

Decision No. 89978 ' FEB 14 1979

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 trans-)
portation 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. 1034
(Filed September 29, 1978)

And Related Matters.

Case No. 5439
Petition for Modification
No. 329
Case No. 5441
Petition for Modification
No. 410
Case No. 7783
Petition for Modification
No. 160
(Filed September 29, 1978)

Richard W. Smith, Attorney at Law, for
California Trucking Association, petitioner.
Thomas R. Dwyer and John McSweeney, for Delta
Lines, Inc.; Tom Herman and Joe MacDonald,
for California Motor Express; Lee Pfister,
for Willig Freight Lines; C. E. Goacher,
for DiSalvo Trucking Company; and Armand
Karp, for Rogers Motor Express, Marino Bros.
Trucking, Chacon Trucking, Inc., and Walton
Distribution Services, Inc.; respondents.
Jess J. Butcher, for California Manufacturers
Association; and Daniel J. Sweeney, for
National Small Shippers Conference and Drug
and Toilet Preparations Traffic Conference;
protestants.
R. M. Zaller for Continental Can Company;
William D. Mayer, for Cannery League of
California; Don B. Shields, for Highway
Carriers Association; Asa Button, for
Spreckels Sugar Division, Amstar Corporation;
Richard O. Austin, for Domtar Gypsum America,
Inc.; Tac Muraoka, for IBM Corporation;
Calhoun E. Jacobson, for Traffic Managers

Conference of California; Leon R. Peikin,
for RCA Corporation; and Frank Spellman,
for himself; interested parties.
John Lemke and Edward C. Cole, for the Commission
staff.

INTERIM OPINION AND ORDER

Minimum Rate Tariffs (MRTs) 2, 1-B, 9-B, and 19 name minimum rates for the highway transportation of general commodities statewide and within the East Bay, San Diego, and San Francisco drayage areas, respectively. MRT 15 names vehicle unit rates.

The rates and charges in the five aforementioned MRTs were last generally adjusted by Decision No. 88693 dated April 11, 1978 in Case No. 5432 (Petition 1001), et al. and companion decisions. The adjustments were stated in surcharge supplements to each tariff. Decision No. 88693 provided that the general surcharge adjustments to each tariff authorized by this and certain prior decisions would be incorporated directly into the rates and charges stated in the individual tariffs by subsequent orders. This was accomplished by Decision No. 89355 and companion decisions dated September 6, 1978.

By the petitions herein, as amended at the initial hearing in these matters, the California Trucking Association (CTA) seeks general cost offsetting increases ranging from 1 to 6-1/2 percent and averaging 4 percent in the rates and most charges in the five MRTs. The petitions, as originally filed, had requested a general increase averaging 8 percent in all of the tariffs.

Public hearing on a consolidated record was held before Administrative Law Judge Arthur M. Mooney in San Francisco on December 4, 5, and 21, and further hearing is scheduled for March 13 and 14, 1979 and additional days will be scheduled if needed. At the December 21, 1978 hearing, the CTA requested a general interim increase of varying amounts in the five tariffs ranging between 1 and 2-1/2 percent with the exception of MRT 15 wherein certain of the

sought increases in specific rates and charges are slightly higher. The interim request was taken under submission. The proposed interim adjustments would reflect increases in labor costs to the employer resulting directly from upward adjustments in various payroll taxes and also in pension payments for certain areas of the state, all of which became effective January 1, 1979. Other than certain minor differences between the Commission staff and the CTA regarding the amounts of the sought interim increases, there were no objections to the CTA request for interim relief. The full offsetting cost increases sought by the CTA, in addition to the payroll taxes and pension cost increases included in the interim request, include increases for indirect expenses and terminal platform costs. Both the representatives for the California Manufacturers Association and for the National Small Shippers Conference and the Drug and Toilet Preparations Traffic Conference protested the additional increases which the CTA alleges reflect upward adjustments in indirect and platform costs. The staff objects to any consideration of indirect expenses in this proceeding.

