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Decision No. 87438 June 7, 1977

ORIGINAL

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 any and all
commodities statewide including,
but not limited to those rates
which are provided in Minimum Rate
Tariff 2 and the revisions or
reissues thereof.

Case No. 5432
Petition for Modification No. 883
(Filed March 8, 1976)

Case No. 5439
Petition for Modification No. 268

And Related Matters.

Case No. 5441
Petition for Modification No. 355
(Filed March 8, 1976)

Richard W. Smith, Attorney at Law, and H. W. Hughes,
for the California Trucking Association, petitioner.
A. D. Smith and J. McSweeney, for Delta Lines;
J. MacDonald, for California Motor Express; Ed Krieger,
for De Anza Delivery; Harold F. Culy, for Bayview
Trucking, Inc.; S. M. Haslett, III, for Haslett
Company; and Harold T. Laws, for S & H Truck Lines,
Inc.; respondents.
Jess J. Butcher, for California Manufacturers Association
and Calhoun E. Jacobson, for Traffic Managers Conference
of California, protestants.
R. C. Fels, for California Furniture Manufacturers
Association; David B. Wentworth, for California &
Hawaiian Sugar Co.; William D. Mayer, for Cannery
League of California; John D. Goebel, for Macy's
California; E. F. Westberg, for Wesco Associates;
Peter J. Coyle, for Bethlehem Steel Corp.; Harriet H.
Adams, for self; Richard Austin, for Kaiser Cement
& Gypsum; and Robert A. Kormel, for Pacific Gas and
Electric Company; interested parties.
Robert E. Walker, for the Commission staff.

O P I N I O N

Minimum Rate Tariffs (MRTs) 2, 1-B, 9-B, and 19, respectively, name minimum rates for the highway transportation of general commodities statewide, and within the East Bay, San Diego, and San Francisco drayage areas. By these petitions California Trucking Association (CTA) proposes that incentive provisions be established in the aforementioned tariffs to promote the tender of shipments on a prepaid in lieu of a collect basis.^{1/}

Public hearing was held before Examiner Gagnon at San Francisco on November 8, 1976 at which time the matter was submitted. The tariff proposal, in the form presented by CTA, is generally opposed by the Traffic Managers Conference of California, the California Manufacturers Association, and the Commission staff.

The prepayment of freight charges is an essential component of several incentive provisions contained in the minimum rate tariffs designed to improve the highway carriers' efficiency and productivity.^{2/}

^{1/} Rule 770 of the National Motor Freight Classification 100-D states:

"Sec.1. A prepaid shipment is one on which the charges for transportation service rendered at the request of the consignor, including charges for any accessorial services performed at the request of the consignor, are to be paid by the shipper.

"Sec.2. A collect shipment is one [on] which the charges for transportation service, including accessorial services rendered at the request of the consignee, or requested by the consignor for the consignee, are to be paid for by the consignee."

^{2/} MRT 2 prepaid tariff provisions are set forth in CTA's Exhibit 1.

Prepayment has been a key tariff element enabling both shippers and carriers to jointly consider cost-minimizing rate structures whereby the resulting cost savings are shared with shippers who contribute toward carrier economies.^{3/} The result has been the establishment of reduced exception ratings, lower commodity rates, and special rules to govern a broad field of accessorial services. Other highway carrier operating efficiency criteria reflected in the minimum rate tariffs typically include volume incentive rates subject to minimum weights per single unit of equipment, unitized load concepts, restricted free time allowances for loading and unloading, released valuation shipments, and limitations on commodity mixtures in a given shipment.

It is CTA's position that if it is sound transportation economics to share cost savings with those who promote them so it is equally sound transportation economics to place the burden of less efficient and more costly services upon those who require them. For example, different levels of rates are named in the tariffs applicable to varying quantities and classes of freight. Accessorial charges are also provided for such services as split pickup or delivery, handling of COD's, temperature control, and extra documentation.

