

ORIGINAL

Decision No. 84654

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 petroleum and petroleum products
in bulk (commodities for which rates
are provided in Minimum Rate Tariff 6-B).

Case No. 5436
Petition for Modification
No. 184
(Filed February 3, 1975)

Richard W. Smith, Attorney at Law, and H. W. Hughes,
for California Trucking Association, petitioner.
Donald B. Dixon, for Western Gillette; John W. Telfer,
for Telfer Tank Lines, Inc.; R. N. Cooledge,
for Pacific Intermountain Express Co.; Cleo Evans,
for Evans Tank Lines Inc.; and Jack W. Vogt,
for C.F. Tank Lines, Inc.; respondents.
Richard N. Bona, for Mobil Oil Corporation, protestant.
E. A. Curcio, by A. A. Wright, for Standard Oil
Co. of Calif.; Asa Button, for Amstar Corp.,
Spreckels Sugar Division; M. J. Nicolaus and
R. S. Greltz, for Western Motor Tariff Bureau,
Inc.; Gregory J. Garrick and Marshall Stein, for
Shell Oil Co.; and Horst W. Klocke, for Pacific
Gas and Electric Company; interested parties.
Frederick W. Foley and George L. Hunt, for the
Commission staff.

O P I N I O N

Minimum Rate Tariff 6-B (MRT 6-B) contains rates and rules governing the highway transportation of bulk petroleum products in tank vehicles by petroleum contract carriers.^{1/} The California

^{1/} MRT 6-B provides several rate scales for Commodity Rate Groups generally described in Item 30 of the tariff as:

- | | |
|------------------------|---------------------------|
| A - Gasoline | E - Petroleum Products |
| B - Jet Fuel, Kerosene | F - Crude Oil |
| C - Fuel Oil | G - Liquefied Petrol. Gas |
| D - Residual Oil | H - Asphalt, Road Oil |

Trucking Association (CTA) seeks to have the charges resulting under MRT 6-B made subject to a surcharge increase of 6 percent. The proposed surcharge is intended to offset increases in the carriers' operating expenses related to running costs (less fuel), equipment investment costs, and nonlabor indirect expenses.

Public hearing of Petition 184 was held before Examiner Gagnon at San Francisco on March 21, 1975. A CTA cost supervisor presented cost and related data in support of the sought relief. The Commission's Transportation Division staff recommends that the proposed surcharge not exceed 3 percent.

The MRT 6-B rates established February 1, 1974 pursuant to Decision No. 82350 (Petition 142) dated January 15, 1974 reflect petitioner's (CTA) full-scale cost and performance studies. The cost studies reflect operating costs for the general period 1970-1972 with updated labor costs and allied payroll expenses effective generally as of January 1, 1973. The CTA's performance studies were conducted during the year 1971. By Decision No. 82619 (Petition 159) dated March 19, 1974 the MRT 6-B rates established by Decision No. 82350 were increased approximately 14 percent to offset increases in labor costs, fuel prices, and vehicle weight fees effective generally as of February 1, 1974. This upward adjustment in rates also reflected increases in indirect expenses through the application of established indirect ratios to the previously determined February 1, 1974 direct costs. A fuel cost offset surcharge of 2 percent was established in MRT 6-B effective September 10, 1974, pursuant to Decision No. 83349 (Petition 155) dated August 27, 1974. The resulting tariff charges reflect an average fuel price of 41.9 cents per gallon, including taxes. By Decision No. 83628 (Petition 172) the MRT 6-B rates established by Decision No. 82619 were further increased 6-1/2 percent to offset

October 1, 1974 labor cost increases and an average fuel price of 44 cents per gallon, including taxes. This latter upward adjustment in rates was in lieu of the 2 percent surcharge authorized by Decision No. 83349. The 6-1/2 percent increase in MRT 6-B rates also reflects an upward adjustment in indirect expenses effective as of October 1, 1974.

