

**ORIGINAL**

Decision No. 84304

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 motor vehicles and related items (commodities for which rates are provided in Minimum Rate Tariff No. 12).

Case No. 5604  
Petition for Modification  
No. 34  
(Filed February 6, 1973)

Richard W. Smith and A. D. Poe, Attorneys  
at Law, and H. Hughes, for California  
Trucking Association, petitioner.  
Kirk S. Eyer, for Toyota Motor Sales;  
Robert A. Kormel, for Pacific Gas and  
Electric Company; and Walter R. Cord,  
for Mazda Motors of America; interested  
parties.  
Gary E. Haas, for the Commission staff.

O P I N I O N

This matter was heard and submitted March 16, 1973 at San Francisco before Examiner Thompson. California Trucking Association in the petition herein seeks an increase in the 20 percent surcharge prescribed by the Commission in Decision No. 80301 for application to the rates and charges for the transportation of motor vehicles in secondary truckaway service in Minimum Rate Tariff 12 (MRT 12) to 23 percent. Petitioner also requests that common carriers be authorized to establish the increase to all class and commodity rates and charges applicable to the transportation of related exempt commodities as well as those commodities subject to MRT 12.

The granting of the petition is opposed by Toyota Motor Sales and by Mazda Motors of America. The Commission staff opposes the granting of authority to common carriers to increase rates on related exempt commodities.

The evidence in this proceeding consists of prior decisions of the Commission in the establishment of minimum rates in MRT 12 of which official notice is taken, testimony and exhibits presented by a cost analyst on the staff of petitioner, and California Automobile Transporters Local Tariff No. 1, R. A. Redmond, Agent, which was received in evidence by reference.

Background

Motor vehicles are transported within California by a number of methods, including by railroad, by "driveaway" service in which a driver is employed to drive the vehicle under its own power between points, by "towaway" service in which the vehicle is towed on the highways by another motor vehicle, and by "truckaway" service in which the weight of the vehicle to be transported rests wholly or partly on the equipment of a highway carrier. By Decision No. 50218 dated June 29, 1954, the Commission established in MRT 12 minimum rates for the transportation of motor vehicles and related items in secondary movement by truckaway service. Secondary movement was defined as transportation of motor vehicles except for the initial movement from a manufacturing plant or a return thereto. Those minimum rates were first adjusted upwards by about 12 percent pursuant to Decision No. 57159 dated August 12, 1958. In that decision is stated:

"An increase in the marketing of sports cars and foreign cars was given effect in the cost study by the use of a higher load factor."

The minimum rates were next adjusted by an increase of 3 percent pursuant to Decision No. 58232 dated April 7, 1959. As in the prior decision there was no authority to common carriers to increase rates on exempt commodities.

In Decision No. 63413 dated March 13, 1962, the Commission prescribed increases ranging from 2-1/2 to 5 percent in the rates in MRT 12. With respect to the exempt commodities the Commission

authorized common carriers to make corresponding increases in their rates for initial movements of vehicles in truckaway service and in their rates for driveaway service. The general level of the minimum rates remained unchanged until the issuance by the Commission of Decision No. 78905 dated July 13, 1971 in which a surcharge of 10 percent was prescribed in all charges at the rates in MRT 12. In that decision it is stated:

"The Commission staff representative stated that the Transportation Division staff intends to undertake the studies necessary to develop current total operating costs and that the staff expects to complete said studies by the end of the current year."

In the decision the Commission found, among other things:

- "3. Increases in driver's wage costs, in the period since MRT 12 rates were last adjusted, have been offset in whole or in part by reductions in operating costs resulting from the increased productivity stemming from the transportation of greater numbers of cars per load.", and
- "4. Truckaway equipment cannot be made to handle any more vehicles than currently are being handled; therefore, no further increase in productivity from this source is available."

The order in that decision provided, among other things:

- "3. Common carriers maintaining rates for the transportation of motor vehicles in secondary movement not subject to Minimum Rate Tariff 12 are authorized to increase said rates by the same amounts as authorized for Minimum Rate Tariff 12 rates herein."

The increases authorized in Decision No. 78905 were suspended pursuant to the requirements of the Executive Order of the President of the United States imposing a freeze on prices. This suspension was vacated by Decision No. 79371 and the increases were made effective November 22, 1971.

