

ORIGINAL

Decision No. 82543

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 (com- )  
modities for which rates are )  
provided in Minimum Rate Tariff )  
No. 12).

Case No. 5604  
Petition for Modification  
No. 37  
(Filed October 9, 1973;  
amended December 3, 1973)

Richard W. Smith, Attorney at Law, and H. Hughes,  
for California Trucking Association, petitioner.  
Frank Klinger, for Pasha Truckaway; Martin H.  
Richards, for Port Terminal Transport Inc.;  
Lynn B. Hansen, for Automobile Transport Co.;  
Harold J. Adams, for Kenosha Auto Transport  
Corp.; R. H. Brunt, for Hadley Auto Transport;  
Arthur J. Woodard, for Robertson Truck-A-Ways,  
Inc.; W. F. Raymond, for Imported Auto Transport,  
Inc.; Alfred E. Daniel, for Insured Auto Trans-  
porters, Inc.; respondents.  
Gerard J. Maloney, for Fiat-Roosevelt Motors, Inc.  
and Volkswagon-America, protestants.  
Robert E. Walker, for the Commission staff.

### O P I N I O N

Minimum Rate Tariff 12 (MRT 12) contains minimum rates for the movement of new automobiles in secondary truckaway service. The rates in MRT 12 have been subject to a surcharge increase for a period of years, awaiting completion of full-scale cost and rate studies by the Commission staff. This series of surcharge increases began with Decision No. 78905 dated July 13, 1971, which established a surcharge of 10 percent on all rates and charges in MRT 12.

Decision No. 80301 dated July 25, 1972 substituted a 20 percent surcharge in lieu of the 10 percent surcharge. Decision No. 81904 dated September 25, 1973 substituted a surcharge of 23 percent in lieu of the prior surcharges.<sup>1/</sup>

In this proceeding California Trucking Association (CTA) seeks to substitute a surcharge of 30 percent on the rates and charges in MRT 12, in lieu of the existing surcharge of 23 percent. The petition alleges that such increase is necessary to offset the higher wage costs incurred since the last rate adjustment and to offset the continuing increase in fuel prices resulting from the current worldwide energy crisis.

Public hearing was held before Examiner Mallory in San Francisco on December 17, 1973 and the matter was submitted. Fiat-Roosevelt Motors, Inc. and Volkswagon-America, nationwide distributors of the imported cars named, protest the further increases in rates based on the type of showing employed by petitioner. The Commission staff opposed the granting of the petition to the extent that it seeks increases in rates to offset fuel costs on the basis that the most recent offset proceeding involving Minimum Rate Tariff 2 denied the portion of the rate increase based on higher fuel costs (Decision No. 82219 dated December 4, 1973 in Case No. 5432, Petition 757, et al.).

Petitioner's evidence was presented by the cost supervisor in CTA's Division of Transportation Economics. Exhibit 37-1 shows the changes in truckaway labor rates for short-line and local drivers (on an hourly basis) and long-line drivers (on an hourly and on a mileage basis) for the period November 1, 1961 through September 1, 1973, and also compares the changes in such wages between March 1, 1973 and September 1, 1973. The last MRT 12 offset proceeding (Decision No. 81904, supra ) reflects the March 1, 1973 level of wages. Between March 1 and September 1, 1973 the basic wage rate

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<sup>1/</sup> Detailed background of Case No. 5604 is set forth in Decision No. 81904.

for short-line drivers was raised 5.75 percent and the hourly wage rate for long-line drivers was raised 5.92 percent. Health and welfare and pension fund benefits were raised in excess of 21 percent in that period.

Exhibit 37-1 also contains a comparison of the price per gallon for fuel paid by seven carriers engaged in the transportation of new automobiles in truckaway service and the number of gallons of fuel used by the carrier in each monthly period. That comparison shows that between July 1972 and October 1973 the total cost of fuel rose from \$37,011 to \$49,087; and that the average price per gallon rose from 13.7 cents to 19.4 cents, or 41.47 percent.

Exhibit 37-2 depicts the changes in payroll taxes occurring since the last rate adjustment. The exhibit shows that the employer's share of social security (F.I.C.A.) taxes increased 16.6 percent on January 1, 1974; that there will be no change in California Unemployment Insurance taxes; and that the employer's share of Federal Unemployment Fund taxes was reduced by 12.5 percent on January 1, 1974. California Workmen's Compensation rates are scheduled to be changed on April 1, 1974, but the amount of change was not known at the time of the hearing.

