

ORIGINALDecision No. 84193

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 property in the City and County of San Francisco and the Counties of Alameda, Contra Costa, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma.

Case No. 5441
Petition for Modification
No. 319
(Filed October 1, 1974)

OSH 329
(Filed December 30, 1974)

In the Matter of the Investigation into the rates, rules, regulations, charges, allowances, and practices of all common carriers relating to the transportation of any and all commodities between and within all points and places in the State of California (including, but not limited to, transportation for which rates are provided in Minimum Rate Tariff No. 15).

Case No. 7783, OSH 112
(Filed December 30, 1974)

Richard W. Smith, Attorney at Law, and H. Hughes, for California Trucking Association, petitioner in Petition No. 319, interested party in OSH 319 and OSH 112.

Jess J. Butcher, for California Manufacturers Association; Howard W. Haage, for National Can Corporation; J. M. Cunningham, for Bethlehem Steel Corporation; Patrick W. Pollock, for Fibrebrand Corporation; and John C. Jessup, for Foremost-McKesson; interested parties.
Leonard Diamond, for the Commission staff.

O P I N I O N

Hourly vehicle unit rates applicable between points within the San Francisco Bay Area^{1/} are set forth in Section 4-B of Minimum Rate Tariff 15 (MRT 15). Hourly vehicle unit rates are also set forth in Minimum Rate Tariff 1-B (MRT 1-B) applicable between points in the East Bay Drayage Area^{2/} and in Minimum Rate Tariff 19 (MRT 19) applicable within San Francisco.

The hourly rates and rules in MRT 15 applicable within the San Francisco Bay Area were established by Decision No. 81656 dated July 31, 1973 in Case No. 7783 (Petition No. 52). Hourly rates have been included in the drayage tariffs since their inception. The current hourly rates in the drayage tariffs are predicated on full-scale cost and rate studies introduced in evidence approximately 15 years ago.

In Petition No. 319, California Trucking Association (CTA) seeks the cancellation of the hourly rates contained in the drayage tariffs. OSH 329^{3/} reads as follows:

"The Freight Economics Branch's White Paper on Hourly Vehicle Unit Rates, Bay Area, issued September 6, 1974, recommended certain technical language revisions in Minimum Rate Tariffs 1-B, 15, and 19 regarding the alternation of hourly rates and uniform documentation rules regarding the application of hourly rates in Minimum Rate Tariffs 1-B and 19. On October 1, 1974 the California Trucking Association filed Petition 319 in Case 5441. The petition addresses itself to the same items that were considered in the White Paper.

1/ San Francisco Bay Area Territory includes all of the counties of Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, Napa, and the southerly portions of Sonoma and Solano Counties.

2/ The East Bay Drayage Area includes the cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmond.

3/ OSH 329 in Case No. 5441 and OSH 112 in Case No. 7783 are hereafter referred to as OSH 329.

"In these circumstances it appears that hearings should be held for the purpose of considering the technical language revisions and the documentation requirements proposed in the White Paper as they relate to the alternation and application of hourly rates in the San Francisco Bay Area."

OSH 329 ordered that hearing in that proceeding be held concurrently with the hearing scheduled in Petition 319. Hearing in the consolidated proceedings was held before Examiner Mallory in San Francisco on January 27, 1975 and the matters were submitted. Evidence was adduced by the Commission staff and by CTA. Other parties assisted in the development of the record through examination of the witnesses. No position was taken by parties other than the petitioner and staff.

An associate transportation representative from the Commission's Transportation Division presented Exhibit 329-1 which contains the staff analysis and recommendations. The exhibit states as follows:

"Minimum Rate Tariffs 19 and 1-B contain provisions for the transportation of property at hourly vehicle unit rates within San Francisco and East Bay Drayage Areas, respectively. The rates for the hourly vehicle unit rates are identical for both tariffs.

"Prior to the performance of transportation at hourly rates, both tariffs require the shipper and carrier to enter into an hourly agreement to transport the shipment under the hourly rate provisions. Minimum Rate Tariff 19 specifies the form and duration of the agreement. Minimum Rate Tariff 1-B does not. Minimum Rate Tariff 1-B requires the written agreement, but does not contain any guidelines as to its format and duration.

"A collateral issue is raised by Decisions 81656 and 82015. In those decisions the Commission established hourly vehicle unit rates in the San Francisco Bay Area and denied the petition

of the California Trucking Association for reconsideration. Neither decision cancelled the hourly vehicle unit rate provisions in Minimum Rate Tariffs 1-B and 19. As a result, the hourly rate provisions in Minimum Rate Tariffs 1-B and 19 alternate with the hourly rate provisions in Section 4-B of Minimum Rate Tariff 15.