As indicated above, the only issues for our consideration herein are whether interim increases to reflect the January 1, 1979 increases in payroll taxes and pension costs should be granted, and if so, the amounts thereof. While some evidence regarding indirect and platform costs was presented at the December 1978 hearings, further evidence on these costs will be presented at the further hearings, and they will be considered in the final decision in this proceeding.

According to the evidence presented by the CTA and the staff, the following increases in payroll taxes and employee pension benefits paid by the employer are to be effective January 1, 1979: The maximum amount of employee yearly salary on which the Social Security Tax (F.I.C.A.) is based is increased from \$17,700 to \$22,900 and the

tax rate is increased from 6.05 percent to 6.13 percent, which results in an annual increase to the employer of \$333 or 31 percent for any employee earning the maximum salary on which the tax is based or above. The employee rate for truckmen for California Workers' Compensation is increased from \$10.04 to \$10.54 per \$100, an increase of 5 percent. With the exception of Local 85 (San Francisco and San Mateo Counties), the employer weekly contribution to the employee pension fund in all jurisdictions is increased from \$24 to \$33.60, an increase of 40 percent. The increase in these pension costs is the result of past collective bargaining agreements. Local 85 is under its own agreement which has different provisions for pension payments which are reflected in existing rates in the tariffs.

The following tabulation in Table 1 sets forth the full amounts of the percentage increases sought by the CTA in its petitions, as amended, and those proposed by the staff and the interim percentage increases sought by the CTA in the statewide and three drayage tariffs:

TABLE I

<u>MRT</u>	<u>Total Increase Proposed</u>				<u>CTA Interim</u>	
	<u>CTA</u>		<u>STAFF</u>		<u>Proposal</u>	
	<u>TL</u>	<u>LTL</u>	<u>TL</u>	<u>LTL</u>	<u>TL</u>	<u>LTL</u>
2	2.0%	6.25%	1.75%	5.5%(1)	2.0%	2.5%
1-B	2.0	4.75	2.5	2.5	2.0	2.5
9-B	2.5	5.25	2.5	2.5	2.5	2.5
19	1.0	3.75	1.0	1.0	1.0	2.5

TL - Rates subject to minimum weights of 5,000 pounds or more.

LTL - All other rates and charges, except certain nonlabor related charges.

(1) - Except Items 530 and 550 (Metropolitan Los Angeles Area - minimum weights 1,000 pounds and less) for which the staff proposes 2.75 percent.

The CTA is requesting the full increase it is seeking in the vehicle unit rates and charges in MRT 15 in its interim proposal. The sought increases are stated in specific dollars and cents amounts for the various rates and charges in the tariff. While the exact percentage increases for the individual rates and charges do vary, the average of the increases sought by the CTA for MRT 15 is approximately 2.7 percent. The staff has also stated its proposed increases for this tariff in the same manner. However, the increases proposed by the staff are somewhat lower and would average approximately 2 percent.

As indicated above, the CTA's interim request differs only from its final request in the amount of the increases sought in the LTL under 5,000 pounds rates and the various labor related charges in the statewide and three drayage tariffs. The purpose of the interim increases is, as stated by the CTA, to give effect only to the increases in payroll taxes and pension payments; whereas, the full sought increase would also reflect alleged increased platform and indirect costs. The CTA asserted that the impact of the latter two cost factors is primarily, if not almost entirely, on the aforementioned LTL rates and charges in MRTs 2, 1-B, 9-B, and 19 and that their effect on the other rates in these four tariffs is minimal. In this connection, the CTA's Exhibit 1 shows that on a statewide basis less than 1 percent of shipments in the 5,000 pounds minimum weight and over brackets move across platforms at carriers' terminals, and the impact of indirect costs on a per 100 pounds basis for shipments in these higher weight brackets is substantially less than for shipments in the under 5,000 pounds minimum weight brackets. The CTA also asserted that platform costs are not a factor in connection with MRT 15 and that adjustments in indirect costs would have little effect on the vehicle unit rates and charges therein.

