

ORIGINAL

Decision No. 86698

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation }  
for the purpose of considering }  
and determining minimum rates for }  
transportation of used household }  
goods and related property state- }  
wide as provided in Minimum Rate }  
Tariff 4-B and the revisions or }  
reissues thereof. }

Case No. 5330  
Petition for Modification  
No. 95  
(Filed November 28, 1975;  
amended February 2, 1976  
and April 7, 1976)

(Appearances are shown in Appendix A to Decision No. 86084)

Additional Appearances

Charles Hendrickson, for Lagasse Allied Van Lines;  
Fred Wason, Jr., for Beverly Hills Transfer and  
Storage Co.; Julian D. Burger, for himself;  
respondents.

Emil Relat, Attorney at Law, for State of  
California, Department of General Services;  
and Ralph Staunton, for County of Los Angeles;  
interested parties.

SECOND INTERIM OPINION

California Moving and Storage Association, Inc. (CMSA), a  
nonprofit corporation whose membership is composed of approximately  
600 carriers engaged in the transportation of household goods and

related articles, seeks increases in the long-distance and local (hourly) moving rates set forth in Minimum Rate Tariff 4-B (MRT 4-B).<sup>1/</sup>

The second amendment to Petition 95 asked the Commission to grant interim surcharge increases in the rates in MRT 4-B and that the petition be held open for the receipt of evidence regarding more substantial rate adjustments based upon the receipt of comprehensive full-scale cost and economic studies to be prepared by petitioner.

Decision No. 86084 dated July 7, 1976 granted interim increases in the statewide long-distance moving rates and the hourly rates for local moving in Territories A and B. No increase was made in the hourly rates for local moving in Territory C, pending further hearing. At the initial hearing several local movers located in the San Fernando Valley testified in opposition to the interim increases in Territory C hourly rates proposed by petitioner. Interim Decision No. 86084 states as follows (mimeo. page 8):

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1/ Rates in MRT 4-B apply to the transportation of the following uncrated property:

- (1) Used household goods, viz.: household or personal effects such as furniture, furnishings, clothing, musical instruments, stoves, and refrigerators.
- (2) Used office and store fixtures and equipment, viz.: furniture, furnishings, and equipment such as is used in an office, store, hospital, library, museum, place of learning, or other institution.

Rates in MRT 4-B do not apply to property of the United States, state, county or municipal governments, or property transported under an agreement whereby the government contracted for the carrier's service.

"A significant number of household goods carriers protest further increases in the hourly rates in MRT 4-B applicable in Territory C. Operations of the protesting carriers are confined to a radius of 50 miles of their bases of operations in Los Angeles County. Territory C, the largest in the state, covers a geographical area substantially greater than the service area of the protesting carriers. It appears from the testimony of the protesting carriers that their operations have been profitable and that their operations will continue to be profitable in the future without the sought increase in Territory C hourly rates. However, financial data to support those conclusions was not presented. We have asked our staff to develop results of operations for the group which appeared and a group which wrote letters in opposition to the increase. Such data will be presented without carrier identification to protect the confidentiality of the information gathered from the carriers."

The further public hearing for the limited purpose indicated above was held before Examiner Mallory at Los Angeles on August 24, 1976.

Interim Decision No. 86084 contains the following ordering paragraphs:

"4. Staff is directed to review further the procedures by which deviations from the minimum rates may be granted pursuant to Public Utilities Code Section 5195 and to make specific recommendations to the Commission in the forthcoming hearings.

"5. Staff is directed to review the business of moving used office and store fixtures and equipment and to present evidence on the question of whether such transportation should be regulated apart from the movement of used household goods.

