

Decision 84 08 105 August 1, 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation
(Rulemaking) on the Commission's
Own Motion into Amendment of
General Order 122 pertaining
to Public Inspection of Tariff
Schedules of Common Carriers.

OII 83-12-01 (Rulemaking)
(Filed December 7, 1983)

O P I N I O N

This is an order instituting investigation (Rulemaking) (OII) on the Commission's own motion to determine (1) whether General Order (GO) 122 should be amended to require common carriers to retain their tariffs not less than three years after cancellation or expiration instead of five years as presently required by GO 122, (2) whether GO 122 should be amended to add rules to govern subscriptions to and sales of common carrier tariffs, and (3) related issues. All highway common carriers, passenger stage corporations, cement carriers, railroad corporations, common carrier vessel operations, express corporations, and freight forwarders under the jurisdiction of the Commission were made respondents.

The OII invited respondents and interested parties to submit written comments and/or proposals on the matters under investigation, including the revisions of GO 122 proposed by the Transportation Division staff (staff) attached as Appendix A to the OII.¹ Two copies of a party's written comments and/or proposals were directed to be submitted to the assigned Administrative Law Judge (ALJ) and one copy to be served on each of the other parties.

¹ The staff's proposed revisions are set forth in Appendix A of this decision.

Written comments and/or proposals were received from Safeway Stores, Incorporated (Safeway), Greyhound Lines, Inc. (Greyhound), Western Motor Tariff Bureau, Inc. (WMT), Athearn Transportation Consultants, Inc. (Athearn), Highway Carriers Association (ECA), California Trucking Association (CTA), Armand Karp, and the staff.

Ordering Paragraph 6 of the OII required that after receipt and service of the written comments and/or proposals the ALJ would advise the parties whether reply comments and/or oral argument would be useful. The ALJ advised that the parties' reply comments and/or oral argument would not be useful and that a decision would be rendered based upon the written comments and/or proposals.

Tariff Retention and Inspection

Each of the parties generally favors reducing the tariff schedule retention period by common carriers from five years to three years after cancellation.

Greyhound points out that the reduction will conform to present applicable federal standards concerning the period of retention for common carrier tariffs and rates, which is three years after cancellation or expiration (49 CFR 1220.10 k). Greyhound also states that it would be appropriate to make such reduction in view of the direction found in The Bus Regulatory Reform Act of 1982 (P.L. 97-261) that each State should conform its procedures and standards with federal bus law (49 USC 11501 17(c), (d), and (e)).

Karp, a freight transportation consultant, notes that Public Utilities Code (PU Code) Section 736, which provides that all overcharge claims must be filed within a period of three years, and not later, or a period of six months following declination of the claim by the carrier, is similar to the federal overcharge claim statute (49 USC 11706). To his knowledge the federal retention rule has worked no hardship on the shipping public nor the carriers in

interstate commerce. In his over thirty years of handling overcharge claims he has had only one contested claim that exceeded three-year period, and on that claim he carefully preserved the applicable tariff charges. He states that compliance with the five-year retention period requires unnecessary filing space, binders, expense of clerical time, yet serves no useful purpose.

Athearn favors the reduction in retention time only in the event the carrier has no unpaid overcharges pending which involve tariffs cancelled more than three years previously. Athearn states that some carriers seem to ignore overcharge claims and that if a carrier is allowed to get rid of old tariffs it should first certify that it has no pending claims for refund which remain unsettled.

The staff favors the reduction of the retention period from five to three years. It sees no reason why common carriers should be required to keep tariffs more than three years after cancellation, which is the overcharge statute of limitations period. It believes that, in those instances where an overcharge claim is pending after three years or where the statute has been tolled by litigation, a carrier would voluntarily retain its tariffs for its own self-interest.

