

Decision 82 02 127 FEB 17 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order instituting rulemaking on the)
Commission's own motion to adopt and)
issue a general order governing the)
processing, investigation and)
disposition of overcharge or duplicate)
payment claims by common carriers.)

OIR 5
(Filed January 21, 1981)

O P I N I O N

(Parties filing comments are shown in Appendix A.)

Order Instituting Rulemaking 5 (OIR 5) is a proceeding on the Commission's own motion to determine whether rules should be promulgated in the form of a General Order (GO) to govern the processing, investigation, and disposition of overcharge or duplicate payment claims by common carriers of property subject to the Commission's jurisdiction. This would not include intrastate operations of airlines (direct air carriers) or freight forwarders and express corporations operating in whole or in part over airlines (indirect air carriers) which recent federal court decisions have held are not subject to the Commission's jurisdiction.¹

Attached to OIR 5 is a GO proposed by our Transportation Division staff. OIR 5 was served on all known interested parties who were invited to file comments on the staff-proposed GO. Comments were received from 11 parties, and of these, one filed a response to the comments. After review of the comments and response, we conclude that no hearing or oral argument is necessary.

¹ Sierra Elite Service, Inc., et al. v California Public Utilities Commission, U.S. Dist. Crt. (1979) C79-084SW; affirmed (1981) 644 F 2d 1334.

Background

Public Utilities (PU) Code § 494 provides in part as follows:

"No common carrier shall charge, demand, collect, or receive a different compensation for the transportation of...property, or for any service in connection therewith, than the applicable rates, fares and charges specified in its schedules filed and in effect at the time..."

From time to time a common carrier may charge and collect a greater amount than that named in its applicable tariffs on file with the Commission for transportation of property. This may be in the form of an overcharge or a duplicate payment for the same transportation service. When this occurs, the usual procedure is for the shipper to file with the carrier a claim for refund of the overpayment, setting forth what it believes to be the correct and applicable tariff provisions and other supporting information. If the parties are unable to agree, the shipper may file a complaint for reparation, either with the Commission or in a court of competent jurisdiction, in accordance with PU Code § 736. ✓

Section 736 makes reference to "claims for the asserted damages...presented in writing to the public utility...", which would include a claim filed with a common carrier of property for a refund of an overcharge or duplicate payment. This is the type of claim and reparation with which we are concerned in this proceeding. We have not previously prescribed rules governing the handling of such claims. The reason is that, prior to implementation of Chapter 840, Statutes of 1977 (Senate Bill (SB) 860), most common carriers operating in this State also operated in interstate commerce and were, therefore, cognizant of the rules on this subject set forth by the Interstate Commerce Commission (ICC). Such is no longer the case. The overwhelming majority of common carriers today are highway common carriers which received their certificates in 1980 through PU Code § 1063.5 and have no interstate operations. Few of these carriers ✓

have any reason to be knowledgeable of the ICC regulations and, in any event, such regulations are not applicable to California intrastate traffic.

The staff-proposed GO is intended by it to provide reasonable rules to govern the processing, investigation, and disposition of overcharge or duplicate payment claims by common carriers of property. These rules are based on the ICC rules established in Ex Parte 342 (49 CFR 1008) with minor changes intended to make the proposed GO conform to California law and regulations.

Staff-Proposed GO

The staff-proposed GO contains the following rules:

1. Applicability,
2. Definitions,
3. Filing and Processing of Claims,
4. Documentation of Claims,
5. Investigation of Claims,
6. Claim Records at the Time a Claim is Received,
7. Acknowledgment of Claims,
8. Disposition of Claims, and
9. Disposition of Unidentified Payments, Overcharges, and Duplicate Payments, not the Subject of Claims.

Generally, the rules set forth comprehensive procedures and time limitations to be followed by the carrier in handling a claim. They provide that the processing carrier shall pay, decline to pay, or settle each written claim within 60 days after its receipt, except where the claimant and the carrier agree in writing to a specific extension based on extenuating circumstances. They specifically point out that the rules are in addition and supplementary to the provisions of the PU Code and, in particular, to the following sections of the Code:

1. § 494 - Tariffs must be strictly observed.