The most recent action by the Commission involving adjustment in the general level of rates in MRT 12 was the issuance of Decision No. 80301 on July 25, 1972 wherein a surcharge of 20 percent

was established effective September 1, 1972, in lieu of the 10 percent surcharge mentioned hereinabove. That decision referred to the findings in Decision No. 78905 concerning productivity and found:

- "4. The record shows that no further increases in productivity from any source are currently available to carriers transporting motor vehicles under rates in MRT 12."

With respect to the authorization to common carriers to increase rates on exempt commodities, the decision contained the identical ordering paragraph as contained in Decision No. 78905 set forth above. The decision also describes evidence that 1971 was an extremely productive year for the carriers because of movements of automobiles into California from Mexican ports because of a dock strike in this State that occurred that year, and that following the strike many foreign automobiles were brought into California through Port Hueneme because other major ports were crowded with cargo as a result of the strike. The decision also states that the staff studies contemplated in Decision No. 78905 were not completed because the staff was not able to provide the necessary personnel in view of commitments in other areas.

#### The Evidence

The prevailing rates of wages for drivers employed by carriers engaged in truckaway services in California are those provided in a Western Conference truckaway supplement to the National Master Automobile Transporters Agreement. The increases in wages and fringe benefit contributions occurring since the last general

adjustment in minimum rates effective September 1, 1972 are set forth in the margin.<sup>1/</sup>

As of January 1, 1973, payroll taxes were increased. F.I.C.A (Social Security) taxes increased both as to rate and as to taxable wages to which the rate is applied resulting in an increase in annual tax from \$468 to \$632, or 35 percent. C.U.I. (State Unemployment Insurance) rates increased from 3.1 percent to 3.3 percent on annual taxable wages of \$4,200, or 4.9 percent. P.U.F. (Federal Unemployment) rates increased from 0.5 percent to 0.58 percent on annual taxable wages of \$4,200, or 14.3 percent. On October 1, 1972, the manual rate for workmen's compensation insurance increased from \$5.76 per \$100 of wages paid to Truckmen to \$6.13, or 6.42 percent.

By applying the wage rates to a forty-hour week for 52 weeks (2,080 hours) and adding the payroll taxes, pension contributions and health and welfare contributions as well as the cost for workmen's compensation insurance, a comparison of the cost as of

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<sup>1/</sup> Changes in wage rates and fringe benefits contributions from September 1, 1972 effective March 1, 1973.

	<u>9/1/72</u>	<u>3/1/73</u>	<u>Increases</u>	
			<u>Amount</u>	<u>Percent</u>
<u>Local Driver Wage</u>				
Per hour	\$ 5.340	\$ 6.090	\$ .250	4.28
<u>Long Line Driver</u>				
Wage per hour	5.660	5.910	.250	4.28
Wage per mile	0.1505	0.1580	.0075	4.98
<u>H. &amp; W. Fund</u>				
Per man/month	55.42	59.73	4.31	7.78
<u>Pension Fund</u>				
Per man/week	13.00	14.00	1.00	7.60

No changes in number of days of vacations or holidays.

September 1, 1972 of employing a driver can be compared to the cost as of March 1, 1973. The comparison shows an increase in the cost of 5.93 percent.

Petitioner presented Exhibit 34-3 consisting of an estimate of the impact of the aforementioned cost increases upon the operations of fourteen carriers engaged in secondary truckaway transportation. It also sets forth estimated results of six carriers of the fourteen that earned more than 50 percent of their revenue from the rates in MRT 12. The base year selected for those estimates was the calendar year 1972. The revenue estimates are overstated because petitioner applied percentages of increases incorrectly to the revenues for the base year. In determining the additional revenue that would result from the proposed increase 3 percent instead of 2-1/2 percent was applied to the 1972 revenues. The petition requests substituting a 23 percent surcharge in lieu of a 20 percent surcharge which is an increase in rates of 2-1/2 percent. From the fourteen carriers petitioner obtained the detail of expenses and

therefore the ratio of wages, welfare expense, compensation insurance expense, and payroll tax to total operating expense. Petitioner found that the above-mentioned expenses amounted to 51.06 percent of the total operating expenses of the fourteen carriers and 53.84 percent of the operating expenses of the six carriers. It was developed that the impact of the increases in those expenses to total operating expenses is 2.82 percent in the case of the fourteen carriers and 2.90 percent in the case of the six carriers.

