

ORIGINAL

Decision No. 90889 OCT 10 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investi- )  
gation for the purpose of )  
considering and determining )  
minimum rates for transportation )  
of any and all commodities state )  
wide including, but not limited )  
to, those rates which are pro- )  
vided 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 July 31, 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  
and July 31, 1979)

THIRD 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 Decisions Nos. 89978 and 90224 dated February 14 and April 24, 1979, respectively, and companion decisions, in the above cases and petitions, the Commission granted interim surcharge increases in MRTs 2, 1-B, 9-B, 15 and 19 and authorized highway common carriers to increase their rates by the same percentage increases. The interim increases granted were justified on the basis of increases in payroll taxes and pension costs effective January 1, 1979 and increases in employee wages effective April 1, 1979. These petitions were filed by California Trucking Association (CTA).

The Commission has now concluded hearings in this matter, however, it is not ready to issue a final decision. There is need for further interim relief because of additional increased cost of living adjustments effective October 1, 1979, and increases in Workers' Compensation Insurance effective July 1, 1979.

Radial highway common carriers and highway contract carriers are subject to the minimum rates as provided in the various minimum rate tariffs and may not charge less than these rates without special authority from the Commission. They may, however, charge rates which are above the minimum rate level. Certificated highway common carriers may not deviate from the rates published in their tariffs. Because highway common carriers cannot <sup>rapidly</sup> adjust their rates to compensate for the increases in cost of living and Workers' Compensation Insurance referred to above, we are of the opinion the highway common carriers should be authorized to increase their rates predicated on rates in MRTs 2, 1-B, 9-B, 15 and 19 by a three percent interim surcharge supplement in accordance with the provisions of Section 454(b) of the Public Utilities Act.

~~In the event any increases resulting from the application of these interim surcharge increases exceed the increases, if any, subsequently approved or prescribed by the Commission for the minimum rate tariffs in issue, highway common carriers will be required to refund the difference. Section 734 of the Public Utilities Act provides the procedure for reparations.~~

Findings

1. The rates in MRTs 2, 1-B, 9-B, 15 and 19 were last generally adjusted by surcharge supplements in Case No. 5432, Petition No. 1034, et al. Decisions Nos. 89978 and 90224 dated February 14 and April 24, 1979, respectively, and companion decisions incorporated the surcharge adjustments 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 highway common carriers governed thereby have, effective July 1 and October 1, 1979, incurred increases in Workers' Compensation Insurance for employees and cost of living adjustments, respectively.

3. The increased cost of living benefits and Workers' Compensation Insurance 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 its interim request CTA seeks immediate surcharge adjustments in the rates and charges in the five tariffs to reflect the increases in the cost of living adjustments and Workers' Compensation Insurance only, pending final disposition by the Commission of this matter.

5. Radial highway common and highway contract carriers may, on their own initiative, charge more than the minimum rates set forth in MRTs 2, 1-B, 9-B, 15 and 19 to compensate for the increases in Workers' Compensation Insurance and cost of living referred to in Finding 2. Highway common carriers may not increase their rates based on those tariffs without authority from the Commission.

6. The CTA request for immediate interim relief for highway common carriers is <sup>justified</sup> reasonable, and they should be authorized to increase their rates predicated on minimum rates in MRTs 2, 1-B, 9-B, 15 and 19, by applying a three percent interim surcharge supplement increase. KM

7. In the event any increases resulting from the application of these interim surcharge increases exceed the increases, if any, subsequently approved or prescribed by the Commission for MRTs 2, 1-B, 9-B, 15 and 19, the highway common carriers will be required to refund the difference to their customers.

8. The interim increases referred to in Finding 6 are within the standard set forth in the President's wage-price guidelines.

Conclusions

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

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

3. The cost of living adjustments and Workers' Compensation Insurance increases incurred by highway common carriers subject to the MRTs involved became effective July 1 and October 1, 1979. Accordingly, the order herein should be made effective on the date hereof, and the surcharge increases to the highway common carriers' tariffs may be made effective on five days' notice to the Commission and to the public.

IT IS ORDERED that:

1. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decisions Nos. 31606, as amended, 41363, as amended, 65072, as amended, 65834, as amended, and 67766, as amended, are authorized to establish in their tariffs a three (3) percent interim surcharge increase to become effective five days after the date hereof.

2. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariffs 2, 1-B, 9-B, 15 and 19 are authorized to increase such rates by the same amounts authorized by this decision.

3. Common carriers maintaining rates on the same level as Minimum Rate Tariffs 2, 1-B, 9-B, 15 and 19 rates are authorized to increase such rates by the same amounts authorized by this decision.

4. 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 Tariffs 2, 1-B, 9-B, 15 and 19 are authorized to increase such rates by the same amounts authorized by this decision.

5. Any provisions currently maintained in common carrier tariffs which are more restrictive than, or which produce charges greater than, those contained in Minimum Rate Tariffs 2, 1-B, 9-B, 15 and 19 are authorized to be maintained in connection with the increased rates and charges directed to be established by Ordering Paragraph 1 hereof.

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

7. 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, on not less than five days' notice to the Commission and to the public; the authority shall expire unless exercised within sixty days after the effective date of this order.

8. 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 authorization; 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.

9. 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.

10. In all other respects, Decisions Nos. 31606, as amended, 41363, as amended, 65072, as amended, 65834, as amended, and 67766, as amended, shall remain in full force and effect.

11. 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.

12. 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 Tariffs 2, 1-B, 9-B, 15 and 19.

The effective date of this order is the date hereof.

Dated OCT 10 1979, at San Francisco,  
California.

John E. Byrne  
President

Vernon L. Sturgeon

Robert D. Howell

Lawrence J. Quinn  
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.