The CTA now seeks the establishment of a 6 percent surcharge to offset further increases in those elements of carrier operating costs which allegedly have not been previously considered since the MRT 6-B level of rates was established by Decision No. 82350. The CTA's cost supervisor presented a series of exhibits designed to show the effect of inflationary trends upon specific operating expense items through the employment of wholesale price indices in a manner similar to that considered in Decision No. 83895 dated January 14, 1975 in Case No. 5432 (Petition 821) et al. In Exhibits 1 and 4 the CTA witness endeavored to demonstrate the effects of inflationary pressures upon the petroleum tank truck carriers' running costs (less fuel), equipment investment costs, and nonlabor indirect expenses. His calculations for increased running costs (less fuel) are:

TABLE 1

Petitioner's Calculation of the Increase in
MRT 6-B Total Costs Due to Increases
In Incremental Running Cost (Less Fuel)
1972 - 1975

<u>Item</u>	<u>Amount</u>
Cost per Mile - 1972	\$.0980
<u>Labor Increase</u>	
50% of \$.0980	\$.04980
Base Wage - July 1972	\$6.4625
Base Wage - July 1975	\$8.0600
Percent Increase	24.7%
Increase in Labor Cost (\$.04980 x 24.7)	\$.0121
<u>Parts Increase</u>	
50% of \$.0980	\$.04980
WPI July 1972 (1)	100.0%
WPI January 1975 (1)	136.9%
Percent Increase	36.9%
Increase in Parts Costs (\$.04980 x 36.9%)	\$.0181
Total Increase in Running Costs (Less Fuel)	\$.0302
Total Cost Increase - 1972-1975	2.02%
Productivity Factor - 91.5%	1.85%

(1) Wholesale Price Index
(Motor Trucks, Vehicle Parts, Tires)

By employing methods comparable to those considered in Decision No. 83895 the CTA witness has determined that increases in certain elements of running costs, not previously considered in cost offset proceedings, have increased the total historical costs reflected in MRT 6-B rates by approximately 1.85 percent.

The CTA witness explained that the economic impact of inflation has caused tank truck equipment costs to increase at the rate of about \$1,000 per year. In CTA's Exhibits 3 and 4 increases in tank truck equipment costs are shown to produce an average increase of 1.48 percent in the total costs per 100 pounds reflected in the minimum rates provided for Commodity Rate Groups A, B, and C (fuel

oils) for distances of 25 and 250 constructive miles. It is the position of CTA that the 1.48 percent increase in total costs applies equally to all the historical total cost data underlying the other minimum distance rate scales as well as the vehicle unit volume tender rates provided in Section 4 of MRT 6-B.

The CTA witness also presented an evaluation of the effect increases in various nonlabor indirect expenses have had upon the total historical cost data underlying the minimum rates established by Decision No. 82350. The results of such evaluation are:

TABLE 2
Effect of Nonlabor Indirect Cost Increases
On Total Expenses

<u>Item</u>	<u>Amount</u>
Nonlabor - Indirect to Total Expenses	8.00%
<u>Increase</u>	
WPI Industrial Less Fuel - December 1972	119.3%
WPI Industrial Less Fuel - December 1975	167.2%
Percent Increase	40.15%
Increase in Total Expenses	3.21%

The witness employed the Wholesale Price Index for industrial commodities, less fuel, to measure the effect of inflationary trends upon the nonlabor indirect expense items reflected in MRT 6-B rates. In this instance he also used methods similar to those considered in Decision No. 83985. The CTA calculations summarized in Table 2 show that the historical total cost data is increased by 3.21 percent due to an increase of 40.15 percent in the nonlabor indirect expense portion of such total cost data for the period 1972-1975. By Decision No. 82619 (Petition 159) and Decision No. 83628 (Petition 172) the indirect expenses reflected in the level of MRT 6-B rates were updated through October 1974. CTA's present efforts to update the nonlabor portion of such indirect expenses for the period 1972-1975 grossly overstates any increase in indirect expenses incurred since October 1974. Accordingly the increase imputed to MRT 6-B total

costs by CTA due to alleged increases in nonlabor indirect expense items should not be adopted.