Discussion

We have not been presented with any reason why the five year retention period should be maintained, nor do we believe it should be maintained. Conforming the tariff retention period to the three-year statute of limitation period and federal retention requirements is realistic and should reduce the regulatory complexities attendant on disparate regulations covering the same subject matter. However, we do not favor Athearn's recommendation that a carrier should be required to certify it has no pending claims for refund before getting rid of its cancelled tariffs. After three years any shipper who files an overcharge claim should have marshalled all his proof before filing such claims, in which event he would not need to call on the carrier to furnish copies of the involved tariff after the claim has been filed. We will adopt the staff's proposed Rule 1.

We will also adopt the staff's proposed Rules 2, 4, 5, and 6, which are simplifications of existing rules.

Tariff Subscription and Sales

Under the staff's proposed tariff Rule 3 (subscription and sales), a common carrier or its tariff publishing agent may not refuse, upon reasonable request, to furnish a subscription to or sell its tariffs upon payment of a charge. The subscription charge must be reasonable and nondiscriminatory and sales price must be reasonable. A "subscription" means the furnishing of one copy of a particular current tariff and its future amendments, including reissues of the tariff, while a "sale" is deemed to be the furnishing of a particular current tariff or schedule which does not include a request for future amendments of the tariff or schedule.

The term "subscriber" does not include a common carrier as to agency tariffs in which it participates or to other carriers' tariffs in which it concurs.

Distribution of new tariffs, supplements, or loose leaf pages to subscribers must be done by first class mail (or other means requested in writing by the subscriber) not later than the first business day following the time the copies for official filing are transmitted to the Commission.

The staff points out that the Interstate Commerce Commission (ICC) has had regulations in effect since 1975 similar to those in proposed Rule 3 including the first-class mailing requirement. The major difference is that the ICC regulations require that the letter which transmits the tariff schedule for filing contain a certification that subscribers have been sent copies of the tariff schedule, while the staff's proposed Rule 3 does not require such certification, since the staff's proposal allows a carrier to send the subscriber a copy one day after the schedule is sent to the Commission for filing.

The staff stated that one purpose of its proposed Rule 3 is to assure that tariff changes are furnished promptly to persons who need them. For example, even a short delay in receipt of tariff materials can deprive a party of the opportunity to file a petition for suspension and investigation of the new tariff provisions. Another purpose of the proposed rules is to prevent exorbitant charges being made for subscription or sales. The staff stated that it recognized that a carrier or its agent may not be particularly happy about furnishing its tariffs to a competitor or to a party intending to use the tariffs to audit the carrier's customer's freight bills for overcharges and may wish to charge as much as possible to discourage those types of subscriptions. ✓

Athearn stated that it started business in 1969 and that during its early years it did not experience any difficulty obtaining freight tariffs, except for one railroad company which refused to send tariffs. Now, it contends that it has great difficulty in obtaining some carrier tariffs. Athearn charges that some carriers purposely forget to mail tariffs to a subscriber, even though paid for by the subscribers, so that the carrier can "wheel and deal" for protracted periods without fear that their competition, or their customers, will find out what rates, rules, and regulations are on file with the Commission. Athearn agrees with the staff's proposed Rule 3, except in one particular as noted later on.

Karp contends that proposed Rule 3 is essential to carry out the Commission's program of carrier-made pricing. Carriers and shippers must be able to ascertain the rates available in the for-hire transportation market. However, in order to ascertain those rates, tariffs must be available at a reasonable cost. Without the availability of these tariffs, it would be impossible to ascertain those rates. While the Commission maintains a complete library of all tariffs, and the Commission staff personnel in that section are most helpful and courteous, most carriers are not located in areas convenient for them to utilize the Commission tariff library. ✓

None of the other parties offered general objections to the proposed rules. However, WMT, HCA, and CTA object to the requirement that notification must go out to subscribers the day after the transmittal letter is sent. They also object to the requirement that first class mail must be used to send tariff and tariff changes to subscribers, unless otherwise indicated by the subscriber. WMT voices its objections as follows:

"WMT presently mails to more than 2,000 subscribers revisions to its inter and intrastate tariffs. Revisions are accumulated over a one week period and consolidated into one general mailing. Transmission is then made by third class mail, parcel post mail, or United Parcel Service, whichever results in the lowest cost. There are a few subscribers who have requested first class mail service which we provide and assess additional subscription fees. Absent complaints we must assume the majority of our subscribers are satisfied with the present mode of transmission.

