire to furnish written estimates based on visual inspection for local moves. The staff proposal does not provide a mandatory requirement upon carriers to provide this service. The staff proposal would apply only if the shipper requests and is furnished a written estimate. Carriers can advise the public that no estimate will be furnished on small shipments. Carriers can continue to quote rates over the telephone.

The staff proposal would result in better service to the public; therefore it should be adopted. When actual transportation charges exceed the written estimate the same reporting and penalty procedures should apply to goods transported under hourly rates as apply to goods transported under distance rates.

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<sup>5/</sup> The opinion testimony regarding costs of providing estimates was not supported by any specific data to show how the opinions were developed.

Payment of Charges by Credit Card

The Commission staff witness proposed that carriers be authorized to accept credit cards for payment of transportation charges. The current tariff provisions permit the carrier to extend credit for a period of seven days (exclusive of Saturdays, Sundays, or legal holidays) after presentation of the freight bill. Carriers now must collect cash or its equivalent.

The staff witness testified that the use of credit cards will help the shipper in that he would not have to make prior cash arrangements for payment of charges. The witness stated that the carrier would have a guaranteed payment if a credit card is accepted for payment. The staff witness recommended that the use of the credit card should be at the option of the carrier.

CMSA presented evidence concerning current credit arrangements and data concerning the requirements of the banks that issue the two most popular credit cards.

The record shows that carriers refer to residential shippers as their "C.O.D." customers, and require that such shippers pay cash upon delivery of the goods. The carriers extend credit to their so-called "national account" shippers under the terms provided in the tariff. National account shippers are those firms which deal regularly with household goods carriers and which have established credit arrangements. National account shippers pay the charges for movement of household goods of their employees, and also regularly use household goods carriers to transport office and institutional furniture and fixtures.

A witness for Bekins Van & Storage Company and Bekins Van Lines, Inc. (Bekins) testified concerning the use of credit cards on



interstate shipments. The witness stated that the Interstate Commerce Commission (ICC) had granted Bekins temporary authority for the experimental use of bank credit cards, subject to a payment of \$10 fee for credit investigation in lieu of the bank's usual charges to merchants. The witness stated that only a limited number of shippers had used a credit card on interstate shipments, principally because Bekins' freight charges were substantially greater than the maximum credit available to the cardholder. Bekins has advised the ICC that it no longer would exercise its authority for use of bank credit cards.<sup>6/</sup> The Bekins plan called for the banks to extend credit to the shipper without recourse to Bekins.

Security Pacific Bank (MasterCharge) and BankAmericard indicate a willingness to accept business from moving firms, provided the carriers sign their standard merchant agreements. Those agreements (Exhibits 68-53 and 68-54) show that merchant discount rates are negotiated with individual merchants and are based on such elements as (a) anticipated credit card sales volume, (b) compensating bank account deposit balances, (c) costs of supplies and processing, and (d) profit. The merchant rate structure of BankAmericard provides a one to three percent discount on sales and is based on the average amount of monthly sales and average dollar amount of sales drafts.

The witness for Bekins testified that credit card use, if approved for California intrastate household goods operations, could not contain a non-recourse provision because of the statute known as the "Song-Beverly Act of 1971" (Section 1747.90 of the California

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<sup>6/</sup> We take official notice of the report and order of the ICC served May 8, 1973 in Ex Parte MC-19, Sub. 16, Practices of Motor Common Carriers of Household Goods (Use of Credit Card Systems) (118 MCC 97), which granted permissive authority to all interstate household goods carriers to use credit cards, subject to ICC approval of the credit plan and to certain reporting requirements.

Civil Code). That statute provides that on billings in excess of \$50 the credit card user can notify the issuer of the card that a dispute exists and refuse payment for that billing. Upon such notification the bank would debit the carrier for the full amount of the disputed billing.

