

APR 15 1980

ORIGINAL

Decision No. 91596

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga- )  
tion for the purpose of consid- )  
ering 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. 1042  
(Filed March 7, 1979)  
(Amended March 18, 1980)

And Related Matters.

- ) Case No. 5330
- ) Petition for Modification No. 106
- ) Case No. 5433
- ) Petition for Modification No. 71
- ) Case No. 5436
- ) Petition for Modification No. 281
- ) Case No. 5437
- ) Petition for Modification No. 305
- ) Case No. 5438
- ) Petition for Modification No. 121
- ) Case No. 5439
- ) Petition for Modification No. 333
- ) Case No. 5440
- ) Petition for Modification No. 108
- ) Case No. 5441
- ) Petition for Modification No. 413
- ) Case No. 5603
- ) Petition for Modification No. 214
- ) Case No. 5604
- ) Petition for Modification No. 64
- ) Case No. 6008
- ) Petition for Modification No. 39
- ) Case No. 7783
- ) Petition for Modification No. 162
- ) Case No. 7857
- ) Petition for Modification No. 168
- ) Case No. 8808
- ) Petition for Modification No. 47
- ) Case No. 9819
- ) Petition for Modification No. 36
- ) Case No. 9820
- ) Petition for Modification No. 14
- ) (Filed March 7, 1979)
- ) (Amended March 18, 1980)

EIGETH INTERIM OPINION AND ORDER

By amendments to the above petitions, the California Trucking Association (CTA) requests the Commission to direct its staff to develop current data and formulas to reflect increases in petroleum-derived (fossil) fuels in the various minimum rate tariffs (MRTs).

All of the petitions were consolidated for public hearing on a single record before Administrative Law Judge Arthur M. Mooney in San Francisco on April 20 and 21, 1979. The proceeding was submitted subject to the receipt of late-filed Exhibit 7, which was received on April 30, 1979. However, because of the continuing uncertainties that exist regarding the future pricing of gasoline and diesel fuels, the submissions were set aside and the proceedings will remain open for the consideration of the effect on tariff rates and charges of any future adjustments in fuel prices that may be brought to the Commission's attention.

The only issue on which there is any controversy is the amount of fuel increase on which to base the fuel surcharge for each of the MRTs. CTA recommends that 57.4 cents per gallon increase be used for all tariffs. The staff recommends that a 52 cents per gallon be used for MRTs 10 and 11-A; 54 cents per gallon increases for MRTs 8-A and 12-A; 56 cents per gallon for MRTs 1-B, 3-A, 6-B, 9-B, 13, 19, 2 and 15 (per mile); 57 cents per gallon for MRTs 7-A, 17-A, 18 and 20; 60 cents per gallon for MRT 14-A; and MRT 4-B be increased by 48 cents a gallon. The staff points out that its recommendation is based on the most current fuel price data submitted by carriers to the Commission's Data Bank.

The only matter requiring comment is the amount of fuel increases to be reflected in the various MRTs. As to the other issues, the evidence clearly established that substantial increases in fuel prices have occurred in recent months and that these increases are not included in the costs on which the minimum rates are based. We will adopt the staff formula for the purposes of this decision, and will apply the amount of fuel increases recommended by the staff. While the proposal by the CTA as to the amount of increase to apply may have some merit, it is based on rather limited surveys; whereas, the staff proposal on this issue is based on the current information in its Data Bank which is a summation of a continual survey of prices paid by truckers. This summation is made in table form on Page 4.

The price of fuel as of April 8, 1980 for the fuel surcharge increase is based as follows: Minimum Rate Tariffs 2, 1-B, 9-B, 15 and 19 - gasoline \$1.090 and diesel \$1.082; 7-A - gasoline \$1.094 and diesel \$1.095; 17-A and 20 - diesel only \$1.086, and diesel only \$1.106, respectively; 3-A - diesel only \$1.07; 4-B for hourly rates - gasoline only \$1.145, and distance rates - gasoline \$1.125 and diesel \$1.098; 6-B - diesel only \$1.061; 8-A - gasoline \$1.145 and diesel \$1.132; 10-for northern territory - diesel only \$1.042, and southern territory - diesel only \$1.035; 11-A - gasoline \$1.043 and diesel \$1.040; 12-A - diesel only \$1.054; 13-Territory A and B - diesel only \$1.055; 14-A - diesel only \$1.110; and 18 - diesel only \$1.31.