"Minimum Rate Tariffs 1-B, 19 and 15 do not inform the tariff user that the hourly rates in Minimum Rate Tariffs 1-B and 19 alternate with the hourly rates in Section 4-B of Minimum Rate Tariff 15.

"In the event the Commission determines that the present alternation of hourly rates should continue, the staff recommends the tariff changes set forth in Exhibit 329-1 be adopted."

The staff witness made no determination of the number of carriers and shippers using the hourly drayage rates, nor the volume of traffic under such rates.

A cost supervisor employed in CTA's Division of Transportation Economics testified in support of the cancellation of the hourly rates in the drayage tariffs. The first reason advanced by the witness is that there is an adverse selection when two or more rates apply to the same transportation. That is, the rates which are the most favorable to the shipper will usually be selected. The witness pointed out that there can be difficulty in determining which set of hourly rates produces the lower charge because each tariff states the rates on a different basis and because a different type of written agreement must be executed before the transportation commences.

The second reason advanced for cancellation of the drayage hourly rates is that the rates in MRT 15 are based on more current full-scale cost and rate studies; thus, the MRT 15 rates are more responsive to current operating conditions and needs of carriers and shippers. The witness pointed out that MRT 15 hourly rates are established in the same format as the weekly and monthly rates in MRT 15, that is, the rates are based on the total volume the equipment can carry; whereas, the drayage hourly rates are based on the capacity of the carrier's equipment in pounds.^{4/}

The witness for petitioner advanced as the third reason for cancellation of the drayage hourly rates the fact that those rates have limited territorial application in comparison with the territorial application of the hourly rates in MRT 15. It was the opinion of the witness that few shippers have need for the hourly rates in the drayage tariffs because of their limited geographic scope.

The CTA witness also testified that he made no determination of the number of carriers and shippers using the hourly drayage rates or the hourly rates in MRT 15, nor the volume of traffic under such rates.

Findings

1. Decision No. 81656 dated July 31, 1973 in Case No. 7783 (Petition No. 52) (unreported) established hourly rates in MRT 15 for application in the San Francisco Bay Area. The evidence adduced by petitioner California Manufacturers Association in that proceeding showed conclusively the need for the establishment of hourly rates in a territory greater than the areas covered by existing hourly rates in MRT 19 (San Francisco Drayage Area) and MRT 1-B (East Bay Drayage Area).

^{4/} Item 560 of MRT 19, for example, provides that the normal carrying capacity of each vehicle unit shall be determined by the carrier based upon that amount of property in pounds which physically can be loaded therein and safely transported under normal conditions.

2. Decision No. 81656 also found that the hourly rates then applicable in the San Francisco and East Bay Drayage Areas, as published in MRT 19 and MRT 1-B, should be continued and used as an alternative to the hourly rates in MRT 15 established by the order therein, depending on the specific contract signed by the shipper (Finding 3 of that decision).

3. MRT 19 (San Francisco Drayage Area) requires the execution of a written agreement in a prescribed form before hourly rates in that tariff may be used (Item 550). A written agreement is required by the terms of MRT 1-B before the hourly rates in that tariff may be used, but no form of agreement is specified in that tariff. Apparently the reference in Decision No. 81656 to "contract" refers to the written agreements required by MRT 19 and MRT 1-B.

4. Confusion exists with respect to rate alternation between MRT 15 and the two drayage tariffs because only one of the drayage tariffs specifies the form of written agreement (contract). In order to eliminate the ambiguity with respect to hourly rate alternation in the three tariffs the Commission staff developed and circulated its White Paper, which has been reproduced herein as Exhibit 329-1.

5. The hourly rates for application in the San Francisco Bay Area in MRT 15 are developed from the same cost data as the monthly and weekly rates in MRT 15, and are developed on the same formula as other hourly rates in that tariff.

6. When hourly rates in MRT 15 were established for application in the Metropolitan Los Angeles Area, the corresponding hourly rates in MRT 5 (Los Angeles Drayage Area) were cancelled (Decision No. 78264 dated February 2, 1971 in Case No. 6322, unreported).

7. The San Francisco Bay Area hourly rates established in MRT 15 have substantially broader geographical application than the hourly rates in either MRT 19 or in MRT 1-B.

8. The datum plane cost data and other economic data underlying the hourly rates in MRT 19 and MRT 1-B were developed several years earlier than the corresponding data underlying the rates in MRT 15.

9. The hourly rates in MRT 15 for application in the San Francisco Bay Area are more responsive to the needs of carrier's and shippers than the hourly rates in MRT 1-B and MRT 19, because the former are predicated on more recent economic data than that of the latter, because the former have wider geographical application than the latter, and because the former are more precise in their application than the latter.

10. Just, reasonable, and nondiscriminatory rates and provisions will result upon the cancellation of the hourly rates in MRT 1-B and MRT 19, permitting the hourly rates in MRT 15 to apply in the geographic areas encompassed by MRT 1-B and MRT 19.