2. § 532 - Assessment of tariff rates.
3. § 736 - Complaints resulting from violations of §§ 494 and 532.
4. § 738 - Accrual of cause of action.

Comments

Two of the parties recommended that the staff proposed GO be adopted. Four, while they were not opposed to the staff proposal, suggested certain clarification or additions. One recommended that the rules in the National Motor Freight Classification (NMFC) governing overcharge or duplicate payment claims be adopted. Three suggested that railroad corporations be exempted from any GO that might be adopted. The remaining one objected to the issuance of any rules for overcharge or duplicate payment claims but did submit an alternate proposal should the Commission consider a GO on this subject necessary. Following is a brief summary of the comments by the parties:

1. Both the Los Angeles Chamber of Commerce (LACC) and the California Manufacturers Association (CMA) recommended that the staff-proposed GO be adopted.
2. Associated Traffic Service (ATS) supported the staff proposal but recommended that it also be made applicable to highway permit carriers.
3. Thomas J. MacBride, an attorney, took no exception to the proposed GO. However, he did point out that the word "damages" is used several times in OIR 5 and that the use of this word may blur the distinction between claims for: (1) overcharges or duplicate payments over which the Commission has jurisdiction, and (2) other forms of damages over which the Commission does not have jurisdiction. He suggested that this distinction be clearly made in this proceeding.
4. The California Furniture Manufacturers Association (CFMA) recommended the addition to the proposed GO of a new Rule i.e. which would state: "Section 494 - Billing issued by Carriers must show each charge

separately." CFMA attached several freight bills to its comments. Each shows a total charge only. CFMA pointed out that without information on the bills showing the services performed and applicable rates and charges, it is not possible to determine whether the total amount assessed is correct. It asserted that its suggestion would do much to remedy this problem.

5. L. Filipovich, owner of General Drayage, questioned the effect of the proposed GO on the relationships between prime carriers and subhaulers and suggested that this be clarified in the proposal.
6. Frank Spellman, a transportation consultant, opposed the proposed general order. He asserted that it would create more problems than it would solve. It is his position that the carrier industry is ably handling overcharge and duplicate payment claims without such regulations and that none are needed. He stated that should any regulations on this subject be adopted by the Commission, they should be minimal and similar to those attached to his comments.
7. The Atchison, Topeka and Santa Fe Railway (Santa Fe) and the Southern Pacific Transportation Company (SPT) both recommended that railroad corporations be exempted from the proposed general order. They pointed out that:
 - a. The proposed rules are based on the ICC rules which do not apply to railroads.
 - b. Railroads are now subject to the overcharge or duplicate payment claim rules of the Association of American Railroads (AAR) which apply to all traffic, including intrastate shipments. These rules require prompt and accurate claim service.
 - c. For the major railroads, California intrastate operations account for only a fraction of their overall operations. Also, according to the 1979 statistical report prepared by

the Commission's Transportation Division, the California intrastate gross operating revenue for all railroads were only 3.38% of the total for all intrastate carriers of property.

- d. In view of the minimal participation by railroads in California intrastate traffic and the disruptive effect a separate claims procedure for such traffic would have, railroads should be excluded from the proposed general order.
8. The Union Pacific Railroad Company (UPRR) challenges the jurisdiction of the Commission to apply the proposed GO to railroads. It cites 49 USC 11501 (B)(4)(a), as amended by Staggers Rail (SR) Act § 214 (1980), as authority for its position.
9. The California Trucking Association (CTA) suggests that in lieu of the proposed GO, the Commission should adopt the overcharge or duplicate payment claim rules in Items 300201 through 300209 of the NMFC. These items are identical, except for nonsubstantive changes in punctuation, to the ICC rules on which the proposed general order is based. CTA pointed out that the Commission has already ordered all highway common carriers, including SB 860 carriers, to be participants in the governing classification (Decision (D.) 90324 dated May 22, 1979 in Case (C.) 5432, et al.) and has held that for the transition period this shall be the NMFC (D.90663 dated August 14, 1979 in C.5432, et al.). It stated that to the extent that the NMFC rules make reference to ICC or interstate provisions that differ from California intrastate procedures, the Commission's order in this proceeding could make such changes as are required. CTA asserted that to have separate sets of rules for intrastate and an interstate traffic covering the same types of transactions would create confusion and an unnecessary paperwork burden for both shippers and carriers.