By minimizing collect shipments, CTA contends important efficiencies will flow to the carrier. It is explained that on occasion it is more economical to have a collect shipment delivered directly by supervisory or other personnel than to move the shipment through normal route scheduling because of potential lengthy delays when freight charges must be collected by the driver. The CTA explains

3/ In Decision No. 79952 dated April 18, 1952 (Pet. 638) the Commission stated:

"Whenever a joint carrier-shipper co-operative effort increases the carrier's efficiency of operations and thereby lowers the carrier's costs of operations, it is generally sound transportation economics to make a reasonable portion of such 'cost saving' available to the shipper through appropriate provisions in the tariff. Under no circumstances must such sharing...reflect an unwarranted erosion of revenues actually contemplated in the applicable rate structure as compensation to the carrier for its services."

that in many urban areas even minimal delays frequently have a cumulative adverse impact due to the tendency to project pickup and delivery operations into the peak rush hour traffic periods. Prepayment would assertedly aid materially in reducing the expense attendant to such circumstances.

With respect to the collection of freight charges the minimum rate tariffs provide that:

"Upon taking precautions deemed by them to be sufficient to assure payment of charges within the credit period...carriers may...extend credit in the amount of such charges to those who undertake to pay them, such persons being called debtors..." (Paragraph (b), Item 250 of MRT 2.)

The credit precautions taken by carriers vary considerably. The CTA states that some carriers employ sophisticated credit verification procedures while others conduct limited impression-type judgment techniques. In between these extremes a wide range of credit checks are used by carriers to evaluate the credit reliability of debtors. It is explained that the preponderance of for-hire carriers enjoy a more consistent and continuing relationship with the shipper of goods than with the consignee. Therefore, a carrier has a greater opportunity to evaluate the credit worthiness of a shipper than of most consignees due to the repetitive exposure to the shipper. Accordingly, the CTA maintains that the need for credit evaluations or judgments is minimized if freight moves prepaid from shippers with whom a carrier regularly conducts business. Conversely, shipments to or from debtors who are served infrequently or who are unknown to the carrier allegedly present greater burdens of risk.

The CTA does not wish to imply that all consignees who receive freight are not credit worthy. It is suggested, however, that the realities of most shipper-carrier business relationships, when coupled with an estimated 2 to 1 ratio of prepaid-to-collect shipments, constitute another valid reason for promoting the prepay concept as a means of minimizing the added carrier expense attendant to credit

verification. By reducing the total number of debtors and by enhancing credit reliability determinations, and thereby increasing potential for risk reductions, the CTA believes it is realistic to expect an improvement in the cash flow positions of carriers.

In order to reflect the concept of prepayment incentives in MRTs 2, 1-B, 9-B, and 19, the CTA recommends adoption of the following new tariff item.

PREPAY INCENTIVE PROVISIONS

When a collect shipment is transported under provisions of this tariff, an additional charge of \$1.00 per shipment shall be added to the total charges otherwise due and payable hereunder. (See Note and Exception.)

Note: For purposes of applying the provisions of this item, a "collect shipment" is one on which the charges for transportation service, including accessorial services rendered at the request of the consignee, or, requested by the consignor for the consignee, are to be paid for by the consignee.

Exception: Provisions of this item will not apply in connection with split pickup shipments when charges are to be paid by the person for whom the services are provided.

The CTA submits that at the present time there is no basis for a quantitative measurement of the individual or collective impact of the various additional elements of expense to the carrier when transporting a shipment on other than a prepaid basis. Admittedly, CTA's tariff proposal is experimental in nature. However, the CTA notes reasonable experimentation has frequently been encouraged by the Commission (Decision No. 85349 dated January 13, 1976 in Case No. 5432). It is CTA's opinion that consideration of the added expense of collect shipments, the various potential benefits, and need for realistic prepay tariff incentives make the

proposed one dollar additive charge for collect shipments fully reasonable. However, to the extent the Commission may determine that a different charge is a more realistic reflection of the actual added cost incurred when shipments are handled on other than a prepay basis the CTA states it "would defer to that judgment."^{4/} The CTA anticipates that any revenue impact resulting from its proposal will be both minimal and dissipating as shippers gradually adapt to promoting the efficiencies inherent through prepayment.