A summary of the increases in MRT 6-B total cost data developed by CTA for the period 1972-1975 as a basis for its proposed cost offset surcharge of 6 percent follows:

TABLE 3

<u>Item</u>	<u>Amount</u>
Running cost, less fuel	1.85%
Equipment investment cost	1.48
Nonlabor indirect expenses	3.21
Increase in total costs	<u>6.54%</u>

The CTA contends the proposed 6 percent surcharge is fully justified by the 6.54 percent increase in MRT 6-B total cost data shown in Table 3. As previously noted, however, the 3.21 percent increase in total costs computed by CTA to give effect to 1972-1975 alleged increases in nonlabor indirect expense items is substantially, if not totally, overstated.

The CTA's efforts to measure the impact increases in certain cost elements have upon total costs are concentrated largely in those cost areas attributable to MRT 6-B distance rates. The CTA assumes that the resulting increase in total costs will apply equally to the total cost data underlying the vehicle unit volume tender rates named in the tariff. Since the special tariff provisions governing the application of volume tender rates promotes greater utilization of tank truck equipment and overall operating efficiencies, the impact of incremental cost increases assignable to volume tender rates would be less than that anticipated under the distance rates. Such circumstances are particularly pertinent in light of the fact that over 50 percent of the MRT 6-B tank truck carrier revenues are earned under the special vehicle unit volume tender rates. The CTA witness concedes that the proposed 6 percent surcharge may be somewhat overstated when applied to charges resulting under the volume tender rates.

As previously noted the CTA used various wholesale price indices in its cost offset procedures in a manner similar to that accorded qualified acceptance in Decision No. 83985 (Petition 821 et al.). In granting such qualified acceptance the Commission explained:

"...offset procedures lack precision and are not designed nor intended to replace or be accepted as a completely satisfactory alternative for thorough full-scale studies... The procedure adopted herein is an expediency designed only to remedy an emergency situation and is not meant to be suitable for future cost offset proceedings. . . ."

The Commission staff correctly observes that the emergency conditions and circumstances surrounding the Commission's action in Decision No. 83985 are not present in this proceeding. Pursuant to staff review and analysis it is recommended that the cost offset surcharge proposed in Petition 184 not exceed 3 percent. Both the staff and CTA witness agree that the proposed surcharge should not apply in connection with accessorial service charges involving only labor or other related charges similar to those exempted from the MRT 2 surcharge established by Decision No. 83985.

In light of the several infirmities noted in CTA's showing in this proceeding the staff recommendation should be adopted. However, insofar as such recommendation pertains to the MRT 6-B volume tender rates, the proposed surcharge should not exceed 2 percent.

The staff advises that under the proposed 6 percent surcharge MRT 6-B annual revenues would be increased by approximately \$3,100,000. Under the proposed revised cost offset surcharge provisions the MRT 6-B annual revenues would be increased by about \$1,000,000.

Findings

1. Petitioner, California Trucking Association, seeks the establishment of a cost offset surcharge increase of 6 percent in the charges resulting under the provisions of MRT 6-B.

2. The purpose of the proposed surcharge is to offset increases in those elements of tank truck operating costs currently reflected in MRT 6-B rates which historically have not been offset pursuant to established cost offset procedures.

3. The proposed surcharge is designed to offset increases in (a) running costs, (b) vehicle equipment costs, and (c) nonlabor indirect expenses.

4. The MRT 6-B rates in effect February 1, 1974 were established pursuant to Decision No. 82350 dated January 15, 1974 in Case No. 5436. The rates reflect petitioner's full-scale cost and performance studies. The performance studies were conducted in 1971 and the cost studies reflect cost elements for the general period 1970-1972 with updated labor and allied payroll expenses effective generally as of January 1, 1973.