Response

A response to the replies was filed by CTA. It reiterated its request that the NMFC's overcharge and overpayment rules be adopted in lieu of the staff-proposed GO. It asserted that the NMFC rules are compatible for California purposes and that the ease of administration, subscription, and resultant uniformity are advantages that make this the preferable method to accomplish the stated purpose of OIR 5. CTA also requested that the scope of OIR 5 not be broadened to consider rules governing the issuance of freight bills as suggested by CFMA or to include permitted carriers as suggested by ATS.

Discussion

OIR 5 together with the staff-proposed GO was served on all highway common carriers, cement carriers, petroleum irregular route carriers,² railroad corporations, express corporations, freight forwarders, common carrier vessel operators, and passenger stage corporations authorized to transport express shipments operating under the Commission's jurisdiction, and also on all interested parties in C.5432. The number of parties served was several thousand. Since comments were received from only 11, it is reasonable to conclude that the overwhelming majority of the parties served do not object to the proposed GO. With this in mind and based on a review of the 11 comments and the single reponse, we are of the opinion that the staff proposed GO, with several modifications referred to below, should be adopted.

We concur with Santa Fe and SPT that railroad corporations not be made subject to the proposed GO. The purpose of the proposed GO is to provide a reasonable procedure for handling overcharge or duplicate payment claims by common carriers of property subject to the Commission's jurisdiction. It was framed to conform as closely

² The petroleum irregular route carrier classification has been repealed (Stats. 1980, Ch. 1096). Such carriers are now classified as permitted tank truck carriers and are regulated under PU Code § 3591 et seq. and as such are not within the scope of OIR 5 or any GO that might be adopted.

as possible to the rules established by the ICC to simplify matters for shippers and carriers. As pointed out by the two rail carriers, the ICC rules are not applicable to rail carriers. They are subject to the AAR rules which apply to intrastate as well as interstate traffic and differ in several significant aspects from the ICC rules, including the method of handling claims on interline shipments and combining several shipments as a single claim. We are aware of no problems with the AAR rules in connection with California intrastate traffic. While it is desirable to establish uniform overcharge or duplicate payment rules for intrastate common carriers of property subject to the Commission's jurisdiction, an additional set of rules for the railroads is not necessary. If the Commission were to include railroads in the proposed GO, the effect would not be to make California rules substantially the same as interstate rules for railroads and thereby simplify matters, but it would be precisely the opposite.

Having determined that railroads should not be made subject to the proposed GO, it is not necessary to comment on the jurisdictional question raised by UPRR. However, it is to be noted that the constitutionality of the SR Act, and in particular Section 214 of the Act, is now before the Federal District Court for the Western District of Texas in State of Texas, et al. v United States, et al. (A 80 CA 487) in which the Commission is a plaintiff.

We do not agree with CTA that the rules for overcharge or duplicate payment claims in Items 300201 through 300209 of the NMFC, which are a restatement of the ICC rules, should be adopted in lieu of the proposed GO. However, we do agree with CTA that it is desirable to have a single set of rules covering the same transactions for both intrastate and interstate commerce. This is precisely what the proposed GO is intended to do although certain deviations from the ICC rules are necessary. In this connection, the ICC rules govern overcollections by household goods carriers. Because California regulation of household goods carriers differs from ICC regulations and because this is beyond the scope of OIR 5,

reference to overcollections by household goods carriers has been ✓
deleted from the proposed GO. Also, the two differ somewhat in
certain other provisions.

