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Decision No. 87734 AUG 16 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.

And Related Matters.

Case No. 5432
Petition for Modification
No. 945
(Filed January 31, 1977;
amended February 4, 1977)

Case No. 5439
Petition for Modification
No. 301

Case No. 5441
Petition for Modification
No. 383

Case No. 7783
Petition for Modification
No. 151
(Filed January 31, 1977;
amended February 4, 1977)

(See Decision No. 86507 for list of appearances.)

SECOND INTERIM OPINION

After hearings held March 1 and 2, 1977 interim opinions in these matters raised the rates and charges in the minimum rate tariffs (MRTs) involved by approximately 7 percent. The decisions dated March 9, 1977 were Nos. 87048 (MRT 2), 87049 (MRT 9-B), 87050 (MRTs 1-B and 19), and 87051 (MRT 15). Further hearings were held March 21 and 25 and on March 28 when the matters were submitted. Additional evidence was received from the California Trucking Association (CTA), the National Small Shipments Traffic Conference

and the Drug and Toilet Preparation Traffic Conference (Conferences), and the Traffic Managers Conference of California (Traffic Managers).

At the outset we will discuss our admonition summarized in Decision No. 86507:

"Petitions for offset increases in the minimum rates here in issue will not be entertained in the future unless it can be shown (as was recited in Decision No. 85349) that:

- "(1) Carriage at the minimum rates then in effect is demonstrated by petitioners to constitute predatory pricing within the meaning of state and federal antitrust laws;
- "(2) The rates proposed represent true minimum rates and allow scope for legitimate competition;
- "(3) Rates for different classes and commodities reflect relevant cost differences; and
- "(4) Different rates are provided for alternative kinds of service which have different costs."

We do not wish to undertake to make definitive findings on these issues in this proceeding. By Decision No. 87047, dismissing Case No. 9963, we discussed our intention to undertake a review and evaluation of highway carrier regulation in a series of separate proceedings. It would be premature to delve into these issues now. With participation by all parties, we are anticipating a more comprehensive evidentiary record which will be developed in those proceedings that will better enable us to evaluate these important and complex issues.

Final Rate Levels

By Decision No. 87048 et al. dated March 9, 1977 we authorized interim increases in the minimum rates and charges for the MRTs involved pending receipt of further evidence from all parties on the appropriate level for a final order. The adjustment recommended by the staff and ordered in Decision No. 87048 provides for an increase based on the direct wage offset method. This method produces the lowest increase of the three methods we have considered in the past (re Minimum Rate Tariff No. 2 (1969) 70 CPUC 277). We will consider no further adjustments based on labor. Those adjustments correspond generally to the recommendations of Conferences and Traffic Managers who both take the position that no additional increases for any purpose are necessary.

CTA points out that running costs and fuel are two cost areas in which we have made no adjustments since 1975. CTA's evidence is convincing that from 1975 to 1977 running costs have increased total costs by 4.60 percent for all services, and fuel by .63 percent for LTL service and 1.26 percent for TL service. We will adjust the rates by roughly those further amounts, i.e., 5 percent for LTL and 6 percent for TL.

Table I following serves to put into perspective the general status of the rate levels requested and authorized, as indexed to Decision No. 84539 dated June 17, 1975. Table I illustrates two ways to arrive at the final level to be authorized herein; the results of these are shown on lines 11 and 12. We will adopt the surcharge shown on line 11 which incorporates (1) the labor offset surcharge granted by Decision No. 86507 dated October 13, 1976 and which adjusted rates for the 1975-76 labor increase, (2) an offset for 1976-77 labor increases, and (3) an offset for 1975-77 fuel and running cost increases.

TABLE I

	<u>LTL</u>	<u>Adjustment Factor*</u>	
		<u>TL</u>	<u>TL</u>
		<u>Less Than</u> <u>40,000#</u>	<u>40,000#</u> <u>And Over</u>
1. Surcharge sought C.5432-871 (+ 1st amendment)	1.04	1.04	-
2. Granted by D.85349 1/13/76	1.01	1.01	-
3. Surcharge sought C.5432-871 (2nd + 3rd amendments)	1.10	1.09	1.09
4. Granted by D.85755 4/27/76	1.06	1.04	1.03
5. Granted by D.86507 10/13/76	1.08	1.07	1.06
6. Surcharge sought C.5432-945 (+ 1st amendment)	1.24	1.23	1.22
7. Granted by D.87048 3/9/77	1.15	1.14	1.13
8. Estimated labor offset for 4/76 to 4/77	1.08	1.07	1.06
9. Estimated offset for fuel and running costs 7/75 to 1/77	1.05	1.06	1.06
10. Line 7 + Line 9	1.20	1.20	1.19
11. Line 5 + Line 8 + Line 9	1.21	1.20	1.18
12. Adopted surcharge - this decision	1.21	1.20	1.18

* Reference D.84539 dated June 17, 1975 in
Case No. 5432, Petition 833 as base 1.00.

Although the increases authorized will be put into effect through the application of surcharges, final decisions will be issued incorporating the increases into the MRTs.

Findings

1. The existing level of rates named in MRTs 1-B, 2, 9-B, 15, and 19 was established on an interim basis by Decision No. 87048 et al. dated March 9, 1977.

2. Highway carriers operating under the MRTs involved herein have incurred increases in almost all categories of operating expenses. These increases are not totally reflected in the current level of minimum rates.