"6. In future proceedings in this case, the Commission intends to base minimum rates on the level necessary to prevent predatory practices, rather than attempt to set minimum

rates which would automatically or customarily be the going rates or to routinely offset higher costs through minimum rate increases. Parties seeking to increase minimum rates will bear the burden of showing that carriage at any lower level of rates would constitute a predatory practice, and that minimum rate increases are the most appropriate means for preventing such practices. Evidence of cost increases since the previous minimum rate decision, while relevant, will not be dispositive of this issue." 2/

The examiner ruled that evidence in response to Ordering Paragraph 6 was not required to be presented in the instant phase of Petition 95 inasmuch as the parties were informed at the initial hearing that a further hearing would be held for the limited purpose indicated in the body of Decision No. 86084, and that the parties were not placed on notice until Decision No. 86084 was issued that the additional burden of proof required by Ordering Paragraph 6 must be met. Counsel for the California Department of Consumer Affairs appealed the examiner's ruling. The examiner's ruling is affirmed. It is the intent of the Commission that petitioner (and other parties) make the evidentiary presentation required in Ordering Paragraph 6 in the subsequent phase of this proceeding in connection with petitioner's proposal to establish permanent levels of rates.

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2/ Decision No. 86507 dated October 13, 1976 in Case No. 5432 (Petition 871) et al. authorized offset increases in the rates in MRTs 1-B, 2, 9-B, 15, and 19. Finding 9 thereof reads as follows:

- "9. There remains no justification for future increases in the minimum rates here in issue, unless and until it can be shown that the rate level is such that it is predatory as that term is defined by relevant federal and state antitrust law."

Receipt of evidence concerning the staff studies directed by Ordering Paragraphs 4 and 5 of Decision No. 86084 was also deferred to the subsequent phase of this proceeding because the staff had not completed those studies.

At the hearing on August 24, 1976 evidence was presented by witnesses appearing for the Department of General Services and the Commission staff and by a respondent household goods carrier operating in the West Los Angeles area who testified in opposition to any increase in Territory C hourly rates.

Department of General Services

The state traffic manager is employed by the Department of General Services for the purposes, among others, of arranging for the transportation of household goods of state employees moved at state expense and for the movement of office furniture and related property between state office buildings, and of auditing the charges assessed by household goods carriers. As indicated in Footnote 1 (supra) the rates in MRT 4-B do not apply to transportation so described and household goods carriers are free to negotiate the charges to be assessed.

The state traffic manager testified in detail concerning the practices of the Department of General Services. Exhibits 95-25 through 95-44 contain the regulations, tenders, forms, and other materials used by the Department of General Services in connection with the transportation of household goods, personal effects, and mobile homes of state employees when the transportation and related services are performed at the expense of the state, and for the transportation of office furniture and fixtures between state facilities. The evidence and exhibits show that the Department has developed a list of eligible household goods carriers (Exhibit 95-30), from which list the state employee must select a carrier. The instructions to employees state that competitive bids are neither

required nor desired of household movers. The rates paid and other conditions surrounding the transportation of employees' household goods generally are the minimum distance rates and related rules set forth in MRT 4-B, except that the Department insures the household goods transported.

For movement of office furniture, fixtures, and related items between state installations within the three major metropolitan areas (Sacramento, Los Angeles, and San Francisco) transportation is performed under Office of Procurement master service agreements for commercial moving services at hourly rates, except that exceptionally large commercial moves are put directly to bid. The master service agreements and bids must be based on wage rates that reflect the prevailing wages in the area as determined by the State Department of Industrial Relations. An example of that development is contained in Exhibit 94-43 entitled "NOTICE TO PROSPECTIVE BIDDERS, BID NO. FC 75-3, COMMERCIAL OFFICE MOVING SERVICES AT HOURLY RATES IN LOS ANGELES & VICINITY". The prevailing wage as of October 8, 1975 was determined to be \$7.53 per hour, using a basic wage of \$6.30, holidays and vacation pay of \$0.34, employer payments to health and welfare funds of \$0.49, and employer contribution to pension fund of \$0.40 per hour. The computations are based on 2,080 hours per year.

Exhibit 95-44 is the Office of Procurement master service agreement (Contract No. 7-75-3) for commercial moving services at hourly rates applicable December 1, 1975 through November 30, 1976 in the defined Los Angeles Metropolitan area. That contract is with a licensed household goods carrier. That contract calls for a rate for truck or tractor/trailer(s) with driver of \$10 per hour during regular working hours, and \$13.50 per hour for service after regular working hours and on weekends. The corresponding rates for labor is \$8.70 and \$12 per man-hour. In contrast, the current Territory C hourly rate, which became effective April 19, 1975, for a

unit of equipment with driver is \$16.75 and for additional helpers is \$8.40 per man.