Furthermore, it is a simpler process to issue a GO than to
adopt the NMFC overcharge or duplicate payment claim rules. In this
regard, the transition tariffs specifically list the rules of the
NMFC to which they are subject, and the NMFC rules for such claims
are not included. D.90663, supra, states that the transition tariffs
will not be amended. Therefore, if the Commission were to adopt the
NMFC rules with the necessary exceptions, each of the thousands of
carriers who adopted any of these transition tariffs as its own would
have to file its own amendment adopting them. Also, all other common
carriers who publish their own tariffs would likewise have to amend
them. There would, of course, be no objection to a carrier
voluntarily making its tariff subject to the NMFC rules provided that
it also publishes the necessary exceptions to make them conform to
the GO.

Upon review of the provisions in the NMFC rules governing
unidentified payments, we are of the opinion that they set forth a
more explicit and comprehensive procedure for handling such payments
than the provisions set forth in Rule 9.a. of the proposed GO. We
will, therefore, adopt the NMFC rules for this. They will be shown
as Rules 9.a.(1), (2), and (3) in the GO.

We recognize the concern by MacBride regarding the
distinction between claims for overcharges and duplicate payments and
claims for other types of damages over which the Commission has no
jurisdiction. While PU Code § 736 does refer to "a claim for the
asserted damages" and OIR 5 does make reference to this, the OIR is
concerned only with claims for the recovery of overcharges and
duplicate payments. Furthermore, the proposed GO specifically refers
to such claims. In this connection, Rule 2.c. of the proposal
defines a claimant as "any shipper or receiver, or its authorized
agent, filing a request with a carrier for the refund of an
overcharge or duplicate payment." In our opinion, both OIR 5 and the
proposed GO are sufficiently clear on this point.

We are not persuaded by Spellman's assertions that neither the proposed GO nor any other rules on this subject are needed and that any such regulations would create an unnecessary burden on shippers and carriers. The ICC, after due deliberation, found their rules to be necessary for interstate commerce. As indicated above, it is desirable to have the same rules, modified to the extent necessary, applicable to California intrastate traffic. Also, the staff proposal as modified is a more appropriate set of regulations than the basic rules which Spellman suggested should the Commission determine that a GO is needed. While simplicity in any regulation is a desirable goal, the substantial majority of highway common carriers are PU Code § 1063.5 carriers and new to the field of common carriage. For this reason, it is particularly desirable that the GO set forth explicitly and in sufficient detail the procedures and time limits to be followed in processing claims.

The suggestions by CFMA that a rule be added to the proposed GO requiring carriers to show all necessary information to determine freight charges on their billings and by ATS to make the staff proposal applicable to permit carriers are beyond the scope of OIR 5. It is to be noted that rules prescribing the information to be shown on freight bills already exist. (See Item 255, Transition Tariff (TT) 2; Item 200, TT 11-A; similar items in other tariffs; and Item 360, NMFC.) Also absent shipper/carrier contracts, the concept of overcharge claims against permitted carriers is not compatible with current rate regulation. This can only occur where there is an exact rate. In any event, no real need to broaden the scope of OIR 5 or issue a new OIR, with the thousands of parties to be notified, has been demonstrated.

The comments by Filipovich are concerned with prime carrier-subhauler relationships and in particular payments by an overlying carrier to a subhauler. This is likewise beyond the scope of OIR 5 and not included in the proposed GO. It is to be noted that a common carrier subhauler is not required to observe its tariff rates in its dealings with a prime carrier. (See Inv. into Subhaul Operations of

Highway Common and Petroleum Irregular Route Carriers (1960) 57 CPUC 800.) The only mention of a subhauler in the proposal is in Rule 9.c. of the proposed GO. The rule states that if a subhauler notifies a collecting carrier that it believes an overpayment has been made, the collecting carrier shall establish a claim file. The subhauler is not required to do anything.

