

ORIGINAL

Decision No. 86342

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.)

Case No. 5432

In the Matter of the Investiga-)
tion for the purpose of consid-)
ering and determining minimum)
rates for transportation of)
general commodities within San)
Diego County as provided in)
Minimum Rate Tariff 9-B and the)
revisions or reissues thereof.)

Case No. 5439

In the Matter of the Investiga-)
tion for the purpose of consid-)
ering and determining minimum)
rates for transportation of)
general commodities in the)
Counties of Contra Costa, Lake,)
Marin, Mendocino, Monterey,)
Napa, San Benito, San Mateo,)
Santa Clara, Santa Cruz, Solano)
and Sonoma, and in the County)
of Alameda and in the City and)
County of San Francisco as)
provided in Minimum Rate Tariffs)
1-B and 19 respectively, and)
the revisions or reissues there-)
of.)

Case No. 5441

SUPPLEMENTAL OPINION AND ORDER

Minimum Rate Tariffs 2, 1-B, 9-B and 19, respectively,
name minimum class and commodity rates for the transportation of

general commodities statewide and within the East Bay, San Diego and San Francisco Drayage Areas by highway carriers.

Express corporations and freight forwarders, having come under the Commission's jurisdiction as common carriers by a 1933 statute, were made subject to the minimum rates contained in the various general commodity minimum rate tariffs established subsequent to the enactment of the Highway Carriers' Act. At that time, the operations of express corporations and freight forwarders were conducted exclusively via the lines of surface common carriers. Today, most express corporations and all freight forwarders conduct their line haul operations via air carriers.

Because the Commission's minimum rates have been established for transportation by highway carriers and are based upon the conditions experienced by such surface carriers, it appears that these minimum rates are not responsive to the experiences of express corporations and freight forwarders operating via the lines of air carriers, which latter carriers are not subject to minimum rates. On June 15, 1976, a meeting, conducted by Commissioner Batinovich and Examiner Tanner, was attended by representatives of 24 express corporations and freight forwarders concerned with the Commission's regulation in light of current operations and transportation conditions. It was revealed at the meeting that air freight rates and passenger fares are the major cost factors incurred by the overlying carriers. In addition, it was revealed that an expeditious method should be established to handle tariff changes by these carriers.

In the circumstances, we find that minimum rates were not designed for express corporations or freight forwarders which operate via the lines of air carriers, and that it is in the public interest to exempt such carriers from our minimum rate program.

We also find that an expeditious method should be established to handle the tariff changes of these carriers, and that a general order should be established for this purpose.

A public hearing is not necessary. We conclude that express corporations and freight forwarders which operate via the lines of air carriers should be exempt from the minimum rates contained in Minimum Rate Tariffs 2, 1-B, 9-B and 19, and that an expeditious method to handle the tariff changes should be adopted by general order.

IT IS ORDERED that:

1. Express corporations and freight forwarders as defined in Sections 219 and 220 of the Public Utilities Code are exempted from the otherwise governing provisions of Minimum Rate Tariffs 2, 1-B, 9-B and 19 when engaged in transportation services via the lines of air carriers.
2. General Order 141 as set forth in Appendix A attached hereto and by this reference made a part hereof is adopted to become effective October 1, 1976.
3. The Executive Director of the Commission shall serve a copy of this order upon all express corporations and freight forwarders as defined in Sections 219 and 220 of the Public Utilities Code.
4. In all other respects, Decisions 31606, 65834, 67766 and 41363, as amended, shall remain in full force and effect.

C. 5432, 5439, 5441 - ANV

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

Dated at San Francisco, California, this 31st day of
August, 1976.