Transportation Division Staff

An associate engineer from the Commission's Transportation Division presented Exhibit 95-45, which is entitled "Results of Staff Contacts with Carriers Filing Letters of Protest Against Increase in Rates in MRT 4-B in Territory C". That exhibit states that 14 carriers were contacted for the purpose of obtaining statements of income and expenses to determine operating ratios. Statements were obtained from eight protesting carriers. Operating ratios were determined from revenue and expense data in carrier records which reflect the total operations of the carrier, including warehousing and other services not subject to MRT 4-B. From these data the witness then developed operating ratios related solely to operations under MRT 4-B. The data supplied to the witness were adjusted to make provision for owners' salaries and office rents when such expenses were not reflected in the carriers' records. The exhibit indicates that four of the eight carriers had profitable overall operations, but that none of the eight carriers had profitable operations for its MRT 4-B services after adjusting expenses as indicated above.

Respondent's Testimony

A household goods carrier who described himself as a "student mover" testified in opposition to any increase in Territory C hourly rates. The witness stated that he owned a small van and that he and another student hired by him performed movements of household goods of students and other persons living on or near campus. The witness explained that he offered the minimum amount of facilities to his customers and that they expected no more in return for the lowest rate. Most of the witnesses' customers assertedly could not

afford to pay more than the witness charged and any increase in rates would cause potential customers to seek other arrangements for the movement of their household goods and personal possessions.

Discussion

The further evidence received at the hearing on August 24, 1976 indicates the following: A carrier operating a single, small van for the local movement of students' household goods may be priced out of the only market he serves if the hourly rates are increased. The State Department of General Services, Office of Procurement, is able to obtain services of responsible household goods carriers for local moving of office equipment in the Sacramento, Los Angeles, and San Francisco areas at rates substantially less than the minimum rates and such lower rates are sufficient to cover prevailing wages in the area as determined by the State Department of Industrial Relations.

The evidence adduced in the initial phases of this proceeding is inconclusive concerning the need for increases in hourly rates in the Los Angeles County portion of Territory C. On the one hand, the evidence clearly shows that carriers which employ union drivers, helpers, and office personnel have experienced increased labor and payroll costs. On the other hand, several smaller carriers that are not subject to labor agreements have asked that their minimum hourly rates not be raised. The staff analyses of operating revenues and expenses of the protesting carriers for operations subject to MRT 4-B show that when all reasonable expenses are considered (including provision for owner's salaries and office rents) such operations have not been profitable. The protesting carriers, for the most part, are not well established in their service areas and they seek the opportunity to compete with established carriers. If afforded such opportunity for a reasonable time, traffic volume may increase to the point where the protesting carriers' operations under MRT 4-B will be profitable.



The evidence also indicates that established carriers seek office moves and similar traffic of governmental agencies at rates substantially below the hourly minimum rates in MRT 4-B for such traffic. On this record it would seem that for the movement of office furniture the minimum hourly rates in MRT 4-B may be substantially greater than necessary to cover prevailing wages and to provide a reasonable profit. In a subsequent phase of this proceeding our staff, pursuant to the directive in Ordering Paragraph 5 of Decision No. 86084, will introduce evidence with respect to whether the business of moving used office and store fixtures and equipment should be regulated apart from the movement of used household goods.

It is also planned to receive evidence from petitioner and other parties concerning the levels of rates which should replace the interim rates established in this phase of Petition 95. The permanent level of rates will reflect recent information including current carrier operating costs.

After analyzing the evidence in the interim phase of this proceeding it is our conclusion that the hourly rates in that portion of Territory C in which protesting carriers are operating should not be subject to an interim increase pending further consideration of the full-scale studies and other evidence to be adduced in the subsequent phases of this proceeding. We will thus afford the protesting carriers an opportunity to compete for business at the lower rates they seek to apply for a reasonable period. We can then determine whether such carriers obtained sufficient traffic at remunerative rates so that their operations were profitable in the experimental period. Based upon evidence adduced in proceedings in Case No. 5330 prior to Petition 95, it appears that the larger carriers with more diversified operations will be able to maintain their hourly rates at levels higher than the minimum rates, and that such higher rates will be sufficient to

cover their operating costs and provide a profit.