We agree with the comments of LACC and CMA supporting the need for regulations governing overcharge and duplicate payment claims.

For the reasons stated above, the applicability provisions (Rule 1) and the definition of a carrier (Rule 2.a.) of the staff proposed GO should be amended to exclude railroad corporations and to refer to highway carriers of property only.³ With this amendment and the substitutions of the ICC regulations governing unidentified payments, as stated in Item 300209 of the NMFC, for the unidentified payment rule (Rule 9.a.) in the staff recommendation, the staff-proposed general order will be adopted. ✓

Findings of Fact

1. OIR 5 was issued for the purpose of considering whether rules should be promulgated in the form of a GO to govern the processing, investigation, and disposition of overcharge or duplicate payment claims by common carriers of property subject to the Commission's jurisdiction. Any rules adopted would be supplement to and addition to PU Code § 736 and other applicable provisions of the Code.

2. OIR 5 together with a staff-proposed GO were served on all known interested parties who numbered several thousand and they were invited to file comments on the staff proposal.

3. Comments were received from 11 parties.

³ Since the definition of carrier in Rule 2.a. of the staff proposal does not include direct or indirect air carriers, it is not necessary to specifically exclude them from the applicability provisions of the GO.

4. Based on the substantial service of OIR 5 and the staff-proposed GO and the small number responding, it is clearly evident that the vast majority of common carriers of property and shippers have no objection to the staff-proposed GO.

5. Other than the general provisions of PU Code § 736 and related code sections, there are now no California regulations governing the processing, investigation, and disposition of intrastate overcharge or duplicate payment claims by common carriers of property subject to the jurisdiction of the Commission.

6. The overwhelming majority of California highway common carriers had been radial highway common carriers who recently received their certificates through the conversion provisions of PU Code § 1063.5 and have no interstate operations. While there are ICC rules governing overcharge or duplicate payment claims, it is unlikely that many of these carriers are aware of them or have had much, if any, experience in handling such claims.

7. Recent federal court decisions have held that intrastate operations of direct and indirect air carriers are not subject to the Commission's jurisdiction.

8. The intrastate and interstate operations of railroad corporations are subject to the AAR rules governing overcharge and duplicate payment claims. These rules differ somewhat from those of the ICC. An additional set of rules on this subject for railroad corporations is not necessary.

9. Except for railroad corporations, there is a need for the establishment of rules setting forth procedures and time constraints for the processing, investigation, and disposition of overcharge or duplicate payment claims by all common carriers of property subject to the jurisdiction of the Commission. This would establish, and assure to the shipping public, uniformity in the handling of such claims by all carriers subject to the GO.

10. The staff-proposed GO is based on the ICC rules with the necessary modifications to conform to California law and regulations.

11. With minor changes, the ICC rules governing overcharge or duplicate payment claims are restated in Items 300201 through 300209 of the NMFC. These items do not apply to California intrastate carriers.

12. The rules in Item 300209 of the NMFC governing unidentified payments set forth a more explicit and comprehensive procedure for handling such payments than that set forth in Rule 9.a. of the staff-proposed GO.

13. The appropriate method for promulgating rules for the handling of overcharge or duplicate payment claims is by the issuance of a GO.

14. For the reasons stated in Finding 8, the intrastate operations of railroad corporations should not be subject to any GO governing overcharge or duplicate payment claims that might be adopted.

15. With amendments to conform with Findings 12 and 14, the staff-proposed GO will provide reasonable rules to govern the processing, investigation, and disposition of overcharge or duplicate payment claims by common carriers of property subject to the jurisdiction of the Commission.

Conclusions of Law

1. The GO attached as Appendix B should be adopted.
2. The GO should become effective 30 days after the effective date of this order, which should provide ample time for distribution to affected carriers and interested parties.

