

ORIGINAL

Decision No. 85755

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga- )  
 tion for the purpose of consid- )  
 ering and determining minimum )  
 rates for transportation of any )  
 and all commodities statewide )  
 including, but not limited to )  
 those rates which are provided )  
 in Minimum Rate Tariff 2 and the )  
 revisions or reissues thereof. )

And Related Matters. )

Case No. 5432  
 Petition for Modification No. 871  
 (Filed November 7, 1975;  
 amended December 2, 1975,  
 and April 6 and 9, 1976)

Cases Nos. 5439, 5441  
 and 7783 (Petitions for Modifi-  
 cation Nos. 260, 348 and 126,  
 respectively)  
 (Filed November 7, 1975;  
 amended December 2, 1975,  
 and April 6 and 9, 1976)

INTERIM SURCHARGE SUPPLEMENT AND ORDER

Applicable to Minimum Rate Tariffs 1-B, 2, 9-B, 15 and 19  
 Except C.O.D. Charges and Railhead to Railhead Charges.  
 To be applied to the transportation charges resulting under these  
 tariffs including current supplements thereof.

Petitioner, California Trucking Association, seeks imme-  
 diate relief to offset substantial wage increases established  
 retroactive to April 1, 1976. It is alleged that increases in  
 the new labor contract range from 92 to 117 cents per man hour and  
 average 112 cents per man hour. Petitioner asserts that the latest  
 available financial information indicates that, under the new labor  
 contract, carriers will not be able to meet their financial obliga-  
 tions nor to provide adequate service to the public without  
 additional revenues.

The Commission reiterates its statement in Decision 85349 in this proceeding:

"The Commission wishes to encourage all parties, including especially the parties moving for increased rates, to review the current structure of minimum rates with these criteria in mind, and to bring before the Commission proposals for simplification, flexibility, and cost-responsiveness. Specifically, we urge parties to develop proposals for: (a) phasing in a system of minimum rate setting which will insure that, within a reasonable period of time, minimum rates are, in general, below rather than equal to going rates; (b) establishing additional "point-to-point rates"; (c) establishing a "freight of all kinds" rate; (d) establishing intrastate assembly and distribution tariffs; and (e) providing incentives for prepaid shipments. In addition to these specific possibilities, the Commission will be receptive to exploring any other proposals for improving the efficiency of highway carriage and restoring the original function of minimum rates."

It is hoped that the aforementioned efficiency proposals will result in cost savings of sufficient magnitude to permit an equitable sharing thereof between both carriers and shippers.

The Commission finds that for-hire carriers have incurred increased labor costs as of April 1, 1976, and that the increased rates and charges hereby authorized are justified and reasonable. The Commission concludes that, until further order of the Commission, charges under the minimum rates involved herein should be increased as set forth in the ensuing order.

The order which follows will amend the minimum rate tariffs involved and will be filed as a supplement to said tariffs. The order will be made effective on the date hereof as there is immediate need for rate relief.

IT IS ORDERED that:

1. Minimum Rate Tariffs 1-B, 2, 9-B and 19 are further amended effective May 15, 1976, to provide that charges resulting thereunder (except C.O.D. charges and charges resulting from the use of railhead to railhead rates applied under the alternative application of common carrier rates) on shipments subject to any

quantity rates and rates subject to minimum weights of less than 10,000 pounds shall be increased by four and one-half (4½) percent and those 10,000 pounds and over by three (3) percent.

2. Minimum Rate Tariff 15 is further amended effective May 15, 1976, to provide that charges resulting thereunder (except the charges for excess trailing equipment) shall be increased by five (5) percent in connection with the following:

- (a) Items 120 (hourly charges in Paragraph (a) only), 130, 150(a), 452, 453, 454, 455, 456, 457, 460, 520, 530, 540 and 550; and
- (b) Base rates in Items 200, 210, 300, 310, 400 and 410.

3. Under the provisions of Ordering Paragraphs 1 and 2 hereof, fractions of one-half cent shall be dropped and fractions of one-half cent or greater shall be increased to the next higher whole cent.

4. Common carriers subject to the Public Utilities Act to the extent that they are also subject to the minimum rate orders herein involved are hereby directed to establish in their tariffs the surcharges specified in Ordering Paragraphs 1 and 2 hereof, to be applied to the transportation charges resulting under their respective tariffs.

5. With respect to rates maintained by common carriers for transportation not subject to the minimum rate orders herein involved and/or maintained on a level other than minimum rates for transportation for which rates are prescribed in the minimum rate orders involved, said carriers are authorized to apply the surcharges specified in Ordering Paragraphs 1 and 2 hereof.

6. 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.

7. Tariff publications required or authorized to be made by common carriers as a result of the order herein may be made effective on not less than one day's notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than May 15, 1976; 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.

8. Common carriers are hereby authorized to depart from the Commission's tariff circular requirements only to the extent necessary in establishing the interim surcharges authorized by this order.

9. Public hearings for the receipt of additional evidence relative to the final disposition of the further interim cost offset increases sought in these proceedings are scheduled for May 19 and 20, 1976, at 10:00 a.m. in the Commission Courtroom, State Building, 350 McAllister Street, San Francisco, California.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 27<sup>th</sup> day of April, 1976.

[Signature]  
President

Vernon L. Sturgeon

Leonard Ross

Robert Bateman  
Commissioner

*I concur in part and dissent in part and will file a concurring opinion.*

*I concur in the decision. The attached alternate rate schedule represents my preference. I also concur in the Commission's decision.*  
Leonard Ross

*I dissent in writing.*  
William Symon Jr.