"Under the Commission's General Orders certain tariff revisions may be made effective upon the date filed. The object of this rule, of course, is to allow carriers the opportunity to meet the rates of their competition without delay. The requirement that revisions be distributed to subscribers no later than the first business day following the time copies for official filing are transmitted to the Commission would, at best, delay the effective date of "Me Too" filings. The cost of distribution would successfully deter immediate filings, thus contradicting the expressed objectives of the Commission's General Orders. For example, WMT tariff 570 is mailed to 1,052 participants and subscribers; if WMT was required to transmit revision via first class mail and individual mailings were made (In lieu of one weekly consolidated mailing) postage charges alone would be \$210.40. This is in contrast to a consolidated mailing cost of \$39.35. Carriers would bear that added mailing expense in special mailing circumstances.

"In addition to carriers' publication expenses increasing, as would most definitely result from the proposed rule, subscribers cost would also

increase. The cost differential between first class mail and third class mail, parcel post or United Parcel Service is substantial.

"WMT would recommend that first class mail be the permissive alternative, in lieu of the requirement, when requested in writing by the subscriber. Further, WMT would recommend the elimination of the proscription of consolidated mailings which, in effect, would be the result of the proposed rule should it become effective."

ECA contends that first class mail is a costly burden to impose on high volume publishers and in ECA's experience is of nominal importance. ECA proposes that the first day mailing after filing should be changed to five days after the tariff's acceptance, as it is expensive to mail changes and remail notices of rejection.

CTA contends that first class mailing not later than the day after the mailing of transmittal letter puts an unreasonable burden upon the carrier or its agent. Carriers should have the option to provide copies via the most expeditious method desired and be reimbursed by the subscriber. Some tariff mailings can be bulky, and without the mandate of providing service by first class mail, the carrier has the option of using parcel post. If the subscriber requires service by first class mail, the carrier or agent should have the option of passing the extra charge along as a special "user" fee. Also, CTA contends that the specified time limitation should be broadened to allow mailing within a longer time period.

Athearn favors proposed Rule 3. Its only objection is that it believes that the Commission and not the carriers or their agents, should set the maximum price which subscribers and buyers should pay, and that this price should not be raised except upon a showing before the Commission that such increased price is reasonable. Athearn feels in the past it has been abused by many carriers and tariff publishing agents, who have a monopoly on their tariffs, in the matter of the prices it has had to pay for tariffs. It points out that its yearly tariff subscription cost rose from \$1,934 in 1972 to \$62,993 in 1983. Athearn's principal grievance is the level of the yearly prices it has had to pay to maintain its subscriptions. It gave several examples of some of these yearly maintenance prices:

- "1. Pacific Motor Tariff Bureau (PMTB) 18, CPUC 9. Athearn required to pay \$22 per year when there has been no change issued for approximately 2-1/2 years.
- "2. PMTB 6-F, CPUC 5. No revised pages issued for over two years, yet Athearn required to pay \$16.50 per year for subscription maintenance.
- "3. PMTB ES100, CPUC 4. Averaged 10 page revisions per year for last two years. Maintenance cost \$32 per year equals \$3.20 per page.
- "4. Pacific Coast Tariff Bureau (PCTB) 107A, CPUC 6. Effective February, 1980. Last revision issued October, 1981. Subscription maintenance fee increased from \$25 in 1983 to \$30 in 1984.
- "5. PCTB 302-A, CPUC 7, effective October 1981. Last revised page issued December, 1981. Annual maintenance cost has risen from \$22 to \$40.
- "6. PCTB 303 (23, CPUC 46.) Between September 1980 and end of 1983 only 31 pages were reissued, the last in 1982. Cost per page was \$4.10.
- "7. PMTB 260, CPUC 6, effective January, 1981. A 34-page tariff costing \$35 to subscribe to three revised pages. Total annual maintenance cost for three years was \$77, or \$25.67 per page.

