

Decision No. 90234 APR 24 1978

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;
amended March 12, 1979)

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;
amended March 12, 1979)

(See Decision No. 89978 for appearances.)

Additional Appearances

Ron Child, for Eight Ball Line Trucking; Jerome D. Whiting, Attorney at Law, for Pacific Motor Trucking Company; and Ray Mitchell, for System 99; respondents.

Steven J. Kalish, Attorney at Law, for National Small Shippers Conference and Drug and Toilet Preparation Traffic Conference, protestant.

Philip G. Blackmore, Jr., for California & Hawaiian Sugar Co.; Vernon Hamton, for Certain-Teed Corp.; J. F. Ross, for Bird & Son, Inc. of Massachusetts; M. J. Nicolaus, for Western Motor Tariff Bureau, Inc.; and Phillip K. Davies, for himself; interested parties.

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.

By the petitions herein, as amended, the California Trucking Association (CTA) seeks general cost offsetting increases in the five MRTs to reflect increases in (1) certain payroll taxes and pension benefits which became effective January 1, 1979; (2) terminal platform costs; and (3) wage and fringe benefits. Interim Decisions Nos. 89978, 89979, 89980, and 89981 dated February 14, 1979 granted surcharge increases to the five tariffs ranging generally between 1 and 2-1/2 percent to offset the January 1, 1979 increases in payroll taxes and pension benefits. Further hearings have been held on the platform and wage and fringe benefits issues.

At the hearing in San Francisco on April 5, 1979 before Administrative Law Judge Arthur M. Mooney, CTA requested an immediate, emergency surcharge increase in each of the above tariffs to offset substantial increases in labor costs that it asserted will be included in the new industry labor contract that will be retroactive to April 1, 1979. At the time of the hearing, negotiations on the new contract had not been completed. CTA's request was based on the last employer monetary offer to the Teamsters Union. According to the evidence presented by CTA, (1) any ultimate settlement would be no less in impact on labor costs than that represented in the last employer offer; (2) the measured increases of the combined effect of this offer plus the labor oriented cost changes which underlie the existing surcharges authorized by the aforementioned interim decisions range from 154 to 203 cents per man-hour and generally average 180 cents per man-hour; and (3) the latest available financial information indicates

that, under the new labor contract, carriers will not be able to meet their financial obligations nor provide adequate service to the public without additional revenues.

The trucking industry and the Teamsters have now negotiated the new national labor contract. The monetary effect is substantially identical to the final employer offer referred to above. The Federal Government has announced that it is within the wage guidelines. The new contract is subject to ratification by the local unions.

Both CTA and the Commission staff recommended that the surcharge supplements added to the five tariffs by Decision No. 89978 and the companion orders be canceled and that in place thereof a new surcharge supplement be issued for each tariff that would reflect both the increases in payroll taxes and pension benefits and the new labor contract costs. The new surcharge recommended by CTA for all rates and labor related charges in the five tariffs is 9 percent. The new surcharges recommended by the staff for the rates and labor related charges in the tariffs range from 7-1/2 to 9 percent. The underlying cost data used by CTA and the staff is substantially identical. The basic reason for the difference in the amount of the surcharge proposal by each is that CTA has used the Wage Cost Offset method which increases indirect costs in the same proportion direct costs have been increased, and the staff has used the Direct Wage Offset method which holds indirect expenses constant in an offset adjustment in rates to reflect an increase in direct costs. (For a discussion of these methods see In re MRT 2, Decision No. 76353 (1969) 70 CPUC 277.)

Both CTA and the staff pointed out that their respective proposals are within the guideline standards of President Carter's Council on Wage and Price Stability.

Other than the suggestion by the representative of the Traffic Managers Conference of California that the labor cost offset

increase should vary with the weight of shipments in a different manner than proposed by the staff, there were no protests to incorporating the new labor costs in the rates and charges in the five tariffs. As pointed out in Decision No. 89978, the Commission has, for the past several years, applied the Direct Wage Offset method in wage cost offset adjustments. We will continue this policy here, as advocated by the staff, and adopt the staff recommendations to cancel the surcharge supplements issued in February 1979 and issue the new proposed tariff supplements in its Exhibit 34 which combine the February 1979 increases and the new labor offset increases in a single supplement.

The remaining issue for our consideration is the effective date for the new supplements and the cancellation of the supplements issued by Decision No. 89978 and its companion orders. As stated above, the new national labor contract has been negotiated, and it provides that the monetary increases specified therein are retroactive to April 1, 1979. The local California unions are now in the process of submitting the new contract to their memberships for ratification. It is anticipated that this process could take two to three weeks or a bit longer. Should any changes be made in the national agreement during this period, they would be in addition to the monetary increases now in the contract and would likewise be retroactive to April 1, 1979. Since the highway carriers will be liable to pay the labor increases now in the contract retroactive to April 1, 1979 and there is no practical way for them to recoup these increased costs until the offset adjustments are granted, it is appropriate that the new surcharge supplements be made effective at the earliest possible date. In the circumstances, the order which follows will be made effective on the date it is issued, and it will provide that the supplements be effective on May 5, 1979 and that required or authorized tariff publications may be made on five days' notice. No expiration date will be attached to the interim surcharge supplements.

It is estimated that the revenue that would be generated by the additional labor offset amount of the new surcharges would be approximately 40 million dollars. Further hearings are scheduled in these matters to receive evidence on the issue of platform costs.

Findings

1. The rates and charges in MRTs 2, 1-B, 9-B, 15, and 19 were last generally adjusted by surcharge supplements to each tariff by Decision No. 89978 dated February 14, 1979 to reflect increases in certain payroll taxes and pension payments.

2. A new national labor contract has been agreed upon by the trucking industry and the Teamsters and is retroactive to April 1, 1979. The local California unions are now in the process of submitting the new contract to their memberships for ratification.

3. The increases in labor costs included in the new labor contract are not now reflected in the historical cost data underlying the level of rates in the five tariffs.

4. CTA requests interim offset increases in the rates and charges in the five tariffs at the earliest possible time to reflect the new increased labor costs and that this be accomplished by issuing surcharge supplements to the five tariffs combining the increases in the surcharge supplements issued February 14, 1979 and the new labor offset increases and canceling the February 14, 1979 supplements.

5. The CTA request for interim relief is reasonable.

6. The surcharge increases for MRTs 2, 1-B, 9-B, 15 and 19 set forth in the staff's Exhibit 34, which combine the February 14, 1979 interim surcharge increases and the new labor offset increases and provide for the cancellation of the February 14, 1979 interim surcharge supplements are reasonable and justified and should be adopted on an interim basis pending final decision in this proceeding.

7. The interim increases referred to in Finding 6 are within the price standards set forth in the guidelines of President Carter's Council on Wage and Price Stability.

Conclusions

1. The request by the CTA for further 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, as amended, 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 increases in labor costs incurred by carriers subject to the MRTs involved will, when ratified by the local unions, be retroactive to April 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 May 5, 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 May 5, 1979, Supplement 142, 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 9 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 May 5, 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 further 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 24th day of APRIL, 1979.

John E. Guyon

 President

James P. Stegman

Charles W. Howell

Robert J. ...

Samuel H. ...

 Commissioners

SURCHARGE SUPPLEMENT

SUPPLEMENT 142
(CANCELS SUPPLEMENT 141)

(Supplements 73, 77, 87, 124, 127, 135, 139
140 and 142 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.

90224

EFFECTIVE

MAY 5-79

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