The major thrust of protestants' objections to CTA's tariff proposal is that a punitive accessorial charge of one dollar for handling a collect shipment is first suggested in order to artificially create a basis for sharing "cost savings" with a shipper who tenders a prepaid shipment. Under CTA's tariff rule a prepaid shipment would gain an advantage over a collect shipment even if the prepayment was delinquent and in violation of the established credit period named in the several minimum rate tariffs. One protestant consignee who generally pays collect shipments on a cash basis upon delivery objected to having his option to ship on either a prepay or collect basis eliminated by the proposal to add a punitive one dollar charge for all collect shipments. To varying degrees the objections of protestants and the Commission staff to the form in which CTA's prepay tariff incentive provisions are presented have merit and to the extent possible should be favorably considered if such a tariff incentive program is to be adopted.

The rates and charges in MRTs 2, 1-B, 9-B, and 19 have been found to be just and reasonable. The historical cost data of record underlying the minimum rates and charges named in such tariffs reflect cost elements for billing and collecting freight charges. If, as argued by CTA, there is a cost savings when shipments are billed prepaid that should be shared with shippers, the ideal method for sharing such savings would be by an

^{4/} See Paragraph X of the petition.

appropriate allowance or reduction in the existing level of freight charges. It is apparent, however, that CTA is unable to measure with any degree of specificity the amount of billing and collecting costs reflected in the existing level of minimum rates which are not incurred by carriers when tendered prepaid freight. In the absence of such information, CTA proposes to resolve the problem by first proposing the assessment of a known additional charge for collect shipments. Having once established this specific punitive charge for collect shipments, CTA then recommends such charge not be assessed when shipments are prepaid thereby allegedly creating a "cost saving" which it gratuitously suggests be shared with the shipper.

Having successfully argued that the promotion of prepaid shipments should be encouraged by appropriate tariff incentives, logic suggests that CTA should have proposed a prepay tariff incentive rule that would include a modest allowance to be deducted from freight charges resulting under the present level of minimum rates. The minimal allowance for prepayment, like CTA's proposed one dollar punitive charge for collect shipments, would be advanced until more specific cost data were available so as to permit a more precise measurement of the cost savings that may be shared with shippers of prepaid freight.

The CTA's proposal to increase charges for collect shipments merely to create a pseudo-savings to shippers of prepaid freight has not been shown to be justified. Moreover, the assessment of a one dollar charge for small or minimum charge collect shipments is not so "minimal" as CTA implies. For example, the assessment of a one dollar punitive charge in connection with a \$5.50 minimum charge collect shipment weighing 25 pounds or less reflects approximately an 18 percent increase in freight charges. When one considers that major highway common carriers frequently consolidate numerous small

lot shipments into a single truckload line-haul movement, the proposed one dollar charge could amount to well over a \$100 increase in the total freight charges ultimately collected for the consolidated small lot movement.

CTA recommends that some form of prepay incentive provisions should be provided in the several minimum rate tariffs involved. We find that the following alternative tariff rule is reasonable.

PREPAY INCENTIVE PROVISIONS (Revised)
(Applies only to shipments which are prepaid within the established credit period provided in this tariff)

When a prepaid shipment is transported under the provisions of this tariff, the resulting total freight charges otherwise due and payable hereunder shall be subject to the following incentive allowances:

- A. When the billed weight of the shipment is 500 pounds or less, the total freight charges otherwise due and payable shall be reduced by 50 cents per shipment.
- B. When the billed weight of the shipment is more than 500 pounds, the total freight charges otherwise due and payable shall be reduced by \$1.00 per shipment.

- Note:
1. In the event the total adjusted charges resulting under either paragraphs A or B above are, in fact, not paid when due and payable under the established credit period provided in the tariff, an accessorial charge equal to twice the amount of the prepaid incentive allowance otherwise applicable shall be assessed in addition to all other past due charges.
 2. For purposes of applying this item, a Prepaid Shipment is one on which the charges for transportation service rendered at the request of the consignor, including charges for any accessorial services performed at the request of the consignor, are to be paid by the shipper.