3. CTA seeks a surcharge level of between 22 and 24 percent.

4. A surcharge level of between 18 and 21 percent is reasonable for MRTs 1-B, 2, 9-B, and 19 and between 2 cents and 3½ cents per mile for MRT 15.

5. To the extent that the provisions of MRTs 1-B, 2, 9-B, 15, and 19 heretofore have been found to constitute reasonable minimum rates and rules for common carriers as defined in the Public Utilities Code, said provisions, as hereinafter adjusted, are, and will be, reasonable minimum rate provisions for said common carriers. To the extent that the existing rates and charges of said common carriers for the transportation involved are less in volume or effect than the minimum rates and charges designated herein as reasonable for said carriers, to that same extent the rates and charges of said carriers are, and for the future will be, unreasonable and insufficient.

6. The interim relief found justified herein will provide carriers the opportunity to earn approximately \$56 million in additional revenue on a yearly basis.

Conclusions

1. Petitions 945, 301, 383, and 151 in Cases Nos. 5432, 5439, 5441, and 7783, respectively, should be granted to the extent provided in the order herein.

2. For purposes of tariff distribution, the amendments to MRT 2 will be provided in the ensuing order, and the like tariff amendments to MRTs 1-B, 9-B, 15, and 19 will be made by supplemental orders.

3. There is an immediate need for the rate relief authorized herein. Accordingly, this order should be made effective the date hereof.

SECOND INTERIM ORDER

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 September 2, 1977, Supplement 132, 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 also to Decision No. 31606, as amended, are directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered by this decision.

3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff 2 are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 2 rates.

4. Common carriers maintaining rates on the same level as Minimum Rate Tariff 2 rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 2 are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 2 rates.

5. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 2 are authorized to increase such rates by the same amounts authorized by this decision for Minimum Rate Tariff 2 rates.

6. Any provisions currently maintained in common carrier tariffs which are more restrictive than, or which produce charges greater than, those contained in Minimum Rate Tariff 2 are authorized to be maintained in connection with the increased rates and charges directed to be established by Ordering Paragraph 2 hereof.

7. Common carriers maintaining rates not otherwise specifically referred to in other ordering paragraphs of this decision are authorized to increase such rates by 6 percent.

8. Common carrier tariff publications required by this order shall be filed not earlier than the effective date of this order and shall be made effective on September 2, 1977. Tariff publications authorized but not required shall be made effective not earlier than September 2, 1977. The authority for authorized increases shall expire unless exercised within sixty days after the effective date of this order. All tariff publications must give ten days' notice to the Commission and the public.

9. 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.

10. Common carriers are authorized to depart from the Commission's tariff circular requirements only to the extent necessary in establishing the surcharge supplement authorized by this order.

11. In all other respects, Decision No. 31606, as amended, shall remain in full force and effect.

12. To the extent not granted herein, Petition 945, as amended, in Case No. 5432 is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 16th day of August, 1977.

Robert Botwinch

President

William Lyons Jr.

Vernon L. Sturgeon

Richard D. Howell

Commissioners

Commissioner Claire T. Dedrick
present but not voting.

SPECIAL INCREASE SUPPLEMENT

SUPPLEMENT 132

(Cancels Supplement 130)

(Supplements 73, 75, 77, 87, 124, 125, 127, 131
and 132 Contain All Changes)

TO

MINIMUM RATE TARIFF 2

NAMING

MINIMUM 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

CEMENT CONTRACT CARRIERS

DUMP TRUCK CARRIERS

AND

HOUSEHOLD GOODS CARRIERS

APPLICATION OF SURCHARGE

(See Page 2 of this Supplement)

Decision No.

87734

EFFECTIVE

◊ APPLICATION OF SURCHARGE

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in the tariff (including any surcharges otherwise applicable) and increase the amount so computed as follows:

1. By eighteen percent (18%) on charges computed upon rates subject to minimum weights of 40,000 pounds and over.
2. By twenty percent (20%) on charges computed upon rates subject to minimum weights of 10,000 pounds but less than 40,000 pounds.
3. By twenty-one percent (21%) on all other rates and charges.

For purposes of disposing of fractions under provisions hereof, fractions of less than one-half cent shall be dropped and fractions of one-half cent or greater shall be increased to the next higher whole cent.

EXCEPTION 1.--The surcharges herein shall not apply to:

1. Supplement 75;
2. Deductions in Item 110;
3. The charges in Item 124;
4. Storage and reloading charges in Item 141;
5. Demurrage charge in Item 143;
6. Accessorial charges in subparagraph (b) of Item 145;
7. Advertising on equipment charge in Item 147;
8. C.O.D. charges in Item 182;
9. Temperature control service charges in Items 185-1 through 187-3;
10. Railhead-to-railhead charges used under provisions of Items 200 through 230;
11. Column 2 forklift charge in Item 260;
12. Parcel delivery charges in Item 265;
13. Rates for Lumber, Forest Products, and Related Articles, as provided in Items 690, 691, 700 and 710.

EXCEPTION 2.--When shipments are transported under provisions of:

- Item 292 - Volume Incentive Service;
- Items 293 and 293.1 - Special Volume Incentive Service;
- Item 293.2 - Premium Volume Incentive Service;
- Item 293.3 - Multiple Utilization of Equipment;
- Item 293.4 - Truckload Efficiency Service;

compute the amount of charges in accordance with appropriate rates and rules in this tariff and increase the amount so computed by twelve percent (12%).

THE END