Athearn contends that a reasonable uniform price should be charged to all shippers and their agents. Based on its experience with four low volume copiers, Athearn states the marginal cost of a tariff page is less than three cents and recommends that the Commission set this price as the maximum price per page pending proof of higher costs.

Rule 8 D.2. of GO 147, effective December 13, 1981 and applicable to highway common and contract carriers provides as follows:

- "2. Upon request from any party, a carrier or its agent shall furnish a copy of, or a subscription to, any tariff which it issues, or a copy of any tariff, contract, or rate filing, with supporting documents, including any statement of justification. A reasonable charge may be assessed for such copies or subscriptions.

A similar provision appears in Rule 7 of GO 149 (mobile home carriers), Rule 7 of GO 150 (cement carriers), and Rule 7 of GO 151 (truckaway carriers). ✓

Discussion:

In this era of competitive ratemaking it is essential that carriers and shippers who so desire be able to ascertain as speedily as possible the available common carrier rates. Without this timely knowledge they are in the disadvantageous position of not knowing the transportation market conditions applicable to their business, or of not being able to take advantage of favorable transportation market conditions. The staff's proposed Rule 3 will ensure that shippers and carriers who wish to keep abreast of common carrier tariff offerings have an opportunity to do so, and, in the process, would be treated fairly as to the amount they are required to pay for tariffs. ✓

Our present tariff subscription and sales rules are incomplete, found in obscure places in our general orders, and pertain only to a few groups of common carriers. The adoption of the staff's proposed Rule 3 will bring together in one place a uniform and comprehensive set of requirements applicable to all common carriers. They will also conform in general to the ICC rules covering the same subject matters. We will adopt the staff's proposed Rule 3 with one exception.

Several of the carrier agents parties objected to the requirement that, unless indicated otherwise by the subscriber, carriers or their agents use first class mail to distribute tariff schedules. We will make this requirement operate in regard to subscriptions taken in future and will not apply to present subscribers, so that WMT, for example, will not have to poll its over 2,000 subscribers to determine what sort of distribution service each of them wants. It is assumed that by now present subscribers have already settled as to what type of distribution service they want. In taking subscriptions in the future it will not be too cumbersome for carriers or their agents to include in the subscription contract a place for a subscriber to indicate the type of distribution service wanted.

Several of the agents also objected to the requirement that carriers or their agents send out their tariff schedule distributions not later than the first business day following the time the copies for official filing are transmitted to the Commission. WMT stated that the requirement would prohibit it from engaging in its present low cost practice of accumulating revisions over a one week period for consolidated mailing. No doubt other carrier agents engage in a similar practice. We believe such practice can continue if proposed tariff filings are also accumulated and mailed on the same weekly basis. In some cases, this may delay a tariff filing by several days. Such delay, however, can be kept to a minimum by the agent establishing deadlines for receiving revision requests and making their carrier principals aware of such deadlines. In the event a carrier insists that its agent file the carrier's requested rate revision without waiting for the consolidated distribution, then the agent will have to follow the carrier's direction. In this event distribution will have to be made on the next business day after transmission for filing, according to the proposed rule, and the increased cost of the extra mailing be taken into consideration in setting up tariff revision fees.

On the other hand, the means of tariff distribution and its inherent costs are in the hands of the subscriber. While the basic means will be first class mail, a subscriber will be able to request slower service if that suits its particular needs. One would expect a carrier or agent to establish its subscription fees on the basis of first class mail, with a discount provided to those subscribers requesting deferred distribution. The rules we are issuing clearly allow carriers and their agents reasonable latitude in setting these fees. We will not burden them by prescribing the details of their implementation.