The revised tariff incentive rule resolves most, if not all, of the objections to CTA's original prepay incentive proposal. In addition, the infirmities inherent in CTA's tariff rule have been eliminated. If all prepaid freight bills were actually paid within the credit period established in the several minimum rate tariffs involved, shippers would stand to share in a potential cost savings of approximately \$2,800,000. However, under the current rate of outstanding delinquent prepaid freight bills the potential savings to shippers would be largely dissipated pursuant to the suggested punitive provisions of the revised prepay incentive rule. Finally, it should be noted that the proposed incentive allowance, as in the case of CTA, has been held to a minimal amount pending the availability of more definitive cost data. In the meantime, the promotion of prepaid shipments as a means for increasing carriers' operating efficiency and productivity should not be delayed.

Findings

1. The prepayment of freight charges is an essential component of several incentive provisions contained in MRTs 2, 1-B, 9-B, and 19 designed to improve the highway carriers' efficiency and productivity.
2. Prepayment has been a significant tariff element enabling shippers and carriers to jointly consider cost-minimizing rate structures whereby the resulting savings may be shared with shippers who contribute toward carriers' economies.
3. By minimizing collect shipments CTA has shown that important efficiencies will flow to the carrier.
4. The tariff rule as proposed by CTA to promote the tender of shipments on a prepaid in lieu of a collect basis contains several infirmities and ambiguities which if adopted would largely negate the intended purpose of the item.

5. The revisions to CTA's proposed tariff item suggested in this opinion will clarify the application of the incentive allowance when the shipper prepays the freight charges.

6. Since the suggested incentive provision to promote prepayment of freight charges by the shipper is experimental in nature, the contemplated cost savings to be shared with the shipper should be held to a minimum pending the availability of more definitive cost data.

7. The prepay incentive provisions proposed to be adopted will result in cost savings to be shared with shippers who contribute toward carriers' economies, and are justified.

Conclusions

1. Petitions 883, 268, and 355 in Cases Nos. 5432, 5439, and 5441, respectively, should be granted to the extent provided in the order herein.

2. To facilitate tariff distribution the amendment of MRT 2 will be provided in the ensuing order and the like tariff amendments to MRTs 1-B, 9-B, and 19 will be made by supplemental order.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision No. 31606, as amended) is further amended by incorporating therein, to become effective July 9, 1977, Fiftieth Revised Page 3, Sixth Revised Page 27, and Original Page 27-G, attached hereto and by this reference made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject to Decision No. 31606, as amended, are hereby authorized to establish in their tariffs the amendments necessary to conform with the further adjustments ordered herein.

3. 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.

4. Common carriers, in establishing and maintaining the rates 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 rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

C.5432 Pet. 883 et al. kw

5. In all other respects Decision No. 31606, 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 7th day of JUNE 1, 1977.

Robert B. Farnham
President
William L. Gannon
Samuel L. Sturgeon
Richard W. Howell
Commissioners