Conclusions

1. Petition 319 should be granted as provided in the ensuing order.

2. The staff proposal in OSH 329 was presented for the purpose of clarifying MRT 1-B and MRT 19 only in the event alternation of hourly rates in those tariffs with the hourly rates in MRT 15 is continued. The issues raised in OSH 329 are moot in view of the finding that such alternation should no longer be continued. OSH 329 should be dismissed.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 19 (Appendix A to Decision No. 41363, as amended) is further amended by incorporating therein to become effective April 4, 1975, the revised pages attached hereto and listed in Appendix A also attached hereto which pages and appendix are made a part hereof.

2. Minimum Rate Tariff 1-B (Appendix B to Decision No. 65834, as amended) is further amended by incorporating therein to become effective April 4, 1975, the revised pages attached hereto and listed in Appendix B also attached hereto which pages and appendix are made a part hereof.

3. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decisions Nos. 65834 and 41363, as amended, are hereby directed to establish in their tariffs the amendments necessary to conform with the further adjustments ordered herein of said decisions.

4. Tariff publications required or authorized 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 fifth day after the effective date of this order, on not less than five days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than April 4, 1975; and as to tariff publications which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date hereof.

5. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 461.5 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 Decisions Nos. 65834 and 41363, as amended, shall remain in full force and effect.

7. Order Setting Hearing 329 in Case No. 5441 and Order Setting Hearing 112 in Case No. 7783 are hereby dismissed.

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

Dated at San Francisco, California, this 18th
day of MARCH, 1975.

William L. Stanger
President
William J. Lyons
Donald Ross
Commissioners

APPENDIX A

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<p> § Change) ** Section 5 eliminated) Decision No. 84193 </p>		
EFFECTIVE		
<p> Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA. </p>		

ARRANGEMENT OF TARIFF

øThis is a loose-leaf tariff consisting of five sections.

SECTION 1 contains rules of general application.

SECTION 2 contains rate bases.

SECTION 3 contains class rates.

SECTION 4 contains commodity rates.

**

SECTION 6 contains special rates.

ø Change)
 ** Section 5 eliminated) Decision No.

84193

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 SAN FRANCISCO, CALIFORNIA.

Correction

MINIMUM RATE TARIFF 19

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM														
<p style="text-align: center;">CHARGES FOR SERVICE AT OTHER THAN REGULAR WORKING HOURS</p> <p>Rates named in Sections 3, 4 ** and 6 apply to transportation, accessorial and other services specified herein during regular working hours of 8:15 a.m. to 5:15 p.m. except Saturdays, Sundays and holidays as defined in Item 10.</p> <p>For services performed at request of consignor or consignee at other than during the time specified above, and on Saturdays, Sundays or holidays, charges shall be assessed upon the rates named in this tariff, plus an additional charge equal to the cost to the carrier of the overtime involved.</p>	6100														
<p style="text-align: center;">CHARGES FOR ESCORT SERVICE</p> <p>In addition to all other applicable rates and charges named in this tariff, the following charges shall be assessed on shipments requiring escort service.</p> <p>(a) A charge of \$12.20 per hour, plus 9½ cents per actual mile, shall be made for each escort vehicle and driver furnished, for the time and distance said vehicle and driver are engaged in such service. (See Notes 1 and 2)</p> <p>(b) A charge shall be made equal to the actual cost of any bridge or ferry tolls incurred for each escort car.</p> <p>NOTE 1.--Service shall commence with departure of each escort vehicle from its point of dispatch and terminate with the return of each escort car to its point of dispatch, excluding off duty hours.</p> <p>NOTE 2.--Charges for fractions of an hour shall be determined in accordance with the following table:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="2" style="text-align: center;">MINUTES</th></tr> <tr> <th style="text-align: center;">Over</th><th style="text-align: center;">But Not Over</th></tr> </thead> <tbody> <tr> <td style="text-align: center;">0</td><td style="text-align: center;">8-----omit</td></tr> <tr> <td style="text-align: center;">8</td><td style="text-align: center;">23-----shall be ¼ hour</td></tr> <tr> <td style="text-align: center;">23</td><td style="text-align: center;">38-----shall be ½ hour</td></tr> <tr> <td style="text-align: center;">38</td><td style="text-align: center;">53-----shall be ¾ hour</td></tr> <tr> <td style="text-align: center;">53</td><td style="text-align: center;">60-----shall be 1 hour</td></tr> </tbody> </table>	MINUTES		Over	But Not Over	0	8-----omit	8	23-----shall be ¼ hour	23	38-----shall be ½ hour	38	53-----shall be ¾ hour	53	60-----shall be 1 hour	104
MINUTES															
Over	But Not Over														
0	8-----omit														
8	23-----shall be ¼ hour														
23	38-----shall be ½ hour														
38	53-----shall be ¾ hour														
53	60-----shall be 1 hour														
<p style="text-align: center;">CHARGES FOR PERMIT SHIPMENTS</p> <p>In addition to all other applicable charges, the following charges shall be assessed on shipments requiring transportation permits:</p> <p>(a) A charge of \$13.95 shall be made for the service of securing each permit, and</p> <p>(b) A charge shall be made equal to the fee, if any, assessed by the governmental agency for issuing each permit.</p>	106														
<p>ø Change ** Section 5 eliminated) Decision No. 84193</p>															
EFFECTIVE															
<p style="text-align: center;">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p> <p>Correction</p>															