The staff, in its surcharge proposals for the five tariffs, has used the Direct Wage Offset method which does not consider any possible changes that might have occurred in indirect costs; whereas, the CTA has used the Wage Cost Offset method which gives effect to increases it alleges have occurred in indirect costs. The rationales behind these two offset methods have been discussed in detail in various prior decisions and will not be repeated in this interim decision. (See In re MRT 2, Decision No. 76353 (1969) 70 CPUC 277.) For the past several years the Commission has, in wage cost offsetting adjustments to the various MRTs, adopted the Direct Wage Offset method advocated by the staff herein. We will adopt the Direct Wage Offset method for purposes of this interim increase.

The record clearly establishes that the increases in employer paid payroll taxes and pension benefits referred to above became effective on January 1, 1979. The CTA's request that interim relief should be granted to reflect these increases in the rates and labor related charges in the five tariffs we are considering is reasonable. However, we are not persuaded by the record before us that we should adopt the CTA interim proposal in its entirety. For certain of the increases in MRTs 2, 1-B, 9-B, and 19, the staff and the CTA proposals, with the 2-1/2 percent interim holddown, are the same. For others the staff is lower with the exception of its proposed increase for the 5,000 pounds and over rates in MRT 1-B for which it proposes a 2-1/2 percent increase, and the CTA proposes a 2 percent increase. We will, for the purposes of the interim increase for these four tariffs, adopt the lower of the CTA and the staff proposals subject to the maximum of 2-1/2 percent for any of the increases. The interim increases to be authorized are set forth in Table 2 as follows:

TABLE 2

Interim Percentage Increases

	<u>MRT</u>			
	<u>2</u>	<u>1-B</u>	<u>9-B</u>	<u>19</u>
Rate Scales				
5,000 pounds or more	1.75%	2.0%	2.5%	1.0%
Under 5,000 pounds	2.5	2.5	2.5	1.0
Labor Related Charges	2.5	2.5	2.5	1.0

With respect to MRT 15, we will, on an interim basis, adopt the various increases proposed by the staff for this tariff in its Exhibit 21 which gives effect to the payroll tax and pension increases only. It is noted that the staff proposed increases for some of the specific items in this tariff exceed the 2-1/2 percent interim hold down for the other four tariffs; however, as pointed out above, the increases for MRT 15 are stated in dollars or cents amounts, and the overall average of the staff proposal is approximately 2 percent.

Evidence has been presented by the CTA, the staff, and other parties regarding the guidelines of President Carter's Council on Wage and Price Stability. The price standard set forth in the guidelines provides that the cumulative price increases for individual firms during 1979 are to be limited to one half of a percentage point below the firm's average annual rate of price increase during 1976-77. According to the CTA's witness and the staff's Exhibit 21, the allowable cumulative increase under the guidelines for MRT 2 for the year 1979 would be approximately 8.8 percent. This is well above the amount of interim increase authorized for this tariff herein. The guideline amounts for the other four tariffs are the same or close to the MRT 2 amount and would likewise be above the interim increases authorized herein.

As to the revenue impact of the interim increases, the evidence does not establish what the precise amount might be. However, the CTA estimated that the additional annual revenue that would be generated for all carriers operating under the five tariffs would be approximately \$37.9 million if the full increases it is seeking were granted, and the staff estimates that the additional annual revenue for all tariffs would be approximately \$35.8 million if the full increases it recommends were adopted. It is estimated that the interim increases would generate upwards of \$10 million less additional annual revenue than either proposal were it granted in its entirety.

Because the payroll taxes and pension payments are already effective, the order which follows will be made effective on the date it is issued, and the order will provide that required or authorized tariff publications may be made on five days' notice. No expiration date will be attached to the interim surcharge supplements.

Findings

1. The rates in MRTs 2, 1-B, 9-B, 15, and 19 were last generally adjusted by surcharge supplements to each tariff by Decision No. 88693 dated April 11, 1978 in Case No. 5432 (Petition 1001) et al. Decision No. 89355 and companion decisions dated September 6, 1978 incorporated the surcharge adjustments directly into the rates and charges in each tariff.

2. The CTA and the Commission staff have demonstrated that since the five tariffs were last generally adjusted, the for-hire carriers governed thereby have, effective January 1, 1979, incurred increases in payroll taxes for F.I.C.A. and California Workers' Compensation and for most pension benefit payments for employees. ✓

3. The increased payroll taxes and pension payments referred to in Finding 2 are not now reflected in the historical cost data underlying the level of rates named in the five tariffs.