As stated in our Resolution No. M-4704 dated January 30, 1979, "rate increases, such as for energy...shall be exempt" from wage and price standards. This, therefore, is not a consideration in this proceeding.

While permitted carriers in performing transportation subject to the Commission's minimum rate tariffs may not charge less than the minimum rates and charges stated therein, such carriers may, at will, charge more than these rates. Highway common carriers, however, are in a different position than permitted carriers. They are required by law to publish tariffs and to assess the precise rates and charges stated in their tariffs. They cannot rapidly

TABLE SHOWING AMOUNT OF FUEL INCREASE BY PERCENT  
AND CENTS PER GALLON MEASURED FROM DATUM PLANE IN EACH  
OF THE MINIMUM RATE TARIFFS - CASE 5432, PET. 1042, ET AL.

MRT Tariff	Cumulative Amount of Fuel Increase Allowed Through 7th Phase as of 2-26-80	Cumulative Percent of Rate Increases 3-22-80	Cumulative Amount of Fuel Increase Adopted on 8th Phase as of 4-08-80	Cumulative Percent of Rate Increases Effective 4-15-80	Percent Increase This Decision
2 Less/5,000 lbs.	0.51	2½¢	0.56	2½¢	½¢
5,000 lbs./more	0.51	5½¢	0.56	6¢	½¢
1-B, 9-B, 19	0.51	4½¢	0.56	5¢	½¢
7-A	0.52	9½¢	0.57	10¢	½¢
17-A	0.52	9½¢	0.57	10¢	½¢
20	0.52	10½¢	0.57	11½¢	1¢
4-B Hourly	0.43	1½¢	0.48	1½¢	½¢
Distance	0.43	3¢	0.48	3½¢	½¢
8-A LTL	0.49	7½¢	0.54	8½¢	1¢
TL	0.49	9½¢	0.54	10½¢	1¢
14-A	0.55	14¢	0.60	15½¢	1½¢
18	0.52	13½¢	0.57	14½¢	1½¢
3-A-Under 150 Miles	0.51	8¢	0.56	8½¢	½¢
3-A-Over 150 Miles	0.51	13½¢	0.56	14½¢	1½¢
6-B Distance	0.51	9¢	0.56	10¢	1¢
Vol. Tender Mileage	0.51	11½¢/mile	0.56	13¢/mile	1½¢/mile
10	0.47	10½¢	0.52	11½¢	1¢
11-A	0.47	5½¢	0.52	5½¢	½¢
12-A	0.49	7½¢	0.54	8½¢	½¢
13	0.51	6½¢	0.56	7¢	½¢
15 No more than 20¢/mi	0.51	3½¢/mile	0.56	4¢/mile	½¢/mile
Over 20¢ to 30¢/mi	0.51	6¢/mile	0.56	6½¢/mile	½¢/mile
Over 30¢ to 40¢/mi	0.51	10¢/mile	0.56	11½¢/mile	1½¢/mile
Over 40¢/mile	0.51	11½¢/mile	0.56	13¢/mile	1½¢/mile

adjust their rates and charges to compensate for increased operating costs. For this reason, we are of the opinion that they should be granted permissive authority to increase their rates by surcharge supplement in accordance with the provisions of Section 454(b) of the Public Utilities Act.

Because the increased fuel costs are already being paid by carriers, the order which follows will be made effective on the date it is issued, and the order will provide that the authorized tariff publications may be made on five days' notice. The newly authorized surcharges will be in addition to all previous surcharges heretofore authorized to such common carriers.

#### Findings of Fact

1. Due to the existing nationwide energy crisis and the resulting fuel shortages and accelerating costs, the for-hire highway carriers operating intrastate within California have experienced substantial increases in their fuel costs in the last several months.

2. The increases in fuel costs referred to in Finding 1 are not now reflected in the historical cost data underlying the level of rates in the Commission's various MRTs.

3. As a result of the existing energy crisis, the highway carriers subject to the Commission's MRTs have experienced fuel increases of such magnitude as to justify fuel cost offset adjustments when such cost increases occur, or within a reasonable or short time thereafter.

