

ALT-T-GTK

Decision No. 92614 JAN 21 1981

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. )

Case No. 5432  
 OSH 1055  
 (Filed February 13, 1980)

And Related Matters. )

Case No. 5439  
 OSH 336  
 Case No. 5441  
 OSH 415  
 (Filed February 13, 1980)

William R. Haerle, Attorney at Law, for  
 California Trucking Association; Russell &  
 Hancock, by Theodore W. Russell, Attorney  
 at Law, for Trailways, Inc. and American  
 Buslines; John D. Weisberg and R. Ramaiya,  
 for Greyhound Lines, Inc.; and Brundage,  
 Davis, Frommer & Jesinger, by Roger A.  
 Carnagey, Attorney at Law, for California  
 Teamsters Public Affairs Council and  
 Western Conference of Teamsters; interested  
 parties.  
Carroll D. Smith, for the Commission staff.

O P I N I O N

Finding 14 of Decision No. 31606, dated December 27, 1938, in Case No. 4246 <sup>1/</sup> exempted passenger stage corporations, all of whom are common carriers which must file their tariffs with the Commission, from the requirement, imposed on other common carriers, of amending their tariffs to conform to the Commission's minimum rate orders covering the transportation of shipments weighing 100 pounds or less. As a corollary to this exemption the Commission has confined passenger stage corporations to the handling of express shipments weighing 100 pounds or less by certificate restriction <sup>2/</sup> with the result that no passenger stage corporation has on file a tariff covering the transportation of shipments weighing in excess of 100 pounds. These proceedings were instituted on the Commission's own motion for the purpose of determining whether Finding 14 of Decision No. 31606 should be amended to extend the exemption to express shipments without regard to the aggregate weight of such shipments. A hearing was held before Administrative Law Judge Pilling for three days in May, 1980.

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<sup>1/</sup> Decision No. 31606 established Highway Carriers' Tariff No. 2 (since redesignated Minimum Rate Tariff 2). Matters in Case No. 4246 were later transferred to Case No. 4808. Matters relevant herein in Case No. 4808 were later transferred to Case No. 5432. Finding 14 of Decision No. 31606 has been amended several times to add or delete individual passenger stage corporations. The basic restriction of 100 pounds per shipment, however, remains unchanged.

<sup>2/</sup> Not all passenger stage corporations are authorized to transport express shipments. The subject matter of this order is necessarily limited to those which do hold such authority.

By Decision No. 90663, dated August 14, 1979, the Commission adopted a reregulation plan for motor carrier rates. The following points named in that plan are pertinent to these proceedings:

- "1. MRTs 1-B, 2, 9-B, 11-A, 15 and 19 will be cancelled January 31, 1980." (Page 7 mimeo) <sup>3/</sup>
- "2. Commodities exempt from MRTs 1-B, 2, 9-B, 11-A, 15 and 19 will continue to be rate exempt and exempt from the provisions of this program."
- "3. Transition Tariffs will be published in lieu of MRTs 1-B, 2, 9-B, 11-A, 15 and 19 and will be effective with the cancellation of the minimum rate tariffs."
- "14. . . . Common carrier rate filings below the transition tariff during the transition period must be accompanied by a statement of justification. Such justification may consist either of (a) reference to a motor carrier competitor's rate, or (b) operational and cost data showing that the proposed rate will contribute to carrier profitability."

The Commission staff, Greyhound Lines, Inc., Trailways, Inc., and American Buslines support extending the exemption so that, should passenger stage corporations apply for and receive amended certificates with weight limitations deleted, they may establish tariff rates on the increased shipment weights at levels lower than those appearing in the transition tariffs without having to present statements of justification as required in the above-quoted paragraph 14 of the reregulation plan.

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<sup>3/</sup> The cancellation date of these minimum rate tariffs (MRTs) was extended to April 30, 1980, by Decision No. 90816, dated September 12, 1979.

Passenger stage corporations frequently conduct operations where intrastate passengers, baggage and express and interstate passengers, baggage and express are transported on the same vehicle at the same time. The staff stated that removal of the weight restrictions from the exemption would allow passenger stage corporations to establish the same rules for California intrastate traffic that now prevail on interstate traffic. The staff contended that this would simplify carrier rating and billing procedures and reduce the chance for error, as well as benefitting shippers by lowering transportation charges for multiple piece shipments aggregating more than 100 pounds.

National Express Tariff No. A-600, published by National Bus Traffic Association, Incorporated, Agent, filed with this Commission as Cal. P.U.C. No. 43, contains both interstate and intrastate rates and rules governing transportation of express shipments by passenger stage corporations. Among the rules in this tariff are weight and size limitations, apparently imposed by the carriers to ensure that shipments can be placed in and removed from baggage compartments of buses without undue difficulty. The general maximum weight for interstate traffic is 100 pounds per article. The staff witness illustrated the difference between this interstate rule and the California intrastate rule by an example:

"The two 75-pound package, total weight 150 pounds, on a shipment from San Francisco to Portland, it

would be billed as 150 pounds. So, it would be one and one-half times the 100-pound rate.