I abstain
William Agueros Jr.
Commissioner

[Signature]
President

[Signature]
[Signature]

[Signature]
Commissioners

APPENDIX A

Original Page 1

GENERAL ORDER NO. 141

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RULES FOR THE FILING OF REQUESTS
FOR TARIFF CHANGES UNDER THE
SPECIAL EXPRESS AND FORWARDER DOCKET

Adopted Aug. 31, 1976 Effective October 1, 1976

Decision 86342 Case Nos. 5432: 5439: 5441

THE DOCKET

These rules are designed to permit prompt and economical processing of requests for tariff changes by freight forwarders and express corporations whose operations are conducted over the lines of air carriers. The procedure specified herein is an alternative to the methods contained in the Commission's Rules of Practice and Procedure and General Order 109. In each case, the carrier shall have the burden of establishing that its request is just and reasonable, and it may include any appropriate evidence in support thereof. A denial or a dismissal of a request under this docket will not prejudice the carrier to the consideration of its request under other Commission procedures. A request may be denied or dismissed upon the receipt of a protest of substance or merit, for the carrier's failure to provide a satisfactory showing, or a failure to comply with any of the provisions herein. A request may contain more than one desired tariff change, and the Commission may grant any request in whole or in part as the circumstances may warrant. Amendments to requests will be accepted only if filed in sufficient time to be considered prior to Commission action upon the request. All requests will be open to public inspection.

REQUESTS GENERALLY

1. The original and three copies of each request shall be filed with the Commission at San Francisco. Requests shall be made on paper of good quality, 8 1/2 by 11 inches. A recommended format is provided herein.
2. Each request shall state clearly and concisely the authorization or relief sought and the specific code

APPENDIX A

Original Page 2

section or order, if any, from which relief is sought.

3. Each request shall contain a statement of the current tariff provisions, including the item number or rule in which they may be found, and a statement of the proposed tariff provisions. This information may be contained in appendices attached to the request.
4. Each request shall contain a complete statement of the justification upon which the carrier intends to rely in support of its request. This justification may take any form or substance which the carrier deems appropriate to the relief sought and may contain, but is not limited to, any of the following data:
 - (a) Carrier's profit and loss statement for the current fiscal year separating, if possible, the intrastate and interstate revenues and expenses.
 - (b) Carrier's balance sheet for the current fiscal year separating, if possible, the intrastate and interstate assets and liabilities.

NOTE: If separate intrastate and interstate account data in (a) and (b) are not provided, the carrier may substitute any material evidence of sufficient weight to overcome the absence of such separate account data to the Commission's satisfaction.

 - (c) A statement of rates currently assessed in interstate commerce or currently assessed by any competing carrier.
 - (d) A cost study containing a development of service-unit costs, carrier's operating ratio, and any other traffic cost measures indicating operating results.
5. Each request shall state the correct name and address of the carrier and the name, address and telephone number of the party to whom correspondence may be addressed.

APPENDIX A

Original Page 3

6. The original of each request shall be verified under oath and shall be signed by the owner or an officer of the carrier or by an agent having power of attorney.
7. A copy of each request shall be sent to every other express corporation, freight forwarder and all other parties known to be interested. A certificate of service shall be attached to each request. The Commission may direct the carrier to serve a copy of its request on any other party.

REQUESTS FOR SPECIFIC RELIEF

1. In order to assure sufficient time for tariff examination prior to the effective date, the Commission will not generally authorize tariff amendments to become effective on less than five days' notice. Authority for shorter notice shall be granted only upon a convincing showing that an emergency situation exists.
2. Any request for a departure from the provisions of general orders containing rules for the filing and construction of tariffs shall state the specific general order and rule thereof from which such relief is sought.
3. Any request for authority to establish a rate based upon the lawfully established rate of a competing carrier shall cite the tariff and item number thereof of the established rate. A request for a rate based upon an established tariff rate not filed with this Commission shall be accompanied by a copy of the tariff containing such established rate.

APPENDIX A

RECOMMENDED FORMAT

Original Page 4

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SPECIAL EXPRESS AND FORWARDER DOCKET REQUEST

The request of (exact legal name, mailing address and telephone number).

respectfully shows:

1. An order is requested (Here state clearly and concisely the specific authorization sought.)

2. This request is based upon the following facts and circumstances: (Here and in succeeding paragraphs or attachments set forth the specific facts required by this General Order together with additional facts deemed material.)

3. All communications in regard to this request are to be addressed to: (name, title, address and telephone number).

I hereby declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Title _____

Dated at _____, California, this _____ day of _____, 19____.

(END OF APPENDIX A)