O R D E R

IT IS ORDERED that:

1. General Order 148 as set forth in Appendix B is adopted to become effective APR 18, 1982.
2. The Executive Director shall cause a copy of General Order 148 to be served by mail on each highway common carrier, cement carrier, express corporation, freight forwarder, common

carrier vessel operator, and passenger stage corporation authorized to transport express shipments operating under the jurisdiction of the Commission.

3. The Executive Director shall cause a copy of this decision to be served on each party of record in this proceeding.

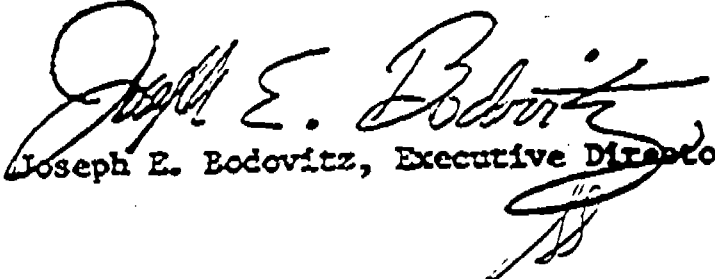
This order becomes effective 30 days from today.

Dated February 17, 1982, at San Francisco, California.

RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

Commissioner John E. Bryson present
but not participating.

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


Joseph E. Bodovitz, Executive Director

APPENDIX A

LIST OF PARTIES FILING COMMENTS

Calhoun E. Jacobson, President
Associated Traffic Service
5455 Wilshire Blvd., Suite 707
Los Angeles, CA 90036

L. Filipovich, Owner
General Drayage
15376 Laverne Drive
San Leandro, CA 94579

Leland E. Butler, Atty.
The Atchison, Topeka and
Santa Fe Railway Co.
114 Sansome Street
San Francisco, CA 94104

Jess J. Butcher, Senior Dir.
Transportation & Distribution
California Manufacturers Assn.
P. O. Box 1138
Sacramento, CA 95805

Kenneth C. Delany, Exec. Dir.
Trade & Transportation Council
Los Angeles Area Chamber of
Commerce
404 South Bixel Street
Los Angeles, CA 90017

Frank Spellman
P. O. Box 349
Santa Rosa, CA 95402

G. A. Laakso, Atty.
Southern Pacific Trans-
portation Company
One Market Plaza
San Francisco, CA 94105

J. C. Kasper, Director
Division of Transportation
Economics
California Trucking Assn.
P. O. Box 923
Burlingame, CA 94010

Robert M. White, Atty.
Union Pacific Railroad Co.
5480 Ferguson Drive
Los Angeles, CA 90022

Thomas J. MacBride, Jr., Atty.
Graham & James
One Maritime Plaza
San Francisco, CA 94111

M. F. Washkow, Traffic Mgr.
California Furniture
Manufacturers Assn.
1933 South Broadway
Los Angeles, CA 90007

Carroll Smith, Supervising
Transportation Rate Expert
Transportation Division
California Public Utilities
Commission
350 McAllister Street
San Francisco, CA 94102

(END OF APPENDIX A)

APPENDIX B
Page 1

GENERAL ORDER 148

RULES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF
OVERCHARGE OR DUPLICATE PAYMENT CLAIMS BY COMMON CARRIERS.

Adopted FEB 17 1982 . Effective APR 18 1982 .

Decision 82-02-127, Order Instituting Rulemaking 5.

RULE 1 - APPLICABILITY

The following rules govern the processing, investigation, and disposition of claims for overcharge or duplicate payment for the transportation of property in intrastate commerce by common carriers subject to the Public Utilities Act, other than a railroad corporation. These rules are in addition and supplementary to the provisions of the Public Utilities (PU) Code and, in particular, of the following sections:

- a. § 494 - Tariffs must be strictly observed.
- b. § 532 - Assessment of tariff rates.
- c. § 736 - Complaints resulting from violation of provisions of §§ 494 and 532.
- d. § 738 - Accrual of cause of action.