Table 1 sets forth estimates of the results of operations of the six carriers and the fourteen carriers at March 1, 1973 expense levels and at the proposed increases in the minimum rates in MRT 12. Those estimates differ from those set forth in Exhibit 34-3 in that 2-1/2 percent was applied to the revenue derived from MRT 12 instead of 3 percent, and expenses based upon taxes on gross revenue are computed by considering only the fee payable under the Transportation Rate Fund Act and the tax payable under the Highway Carriers' Uniform Business License Tax. The for-hire carriers' tax payable to the State Board of Equalization was repealed July 1, 1973 and is not included.

TABLE 1

Estimates of the Impact of Increased Expenses, and of Proposed Increased Rates on the Operating Results of Secondary Truckaway Carriers for The Calendar Year 1972

	<u>6 Carriers</u>	<u>14 Carriers</u>
A. <u>Actual 1972</u>		
1. Revenue from MRT 12	\$5,266,938	\$ 8,106,526
2. Other Revenue	<u>763,785</u>	<u>130,351,120</u>
3. Total Revenue	\$6,030,723	\$138,457,646
4. Operating Expenses	\$5,848,891	\$133,076,758
5. Operating Ratio (4 + 3)	97.00%	96.10%
B. <u>Modified for Labor Cost Increases<sup>1/</sup></u>		
6. Percent increase total expense	2.90%	2.82%
7. Line 4 x Line 6	\$ 169,618	\$ 3,752,758
8. Modified Expense (4 + 7)	\$6,018,509	\$136,829,267
9. Operating Ratio (8 + 3)	99.80%	98.80%
C. <u>Modified for Proposed Rate Increase</u>		
10. Increase in Revenue (1 x 2-1/2%)	\$ 131,673	\$ 202,663
11. Total Revenue (3 + 10)	\$6,162,396	\$138,660,309
12. Add'l Gross Receipts Taxes <sup>2/</sup>	\$ 570	\$ 876
13. Total Expense (8 + 12)	\$6,019,079	\$136,830,143
14. Operating Ratio (13 + 11)	97.70%	98.70%

<sup>1/</sup> As of March 1, 1973.

<sup>2/</sup> Gross Receipts Taxes:

0.333% Transportation Rate Fund Fee

0.100% Uniform Business License Tax

0.433% x Line 10 = Line 12



In Exhibit 34-4 petitioner set forth an estimate of the impact of the proposed increase upon the revenues of all carriers engaged in transporting property subject to the rates in MRT 12. The Commission's Data Bank Report 601-2 shows that the revenue derived in 1971 by all carriers from rates prescribed in MRT 12 was \$11,131,691. Petitioner applied certain percentages to that base in order to determine the gross revenues that would have been received at the present rates and at the proposed rates. It was shown that the method used by petitioner was invalid.

During the period January 1, 1971 through August 20, 1971 (232 days of the year) the minimum rates were those set forth in the various items of MRT 12. Effective August 21, 1971 through December 31, 1971 (133 days), the minimum rates were those set forth in the various items of MRT 12 plus a 10 percent surcharge. The revenues that would have been received by the carriers had the 10 percent surcharge not been made effective August 21 would have been \$10,740,344. The present minimum rates are those set forth in the various items of MRT 12 plus a 20 percent surcharge. Had the present minimum rates been effective throughout the year 1971 the revenues that would have been received by the carriers would have been \$12,888,367. The proposed increased rates are the minimum rates set forth in the various items of MRT 12 plus a 23 percent surcharge. Had the proposed rates been in effect during 1971 the revenues that would have been received by the carriers amount to \$13,210,576. Based upon operations conducted during 1971 the additional revenue to be derived at the proposed rates by all carriers engaged in operations subject to the provisions of MRT 12 amounts to \$322,210.

There are highway common carriers engaged in the transportation of motor vehicles in secondary movement by truckaway. Some of those carriers also provide truckaway service in initial movements and some provide driveaway services. Highway common carriers are required to publish and maintain their own schedule of rates for the

services they offer. Six highway common carriers maintain their rates in Local Tariff No. 1 of California Automobile Transporters, R. A. Redmond, Agent. Section 3 of that tariff names rates for transportation by truckaway of a number of commodities such as generators, searchlights, aviation beacons, Vehicle chassis, motor-cycles, vehicles other than motor and vehicle parts. There are rates that apply to motor vehicles weighing less than 1,000 pounds each or weighing more than 5,000 pounds each.