SECTION 5

This section canceled. Hourly vehicle unit rates in Minimum Rate Tariff 15 apply.

Change, Decision No.

84193

EFFECTIVE

Correction

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
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SECTION 5—UNIT RATES AND RULES		ITEM
<p>◊ ITEM CANCELED</p>		<p>0550</p>
<p> ◊ Change) ◊ Increase) 1 Reduction) </p>		
<p>Decision No.</p>		<p>84193</p>
<p>EFFECTIVE</p>		
<p> Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA. </p>		

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Ø Change) Ø Increase) Decison No. 84193 1 Reduction)		
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<p data-bbox="281 1101 640 1128">** Eliminated, Decision No.</p> <p data-bbox="751 1101 896 1150">84193</p>	
<p data-bbox="794 1908 913 1931">EFFECTIVE</p>	
<p data-bbox="213 1997 350 2019">Correction</p> <p data-bbox="580 1968 1503 2019">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>	

APPENDIX B

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(1).		
**		
(1) Section 4 canceled by Decision No. 83604		
(Continued)		
* Change ** Section 5 eliminated) Decision No. 84193		
EFFECTIVE		
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.		
Correction		

ARRANGEMENT OF TARIFF

This is a Loose-Leaf Tariff Consisting of Three Sections

SECTION NO. 1 contains rules and regulations of general application.

SECTION NO. 2 contains class rates.

SECTION NO. 3 contains general commodity rates.

(1)

**

(1)

(1) Section Nos. 4 and 6 were canceled by Decision Nos. 83604 and 77932, respectively.

Change)
** Section 5 eliminated) Decision No.

84193

EFFECTIVE

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</p> <p>Common carrier rates may be applied in lieu of the rates provided in this tariff when such common carrier rates produce a lower aggregate charge for the same transportation between the same points of origin and destination and for the same accessorial services than results from the application of the rates herein provided.</p> <p>When the common carrier rate used does not include accessorial services performed by the carrier, the following charges for such accessorial services shall be added: (See Notes 1, 2 and 3)</p> <ul style="list-style-type: none"> (a) For loading onto carrier's equipment, the charges provided in paragraph (d). (b) For unloading from carrier's equipment, the charges provided in paragraph (d). (c) For other accessorial services for which charges are provided in this tariff, the additional charge or charges so provided. (d) 5¢ cents per 100 pounds. <p>NOTE 1.--When a rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item. When the rail carload rate is subject to a specified minimum weight, subject to the condition that if the car is loaded to full visible or weight carrying capacity, actual weight will apply, or to actual weight but not less than a lesser carload minimum weight, the actual weight will apply subject to the lesser carload minimum weight, if any.</p> <p>NOTE 2.--When rail switching charges are applicable in connection with line-haul movements by rail and the gross weight of the shipment exceeds the applicable carload minimum weight, only one rail switching charge shall be assessed.</p> <p>NOTE 3.--In applying the provisions of this item, a rate no lower than the common carrier rate and a weight no lower than the actual weight or published minimum weight (whichever is the higher) applicable in connection with the common carrier rate shall be used.</p>	130
<p style="text-align: center;">CHARGES FOR SERVICE AT OTHER THAN REGULAR WORKING HOURS</p> <p>Rates named in Sections 2 and 3(1) ** apply for service performed during regular working hours of 8:00 a.m. to 5:00 p.m. except Saturdays, Sundays and holidays as defined in Item 10.</p> <p>For services performed at the request of the shipper or consignee at other than those hours specified above and on Saturdays, Sundays or holidays, an additional charge equal to the cost of overtime will be made.</p> <p>(1) Section 4 canceled by Decision No. 83604.</p>	§140
<p> § Change ** Section 5 eliminated)) Decision No. </p>	84193
EFFECTIVE	
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	

Correction

SECTION 5

This section canceled. Hourly vehicle unit rates in Minimum Rate Tariff 15 apply.

Change, Decision No.

84193

EFFECTIVE

Correction

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
 SAN FRANCISCO, CALIFORNIA.

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<div>Ø Change) Ø Increase) Decision No. 84193 ! Reduction)</div>		
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ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.		
Correction		