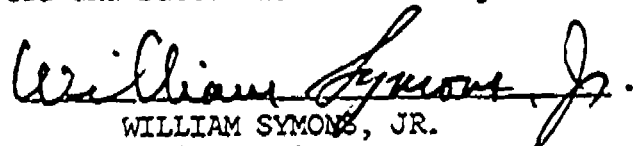
*I concur in part and dissent in part. The levels given in rate increases are deficient to meet the known added expenses being incurred by the carriers.*  
Vernon L. Sturgeon

COMMISSIONER WILLIAM SYMONS, JR., Dissenting

Will this prove another decision in a continuing trend by the majority to throttle business and industry in California? The results will tell the tale but the beginning does not look good. The trucking industry has been saddled with upwards of \$59 million dollars annually in nationally negotiated teamster wage cost increases. The truckers started paying April 1 1976. After much wrangling, four weeks after the new costs began, an insufficient order is put out by the Commission projected to raise only \$30 million dollars in annual revenue. This is \$14 million dollars less than staff's independent and deliberately conservative proposal for interim relief which was calculated to keep the industry at a break-even point.

Hearings are presently scheduled to last for two days. Despite assurances that this matter will not be dragged out the language on page 2 of the decision calling for "... review of the current structure of minimum rates ..." and receptiveness "... to exploring any other proposals for improving the efficiency of highway carriage ..." makes me dubious of such optimism. The Commission majority initiated Case 9963 last summer for the purpose of a full blown investigation into minimum rates. It is still lurking on the sidelines somewhere we are told, but we see no signs of activity. That would be the proper place for in-depth examinations and inquiries, not this wage case where the trucker's bread and butter is held hostage.

San Francisco, California  
April 27, 1976

  
WILLIAM SYMONS, JR.  
Commissioner

CONCURRING OPINION OF COMMISSIONER LEONARD ROSS:

I concur with the views of Commissioner Batinovich stated herein. I would propose the following alternative rate schedule for ex parte action at this time:

1. Minimum Rate Tariffs 1-B, 2, 9-B and 19 are further amended, effective May 15, 1976, to provide that charges resulting thereunder on shipments subject to any quantity rates and rates subject to minimum weights of less than 10,000 pounds (except C.O.D. charges and charges resulting from the use of railhead to railhead rates applied under the alternative application of common carrier rates) shall be increased by:

- (a) Four (4) percent when transported under the rates in Minimum Rate Tariff 2 for distances of 120 constructive miles or less or under the rates in Items 509 and 509.5 of said tariff or under the rates in Minimum Rate Tariffs 1-B, 9-B and 19; and
- (b) Three (3) percent when transported under the rates in Minimum Rate Tariff 2 for distances over 120 but not over 450 constructive miles or under the rates in Item 510 of said tariff; and
- (c) Two (2) percent when transported under the rates in Minimum Rate Tariff 2 for distances over 450 constructive miles.

2. Minimum Rate Tariff 15 is further amended, effective May 15, 1976, to provide that charges resulting thereunder (except the charges for excess trailing equipment) shall be increased by four (4) percent in connection with the following:

- (a) Items 120 (hourly charges in Paragraph (a) only), 130, 150(a), 452, 453, 454, 455, 456, 457, 460, 520, 530, 540 and 550; and
- (b) Base rates in Items 200, 210, 300, 310, 400 and 410.



Leonard Ross  
Commissioner

San Francisco, California  
April 27, 1976

C. 5432, Petn. 871, et al.  
D. 85755

COMMISSIONER BATINOVICH, CONCURRING:

This labor cost offset proceeding provides another opportunity for this Commission to approach the matter of reform of trucking regulation. The interim decision demonstrates that the majority of this Commission is committed to undertake that reform.

While I do not believe that increases of significant magnitude should be granted on an ex parte basis, the failure of the moving parties to comply with this Commission's directives in the previous decision on Petition 871 has created a serious time bind for this Commission and for the industry to avoid extreme hardship.

I concur in the increase for less-than-truckload transportation. Most LTL carriers employ union labor and will pay the increase. Most are also common carriers, and cannot raise their rates without this Commission's order. This ex parte increase should, in my view, be the last granted under circumstances not allowing full review of the need for any minimum rate increases. The cost offset methodology used by the Commission in the past results in an ever-widening deviation from the initial purpose of minimum rates. It provides no evidence that increased rates could not be achieved competitively by charges above the legally-set minimum; common carriers could then apply for higher tariffs as needed on an individual basis. This possibility should be carefully

assessed in future hearings on all rate increase proposals. The mere fact of cost increases does not establish the need for higher minimum rates.

These reservations are even more applicable to the increase for over 10,000 pounds. Before raising the minimum rates for truckload, this Commission ought to investigate the characteristics of truckload traffic in the state. We know that substantial volumes are moving at less than the minimum rates by virtue of the alternative rail rates. Are those rail rates compensatory? If so, then clearly the corresponding minimum rates are already too high. We know also that much of the truckload traffic moves by subhaulers who usually receive substantially less than the minimum rate. Does this Commission expect the "prime carriers" (often brokers) to flow through the rate increase to the subhaulers? My concern is that the truckload increase simply adds to the opportunities for exploitation and corruption, without any counterbalancing public interest.

April 27, 1976  
San Francisco, California



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Robert Batinovich, Commissioner