#### Discussion

The evidence shows that as of March 1, 1973 the costs related to the employment of labor incurred by carriers engaged in transporting motor vehicles and related articles in truckaway service has increased by 5.93 percent since September 1, 1972. This labor related cost increase has the effect of increasing the carriers' total cost of providing service by approximately 3 percent. The proposed increase in rates by 2-1/2 percent will not recover the cost increase. The evidence shows that the offsetting of a portion of that cost increase by gains in productivity is not attainable.

Mazda Motors of America asserts that the proposed increase in rates will have an adverse effect upon the imported automobile industry and that the increased costs will necessarily have to be passed on to the consumer. The consumer eventually pays the cost of any increase in rates. In its determination of whether increases in rates are justified the Commission must be governed by the law. In the instance of the establishment of minimum rates the Commission must follow the legislative mandates of Sections 726, 3661, 3662, and 3663 of the Public Utilities Code, among others, and must be guided by the precepts set forth in Section 3502 which states in part:

"It is the purpose of this chapter to preserve for the public the full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon such highways; to secure to the people just and reasonable

rates for transportation by carriers operating upon such highways; and to secure full and unrestricted flow of traffic by motor carriers over such highways which will adequately meet reasonable public demands by providing for the regulation of rates of all transportation agencies so that adequate and dependable service by all necessary transportation agencies shall be maintained and the full use of the highways preserved to the public."

This record shows that the six carriers which are almost wholly engaged in transportation governed by the minimum rates in MRT 12, and who transport between 40 and 50 percent of all traffic moving at those rates, would operate only at a break-even point under the present rates. We do not consider such a circumstance to meet the legislative policy of providing for the regulation of rates of all transportation agencies so that adequate and dependable service by all necessary transportation agencies shall be maintained; nor are we of the opinion that minimum rates which will provide revenues barely sufficient to meet the costs of providing the service to be the just and reasonable minimum rates required by the legislative mandate.

Toyota Motor Sales, Inc. moved that consideration of any increase be postponed until the Commission has before it the studies being undertaken by the staff. The staff indicated at the hearing that the completion of those studies is anticipated in the fall of 1973. We need only to point out that in Decision No. 78905 dated July 13, 1971 it is stated that the staff at hearing preceding that decision asserted that the studies were expected to be completed at the end of that year 1971. The motion will be denied.

With respect to petitioner's request that common carriers be authorized to increase rates on exempt commodities to the same extent as the increases in MRT 12, the evidence shows that the increases in costs would be applicable to all truckaway operations conducted by the carriers in that the labor costs per hour do not vary because of the

article being transported. It is noted that prior decisions of the Commission are not uniform with respect to this issue. At first, and until 1962, the authority to common carriers to make corresponding increases in rates on exempt commodities was not included in the decisions concerning MRT 12. In Decision No. 63413 the Commission authorized common carriers to make corresponding increases in rates for driveaway services and for truckaway services in initial movements. In the next decision, issued in 1971, the Commission granted authority to common carriers to increase rates only on articles transported by truckaway in secondary movement. That also was done in the most recent decision in this case, namely Decision No. 80301 dated July 25, 1972.

While the record shows that the increases in costs would apply equally to any transportation in initial movements by truckaway service, it is not clear from the record what articles included in the exempt commodity category are covered by rates in the tariffs of truckaway common carriers. It has not been established whether those rates are at the same level or at a different level from those prescribed in MRT 12, or whether there have been adjustment in any of those rates separate and aside from those authorized by Decisions Nos. 78905 and 80301. With respect to rates for the transportation of exempt commodities in truckaway service that are maintained at the same level as the rates prescribed in MRT 12, a showing has been made that corresponding increases in rates are justified. As to other rates, they have not been identified sufficiently for the Commission to determine whether any increases are justified. In order to avoid any confusion regarding which rates on which exempt commodities may be increased, the request will be denied without prejudice. It would appear that applications by common carriers, or their tariff publishing agents, for authority to increase such rates may be appropriately filed either under the Special Tariff Docket procedure specified in General Order No. 109, the Shortened Procedure Tariff Docket provisions of Rule 25 of the Rules of Practice and Procedure, or a formal application.