While we cannot pass judgment on the alleged abuses recited by Athearn his allegations indicate that there might be a lack of awareness of our present rules requiring agents to furnish their tariffs when so requested and at a reasonable charge. We hope this investigation and decision will give sufficient publicity so that reluctant carriers or carrier's agents will conform to our intent.

Findings of Fact

1. GO 122 presently provides that common carriers retain their cancelled tariffs and schedules for a period of five years after cancellation.

2. The staff proposes that the five-year retention period be reduced to three years.

3. Conforming the tariff retention period to the three-year statute of limitations on refund of overcharges and to the three-year federal tariff retention period will reduce the regulatory complexities attendant on disparate regulations covering the same subject matter.

4. No necessity has been shown for requiring a carrier to certify that it has no outstanding overcharge claims against it before it destroys the involved tariffs after the proposed three-year retention period.

5. The staff's proposed Rule 1 is reasonable.

6. The staff's proposed Rules 2, 4, 5, and 6 are reasonable simplifications of existing rules.

7. Present Commission tariff subscription and sales rules are incomplete, found in obscure places in our general orders, and pertain only to a few groups of common carriers.

8. The adoption of the staff's proposed Rule 3 will bring together in one place a uniform and comprehensive set of requirements applicable to all common carriers and will substantially conform our requirements with those of the ICC covering the same subject matter.

9. There is a need to ensure that shippers and carriers who wish to keep abreast of transportation market conditions as to common carrier tariff offerings have an opportunity to do so, and, in the process, be treated fairly as to the amount they are required to pay for such tariffs and schedules.

10. The need, set out in Finding 9, will be met with the adoption of the staff's proposed Rule 3, with the exception as set out in Finding 11.

11. The requirement in proposed Rule 3(d), that, distribution shall be by first class mail, unless other means are requested in writing by the subscriber, should apply only to those subscribers who take out new subscriptions after the effective date of proposed Rule 3.

12. The staff's proposed Rule 3 as amended by Finding 11 is reasonable.

13. A public hearing is not necessary.

Conclusion of Law

General Order 122 should be reissued as General Order 122-A as set out in Appendix B.

O R D E R

IT IS ORDERED that:

1. The Commission's General Order 122-A is issued as set out in Appendix B.

2. The Executive Director is directed to serve by mail a copy of this decision on all respondents or their agents.

3. General Order 122-A becomes effective 60 days from today. This order becomes effective 30 days from today.

Dated August 1, 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO

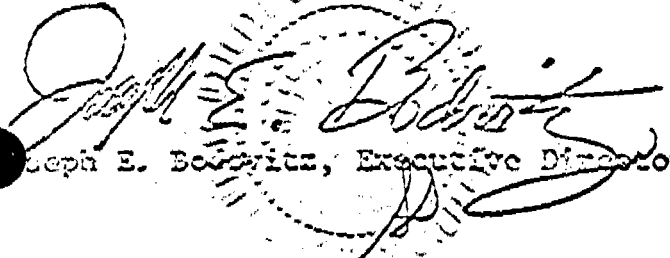
DONALD VIAL

Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Commissioner Priscilla C. Grew,
being necessarily absent, did not
participate.

Commissioner William T. Bagley,
being necessarily absent, did not
participate.


Joseph E. Boorwitz, Executive Director

APPENDIX A
Page 1

PROPOSED REVISIONS, GENERAL ORDER 122

Rule 1--Public inspection of tariff files. Every Common carrier shall maintain, open for public inspection, at its principal office in California, a copy of complete tariff schedules issued by it or by its agents, or in which it concurs, including those currently applicable, those filed with the Commission to become applicable at a future date, and canceled tariff schedules for a period of not less than ~~xxx~~ three years after the effective date of cancellation.

Rule 2--Public inspection at other than principal office. Every common carrier shall, upon demand in writing by any person, ~~xxx within 10 days of xxx xxxxxx request~~ make available for public inspection at any office, depot, terminal or station in charge of an agent or other responsible employee, any requested currently effective tariff schedule issued by it or by its agents or in which it concurs.

