

Decision No. 87371 May 24, 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's own motion into the Rules Governing the Extension of Credit by Highway Carriers.

Case No. 9811
(Filed October 22, 1974;
Supplemental Order Filed
November 26, 1974)

And Related Matters.

- Case No. 5330, OSH 98
- Case No. 5432, OSH 923
- Case No. 5433, OSH 64
- Case No. 5436, OSH 224
- Case No. 5438, OSH 114
- Case No. 5439, OSH 291
- Case No. 5440, OSH 102
- Case No. 5441, OSH 373
- Case No. 5603, OSH 199
- Case No. 5604, OSH 57
- Case No. 6008, OSH 35
- Case No. 7857, OSH 149
- Case No. 7783, OSH 146
- Case No. 8808, OSH 41
(Filed November 4, 1976)

ORDER DISCONTINUING PROCEEDING

By its Order Instituting Investigation dated October 22, 1974 the Commission notified over 19,500 carriers, their associations, shippers, and shippers' associations that it was considering the question whether the rules governing the extension of credit, set forth in Minimum Rate Tariffs 1-B, 2, 3-A, 4-B, 6-B, 8, 9-B, 10, 11-A, 12, 13, 14-A, 15, 18, and 19, and in the tariffs of certificated highway carriers, should be revised. A draft of proposed tariff revisions was submitted to all parties, with a request for comments. Sixty comments were received.

Based on the comments of interested parties interim orders were issued in Decisions Nos. 85233 through 85237 revising the credit rules in the above-named minimum rate tariffs. California Trucking Association's petition for suspension, reconsideration, or rehearing of Decision No. 85233, et al. was granted, in part, by Decision No. 85400 dated January 27, 1976. That decision suspended each ordering paragraph of Decisions Nos. 85233 through 85237 except

Ordering Paragraph 7 of Decision No. 85233.^{1/} Rehearing of Decision No. 85233 and reconsideration of Decisions Nos. 85234 through 85237 were ordered.

Subsequent to the issuance of Decision No. 85400, the Commission was advised by the Director of its Transportation Division as follows:

"In my memorandum to the Commission dated September 12, 1973, I stated:

'The staff began its accelerated enforcement program on June 5, 1972. As of August 1, 1973, 1,590 carriers had been contacted in this regard. Of these, 979, (62%) had no credit rule violations. 393 of the carriers (25%) were found to have only minor violations and were placed on notice to observe the tariff credit regulations. The staff initiated Citation Forfeiture proceedings against 203 (12%) of the carriers checked. Fines in

^{1/} Ordering Paragraph 7 of Decision No. 85233 reads as follows:

"7. The staff shall study and report to the Commission as follows:

- "a. Using a representative sample, a current report on the extension of credit by intrastate freight carriers, including a report on credit extensions which exceed the time provisions of the credit rule and an evaluation of the need for further credit rule modifications.
- "b. The advisability of the California Commission adopting the same rule as the Interstate Commerce Commission finally adopts. This section of the report will comment specifically on the regulatory and factual differences between interstate and intrastate trucking, and whether each feature of the Interstate Commerce Commission rule is compatible with our responsibilities and California's needs."

these cases ranged from \$100 to \$1,000 depending upon the severity of violations. However, most of these files contained other violations in addition to credit rule violations.'

"The study to date shows 97% of the carriers checked have either relatively minor credit violations or none at all. The large majority of carriers are in substantial compliance with the credit rule regulations. Attached hereto are the results of the credit rule enforcement program from January 1 through December 31, 1975.^{2/} The staff's enforcement program indicates there is no need or justification for changes in the tariff credit rules at this time.

"In the circumstances the Transportation Division staff recommends that no further studies or proposed changes in the credit rules be made, nor hearings be held in this matter until the Interstate Commerce Commission has concluded its hearings and issued its final decision."

Discussion

It is clear from the comments received from interested parties that it would place an unreasonable burden on carriers and shippers alike for this Commission to maintain different credit rules for general commodity traffic than are required to be maintained on interstate traffic originating, terminating, or transported wholly within this state.

^{2/} The attachment referred to above is set forth in full as follows:

RESULTS OF CREDIT RULE ENFORCEMENT PROGRAM

JANUARY 1, THRU DECEMBER 31, 1975

1,351	Investigations completed, carriers contacted, including follow-ups	
1,066	Found in Compliance, or	78.9%
245	Placed on Notice (minor violations), or	18.1%
37	Issued Citation Forfeiture (fined), or	2.7%
3	Referred for Formal Action	0.2%

We take official notice of the order of the Interstate Commerce Commission (ICC) issued April 15, 1977 in Ex Parte No. 73 - Regulations for Payment of Rates and Charges and in Ex Parte No. MC-1 - Payments of Rates and Charges of Motor Carriers. That order withdrew proposed substantive changes in rail and motor carrier credit rules because such proposals appeared to be difficult to implement and enforce.^{3/} The order made minor technical changes in existing rules and kept the proceedings open for a period of one year during which the ICC field offices are to conduct an investigation as to the identity and characteristics of credit rule violators and to recommend appropriate enforcement techniques.

The facts available to our Transportation Division staff indicate there is no current problem encountered by most highway carriers in collecting freight charges within the seven-day credit periods specified in the Commission's minimum rate tariffs and that the enforcement techniques employed by our staff are adequate.

In the circumstances, the Commission concludes that its investigation in Case No. 9811 should be discontinued and that tariff amendments made by Decision No. 85233, et al. should be rescinded.