When we further consider the rate levels for local moving service, we expect that evidence will be offered which will differentiate the operating costs (including office, management, and sales expenses) of those carriers who limit their operations to local moving services within a small radius of their base of operations from the operating costs covering the diversified services provided by statewide and national van lines.

Increases in Territory C hourly rates outside Los Angeles County were not protested by any carriers. We see no reason why rates in that portion of Territory C outside of Los Angeles County should not be increased on the same basis that interim rates in Territories A and B were established in Decision No. 86084. The order which follows will so provide.

#### Rate Deviations for Household Goods Carriers

Section 5195 of the Public Utilities Code provides that if a household goods carrier desires to perform any transportation or accessorial service at a lesser rate than the established minimum rates, the Commission shall, upon a finding that the proposed rate is reasonable, authorize the lesser rate.

The staff has entered Exhibit 95-23, which contains procedures for the filing of requests by household goods carriers for authority to charge less than the established minimum rates.

Grants of authority under Section 5195 appear to be well suited to accommodate those carriers who have objected to the increases in the Territory C hourly rates within Los Angeles County, because of asserted lower operating costs and because lower rates

may result in increased traffic volume. Therefore, it is deemed appropriate to emphasize that procedures exist wherein household goods carriers may receive authority to assess less than minimum rates for the portion of the public they intend to serve, and that the Commission will deal fairly and expeditiously with any rate deviation request. The procedures under which the Commission will entertain requests of household goods carriers to assess less than the established minimum rates are the following:

- A. Authorizations to assess less than MRT 4-B rates for the general public will be limited to residential moves under hourly rates between points within 50 constructive miles of the principal place of business of the household goods carrier.
- B. Authorizations to depart from minimum rates for other types of moves subject to MRT 4-B, including transportation subject to distance and piece rates and office and store fixture moves, will be granted only as to services for designated shippers and only between specified points of origin and destination.
- C. All requests for authorization to depart from the rates and rules set forth in MRT 4-B must be supported by ample data to show that the rates proposed to be assessed will be reasonable (Section 5195). That showing must include data indicating that the proposed rates will be compensatory.
- D. Requests to assess less than the minimum rates should be set forth in an application filed in accordance with the Commission's Rules of Practice and Procedure. A copy of the application should be served upon

the California Moving and Storage Association, 2025 Gateway Place (Suite 474), San Jose, California, and upon any household goods carrier or other person known to be interested or any person requesting a copy of the application.

- E. Assistance in the preparation of an application to assess less than MRT 4-B rates may be secured from the Commission staff at the Commission's principal offices in San Francisco and Los Angeles and in Field offices located in Eureka, Redding, Sacramento, Santa Rosa, Oakland, San Jose, Fresno, Stockton, Bakersfield, Santa Barbara, Santa Ana, San Bernardino, El Centro, and San Diego.

#### Findings

1. Pending further hearings in this proceeding, the minimum hourly rates in that portion of Territory C within Los Angeles County should not be increased.

2. Pending further hearing, just, reasonable, and non-discriminatory rates will result from the establishment of increased hourly rates in Territory C (except Los Angeles County) which reflect the cost data developed in staff cost exhibits based on the direct wage offset method, as follows:

Rates based on unit of equipment - 9 percent.  
Rates for additional helpers - 8-1/2 percent.

3. The interim increases in rates and charges found reasonable herein are justified.

4. It is estimated that the rate increase found reasonable above will produce an annual revenue increase of \$1,920,000.

5. Highway common carriers, to the extent they are subject to MRT 4-B, should be required to adjust their rates to the levels found reasonable herein.

Conclusions

1. Further interim revision of MRT 4-B should be made as found reasonable above.
2. Further hearings should be held as indicated in the opinion.
3. The Commission will entertain requests from household goods carriers to depart from the rates and rules set forth in MRT 4-B as indicated in the preceding opinion.

SECOND INTERIM ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff 4-B (Appendix C of Decision No. 65521, as amended) is further amended by incorporating therein, to become effective January 1, 1977, Twenty-Seventh Revised Page 28 and Twenty-Sixth Revised Page 29 attached hereto and made a part hereof.
2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision No. 65521, as amended, are directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered by this decision.
3. Tariff publication required to be made by common carriers as a result of the order herein shall be filed not earlier than the effective date of this order and shall be made effective not earlier than January 1, 1977 on not less than five days' notice to the Commission and to the public, and shall be made effective not later than January 1, 1977.