Rule 3--Tariff subscriptions and sales.

(a) As used in this rule, the term "subscription" means the furnishing by a common carrier or its agent of at least one copy of a particular tariff and its amendments (including reissues of the tariff) to any party ("subscriber"). The term "subscription" does not pertain to requests for a copy or copies of a tariff without a request for future amendments. The term "subscriber" does not include a common carrier as to agency tariffs in which it participates or to other carriers' tariffs in which it concurs.

(b) Fees for subscriptions shall be reasonable and nondiscriminatory.

(c) A common carrier or its agent shall not refuse to furnish a subscription to any party upon reasonable request except for nonpayment of the applicable fee.

(d) Every common carrier or its agent shall distribute its new tariffs, supplements and loose leaf pages to subscribers by first class mail (or other means requested in writing by subscriber) not later than the first business day following the time the copies for official filing are transmitted to the Commission, except that the first class mailing requirement shall apply only to new subscriptions taken after the effective date of this General Order.

(e) Every common carrier or its agent shall furnish without delay one copy of any current tariff publication, or any tariff publication filed but not yet effective, to any person upon reasonable request at a reasonable charge.

APPENDIX A
Page 2

Rule 4--Assistance to public. Every common carrier shall give any information contained in tariff schedules issued by it or by its agents or in which it concurs, and lend assistance to seekers for information. ~~Whichever of the schedules is provided in Rules 1 and 2.~~

Rule 5--Posting of notices. Every common carrier shall post in a prominent place in every office, depot, terminal or station where passengers or property are received for transportation a notice setting forth the complete address of the office where tariff schedules issued by it or by its agent or in which it concurs are maintained pursuant to Rule 1.

Rule 6--Tariffs may be maintained at other locations. This General Order shall not be construed to prohibit common carriers from maintaining tariffs, open for public inspection, at places other than as required ~~herein~~ by Rule 1.

Rule 7--Application in connection with other General Orders.

(a) The provisions of this General Order supersede those of Rule 22 of General Order 79.

(b) The requirements of this General Order are in addition to those provided in Rule 8 of General Order 147, Rule 7 of General Order 149, Rule 7 of General Order 150 and Rule 7 of General Order 151.

(END OF APPENDIX A)

APPENDIX B
Page 1

GENERAL ORDER 122-A

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

RULES GOVERNING PUBLIC INSPECTION, SUBSCRIPTION, AND SALE OF TARIFF
SCHEDULES OF COMMON CARRIERS AS DEFINED IN DIVISION 1 OF THE
PUBLIC UTILITIES CODE

(The Provisions of this General Order Supersede the
Provisions of General Order 122 Adopted March 17,
1964, Effective July 1, 1964 by Decision 66971,
Case 7862.)

Adopted August 1, 1984.
Decision 84-08-105.

Effective September 30, 1984. ✓
OII 83-12-01.

Rule 1--Public inspection of tariff files. Every common carrier shall maintain, open for public inspection, at its principal office in California, a copy of complete tariff schedules issued by it or by its agents, or in which it concurs, including those currently applicable, those filed with the Commission to become applicable at a future date, and canceled tariff schedules for a period of not less than three years after the effective date of cancellation.

Rule 2--Public inspection at other than principal office. Every common carrier shall, upon demand in writing by any person, within 10 days, make available for public inspection at any office, depot, terminal or station in charge of an agent or other responsible employee, any requested currently effective tariff schedule issued by it or by its agents or in which it concurs.

Rule 3--Tariff subscription and sales.

(a) As used in this rule, the term "subscription" means the furnishing by a common carrier or its agent of at least one copy of a particular tariff and its amendments (including reissues of the tariff) to any party ("subscribers"). The term "subscription" does not pertain to requests for a copy or copies of a tariff without a request for future amendments. The term "subscriber" does not include a common carrier as to agency tariffs in which it participates or to other carriers' tariffs in which it concurs.

