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Decision No. 81907

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into
the rates, rules, regulations, charges,
allowances and practices of all common
carriers and highway carriers relating
to the transportation of trailer coaches
and related items as provided in Minimum
Rate Tariff No. 18.

Case No. 8808
Petition for Modification
No. 21
(Filed February 7, 1973)

Henry F. Lippett II, Attorney at Law,
Michael L. Ziegan, and Louis C. Bell,
for Trailer Coach Association,
petitioner.

Russell & Schureman, by Carl H. Fritze,
Attorney at Law, for National Trailer
Convoy, Inc.; and Donald D. Evans, for
AAA Mobile Transport Service;
respondents.

Milton W. Flack, Attorney at Law,
James H. Moseley, and Don B. Shields,
for Highway Carriers Association;
H. W. Hughes, and R. W. Smith and
Arlo D. Poe, Attorneys at Law, for
California Trucking Association; and
Brian Aleksich, for California Dump
Truck Association; interested parties.
Leonard Diamond, for the Commission staff.

O P I N I O N

Minimum Rate Tariff 18 (MRT 18) contains rates and
accessorial charges for the transportation of trailer coaches and
camper bodies. Separate distance scales of rates are set forth
for trailer coaches or campers not over 8 feet 4 inches in width

(8-wides), for trailers not over 10 feet 4 inches in width (10-wides), and for trailer coaches exceeding 10 feet 4 inches in width (12-wides). In addition to transportation rates, the tariff provides accessorial charges for various services, including escort service and for the securing of permits for movement of extra-wide or extra-long trailer coaches.^{1/}

^{1/} Item 240 of MRT 18 provides a charge of \$7.35 per hour, plus 8-3/4 cents per mile for each escort vehicle and driver furnished by the highway carrier; and Item 260 provides a charge of \$7.40 for obtaining a permit, plus a charge equal to the fee, if any, assessed by the governmental agency for issuing the permit.

Item 70 of MRT 18 provides as follows:

COMPUTATION OF DISTANCES

Distances to be used in connection with distance rates named herein shall be the shortest resulting mileage via any public highway route, computed in accordance with the method provided in the Distance Table. (See Exceptions 1 and 2.)

EXCEPTION 1.--Except as provided in Exception 2, when a permit shipment is required to be towed by a circuitous route because of conditions imposed by a governmental agency, distances shall be computed along the shortest legal route available to the carrier in accordance with the method provided in the Distance Table.

EXCEPTION 2.--When a permit shipment, exceeding 10 feet 4 inches in width, is required to be towed by a circuitous route because of conditions imposed by a governmental agency, distances shall be determined by multiplying the constructive mileage in the Distance Table by the percentage increase factors set forth in the following table. Fractions of 1/2 or over shall be rounded to the next whole mile. Fractions of less than 1/2 mile shall be dropped.

CONSTRUCTIVE MILEAGE PERCENTAGE INCREASE FACTORS

<u>Between</u>	<u>and</u>					
	MZ	MZ	MZ			
	100 Series	200 Series	300 Series			
	(1)	(1)	(1)	Group A	Group B	
MZ 100 Series	125	115	115	105	120	
MZ 200 Series	-	155	160	135	115	
MZ 300 Series	-	-	110	125	130	
Group A	-	-	-	115	110	
Group B	-	-	-	-	115	

GROUP A - Counties of Los Angeles, Imperial, Orange, Riverside, San Bernardino and San Diego, excluding that area encompassed by the 200 series and 300 series Metropolitan Zones.

GROUP B - All counties not included in Group A, and not including area encompassed by the 100 series Metropolitan Zones.

(1) When transportation is performed entirely within a single metropolitan zone the distance shall be 5 miles.