3/ The ICC proposed that motor carriers and railroads apply the same credit regulations to shippers. Specifically, the agency proposed that carriers:

Extend credit to shippers for seven days, with Saturdays, Sundays, and legal holidays excluded in computing the seven-day period.

Extend credit to shippers for 30 days provided the carriers levy a service charge equal to 1 percent of the freight bill, subject to a \$10 minimum.

Cut off credit to any shipper that fails to pay within the 30-day period until the shipper satisfies the carrier that all future freight bills will be paid in accordance with Commission regulations.

Shippers presently must pay motor carrier bills within seven days from delivery, excluding Saturdays, Sundays, and legal holidays. The current period for paying rail freight bills is 120 hours.

The seven-day credit rule has been reinstated in Minimum Rate Tariffs 2, 6-A, 8-A, and 12-A. Minimum Rate Tariff 15 will be amended by this order and amendments of other tariffs will be made by supplemental orders to avoid duplication of tariff distribution.

IT IS ORDERED that:

1. The investigation into the rules governing extension of credit by highway carriers in Case No. 9811 is discontinued.
2. Minimum Rate Tariff 15 (Appendix D of Decision No. 65072, as amended) is further amended by incorporating therein, to become effective June 25, 1977, Supplement 20 and Fourth Revised Page 10, attached hereto and by this reference made a part hereof.
3. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision No. 65072, as amended, are authorized to establish in their tariffs the amendments necessary to conform with the further adjustments of said decision ordered herein.
4. Any provisions currently maintained in common carrier tariffs, which are more restrictive than those contained in Minimum Rate Tariff 15, are authorized to be maintained in connection with the changes authorized by Ordering Paragraph 2.
5. Tariff publications authorized to be made by common carriers as a result of this order shall be filed not earlier than the effective date of this order and may be made effective not earlier than the fifth day after the effective date of this order, and may be made effective on not less than five days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff pages incorporated in this order.

6. Common carriers, in establishing and maintaining the changes authorized by this order, are authorized to depart from the provisions of Section 461.5 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the changes published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

7. In all other respects, Decision No. 65072, 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 Los Angeles, California, this 24th day of MAY 1, 1977.

William Sproule Jr. President
Vernon L. Stuyvesant
Richard W. Stovall
Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

CANCELLATION SUPPLEMENT

SUPPLEMENT 20

(Cancels Supplement 16)

(Supplements 12, 19 and 20 Contain All Changes)

TO

MINIMUM RATE TARIFF 15

NAMING

MINIMUM YEARLY, MONTHLY, WEEKLY AND HOURLY

VEHICLE UNIT RATES AND RULES

FOR THE

TRANSPORTATION OF PROPERTY OVER THE

PUBLIC HIGHWAYS WITHIN THE

STATE OF CALIFORNIA

BY

RADIAL HIGHWAY COMMON CARRIERS

HIGHWAY CONTRACT CARRIERS

AND

CEMENT CONTRACT CARRIERS

Decision No.

87371

EFFECTIVE

Issued by the
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
State Building, Civic Center
San Francisco, California 94102

MINIMUM RATE TARIFF 15

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">COLLECTION OF CHARGES</p> <p>(a) Within 7 calendar days after the billing date, the carrier shall present a bill to the shipper which shall show the following information:</p> <ol style="list-style-type: none"> (1) The transaction period. (2) Identification and type of each unit of carrier's equipment. (3) Base rate for each unit of equipment. (4) Rate per mile and number of miles operated. (5) Rate for premium pay and excess hours and number of hours, when applicable. (6) Rate for Saturday, Sunday or Holiday service and dates of such service, when performed. (7) Rate per hour for helpers and number of hours used. (8) Rate for Temperature Control Service, when applicable. (9) Additional charges and explanation of each. <p>(b) The billing date referred to in paragraph (a) shall be:</p> <p><u>Yearly Rates:</u> The calendar date each month corresponding to the date when service commenced under the written agreement provided for in Items 90 and 91.</p> <p><u>Monthly Rates:</u> The 31st day after the commencement of service under the written agreement provided for in Items 90 and 91.</p> <p><u>Weekly Rates:</u> The eighth day after the commencement of service under the written agreement provided for in Items 90 and 91.</p> <p><u>Hourly Rates:</u> The fifth day after the commencement of service under the written agreement provided for in Items 90 and 91.</p> <p><u>Provided however:</u> that when the billing date determined above falls on a Saturday, Sunday or Holiday, said billing date is extended to the following day other than Saturday, Sunday or Holiday.</p> <p>(c) The form of document in Item 600 will be suitable and proper. A copy of each shipping document, freight bill, accessorial service document, weighmaster's certificate, written instructions, written agreement, written request or any other written document which supports the rates and charges assessed and which the carrier is required to issue, receive or obtain by this tariff for any transportation or accessorial service shall be retained and preserved by the carrier, at a location within the State of California, subject to the Commission's inspection, for a period of not less than three years from the date of issue.</p> <p>§(d) Carriers may extend credit to shippers for a period not to exceed 27 days, excluding Sundays and Holidays, from the first 12 o'clock midnight following presentation of the freight bill.</p> <p>(e) Where a carrier has collected the amount of charges represented in a freight bill presented by it as the total amount of such charges, and another freight bill for additional charges is thereafter presented to the shipper, the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days to be computed from the first 12 o'clock midnight following the presentation of the subsequently presented freight bill.</p>	<p>6100</p>
<p>(1) Suspended by Supplement 16</p> <p> ♂ Change) Δ Change, neither) increase nor) reduction) </p> <p style="text-align: right;">Decision No. 87371</p>	
EFFECTIVE	
<p style="text-align: center;">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p> <p>Correction</p>	