(b) Fees for subscriptions shall be reasonable and nondiscriminatory.

APPENDIX B

Page 2

(c) A common carrier or its agent shall not refuse to furnish a subscription to any party upon reasonable request except for nonpayment of the applicable fee.

(d) Every common carrier or its agent shall distribute its new tariffs, supplements and loose leaf pages to subscribers by first class mail (or other means requested in writing by subscriber) not later than the first business day following the time the copies for official filing are transmitted to the Commission except that the first class mailing requirement shall apply only to new subscriptions taken after the effective date of the General Order.

(e) Every common carrier or its agent shall furnish without delay one copy of any current tariff publication, or any tariff publication filed but not yet effective, to any person upon reasonable request at a reasonable charge.

Rule 4--Assistance to public. Every common carrier shall give information contained in tariff schedules issued by it or by its agents or in which it concurs, and lend assistance to seekers for information.

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(a) The provisions of this General Order supersede those of Rule 22 of General Order 79.

(b) The requirements of this General Order are in addition to those provided in Rule 8 of General Order 147, Rule 7 of General Order 149, Rule 7 of General Order 150 and Rule 7 of General Order 151.

(END OF APPENDIX B)

Decision 84 OS 105

AUG 1 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation)
(Rulemaking) on the Commission's)
Own Motion into Amendment of)
General Order 122 pertaining)
to Public Inspection of Tariff)
Schedules of Common Carriers.)

OII 83-12-01 (Rulemaking)
(Filed December 7, 1983)

O P I N I O N

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The OII invited respondents and interested parties to submit written comments and/or proposals on the matters under investigation, including the revisions of GO 122 proposed by the Transportation Division staff (staff) attached as Appendix A to the OII.¹ Two copies of a party's written comments and/or proposals were directed to be submitted to the assigned Administrative Law Judge (ALJ) and one copy to be served on each of the other parties.

¹ The staff's proposed revisions are set forth in Appendix A of this decision.

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Karp contends that proposed Rule 3 is essential to carry out the Commission's program of carrier-made pricing. Carriers and shippers must be able to ascertain the rates available in the for-hire transportation market. However, in order to ascertain those rates, tariffs must be available at a reasonable cost. Without the availability of these tariffs, it would be impossible to ascertain those rates. While the Commission maintains a complete library of all tariffs, and the Commission staff personnel in that section are most helpful and courteous, most carriers are not located in areas convenient for them to utilize the Commission tariff library.

A similar provision appears in Rule 7 of GO 149 (Mobile home carriers), Rule 7 of GO 150 (cement carriers), and Rule 7 of GO 151 (Truckaway carriers).

Discussion

In this era of competitive ratemaking it is essential that carriers and shippers who so desire be able to ascertain as speedily as possible the available common carrier rates. Without this timely knowledge they are in the disadvantageous position of not knowing the transportation market conditions applicable to their business, or of not being able to take advantage of favorable transportation market conditions. The staff's proposed Rule 3 will ensure that shippers and carriers who wish to keep abreast of common carrier tariff offerings have an opportunity to do so, and, in the process, would be treated fairly as to the amount they are required to pay for tariffs.

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11. The requirement in proposed Rule 3(d), that, distribution shall be by first class mail, unless other means are requested in writing by the subscriber, should apply only to those subscribers who take out new subscriptions after the effective date of proposed Rule 3.

12. The staff's proposed Rule 3 as amended by Finding 11 is reasonable.

13. A public hearing is not necessary.

Conclusion of Law

General Order 122 should be reissued as General Order 122-A as set out in Appendix B.

O R D E R

IT IS ORDERED that the Commission's General Order 122-A is issued as set out in Appendix B.

This order becomes effective 30 days from today.

Dated AUG 1 1984, at San Francisco, California.

Commissioner Priscilla C. Grow,
being necessarily absent, did
not participate

Commissioner William T. Bagley
being necessarily absent, did
not participate.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
DONALD VIAL
Commissioners