

Decision No. 84737

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, 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. 49
(Filed February 3, 1975;
amended May 30, 1975)

Richard W. Smith, Attorney at Law, R. C. Broberg,
and H. W. Hughes, for California Trucking
Association, petitioner.

A. J. Woodard, for Robertson Truck-A-Ways, Inc;
Martin H. Richards, for Port Terminal Transport,
Inc; R. H. Hunt, for Hadley Auto Transport; and
W. F. Raymond, for Imported Auto Transport;
respondents.

Kenlyn L. Kanouse, Attorney at Law, for Volkswagen of
America, protestant.

James Swanson and Kirk Eyer, for Toyota Motor
Sales, U.S.A., Inc. and Toyota Motor Distri-
butor, Inc., interested parties.

Robert Walker, G. H. Morrison, and Clyde Neary,
for the Commission staff.

O P I N I O N

Minimum Rate Tariff 12 (MRT 12) provides rates and rules governing the highway transportation of motor vehicles in secondary truckaway service. The charges resulting under the provisions of MRT 12 are currently subject to a surcharge of 38 percent. In Petition 49, as amended, the California Trucking Association seeks to have the present surcharge increased to 51.5 percent. On March 25, 1975 an Order Setting Hearing (OSH 52) was issued in Case No. 5604. The order states:

"The Commission's Transportation Division has conducted full scale cost and rate studies concerning rates and rules for the statewide transportation of motor vehicles...contained in Minimum Rate Tariff 12. . . . A public hearing should be held...for the receipt of evidence relative to the adjustments and/or establishment of minimum rates and rules for such transportation."

Petition 49 and OSH 52 were consolidated for public hearing before Examiner Gagnon at San Francisco on April 28, 1975 and June 10, 11, and 12, 1975. Petition 49 was submitted for decision on the latter date while OSH 52 was continued to an August 13 series of adjourned hearings for the receipt of further evidence.

The current level of rates and charges in MRT 12 was established pursuant to Decision No. 83494 and reflected labor costs effective September 1, 1974 and fuel costs as of May 1, 1974. Petitioner notes that cost elements, other than fuel and labor, underlying the existing level of MRT 12 rates and charges have not been updated since mid-1950. Pursuant to applicable labor agreements, hourly labor costs and allied payroll expenses of auto transporters will increase as of September 1, 1975. Petitioner introduced a series of cost offset exhibits wherein it indicates that the 1974 cost elements (less fuel) reflected in the present level of MRT 12 rates and charges will increase by approximately 13.5 percent as of September 1, 1975. Accordingly, the petitioner urges that the existing MRT 12 surcharge of 38 percent be made subject to a like percentage cost offset adjustment and increased to 51.5 percent.

The increased costs of operations to be experienced as of September 1, 1975 by auto transporters are also reflected in the full-scale cost and rate economic studies conducted by the Commission's Transportation Division staff and presented as part of the evidence received in the OSH 52 phase of this consolidated

proceeding. Accordingly, the staff deems any interim cost offset adjustment of MRT 12 rates and charges, such as proposed in Petition 49, to be improper or otherwise not justified at this time. In support of its opposition the staff requests official notice be taken of Decision No. 76353 (1969) 70 CPUC 277, wherein the Commission states:

"The minimum rates prescribed for the California intrastate transportation of property by for-hire motor carriers were established in the light of extensive highway carrier performance, cost and rate economic studies. . . .

"During the intervening period, when new full-scale cost and rates studies are not available nor expected to be completed in the near future, it has been the Commission's practice to reflect periodic and substantive increases in labor and related payroll expenses in its various minimum rate tariffs by a method commonly referred to as the 'cost offset' or datum plane procedure...

"In view of the overall lack of particularity and definitiveness involved in a cost offset rate adjustment, ...such method was never designed nor intended to replace...full-scale studies. It should also be clear that any cost offset method of ratemaking...may be reasonable to accept for relatively short periods of time.

"When the original cost and rate studies have been updated over the years by successive offset adjustments, the resulting cost and rate information tends to become vulnerable to an attack upon its continued competency to represent actual for-hire carrier operating experience. While it may be argued that the cost offset adjustments in minimum rates have been consistently found to be a just, reasonable and expeditious method for enabling the carriers to recover significant increases in the wage and allied payroll costs, the obvious limitations of this offset procedure should not be overlooked." (Emphasis supplied.)

The evidence presented in Petition 49 contains nothing that would move the Commission to abandon or otherwise initiate a course of action different from that adopted in Decision No. 76353 relative to the use of established cost offset procedures for adjusting minimum rates. In the circumstances the staff's recommendation that Petition 49, as amended, be denied should be adopted.

Findings and Conclusion

1. Petitioner seeks a cost offset increase in MRT 12 rates and charges of 13.5 percent pending Commission consideration of full-scale performance, cost, and rate economic studies introduced in evidence in Case No. 5604 (OSH 52) relative to the statewide transportation of motor vehicles subject to the governing provisions of MRT 12.

2. The September 1, 1975 costs of operations to be experienced by auto transporters governed by the provisions of MRT 12 are reflected in the full-scale cost and rate studies presented in evidence by the Commission's Transportation Division staff in the OSH 52 phase of this consolidated proceeding.

3. Petitioner's proposal to increase MRT 12 rates and charges by established cost offset procedures fails to meet the criteria set forth in Decision No. 76353 (1969) 70 CPUC 277, essential to a finding that the employment of such procedures will result in just, reasonable, and nondiscriminatory minimum rates.

4. Petitioner's proposed cost offset increase of MRT 12 rates and charges should be denied as recommended by the Commission's Transportation Division staff.

It is concluded that Petition 49, as amended, should be denied.

O R D E R

IT IS ORDERED that Petition for Modification No. 49, as amended, is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th
day of AUGUST, 1975.

William J. Lyons President
Vernon L. Stinson
Robert F. Stinson Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.