4. The staff's fuel cost surcharge computations have been shown to be an appropriate basis to reflect the substantial increases in fuel costs that have been occurring in recent months.

5. The staff recommended 52 cents per gallon increase be used for MRTs 10 and 11-A; 54 cents per gallon increase for MRTs 8-A and 12-A; 56 cents per gallon for MRTs 1-B, 3-A, 6-B, 9-B, 13, 19, 2 and 15 (per mile); 57 cents per gallon for MRTs 7-A, 17-A, 18 and 20; 60 cents per gallon for MRT 14-A; and 48 cents per gallon for MRT 4-B are reasonable bases for adjusting common carrier rates subject to in this interim decision.

6. The fuel offset surcharges reflect the fuel increases referred to in Finding 5 are reasonable and justified and should be adopted on an interim basis pending any further adjustment that may be justified in the future.

7. As stated in Commission Resolution No. M-4704 dated January 30, 1979, "rate increases, such as for energy...shall be exempt" from wage and price standards. The fuel offset surcharges authorized herein are within this category.

Conclusions of Law

1. The amendments to the petitions of CTA in Case No. 5432 (Petition 1042), et al. should be granted to the extent provided in the following order.

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

3. Since carriers are already paying the increased fuel costs, the order which follows should be made effective on the date hereof.

4. This proceeding should remain open to consider further interim decisions and orders as the circumstances may require.

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, 65834, 67766, 65072, 41363, 65521, 50114, 55587, 85826, 67397, 82350, 55584, 82061, 80578, 81799, 44633, 85573 and 72418, as amended, are authorized to establish in their tariffs the increases necessary to conform with the further adjustments ordered by this decision as shown in Appendix A, attached hereto and by this reference made a part hereof.

2. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in the Commission's Minimum Rate Tariffs are authorized to increase such rates by the same amounts authorized by this decision for the respective tariffs.

3. Common carriers maintaining rates on the same level as the Commission's Minimum Rate Tariffs rates for the transportation of commodities and/or for transportation not subject to these tariffs are authorized to increase such rates by the same amounts authorized by this decision for the respective tariff rates.

4. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to the Commission's Minimum Rate Tariffs are authorized to increase such rates by the same amounts authorized by this decision for the respective tariff rates.

5. Any provisions currently maintained in common carrier tariffs which are more restrictive than, or produce charges greater than, those contained in the Commission's Minimum Rate Tariffs 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 the amount of the applicable fuel surcharge granted herein.

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 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.

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

10. In all other respects, Decisions Nos. 31606, 65834, 67766, 65072, 41363, 65521, 50114, 55587, 85826, 67397, 82350, 55584, 82061, 80578, 81799, 44633, 85573 and 72418, as amended, shall remain in full force and effect.

11. This proceeding shall remain open to consider future decisions and orders by the Commission as the existing circumstances surrounding the present fuel emergency may require.

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 the Commission's Minimum Rate Tariffs.

The effective date of this order is the date hereof.

Dated APR 15 1980, at San Francisco, California.

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President

*Vernon L. Sturgeon*

*Richard D. Howell*

*Clare T. ...*

*John E. Bryon*  
Commissioners

Commissioner John E. Bryon,  
being necessarily absent, did  
not participate.



APPENDIX A

TABLE SHOWING AMOUNT OF FUEL INCREASE BY PERCENT  
AND CENTS PER GALLON MEASURED FROM DATUM PLANE IN EACH  
OF THE MINIMUM RATE TARIFFS - CASE 5432, PET. 1042, ET AL

Common Carriers Subject To MRT Tariff	Percent Increase This Decision
2 Less/5,000 lbs. 5,000 lbs./more	½¢ ½¢
1-B, 9-B, 19	½¢
7-A	½¢
17-A	½¢
20	1¢
4-B Hourly Distance	½¢ ½¢
8-A LTL TL	1¢ 1¢
14-A	1½¢
18	1½¢
3-A-Under 150 Miles 3-A-Over 150 Miles	½¢ 1½¢
6-B Distance Vol. Tender Mileage	1¢ 1½¢/Mile
10	1¢
11-A	½¢
12-A	½¢
13	½¢
15 No more than 20¢/mi Over 20¢ to 30¢/mi Over 30 to 40¢/mi Over 40¢/mile	½¢/mile ¾¢/mile 1¼¢/mile 1½¢/mile