In Exhibit 37-4, the witness developed the composite revenues and expenses for two groups of secondary truckaway transporters for the year 1972, and adjusted the data to reflect increased revenues from rate increases granted in 1973, and increases in operating costs effective September 1, 1973, or before. The following table reflects the data set forth in Exhibit 37-4 for the group of six carriers which earn 50 percent or more of their revenues from services performed under rates in MRT 12 and for a group of 14 carriers which earn substantial revenues from that tariff. The data in that exhibit have been revised to reflect the elimination of the 1-1/2 percent gross receipts taxes effective July 1, 1973 pursuant to the repeal of the Motor Vehicle Transportation License Tax Act.

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	\$5,883,862	\$ 12,036,640
2. Other Revenue	853,103	127,127,247
3. Total Revenue	6,736,965	139,163,887
4. Operating Expenses	6,548,958	131,979,540
5. Operating Ratio (4 ÷ 3)	97.2%	94.8%
B. <u>Expenses Adjusted for:</u>		
6. Labor Increase (effective Sept. 1, 1973)	\$ 248,860	\$ 4,909,639
7. Fuel Increase (to Sept. 1, 1973)	32,817	2,048,923
8. Gross Receipts Tax Reduction (88,258)		(180,550)
9. Adjusted Expenses (6, 7, 8)	6,742,377	138,757,552
10. Operating Ratio (8 ÷ 3)	100.1%	99.7%
C. <u>Adjusted for Proposed Rate Increase</u>		
11. Proposed Revenue Increase (1 x 5.69%)	\$ 334,792	\$ 684,885
12. Additional Gross Revenue Expense	1,450	2,966
13. Total Adjusted Revenue (1 + 11)	7,071,757	139,848,772
14. Total Adjusted Expense (9 + 12)	6,743,827	138,760,518
15. Operating Ratio (14 ÷ 13)	95.4%	99.2%

(Red Figure)

Discussion

Decision No. 81904, supra, which established the present level of surcharge increase in the rates in MRT 12 contains (at mimeo page 11) the following statement:

"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."

The Commission's Transportation Division staff has not yet completed the studies referred to above. The staff stated that such studies are currently being held in abeyance because a question has been raised as to whether the transportation of imported automobiles from ports of entry to destinations within California is foreign commerce subject to regulation by the Interstate Commerce Commission or is intrastate commerce subject to regulation by this Commission. The staff intends to resolve this asserted regulatory conflict by the filing of an appropriate request for an order instituting investigation.<sup>2/</sup> In the meantime, no further action is being taken to complete the long-awaited full-scale staff studies.

In the circumstances, we must rely upon the less satisfactory offset rate procedures for determination of the issues raised in this proceeding. As recited in Decision No. 81904, having established minimum rates for secondary movements of new automobiles,

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2/ Order Setting Hearing 43 in Case No. 5604 issued January 15, 1974 ordered that a hearing be held on recommendation of the Commission's Legal and Transportation Divisions relative to:

1. Whether the transportation of new imported cars within California is intrastate traffic subject to the jurisdiction of this Commission; and
2. In the event this transportation is found not to be subject to the jurisdiction of this Commission if the public need requires the continuation of MRT 12.

there is a legislative mandate in Sections 726, 3661, 3662, and 3663 of the Public Utilities Code requiring this Commission to maintain those rates at levels which reflect the current operating costs of the carriers performing such transportation. The evidence presented by CTA shows that operations of the six carriers whose revenues are predominantly earned under MRT 12 were at an operating ratio of 97.2 percent under actual operating conditions, and would have been conducted at the breakeven point (operating ratio of 100.1 percent) if current labor and fuel costs had been applicable in 1972. It is apparent that such carriers require increased revenues in order to continue to provide adequate and dependable service to the public. However, the rate increase sought herein exceeds the amount of increased revenue necessary to offset increased labor and fuel costs. The offset increase should be limited to that amount.

Because of the magnitude and frequency of fuel cost increases resulting from the current worldwide energy crisis, and because all indications are that the present chaotic conditions will continue in the foreseeable future, we must reconsider the views expressed in Decision No. 82219 and revise our conclusion expressed therein that fuel cost increases are not a proper subject for offset rate increase proceedings. The method of measuring the effect of fuel cost increases used by petitioner appears adequate for this proceeding to establish the annual dollar amount of the increased fuel costs for the two groups of test carriers. It is substantially different from the method employed by CTA in Decision No. 82219.