4. In all other respects, Decision No. 65521, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 30<sup>th</sup> day of NOVEMBER, 1976.

William J. ... President  
...  
...  
Robert ... Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

SECTION 3--RATES (Continued)					ITEM
RATES IN CENTS PER HOUR (1) (2) (Applies for Distances of 50 Constructive Miles or Less)					330
Unit of Equipment:	TERRITORY (3)				
	A	B	C		
			Δ(4)	*⊕(5)	
(a) with driver-----	1980	1685	1675	1825	
(b) with driver and 1 helper-----	3630	2925	2930	3195	
Additional helpers, per man-----	1245	835	840	905	
Minimum charge--the charge for one hour.					
(1) See Item 70 for application of rates. (2) See Item 95 for computation of time. (3) See Item 210 for territorial descriptions. *(4) Applies only in Los Angeles County. *(5) Does not apply in Los Angeles County.					
DISTANCE RATES IN CENTS PER PIECE (1) (2) (Applies to Shipments of Not More Than 5 Pieces for Distances of 50 Miles or Less)					340
FIRST PIECE			Each Additional Piece		
MILES (3)					
Not Over 10	Over 10 but Not Over 20	Over 20			
1410	2625	3675	490		
(1) See Item 70 for application of rates. (2) Rates in this item will not apply to split pickup or split delivery shipments, or storage in transit privileges. (3) See Item 50 for computation of distances.					
⊘ Change ) * Addition ) ⊕ Increase ) Δ Change, neither increase nor reduction )					Decision No. <b>86698</b>
EFFECTIVE					
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.					
Correction					

SECTION 3--RATES (Concluded)				ITEM	
ACCESSORIAL RATES					
Rates in Cents per Man per Hour (1) (2) (3)					
			TERRITORY (4)		
			A	B	
			C		
Packing )	Unpacking )	-----	1610	1325	
			Δ(5)1365	*◊(6)1480	
Minimum Charge--the charge for one hour.				ø350	
<p>(1) See Item 70 for application of rates.</p> <p>(2) See Item 95 for computation of time.</p> <p>(3) Rates do not include cost of materials. (See Item 360)</p> <p>(4) See Item 210 for description of territories.</p> <p>* (5) Applies only in Los Angeles County.</p> <p>* (6) Does not apply in Los Angeles County.</p>					
RATES AND CHARGES FOR PICKING UP OR DELIVERING SHIPPING CONTAINERS AND PACKING MATERIALS					
<p>1. In the event new or used shipping containers, including wardrobes, are delivered by the carrier, its agent, or employees, prior to the time shipment is tendered for transportation, or such containers are picked up by the carrier, its agents or employees subsequent to the time delivery is accomplished, the following transportation charges shall be assessed: (See Note 1)</p> <p style="padding-left: 40px;">Each container, set up----- 235 cents</p> <p style="padding-left: 40px;">Each bundle of containers, folded flat-- 235 cents</p> <p style="padding-left: 40px;">Minimum charge, per delivery-----1115 cents</p> <p>2. (a) Shipping containers, including wardrobes (See Note 2) and packing materials which are furnished by the carrier at the request of the shipper, will be charged for at not less than the actual original cost to the carrier of such materials, F.O.B. carrier's place of business.</p> <p style="padding-left: 40px;">(b) In the event such packing materials and shipping containers are returned to any carrier participating in the transportation thereof when loaded, an allowance may be made to the consignee or his agent of not to exceed 75 percent of the charges assessed under the provisions of paragraph 2(a).</p> <p>NOTE 1.--If the hourly rates named in Item 330 provide a lower charge than the charge in paragraph 1 of this item, such lower charge shall apply.</p> <p>NOTE 2.--No charge will be assessed for wardrobes on shipments transported at the rates provided in Item 330.</p>					360
<p>ø Change )</p> <p>* Addition )</p> <p>◊ Increase )</p> <p>Δ Change, neither increase nor reduction )</p>			Decision No. <b>86698</b>		
EFFECTIVE					
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.					
Correction					