CMSA opposes the permissive use of bank credit cards because of the effect of the Song-Beverly Act, and because it believes the sliding scale of charges assessed by banks gives an unfair advantage to larger carriers who would enjoy lower billing rates based on volume. CMSA asserts that the household goods carriers would be unable to collect on those billings charged back from banks on which a dispute is involved.

The reasons advanced by CMSA in opposition to the use of credit cards by household goods carriers are not sufficient to deny the permissive use of such cards to those carriers that desire to use them and which can make mutually satisfactory arrangements with the banks that issue the cards. The advantages of the use of such cards to the public and to the carriers outweigh the disadvantages asserted by CMSA. It is a well accepted fact that Californians make wide use of credit for payments for their everyday purchases. It can be said that we live in a credit card society. Shippers should have the opportunity to pay for moving their household goods in the same manner that they pay for their other purchases. The variations in rates charged by the banks to merchants for credit card billings are no different than the many discounts on tires, lower insurance costs, or other reduced prices that accrue to some household goods carriers because of their size.

The fact that the Song-Beverly Act makes a non-recourse provision impossible is not a major impediment to the use of credit cards. The carriers' testimony indicated that not all national

account shippers pay within the prescribed seven-day credit period, and that carriers sometimes must take civil court action to collect their charges. Similar court action would be appropriate when charges are billed back to the carrier on credit card shipments pursuant to provisions of the Song-Beverly Act. Bekins indicated that the primary reason for discontinuance of its experimental ICC authority was that its charges exceeded the amount of credit available. This is less likely to occur on local moves and for the shorter distance moves in California.

Waiver of Credit on Underestimates

MRT 4-B currently provides that carriers can extend credit for a 15-day period for the amount of an underestimate. The record shows that few carriers have exercised this authority. It appears that carriers do not generally inform shippers of the opportunity to postpone payments for the difference between the estimate and the final charges.

The Commission staff proposed that shippers be required to make a waiver in writing with respect to credit on underestimates. CMSA and other parties concurred in this recommendation. It should be adopted. The existing credit provision shall be modified to apply only to charges under the Addendum Order for Service and the allowable overage.

Findings

1. An underestimate occurs when the final charge exceeds the original estimate by more than (a) 2-1/2 percent or \$15, whichever is greater, on distance moves, plus the charge on the Addendum Order for Service, or (b) 10 percent or \$15, whichever is greater, on local moves, plus the charge on the Addendum Order for Service.

2. Decision No. 79571 required that household goods carriers report quarterly the number of underestimates made by them on distance moves. A summarization of these reports for the second and third quarter of 1972 reveals that underestimates were made on approximately one-quarter of the total shipments on which estimates were furnished.

3. The foregoing incidence of underestimating is approximately the same as the incidence of underestimating occurring prior to the establishment of estimating rules in Decision No. 79571. Therefore, experience has shown that such rules are not stringent enough to curb underestimates and that additional rules are required if underestimates are to be reduced.

4. Interim Decision No. 81138 dated March 13, 1973 in this proceeding adopted additional rules specifically designed to eliminate the practice of deliberate underestimating referred to in House Resolution No. 57, appearing in the Assembly Journal of May 22, 1972.

5. Because of the difficulty of determining whether an under-estimate is deliberate, and because underestimates, whether or not deliberate, constitute an unfair business practice and may tend to mislead or deceive the uninformed shippers of household goods, additional rules designed to minimize underestimates are required.

6. Some form of penalty to the carrier is necessary to ensure that accurate estimates will be made by the carrier's employees. Two methods of providing an appropriate penalty have been proposed.

7. The Commission staff proposed as a penalty for under-estimating that the estimate plus an allowable overage of 10 percent be the maximum amount that could be assessed. This proposal would, in many instances, provide charges below those accruing under the established minimum rates. It is the Commission's policy to maintain the integrity of the minimum rates established by it for all classes of carriers. The integrity of the minimum rates would not be maintained under the staff proposal, unless it is modified to require a penalty sufficient to remove the incentive to underestimate.

