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Decision No. _____

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 household goods carriers, }
common carriers, highway carriers, }
and city carriers, relating to the }
transportation of used household }
goods and related property. }

Case No. 5330
Petition for Modification
No. 89
(Filed November 18, 1974;
amended November 29, 1974)

Knapp, Stevens, Grossman & Marsh, by Wyman C. Knapp
and Warren N. Grossman, Attorneys at Law, for
California Moving & Storage Association, petitioner,
and for Bekins Moving & Storage Co., respondent.
Charles A. Woelfel, for California Moving & Storage
Association, petitioner.
Frank A. Payne, Jr., for Lyon Moving & Storage Co.;
and Robert C. Johnson and Ernest E. Gallego, Attorney
at Law, for Bekins Moving & Storage Co.; respondents.
Thomas Hays and Herbert H. Hughes, for California Trucking
Association; Jess J. Butcher, by Tad Muraoka, for
California Manufacturers Association; and John C.
Jessup, for Foremost McKesson Inc.; interested parties.
Leonard Diamond, for the Commission staff.

O P I N I O N

California Moving & Storage Association (petitioner) seeks amendment of the provisions of Minimum Rate Tariff 4-B (MRT 4-B) with respect to charges for shipping containers.

Public hearing was held before Examiner Mallory at San Francisco on April 22, 1975 and the matter was submitted.

Item 360 of MRT 4-B provides, in part, as follows:

- "2. (a) Shipping containers, including wardrobes...and packing materials which are furnished by the carrier at the request of the shipper will be charged for at not less than the actual original cost to the carrier of such materials, F.O.B. carrier's place of business.

" (b) In the event such packing materials and shipping containers are returned to any carrier participating in the transportation thereof when loaded, an allowance may be made to the consignee or his agent of not to exceed 75 percent of the charges assessed under the provisions of paragraph 2(a)."

The petition states that on occasion the information relating to the charges applicable to shipping containers and packing materials furnished by a carrier to a shipper are not annotated on shipping documents. Item 155 of the tariff provided (at the time of hearing) that when all required information is not set forth on such documentation, rates and charges no greater than the minimum rates and charges contained in the tariff must be assessed. The petition asserts that in the circumstances where the carrier fails to show the charges for shipping containers on the shipping document, the Commission staff has interpreted the requirements of Item 155 in relationship to Paragraph 2(a) of Item 360 as precluding the collection for the provision of packing materials and shipping containers of an amount in excess of the carrier's "invoice cost" therefor. Such interpretation presumably flows from its concept of the phrase "actual original cost to the carrier" as contained in Item 360. The petition states that nowhere within MRT 4-B is such term defined or otherwise interpreted. The petition alleges that historically, the utilization of the phrase "original cost" was to preclude a carrier from granting a concession to a shipper predicated upon the utilization of used rather than new packing materials and to otherwise preclude the furnishing of such materials at less than cost. Petitioner submits that on a realistic basis the cost to a carrier in connection with the acquisition of packing materials involves, in addition to invoice costs, a substantial measure of related expenses, such as storage, handling, indirect office expenses, inventory expense, warehouse cartage, and diversion of rentable storage space.

Based upon the foregoing considerations, petitioner proposes that Paragraph 2(a) of Item 360 of MRT 4-B be amended to set forth a precise definition of "actual original cost to the carrier." Petitioner proposes that the term be defined as the actual invoice price to the carrier for such materials plus ten percent.

Evidence in support of the petition was presented by a vice-president of Bekins Moving & Storage Company, who is also the vice-chairman of petitioner's rates and tariffs committee. The witness testified that household goods carriers incur costs associated with the furnishing of containers in excess of the inventory costs of such containers. The witness stated that the Commission staff has interpreted "actual original cost to the carrier" as it appears in Paragraph 2(a) of Item 360 to mean the carrier's invoice price of the packing materials. The witness stated that the additional costs to the carrier are associated with transportation of the materials to the carrier's place of business; warehousing the packing materials; the labor of warehouse employees to set up the containers and to move them from the warehouse to the platform so that the materials may be loaded in the carrier's van; and the interest on investment on the inventory of packing materials on hand.

The witness expressed the opinion that the total of the additional costs itemized above exceeds 10 percent of the inventory costs of the materials. However, the witness stated that no precise measurement of the actual amount of the itemized costs could be determined. The witness urged that the costs of supplying containers in excess of the inventory costs be determined in the next general rate proceeding involving MRT 4-B. ✓

The witness testified that Bekins Moving & Storage Company assesses charges for packing materials in excess of their actual inventory cost.

California Manufacturers Association opposes the granting of the petition for the reason that household goods carriers are free to assess, and actually do assess charges in excess of those provided in MRT 4-B.

The Commission staff opposes the granting of the petition on the basis that the reasonableness of the proposed charges resulting from petitioner's proposal are not supported in the record.

Discussion, Finding, and Conclusion

This matter relates to the proceeding in Case No. 5330 culminating in Decision No. 84671 dated July 15, 1975. In that decision we found that Item 155 of MRT 4-B should be amended to provide that when the carrier fails to quote on the shipping document the rate or charge for a particular transportation or accessorial service, the rate or charge for the omitted service shall be the minimum rate. Prior to that tariff change the staff had interpreted Item 155 to require that all transportation and accessorial services be reduced to the minimum rate level if the carrier failed to quote the charge for shipping containers. Under the amended Item 155 adopted in Decision No. 84671, carriers are required only to reduce the charges for shipping containers to the minimum rate level (the actual cost of the shipping containers to the carrier) in the circumstance when the carrier fails to properly quote charges for containers.

The record does not support the proposal of petitioner because the 10 percent charge in excess of inventory cost is based solely on the judgement of the witness and no cost or other financial data pertinent thereto was introduced.


In the circumstances, the Commission finds that the proposal of petitioner in Petition 89 is not justified, and concludes that the petition should be denied.

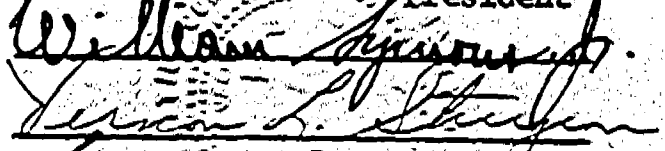
O R D E R

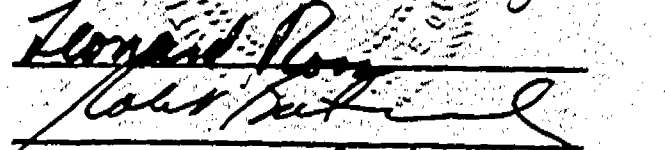
IT IS ORDERED that Petition 89 in Case No. 5330 filed by the California Moving & Storage Association is hereby denied.

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

Dated at San Francisco, California, this 16th day of SEPTEMBER, 1975.



President




Commissioners