4. By the petitions herein, the CTA requests surcharge increases in the rates and charges in the five tariffs to reflect the increases in payroll taxes and pension payments referred to in Finding 2 and also alleged increases in indirect costs and carrier terminal platform costs.

5. By its interim request the CTA seeks immediate surcharge adjustments in the rates and charges in the five tariffs to reflect the increases in payroll taxes and pension payments only, pending further hearing on the indirect costs and platform cost issues.

6. The CTA request for interim relief is reasonable.

7. The surcharge increases for MRTs 2, 1-B, 9-B, and 19 set forth in Table 2 above and the surcharge increases recommended by the staff in its Exhibit 21 are reasonable and justified and should be adopted on an interim basis pending the final decision in this matter.

8. The interim increases referred to in Finding 7 are within the standard set forth in the guidelines of President Carter's Council on Wage and Price Stability.

Conclusions

1. The request by the CTA for interim cost offset increases in MRTs 2, 1-B, 9-B, 15, and 19 pending further hearing and final decision in its Petitions for Modification Nos. 1034, 329, 410, and 160 in Cases Nos. 5432, 5439, 5441, and 7783, respectively, should be granted to the extent set forth in the following order.

2. The interim cost offset increases ordered or authorized herein should be put into effect through the application of surcharges.

3. The payroll taxes and pension payment increases incurred by carriers subject to the MRTs involved became effective on January 1, 1979. Accordingly, the order herein should be made effective on the date hereof, and the surcharge increases to the five tariffs should be made effective on February 24, 1979.

4. For purposes of tariff distribution, the immediate surcharge 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.

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 February 24, 1979, Supplement 141, 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 2.5 percent.

8. Tariff publications required 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 made effective February 24, 1979, on not less than five days' notice to the Commission and to the public; as to tariff publications as are authorized, but not required, the authority shall expire unless exercised within sixty days after the effective date of this order.

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, the request for interim relief by the California Trucking Association in its Petitions for Modification Nos. 1034, 329, 410, and 160 in Cases Nos. 5432, 5439, 5441, and 7783, respectively, is denied.

13. The Executive Director shall serve a copy of this decision on every common carrier, or such carriers' authorized tariff publishing agents, performing transportation services subject to Minimum Rate Tariff 2.

14. The Executive Director shall serve a copy of each of the tariff amendments on each subscriber to Minimum Rate Tariff 2.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 14th
day of FEBRUARY, 1979.

Commissioner Leonard M. Grimes, Jr.,
being necessarily absent, did not
participate.

John E. Bryson
President
Vernon L. Sturgeon

William L. Dredgely

Commissioners

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

SURCHARGE SUPPLEMENT

SUPPLEMENT 141

(Supplements 73, 77, 87, 124, 127, 135, 139,
140 and 141 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

AGRICULTURAL CARRIERS

CEMENT CONTRACT CARRIERS

DUMP TRUCK CARRIERS

AND

HOUSEHOLD GOODS CARRIERS

Decision No.

89978 1

EFFECTIVE FEBRUARY 24, 1979

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

APPLICATION OF SURCHARGE

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in this tariff and increase the amount so computed as follows:

1. By one and three-quarters percent (1-3/4%) on charges computed at rates subject to minimum weights of 5,000 pounds or more;
2. By two and one-half percent (2-1/2%) on all other rates and charges.

For purposes of disposing of fractions under provisions hereof, fractions of less than one-half (1/2) cent shall be dropped, and fractions of one-half (1/2) or greater shall be increased to the next higher whole cent.

3. The surcharges herein shall not apply to:
 1. Supplement 139;
 2. Deductions in Item 110;
 3. The charges in Item 124 stated in cents per mile in paragraph (a), and the charges in paragraphs (b) and (c);
 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, 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 Item 200 through 230;
 11. Column 2 forklift charges in Item 260;
 12. Rates for canned goods in Item 631;
 13. Stop charge in Note 10 of Item 633.

THE END

o Increase, Decision No.

89978