5. By Decision No. 82619 (Petition 159) the MRT 6-B rates were increased approximately 14 percent to offset increases in labor costs, fuel prices, vehicle weight fees, and indirect expenses effective generally as of February 1, 1974. Pursuant to Decision No. 83628 (Petition 172) the MRT 6-B rates were further increased approximately 6-1/2 percent to offset increases in labor costs, fuel prices, and indirect expenses effective generally as of October 1, 1974. This latter rate adjustment was also in lieu of a 2 percent surcharge established by Decision No. 83349 (Petition 155).

6. Petitioner has endeavored to show that the total costs currently reflected in MRT 6-B have further increased by about 6.54 percent due to increases in running costs, less fuel (1.85 percent), equipment investment cost (1.48 percent), and nonlabor indirect expenses (3.21 percent). It is alleged that the increases incurred in such cost elements have not been previously offset pursuant to established cost offset procedures.

7. Petitioner contends that its proposed 6 percent surcharge is fully justified in light of the 6.54 percent increase in MRT 6-B total historical costs.

8. Petitioner's 1975 projected increase of 6.54 percent in MRT 6-B historical total costs and its proposed related cost offset surcharge of 6 percent have both been shown to be substantially overstated to the extent that:

- (a) Petitioner attempts to offset increases in nonlabor indirect expenses which have been previously offset pursuant to Decisions Nos. 82619 and 83628.
- (b) Petitioner would ascribe to the MRT 6-B special vehicle unit volume tender rates the same incremental cost increases alleged to have incurred in the related cost factors underlying the distance factor rates named in the tariff.
- (c) Petitioner employs wholesale price indices as a measure of increased costs in a minimum rate cost offset proceeding under circumstances and conditions which do not reflect the emergency that existed when such indices were considered in Decision No. 83985.

9. Increases in MRT 6-B rates have been shown to be necessary to offset increases in tank truck carriers' running cost (less fuel), and equipment investment costs.

10. When the distance or special commodity rates named in Section 3 of MRT 6-B are employed to compute charges, a cost offset surcharge of 3 percent has been shown to be justified. When the vehicle unit volume tender rates named in Section 4 of MRT 6-B are employed to compute charges, a cost offset surcharge of 2 percent has been shown to be justified.

11. The increased rates and charges established in the order which follows are just, reasonable, and nondiscriminatory minimum rates for the transportation services governed thereby.

12. The surcharge increases found justified herein will enable tank truck carriers to earn approximately \$1,000,000 in additional cost offset revenues under the provisions of MRT 6-B, in lieu of an estimated \$3,100,000 sought by petitioner under its proposed overall 6 percent surcharge.

13. To the extent that the provisions of MRT 6-B have been found to constitute reasonable minimum rates and rules for common carriers defined in the Public Utilities Code, said provisions as hereinafter adjusted will be reasonable minimum rate provisions for said carriers. To the extent that the existing rates and charges of said common carriers for the transportation involved are less in volume or effect than the minimum rates and charges herein designated as reasonable for said carriers, to the same extent the rates and charges of said carriers are found to be, now and for the future, unreasonable, insufficient, and not justified by the actual rates of competing carriers or by the costs of other means of transportation.

14. Where common carriers have been heretofore authorized to depart from the so-called long- and short-haul prohibition of former Article XII, Section 21 of the Constitution, and Section 460 of the Public Utilities Code, such outstanding authorities should be modified, as requested by petitioner, to depart from Section 461.5 of the Public Utilities Code.

Conclusions

1. Petition for Modification No. 184 in Case No. 5436 should be granted to the extent provided in the order herein and MRT 6-B amended accordingly.

2. Common carriers should be authorized to depart from the long- and short-haul provisions of Section 461.5 of the Public Utilities Code and the Commission's tariff circular requirements only to the extent necessary to publish the cost offset surcharges ordered herein.

New Regulatory Program

The Commission intends that the rates established pursuant to this order will expire in 150 days. The Commission intends to implement a new regulatory program within the 150-day period, which will require the filing of tariffs by all highway permit carriers.