"If you were to transport a shipment from San Francisco to Los Angeles intrastate shipment of course, it would be two separate - it would have to be two separate shipments, each going at the 75-pound rate, resulting in higher charges than would apply under the interstate rules." (Tr. p. 17)

The staff also contended that allowing passenger stage corporations to establish for application to intrastate traffic rules identical to those presently applicable to interstate traffic would reduce the chance for error. To illustrate, the staff witness testified that at present an intrastate shipment weighing more than 100 pounds might be accepted inadvertently, particularly at smaller communities where local business establishments typically handle the affairs of passenger stage corporations on a sideline basis. Under present rules the carrier would be obligated to return such a shipment to the consignor if the error were discovered prior to delivery. If delivery were effected before discovery of the error, the carrier would have completed a shipment which it did not have authority to transport. Furthermore, the shipment would be subject to transition tariff rates, rather than bus express rates, probably resulting in an undercharge. (Tr. pp 19-20 and 43)

No party other than the staff introduced evidence and no party named any useful purpose that would be served by continuing the present weight restriction in the exemption.

California Trucking Association (CTA) moved to dismiss these proceedings on the ground that (1) the involved minimum rates and the involved minimum rate tariffs (MRTs) were cancelled by Decision No. 90663 and, therefore, there are no minimum rates or MRTs to which the exemptions, or amended exemption, could apply, and (2) that any passenger stage corporation which seeks to establish rates lower than those set out in the transition tariffs must file a statement of justification.

We will deny CTA's motion. The exemption which is the subject of this proceeding applies to the same extent to the transition tariffs as it did to the MRTs in lieu of which the transition tariffs were issued. It is not the purpose of our reregulation program to impose new regulatory restraints where none have previously existed.

#### Findings of Fact

1. Decision No. 31606, by Finding 14 thereof, exempted named passenger stage corporations from the requirement of conforming to the Commission's rate orders for the transportation of shipments weighing 100 pounds or less.

2. From time to time Finding 14 of Decision No. 31606 has been amended to add or delete individual passenger stage corporations, but the weight restriction remains unchanged.

3. These proceedings were instituted by the Commission to determine whether Finding 14 of Decision No. 31606 should be further amended to delete the shipment weight restriction from the exemption accorded to passenger stage corporations therein.

4. Restricting the rate exemption for passenger stage corporations to shipments weighing 100 pounds or less no longer serves any useful purpose.

5. Decision No. 90663, as amended by Decision No. 90816, cancelled MRTs 1-B, 2, 9-B and 19, among others, and substituted transition tariffs in lieu thereof, effective April 30, 1980.

6. The exemptions named in Finding 14 of Decision No. 31606 apply to Transition Tariffs 1-B, 2, 9-B and 19 to the same extent as they formerly applied to MRTs 1-B, 2, 9-B and 19.

Conclusions of Law

1. Decision No. 31606, as amended, should be further amended to delete from Finding 14 thereof the shipment weight restriction contained in the rate exemption for passenger stage corporations.

2. The motion by CTA to dismiss these proceedings should be denied.

O R D E R

IT IS ORDERED that:

1. The motion of the California Trucking Association to dismiss Order Setting Hearing 1055 in Case No. 5432, Order Setting Hearing 336 in Case No. 5439, and Order Setting Hearing 415 in Case No. 5441 is denied.

2. Decision No. 31606, as amended, is further amended by rescinding paragraph (c) of Finding 14 thereof and substituting the following therefor:

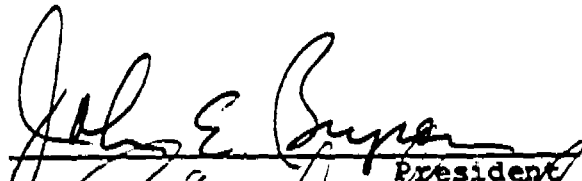
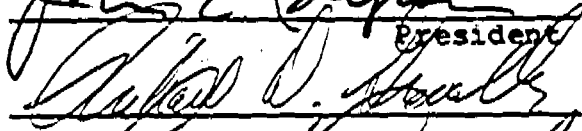
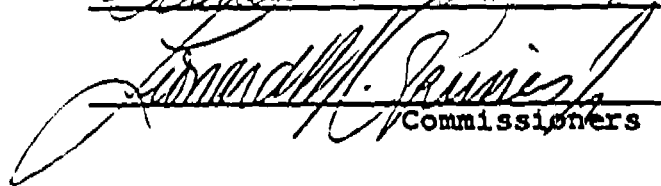
"(c) Rates, rules and regulations for the transportation by passenger stage corporations of express shipments upon passenger vehicles incidental to the transportation of passengers."

3. The Executive Director shall serve a copy of this decision on every passenger stage corporation authorized to transport package express shipments.

The effective date of this order shall be thirty days after the date hereof.

JAN 21 1981

Dated \_\_\_\_\_, at San Francisco, California.

  
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President  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
Commissioners