8. California Moving & Storage Association proposed as a penalty for underestimating that the carrier pay as a fine to the Commission the difference between the actual charge assessed and the estimated charge plus an allowable overage of 15 percent. The method

proposed by CMSA has two faults: (a) there is no basis in the record for an allowable overage of 15 percent, and (b) a fine greater than the amount of the underestimate is needed to encourage more accurate estimating by household goods carriers. CMSA's proposal will not be adopted.

9. Decision No. 79571 established an allowance over the estimate of 10 percent or \$25 (whichever is greater) on distance moves, and 25 percent or \$25 (whichever is greater) on local moves. This allowance was too liberal; it did not achieve its hoped for purpose of limiting the incidence of underestimates. The allowance should be reduced.

10. When an underestimate is made by a carrier the maximum charge a shipper shall pay is:

(a) On distance moves:

1. The original estimate, plus
2. 2-1/2 percent of the original estimate or \$15, whichever is greater, plus
3. The charge, if any, on the Addendum Order for Service.

(b) On local moves:

1. The original estimate, plus
2. 10 percent of the original estimate or \$15, whichever is greater, plus
3. The charge, if any, on the Addendum Order for Service.

11. The reasonable penalty for underestimating will be the difference between the charge under the applicable minimum rates, on the one hand, and the charge based on the estimate plus 2-1/2 percent or \$15, whichever is greater, on distance moves, plus the charge on the Addendum Order for Service, or 10 percent or \$15, whichever is greater, on local moves, plus the charge on the Addendum Order for Service, on the other hand.

12. Penalties for underestimates should be paid to the Commission for deposit in the General Fund of the State of California. Each underestimate subject to a penalty shall be reported on a form prescribed by the Commission within thirty days after completion of the transportation service. The report form shall be accompanied by a check or money order made payable to the Commission for the amount of the penalty imposed.

13. In the event an estimate is given on local moves it will be reasonable to require household goods carriers to prepare written estimates, and to require that such written estimates be based on visual inspection of the goods. The present tariff provisions with respect to the issuance of an Addendum Order for Service shall be applicable to local moves on which a written estimate is furnished.

14. Reasonable provisions with respect to collection of charges by household goods carriers will result if permissive authority is granted to household goods carriers to allow carriers to accept an authorized credit card (as defined in Section 484(d) of the Penal Code) for collection of charges. It is not necessary at this time to specify the terms and conditions under which household goods carriers may accept credit cards.

15. It is reasonable to require that shippers be allowed credit for a fifteen-day period for the amount charged on the Addendum Order for Service and the allowable overage, unless the shipper executes a written waiver of this right.

16. Findings 10, 11, 12, 13, and 14 shall not be applicable to the transportation of used office and store fixtures, as described in paragraph (a)(2) of Item 20 of MRT 4-B.

17. The Commission staff shall prepare and distribute semi-annually a summary of the reports filed by household goods carriers of their underestimates. Such summary shall show the carrier's name, the

total number of shipments on which written estimates were furnished, the number of shipments on which penalties were paid because of underestimates, and the total amount of the penalties. The summary may also contain other information that may assist the public in their selection of a carrier.

Conclusions

1. Rules and prescribed forms consistent with the foregoing findings should be established in Minimum Rate Tariff 4-B.
2. The specific revision of Minimum Rate Tariff 4-B to incorporate such rules and forms should be accomplished by the issuance of a separate order, and the revisions should become effective sixty days after this order becomes effective.

O R D E R

IT IS ORDERED that Minimum Rate Tariff 4-B shall be amended in accordance with the findings and conclusions in the preceding opinion, that specific revisions of the tariff shall be accomplished by a separate order, and that such revisions shall become effective sixty days after this order becomes effective.

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

Dated at Los Angeles, California, this 26<sup>th</sup> day of JUNE, 1973.

Vernon L. Sturgeon  
President

[Signature]  
[Signature]  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

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