TABLE OF CONTENTS (Concluded)	ITEMS (Inclusive)
RULES OF GENERAL APPLICATION (Section 1) Concluded:	
Application of Tariff-Territorial-----	30-31
Application of Governing Classification and Exception Ratings Tariff-----	50
Charges for Accessorial Services or Delays-----	145
Charges for Obtaining a Weighmaster's Certificate-----	148
Collection of Charges-----	250
Collect on Delivery (C.O.D.) Shipments-----	182
Combination Rates, Method of Computing-----	295
Computation of Distances-----	100
* Dangerous Articles-----	129
Delays to Equipment-----	142-143
Empty Carriers Returning, New Auto Parts-----	48
Empty Packages or Carriers Second Hand-----	291
Empty Pallet Return-----	45
Escort Service, Charges for-----	124
Exceptions to Governing Classification and Exception Ratings Tariff-----	280-400
Failure to Accomplish Delivery-----	141
Forklift Service-----	260
Hazardous Materials-----	129
Intermediate Application (See Routing)-----	900-900.1
Issuance of Documents-----	255
Loss or Damage, Handling of Claims For-----	75
Minimum Charge-----	150
Mixed Shipments-----	90-91
Multiple Service Shipment-----	188
Multiple Utilization of Equipment-----	293.3
Pallet Exchange Provisions (on shipments of various grocery, hotel, restaurant, home or institutional products)-----	267
Parcel Deliveries (Metropolitan Los Angeles Area)-----	265
Permit Shipments, Charges for-----	128
Pool Shipments-----	176-179-2
* Prepay Incentive Provisions-----	268
Rail Carloading and Unloading Charges (Metropolitan Los Angeles Area)-----	262
References to Named Points or Communities-----	105
Shipments To Be Rated Separately-----	60
Shipments Transported in Multiple Lots-----	85
Small Shipment Service-----	149
Split Delivery-----	170-173
Split Pickup-----	160-163
Stringing Services-----	174-175
Technical Terms, Definition of-----	10-12
Temperature Control Service-----	185-187-3
Territorial Descriptions-----	270-270-3
Truckload Efficiency Service-----	293.4
Units of Measurement To Be Observed-----	257
Volume Incentive Service-----	292
Weighmaster's Certificate-----	682
Weights - Gross Weights and Dunnage-----	70
* Addition, Decision No. 87438	
EFFECTIVE	
Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p>(1) COLLECTION OF CHARGES</p> <p>*ó (For Prepay Incentive Provisions see Item 268)</p> <p>(a) Except as otherwise provided in this rule, transportation and accessorial charges shall be collected by the carriers prior to relinquishing physical possession of shipments entrusted to them for transportation.</p> <p>(b) Upon taking precautions deemed by them to be sufficient to assure payment of charges within the credit period herein specified, carriers may relinquish possession of freight in advance of the payment of the charges thereon and may extend credit in the amount of such charges to those who undertake to pay them, such persons herein being called debtors, for a period of 7 days, excluding Sundays and legal holidays. When the freight bill covering a shipment is presented to the debtor on or before the date of delivery, the credit period shall run from the first 12 o'clock midnight following delivery of the freight. When the freight bill is not presented to the debtor on or before the date of delivery, the credit period shall run from the first 12 o'clock midnight following the presentation of the freight bill.</p> <p>(c) Where a carrier has relinquished possession of freight and 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 debtor, 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>(d) Freight bills for all transportation and accessorial charges shall be presented to the debtors within 7 calendar days from the first 12 o'clock midnight following delivery of the freight.</p> <p>(e) Debtors may elect to have their freight bills presented by means of the United States mail, and when the mail service is so used the time of mailing by the carrier, as evidenced by the postmark, shall be deemed to be the time of presentation of the freight bills.</p> <p>(f) The mailing by the debtor of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed such debtor may be deemed to be the collection of the charges within the credit period for the purpose of these rules. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.</p> <p>(1) Will not apply to the transportation of property for the United States, state, county or municipal governments.</p>	<p>4250</p>
<p>(1) Fifth Revised Page 27 cancelled Fourth Revised Page 27 which was suspended by Supplement 120.</p>	
<p> ¢ Change) * Addition) Decision No. 87438 ó Reduction) </p>	
<p>EFFECTIVE</p>	
<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p> <p>Correction</p>	

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">PREPAY INCENTIVE PROVISIONS</p> <p style="text-align: center;">Applies only to shipments which are prepaid within the established credit period provided in this tariff, See Item 250 (Collection of Charges)</p> <p>When a prepaid shipment is transported under the provisions of this tariff, the resulting total freight charges otherwise due and payable hereunder shall be subject to the following incentive allowances:</p> <p>(a) When the billed weight of the shipment is 500 pounds or less the total freight charges otherwise due and payable shall be reduced by 50 cents per shipment.</p> <p>(b) When the billed weight of the shipment is more than 500 pounds, the total freight charges otherwise due and payable shall be reduced by \$1.00 per shipment.</p> <p>NOTE 1.--In the event the total adjusted charges resulting under either paragraphs a or b above are, in fact, not paid when due and payable under the established credit period provided in the tariff, an accessorial charge equal to twice the amount of the prepaid incentive allowance otherwise applicable shall be assessed in addition to all other past due charges, viz: \$1.00 under paragraph "a" and \$2.00 under paragraph "b".</p> <p>NOTE 2.--For purpose of applying this item, a prepaid shipment is one on which the charges for transportation service rendered at the request of the consignor, including charges for any accessorial services performed at the request of the consignor, are to be paid by the shipper.</p>	<p>268</p>
<p>* Addition) Decision No. 87438 o Reduction)</p>	
<p>EFFECTIVE</p>	
<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>	

Correction