Petition No. 21, filed by the Trailer Coach Association pointed out that the California Division of Highways, effective September 18, 1972, opened over 200 miles of Interstate Freeways and State Highways (principally in southern California) to the movement of 12-wide trailers; and requested that the Commission's Transportation Division staff promptly prepare a study and present a study to substantially modify the Constructive Mileage Percentage Increase Factor prescribed in Exception 2 of Item 70 of MRT 18, supra. Upon being informed by the Director of the Commission's Transportation Division that the requested study would not be undertaken by the staff, the petition was scheduled for hearing.

Public hearing was held before Examiner Mallory in Los Angeles on July 23 and 24, 1973 and the matter was submitted. Evidence in support of the petition was adduced by three witnesses appearing for the Trailer Coach Association. Two highway carriers appearing on behalf of the Highway Carriers Association testified in opposition to the relief sought by petitioner. The Commission staff representative urged that the request in the petition for a staff study be denied for the reason that the requested study would be time-consuming and involved, and that the staff is not able at this time to commit the man power necessary to complete the study.

In the absence of the staff study requested in the petition, petitioner seeks alternatively, (1) the establishment of the provisions of Exception 1 of Item 70 to 12-wide operations, or (2) the reduction of the Constructive Mileage Percentage Factors in Exception 2 to reflect the shorter routes which assertedly result from the opening of the additional freeway routes in southern California.

The evidence adduced by petitioner in support of the first alternative described above is substantially identical to that adduced by it in the proceeding leading to Decision No. 79427 in Case No. 8808 Petitions Nos. 9 and 14 (November 30, 1971) (unreported). That decision describes in full the evidence adduced therein and concluded that the evidence of the Trailer Coach Association was not persuasive. Inasmuch as no new facts have been presented or issues of law raised in this proceeding with respect to petitioner's first proposal which are different from those considered and decided by the Commission in Decision No. 79427, no further consideration will be given to petitioner's first proposal herein and that proposal will be denied.

With respect to petitioner's second proposal the record shows the following: Approximately 85 percent of the trailer coaches transported by highway permit carriers are 12-wides. The California Department of Public Works, Division of Highways has made several changes to the "12 Foot Wide Trailer Coach Arterial System".^{2/} The following interstate and state highways were opened to transportation of 12-wides on September 18, 1972.

1. Interstate 5 between its junction with State Highway 78 in Carlsbad and its junction with Interstate 405 (79) miles.
2. All of Interstate 405 (90 miles).
3. All of State Highway 55 (18 miles).
4. State Highway 78 between Carlsbad and Escondido.

Several other major routes have opened since September 18, 1972.

^{2/} The California 12-wide trailer coach arterial system is a network of state highways over which the transportation of 12-wide mobile homes are allowed on an annual permit basis. This network is designed to provide at least one state highway route over which 12-wide mobile homes may be transported into all areas of the State. The different routes making up this network of highways are established by the State of California, Division of Highways.

In the same period several deletions of routes were also made. The principal deletion as it affects the issues herein, is that portion of Interstate 15 (U. S. 395) from County Road S-13 (Mission Road) near Fallbrook, south to the Junction of Interstate 15 and 78 in the north city limits of Escondido. Concurrently with this deletion, the following route segment was added: The portion of Route 76 between County Road S-13 (Mission Road) in Bonsall west to County Road A-9A (North River Road) - pilot car required.

A witness for petitioner presented examples of shipments of 12-wide trailers to show that the constructive mileage increase factors are now greater than necessary to provide for the circuitous routing necessary to move 12-wide trailers between selected points in southern California, as a result of the more than 200 additional miles of state and interstate highway routes opened to this traffic. The number of sample shipments included in the studies made by petitioner's witness admittedly are substantially less than those included in the staff exhibit which served as a foundation for the original development of the constructive mileage increase factors.^{3/} The witness explained that petitioner did not have the facilities necessary to conduct a study of the magnitude introduced by the staff Exhibit 9-4.^{4/} The study relied upon by petitioner clearly shows that between some groups of points the factors should be reduced.