Findings

We find that:

1. The minimum rates for the transportation of motor vehicles in secondary movement, as set forth in MRT 12, were last adjusted effective September 1, 1972 pursuant to Decision No. 80301 dated July 25, 1972.

2. Since the effective date of said adjustment in the minimum rates, and as of March 1, 1973, carriers subject to MRT 12 have incurred an increase of 5.93 percent in the cost of employing labor to perform the services for which rates are prescribed in MRT 12.

3. The effect of the increase in the cost of labor has been to increase the total cost of providing truckaway service of motor vehicles in secondary movement by approximately 3 percent.

4. By this petition, California Trucking Association on behalf of carriers engaged in this transportation seek an increase of 2-1/2 percent in the rates and charges in MRT 12.

5. Productivity gains to offset the increases in costs are not expected nor do they appear to be obtainable.

6. The increase in minimum rates sought herein will provide revenues no greater than the increases in expenses resulting from the increased labor costs.

7. The carriers engaged in transporting motor vehicles in secondary movement by truckaway at the rates prescribed in MRT 12 cannot absorb the increases in costs and continue to operate at a reasonable profit.

8. The increase in minimum rates will provide all carriers engaged in transportation at the rates named in MRT 12 with additional gross revenue of \$322,000, which increase is the minimum required to assure continued adequate and safe transportation service.

9. The increase is cost-justified and does not reflect future inflationary expectations.

10. The increase in the minimum rates in MRT 12 is justified.

11. The resulting increased rates are, and for the future will be, the just, reasonable, and nondiscriminatory minimum rates to be observed by highway carriers engaged in truckaway transportation of motor vehicles in secondary movement.

12. The exempt commodities for which increases in the rates of common carriers is sought have not been sufficiently identified so as to permit a determination of whether the proposed increases in those rates are justified.

#### Conclusions

We conclude that:

1. MRT 12 should be amended by substituting a surcharge on all rates and charges of 23 percent in lieu of the 20 percent surcharge prescribed in Decision No. 80301.

2. Common carriers should be required to increase their rates for the services covered by the rates in MRT 12 to the same level as the minimum rates prescribed herein.

3. Common carriers should be authorized to depart from the long- and short-haul provisions of the Public Utilities Code to the extent necessary to publish the rate increases required herein.

4. Authority to common carriers to establish increases in the rates for exempt commodities should be denied without prejudice.

#### O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 12 (Appendix A of Decision No. 50218, as amended) is further amended by incorporating therein, to become effective October 25, 1973, Supplement 7, attached hereto and by this reference made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject to Decision No. 50218, as amended, are directed to establish in their tariffs the increases necessary to conform to the further adjustments herein.

3. Tariff publications required to be made by common carriers as a result of this order shall be filed not earlier than the effective date of this order and may be made effective not earlier than the tenth day after the effective date of this order on not less than ten days' notice to the Commission and to the public and shall be made effective not later than October 25, 1973.

4. Common carriers, in establishing and maintaining the rates authorized by this order, are 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.

5. Authority to common carriers to increase their rates on exempt commodities is denied without prejudice.

6. In all other respects, Decision No. 50218, as amended, shall remain in full force and effect.

7. The motion of Toyota Motor Sales is denied.

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

Dated at San Francisco, California, this 25th day of SEPTEMBER, 1973.

Vernon L. Stevens  
President  
William Lynovs J.  
Alvin  
Commissioners

*I dissent*  
*Alvin, Commissioner*



SURCHARGE SUPPLEMENT

SUPPLEMENT 7

(Cancels Supplement 4)

(Supplements (1) 5, 6 and 7 Contain All Changes)

TO

MINIMUM RATE TARIFF 12

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF MOTOR VEHICLES

(As Described Herein)

IN SECONDARY MOVEMENT

BY

TRUCKAWAY SERVICE

OVER THE PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

RADIAL HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

◊ APPLICATION OF SURCHARGE

Compute the amount of charges in accordance with the rates and rules in this tariff and increase the amount so computed by twenty-three (23) percent, dropping fractions of less than one-half cent and increasing fractions of one-half cent or greater to one cent.

(1) Contains suspended matter.

◊ Increase, Decision No.

81904

EFFECTIVE

Issued by the  
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
State Building, Civic Center  
San Francisco, California 94102