Findings

1. The minimum rates for the transportation of motor vehicles in secondary movement, as set forth in MRT 12, were last adjusted effective October 25, 1973 pursuant to Decision No. 81904 dated September 25, 1973.

2. Since the effective date of said adjustment in the minimum rates, and as of September 1, 1973, carriers subject to MRT 12 have incurred increases in the cost of labor and in the cost of fuel required to perform the services for which rates are prescribed in MRT 12.

3. The Legislature has rescinded the 1-1/2 percent gross receipts tax on intercity gross revenues of highway carriers (B of E tax) effective July 1, 1973.

4. 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.

5. By this petition, California Trucking Association on behalf of carriers engaged in this transportation seek an increase of 5.69 percent in the rates and charges in MRT 12.

6. Decision No. 82453 dated February 5, 1974 in Petition No. 41 in Case No. 5604 authorized an interim surcharge increase of 3 percent on the rates and charges in MRT 12. That surcharge increase duplicates, in part, the offset increase sought herein insofar as it relates to fuel costs. The interim surcharge approved in Decision No. 82453 should be canceled and the relief granted therein should be incorporated in the surcharge supplement authorized in this proceeding. The revenue increase authorized herein to compensate for fuel cost increases is based on an average fuel price per gallon of 19.4 cents before taxes. ✓

7. An increase in revenues of 2.30 percent is required to offset the net change in costs resulting from higher wage expenses and the elimination of the 1-1/2 percent gross receipts tax. A total increase in revenues of 5.30 percent will be sufficient to offset the total changes in operating costs involved in this proceeding. Said increase will have the following result for the group of six carriers used in Table 1:

Adjusted Revenues	\$7,094,024
Adjusted Expenses	\$6,743,187
Operating Ratio	95.05%

8. An increase in rates and charges in MRT 12 of 5.30 percent will be reasonable and the resulting surcharge increase of 29 percent in lieu of the existing surcharge increase of 23 percent is justified on this record.

9. The increase in minimum rates will provide all carriers engaged in transportation at the rates named in MRT 12 with additional gross revenue of \$357,059, which increase is the minimum required to assure continued adequate and safe transportation service.

10. Common carriers should be required to establish the increases in rates authorized in MRT 12 and should be authorized to increase their rates for vehicles weighing less than 1,000 pounds and vehicles weighing in excess of 5,000 pounds transported on secondary truckaway service by the same percentage as the rates in MRT 12 are increased.

Conclusions

1. MRT 12 should be amended by substituting a surcharge on all rates and charges of 29 percent in lieu of the 23 percent surcharge prescribed in Decision No. 81904.

2. The interim surcharge granted in Decision No. 82453 should be canceled.

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. To the extent not granted herein, Petition No. 37 should be denied.

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 April 12, 1974, Supplement 8, 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. Common carriers subject to Decision No. 50218, as amended, are authorized to increase by 5 percent their rates on motor vehicles transported in secondary truckaway service weighing each 1,000 pounds or less, and weighing each in excess of 5,000 pounds.

4. Tariff publications required or authorized 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; such tariff publications as are required shall be made effective not later than April 12, 1974; and as to tariff publications which are authorized but not required, the authority shall expire unless exercised within sixty days after the effective date of this order.

5. 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.

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

7. To the extent not granted herein, Petition No. 37 in Case No. 5604 is denied.

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

San Francisco  
Dated at \_\_\_\_\_, California, this 12<sup>th</sup>  
day of MARCH, 1974.

Vernon L. Sturgeon  
President  
William Lyons Jr.

[Signature]  
Commissioners

[Signature]  
[Signature]  
[Signature]

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

SURCHARGE SUPPLEMENT

SUPPLEMENT 8

(Cancels Interim Surcharge Supplement and Order  
issued in Decision No. 82453 in Case No. 5604  
(Petition No. 41) insofar as said order  
applies to Minimum Rate Tariff 12  
and Supplement 7)

(Supplements 1, 5, 6 and 8 Contain All Changes)

TO

MINIMUM RATE TARIFF 12

NAMING

MINIMUM RATE 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

AND

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-nine (29) 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.

o Increase, Decision No. **82543** EFFECTIVE

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