^{3/} Exhibit 9-4 (witness, Diamond) received in evidence in Case No. 8808, Petition 9. Said exhibit was incorporated in the record herein by reference.

^{4/} Apparently the staff is not able to again devote the man power necessary to conduct a study similar to Exhibit 9-4.

The data introduced herein, although not of the same depth and quality of that introduced heretofore in connection with the establishment of the provisions in question, are the only facts currently available or likely to be made available in response to the petition herein. Therefore, such data must be relied upon for adjustments showed to be required in light of our statement in Decision No. 79427 (see finding 4, *infra*). As stated in Rates For Small Shipments Service, 72 CPUC 759, at page 753 "(W)hen reductions are proposed it does not seem we should hold the petitioner to such strict proof as when increases are proposed."

The witness for petitioner contended that the deletion of the route via U. S. 395 referred to above would have no effect on movements between the Riverside/Hemet/San Bernardino area and the San Diego area because highway carriers could operate over a parallel route via San Diego County Road S-13. Witnesses for the Highway Carriers Association testified that the route via County Road S-13 is not a practical route because of grades, narrow pavement, and the requirement for a pilot car over a portion of the alternate route.

Findings

1. Decision No. 79427 dated November 30, 1971 in Case No. 8308, Petitions Nos. 9 and 14, revised the minimum distance rates for the transportation of 12-wide trailers in MRT 18 and established a new rule for the computation of distance rates for 12-wides (Item 70; Exception 2). We adopt findings 1 and 2 of that decision.

2. Petitioner's first proposal, that the provisions of Exception 2 of Item 70 be cancelled and the former provisions of Item 70 be reestablished, is the same as that proposed by the Trailer Coach Association in Petitions Nos. 9 and 14 and fully considered by the Commission in Decision No. 79427. No additional facts have been introduced in this proceeding with respect to petitioner's first proposal that were not considered in Decision No. 79427. Petitioner's first proposal is not justified.

3. Petitioner's second proposal is that the following amendments should be made in Exception 2 in Item 70 of MRT 18 as interim changes pending completion of the staff studies requested in the petition:

CONSTRUCTIVE MILEAGE PERCENTAGE INCREASE FACTORS

<u>Between And</u>	<u>MZ 200 Series</u>	<u>MZ 300 Series</u>	<u>Group A</u>
MZ 200 Series	100	110	110
MZ 300 Series	-	-	110
Group B	-	110	-

4. Decision No. 79427 stated that when it appears that significant traffic will move between points where the enroute performance of highway carriers would be substantially increased or decreased because of changes in routings prescribed by governmental authorities, appropriate adjustments would be made in the constructive mileage increase factors in Exception 2 of Item 70.

5. Since September 18, 1972, the California Department of Public Works, Division of Highways, has added several new routes in southern California to its "12-Foot Wide Trailer Coach Arterial System", and has deleted one important route embracing portions of U. S. 395 in San Bernardino and San Diego Counties. The added routes provide approximately 200 miles of interstate freeways and state highway routes to the system, which have the effect of changing the number of miles traveled by transporters of 12-wides when such routes are used. In accordance with Decision No. 79427, it is appropriate to revise the constructive mileage increase factors in Exception 2 of Item 70 to reflect such changes.

6. The comparisons of route mileages furnished by petitioner's witness to support its second proposal referred to in finding 3 (above) were limited in number and scope, and do not constitute as adequate a sampling as that contained in the staff's Exhibit 9-4 which formed the basis for the establishment of the constructive mileage percentage increase factors adopted in Decision No. 79427. However, the examples furnished, together with the testimony of petitioner's witnesses and carrier witnesses, provide sufficient information to test petitioner's second proposal.

7. The record supports the following changes in constructive mileage increase factors for the movement of 12-wide mobile homes.

(a) Petitioner's proposal to reduce the factor applicable between MZ 200 Series points and MZ 300 Series to 110 percent is justified and is supported by the additional examples of movements developed at the request of the Commission staff representative at the hearing.