The new regulatory program will be incorporated in supplemental orders in these proceedings which will be issued within 30 days. In the event hearing is required, it is contemplated that such hearings will be held and a final decision will be issued within a 90-day period. In the event a final decision is not issued within that period, the Commission contemplates freezing the minimum rates at the end of the 150-day period at the levels established prior to those resulting from the order herein.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 6-B (Appendix A to Decision No. 82350, as amended) is further amended by incorporating therein, to become effective August 9, 1975, Supplement 4, 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. 82350, as amended, are hereby directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered by this decision.
3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff 6-B are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 6-B rates.
4. Common carriers maintaining rates on the same level as Minimum Rate Tariff 6-B rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 6-B are

authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 6-B rates.

5. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 6-B are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 6-B rates.

6. 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 August 9, 1975; 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.

7. Common carriers are authorized to depart from the Commission's General Order No. 80-A requirements only to the extent necessary in establishing the interim surcharges authorized by this order.

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

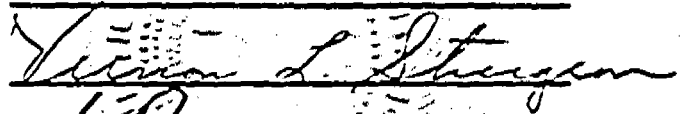
9. In all other respects Decision No. 82350, as amended, shall remain in full force and effect.

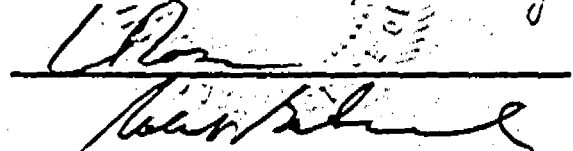
10. To the extent not granted herein Petition 184 is denied.

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

Dated at San Francisco, California, this 8th day of JULY, 1975.


President


William L. Sturgeon


Commissioners

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

SPECIAL INCREASE SUPPLEMENT

SUPPLEMENT 4

(Cancels Supplement 3)

(Supplement 4 Contains All Changes)

TO

MINIMUM RATE TARIFF 6-B

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF

PETROLEUM AND PETROLEUM PRODUCTS

(AS DESCRIBED HEREIN)

WHEN TRANSPORTED IN BULK IN TANK TRUCKS,

TANK TRAILERS OR TANK SEMITRAILERS

OVER THE PUBLIC HIGHWAYS WITHIN

THE STATE OF CALIFORNIA

BY

PETROLEUM CONTRACT CARRIERS

APPLICATION OF SURCHARGE

(See Page 2 of this Supplement)

Decision No.

84654

EFFECTIVE

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

APPLICATION OF SURCHARGES

Except as otherwise provided, compute the amount of charges in accordance with the provisions of this tariff, and increase the resulting total amount by:

1. Three percent (3%) when the distance or special commodity rates named in Section 3 of the tariff are employed to compute charges.
2. Two percent (2%) when the vehicle unit volume tender rates named in Section 4 of the tariff are employed to compute charges.

For purposes of disposing of fractions under provisions hereof, fractions of less than one-half cent shall be dropped and fractions of one-half cent or greater shall be increased to the next higher whole cent.

EXCEPTIONS: The surcharges provided in this supplement shall not be applied to those charges determined under provisions of this tariff specified below:

Item 80, Alternative Application of Common Carrier Rates.

Item 90, Alternative Application of Combinations with Common Carrier Rates (railhead to railhead factor only).

Item 130, Collect on Delivery (C.O.D.) Shipments.

Item 170, Loading and/or Unloading of Equipment (paragraph 3(a) only).

Item 260, Accessorial Services (paragraph 1(b) and Extra Labor charge in paragraph 4).

Item 280, Internal Cargo Tank Cleaning.

Item 500, Daily Vehicle Unit Volume Tender Rates (paragraph 3(b) and Notes 7, 9, 11, 15 and 16).

Item 510, Monthly Vehicle Unit Volume Tender Rates (paragraph 3(c) and Notes 7, 9, 11, 15, 16 and 19(b)).

Item 520, Yearly Vehicle Unit Volume Tender Rates (paragraph 3(c) and Notes 7, 9, 11, 15 and 16).

THE END