RULE 2 - DEFINITIONS

- a. "Carrier" means a common carrier of property as defined in PU Code §§ 211 and 212, other than a railroad corporation.
- b. "Claimant" means any shipper or receiver, or its authorized agent, filing a request with a carrier for the refund of an overcharge or duplicate payment.
- c. "Duplicate payment" means two or more payments for transporting the same shipment. Where one or more payment is not in the exact amount of the applicable tariff rates and charges, refunds shall be made on the basis of the excess amount over the applicable tariff rates and charges.
- d. "Overcharge" means a charge for transportation services, billed and collected by a carrier, in excess of the charge applicable under the terms of the tariffs lawfully on file with the Commission.

APPENDIX B
Page 2

- e. "Transportation services" means the services of transporting property for hire, and includes any accessorial services.
- f. "Unidentified payment" means a payment which a carrier has received for the performance of transportation services but which the carrier is unable to match with its open accounts receivable or otherwise identify as being due.

RULE 3 - FILING AND PROCESSING OF CLAIMS

- a. A claim for overcharge or duplicate payment shall not be paid unless filed in writing.
- b. In connection with interline shipments, claimant should file its claim with the carrier that collected the transportation charges. The collecting carrier shall be the carrier to process all such claims. When a claim is filed with another carrier that participated in the transportation, that carrier shall transmit the claim to the collecting carrier within 15 days after receipt of the claim. If the collecting carrier is unable to dispose of the claim for any reason, the claim may be filed with or transferred to any participating carrier for final disposition.
- c. A single claim may include more than one shipment provided the claim on each shipment involves (1) the same tariff issue or authority or circumstances, (2) single line service by the same carrier, or (3) service by the same interline carriers.

RULE 4 - DOCUMENTATION OF CLAIMS

- a. Claims for overcharge or duplicate payment shall be accompanied by sufficient information to allow the carrier(s) to conduct an investigation and pay or decline the claim within the time limitations set forth in paragraph 8. Claims shall include the name of the claimant, its file number (if any), and the amount of the refund sought to be recovered, if known (see subparagraph d for exception.)

APPENDIX B
Page 3

- b. Claims for overcharge shall be accompanied by the original freight bill. Additional information may include, but is not limited to, the following (see subparagraph d for exception):
 - (1) The rate, classification, or commodity description or weight claimed to have been applicable.
 - (2) Complete tariff authority for the rate classification or commodity description claimed.
 - (3) Freight bill payment information.
 - (4) Other documents or data which are believed by claimant to substantiate the basis for its claim.
- c. Claims for duplicate payment shall be accompanied by the original freight bill(s) for which charges were paid and by freight bill payment information (see subparagraph d for exception).
- d. Regardless of the provisions of subparagraphs a, b, and c, of this paragraph, the failure of a claimant to provide sufficient information and documentation to allow a carrier to conduct an investigation and pay or decline the claim within the allowable time limitation shall not constitute grounds for disallowance of claim. Rather, the carrier shall comply with paragraph 5c to obtain the additional information required.
- e. A carrier shall accept copies instead of the original documents required to be submitted in this paragraph where the carrier is furnished with an agreement entered into by the claimant which indemnifies the carrier for subsequent duplicate claims which might be filed and supported by the original documents.

RULE 5 - INVESTIGATION OF CLAIMS

- a. Upon receipt of a claim, whether written or otherwise, the processing carrier shall promptly initiate an investigation and establish a file, as required by paragraph 6.

APPENDIX B
Page 4

- b. If a carrier discovers an overcharge or duplicate payment which has not been the subject of a claim, it shall promptly initiate an investigation and comply with the provisions of paragraph 9.
- c. In the event the carrier processing the claim requires information or documents in addition to that submitted with the claim, the carrier shall promptly notify the claimant and request the information required. This includes notifying the claimant that a written claim must be filed before the carrier becomes subject to the time limits for settling such a claim under paragraph 8.