(b) The factor applicable between points within MZ 200 Series should be reduced from 155 percent to 145 percent. This reduction is less than that proposed by petitioner because the limited availability of Interstate 405 between the hours of 10 a.m. to 2 p.m. and the continued restriction on the use of Interstate 5 and Interstate 10 within the MZ 200 Series area will not materially reduce the circuitous mileage required to transport 12-wide mobile homes within that area.

(c) The factor applicable to movements between MZ 300 Series and Group A points should be increased as a result of the deletion of the former route embracing U. S. 395, and because the alternate route which embraces County Road S-13 is not a viable route. An increase in the factor from 125 percent to 145 percent is justified.

8. No change in the constructive mileage increase factors is appropriate between the following points:

(a) There is no evidence in the record to support the proposed changes in the factors between Group B points and other points.

(b) The proposed reduction in the factor applicable between MZ 200 Series points and Group A points (from 135 percent to 110 percent) is not justified because the reductions in circuitous mileage due to the limited availability of Interstate 405 is offset by the increases in mileages as a result of the deletion of the former route embracing U. S. 395.

9. The data introduced herein supports the following revisions of the constructive mileage increase factors in Exception 2 to Item 70 of MRT 18:

<u>Between</u> <u>And</u>	<u>MZ 200</u> <u>Series</u>	<u>MZ 300</u> <u>Series</u>
MZ 200 Series	145	110
Group A	-	145

10. The revisions of the constructive mileage increase factors set forth in the above finding, and which will be established in the order that follows, are, and for the future will be, the just, reasonable, and nondiscriminatory minimum rules to govern the transportation of trailer coaches and campers by highway carriers over the public highways of the State of California.

11. Increases in rates and charges resulting from the adjustments in constructive mileage increase factors described in the finding above and which will be established in the ensuing order are justified.

12. The movement of trailer coaches via routes prescribed by governmental authorities and the computation of distances under the circuitous mileage rule for the application of minimum rates for such transportation may result in situations wherein a greater charge is prescribed for a shorter distance in actual miles than for a longer distance in actual miles. In such situations authority to depart from the long- and short-haul prohibitions of Section 460 of the Public Utilities Code is required and is justified.

13. None of the parties to this proceeding have indicated a present willingness and ability to conduct a study of the same extent as that presented in Exhibit 9-4. Petitioner and the staff specifically requested that they be relieved of such presentation because of lack of available man power. There is no party of record presently capable of conducting the additional studies requested by petitioner as part of its second proposal.

We conclude that Minimum Rate Tariff 18 should be amended by incorporating the adjustments found herein to be reasonable and as provided in the ensuing order. In all other respects Petition for Modification No. 21 should be denied.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 18 (Appendix B to Decision No. 72418, as amended) is further amended by incorporating therein, to become effective October 20, 1973, Third Revised Page 9, 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 also to Decision No. 72418, as amended, are hereby directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered herein.

3. Tariff publications required to be made by common carriers as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier than 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 20, 1973.

4. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

5. In all other respects Decision No. 72418, as amended, shall remain in full force and effect.

C. 8308, Pet. 21 ek

6. To the extent not granted herein, Petition for Modification No. 21 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. Sturgeon
President
William Sturgeon Jr.
W. L. Sturgeon
Stanley Sturgeon
Stanley Sturgeon
Commissioners

SECTION 1--RULES (Continued)						ITEM																																																							
ACCESSORIAL CHARGES NOT TO BE OFFSET BY TRANSPORTATION CHARGES						60																																																							
Accessorial charges set forth in this tariff for accessorial services not included in the rate for actual transportation shall be assessed and collected when such services are performed, regardless of the level of the transportation rate assessed. Such accessorial charges may not be waived on the basis that a higher-than-minimum transportation rate serves as an offset.																																																													
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