RULE 6 - CLAIM RECORDS

At the time a claim is received the carrier shall create a separate file and assign it a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the written acknowledgment of receipt required under paragraph 7. If pertinent to the disposition of the claim, the carrier shall also note that number on the shipping order and delivery receipt, if any, covering the shipment involved.

RULE 7 - ACKNOWLEDGMENT OF CLAIMS

Upon receipt of a written claim, the carrier shall acknowledge its receipt in writing to the claimant within 30 days after the date of receipt except where the carrier shall have paid or declined the claim in writing within that period. The carrier shall include the date of receipt in its written acknowledgment and shall also enter this date on the face of the written claim which shall be placed in the file for that claim.

RULE 8 - DISPOSITION OF CLAIMS

The processing carrier shall pay, decline to pay, or settle each written claim within 60 days after its receipt by the carrier, except where the claimant and the carrier agree in writing to a specific extension based upon extenuating circumstances. If the carrier declines to pay a claim or makes settlement in an amount different

APPENDIX B
Page 5

from that sought, the carrier shall notify the claimant in writing of the reason(s) for its action, citing tariff authority or other pertinent information developed as a result of its investigation.

RULE 9 - DISPOSITION OF UNIDENTIFIED PAYMENTS, OVERCHARGES, AND
DUPLICATE PAYMENTS, NOT THE SUBJECT OF CLAIMS

- a. (1) Carriers shall establish procedures for identifying and properly applying all unidentified payments, if a carrier does not have sufficient information with which properly to apply such a payment, the carrier shall notify the payor of the unidentified payment. If the carrier does not receive the information requested within 90 days from the date of the notice, the carrier may treat the unidentified payment as a payment in fact of freight charges owing to it. Following the 90-day period, the regular claims procedure under this Order shall be applicable.
- (2) Notice shall be in writing and clearly indicate that it is a final notice and not a bill. Notice shall include: the check number, amount, and date; the payor's name; and any additional basic information the carrier is able to provide. The final notice also must inform payor that: (a) applicable regulations allow the carrier to conditionally retain the payment as revenue in the absence of a timely response by the payor; and (b) following the 90-day period the regular claims procedure shall be applicable.
- (3) Upon a carrier's receipt of information from the payor, the carrier shall, within 14 days: (a) make a complete cash refund of such funds to the payor; or (b) notify the payor that the information supplied is not sufficient to identify the unapplied payment and request additional information; or (c) notify the payor of the carrier's determination that such payment was applicable to particular freight charges lawfully due the carrier. Where no refund is made by the carrier, the carrier

APPENDIX B
Page 6

shall advise the payor of its right to file a formal claim for refund with the carrier in accordance with the regular claims procedure under this Order.

- b. When a collecting carrier discovers that an overcharge or duplicate payment exists for any transportation charge which has not been the subject of a claim, it shall create a file as if a claim had been submitted and shall then refund the amount of the overpayment to the person who paid the transportation charges or to the person who made duplicate payment within 30 days from the date of such discovery.
- c. When a carrier which participated in a transportation movement but did not collect the transportation charges finds that an overpayment has been made, that carrier shall immediately notify the collecting carrier. Upon such notification, the collecting carrier shall create a file as if a claim had been submitted and shall record in the file the date it was so notified. The collecting carrier shall treat notification by a drayman, subhauler, broker, or other party (other than a claimant) in the same manner as notification by a participating carrier, regardless of whether or not such other party is itself subject to this Order. Unless it disagrees that an overpayment exists, the collecting carrier shall then refund the amount of the overpayment to the person who paid the transportation charges or to the person who made duplicate payment within 30 days from the date it was notified. In the event that the collecting carrier disagrees that an overpayment exists, it shall process the notification as a claim

APPENDIX B
Page 7

in which case the acknowledgment of receipt, required by paragraph 7, shall be directed to the paayor of transportation charges or of duplicate payment who shall then be considered a claimant.

Dated FEB 17 1982, at San Francisco,
California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

Joseph E. Bobritz
BY _____
Executive Director

(END OF APPENDIX B)