

Decision 93765 NOV 13 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on)
 the Commission's own motion into)
 a General Order to implement the)
 transportation reregulation)
 program during the transition)
 period from minimum rates to)
 carrier-filed rates.)
 _____)

OIR 4
(Filed December 16, 1980)

(Interested Parties are Shown in Appendix A.)

O P I N I O N

Order Instituting Rulemaking (OIR) 4 is a proceeding instituted to determine whether the Commission should promulgate new rules in the form of a General Order (GO) to govern the publishing and filing of tariffs of common carriers and written contracts of contract carriers, and to specify the nature of the cost showing required to support rate reductions during the transition period of the Commission's rate reregulation program for highway carriers.

Attached to OIR 4 is a proposed GO prepared by our Transportation Division staff. OIR 4 was served on all known interested parties. The OIR invited comments from interested parties and provided for responses to such comments. Comments were received from the parties listed in Appendix 1 to this opinion.

After review of the comments and responses we conclude that no public hearing or oral argument is necessary in OIR 4.

The attached GO is merely the embodiment of the reregulation program developed in prior Commission decisions, as explained below. The program went into effect April 30, 1980. Through workshops, appearances at industry conventions, training sessions, and informal advice sessions in person and by telephone, our staff has fully apprised the general freight industry of the particulars of the reregulation program. This process was enhanced by the publication, last December, of the proposed GO and more staff workshops. This GO reflects the program in place and for that reason we conclude no oral argument is necessary.

Background

By Decision (D.) 90663 dated August 17, 1979 in Case (C.) 5432, Petition 884 et al. and D.90354 dated May 22, 1979, which was formally superseded by D.91861 dated June 3, 1980 in C.5433, Order Setting Hearing 244 et al., the Commission inaugurated a program for the reregulation of the State's transportation industry. Under that program the motor carrier industry is to be converted from a pricing system based on Commission-established minimum rates to a system of carrier-filed rates.

The decisions established a transition period of indefinite length during which carriers must file and maintain rates which are not below the level of the minimum rates in effect at the time the program was established or the rates of other carriers, whichever are the lower. Carriers desiring to establish rates below such levels must furnish justification statements with their reduced rate filings which show that the proposed reduced rates will be compensatory and will meet the needs of commerce.

The reregulation decisions permit common carriers to adopt as their own the transition tariffs (former minimum rate tariffs). If the common carriers do not adopt the transition tariffs, they must publish their own tariffs or join in tariffs issued by rate bureaus.

Contract carriers must file written contracts containing the specific rates and charges to be assessed, together with governing rules. Contracts must be made for a specified duration (not less than one month), must specify the points or areas to be served and the commodities to be transported, and must be signed by both the shipper and carrier.

Contracts and tariffs containing rate reductions may be made effective immediately upon filing, if they contain rates no lower than the rates of competing carriers or rates in the transition

tariffs. Contracts containing increases may be made effective immediately. Other tariff and contract filings must be made effective on 30 days' notice unless specific authority is sought and granted to file such rate changes on shorter notice.

The reregulation orders do not specify in detail the actions necessary to comply with the general provisions outlined above. Therefore, our Transportation Division recommended that interim rules are necessary to govern the establishment and filing of tariffs and contracts during the reregulation transition period.

Proposed General Order

The proposed GO contains the following rules:

- Rule 1 - Application
- Rule 2 - Definitions
- Rule 3 - Exceptions
- Rule 4 - Departures
- Rule 5 - Dual Operations
- Rule 6 - Tariff Filings by Common Carriers
- Rule 7 - Contract Filings by Contract Carriers
- Rule 8 - Filing Procedures - Carrier Responsibility
- Rule 9 - Rate Justification
- Rule 10 - Effective Dates of Rate Filings and Public Notices
- Rule 11 - Protest and Suspension of Rates
- Rule 12 - Complaints

Appendix A to the proposed GO sets forth Commission policy on the proper scope of highway contract carrier operations. Appendix B to the GO contains rules governing common carrier rate increase applications. Appendix C sets forth forms to be used in preparing operational and cost data in rate reduction justification statements.

Comments of California Department of Industrial Relations

Donald Vial, director of the California Department of Industrial Relations (DIR), filed comments concerning the data to be included in rate reduction justification statements with respect to labor costs. DIR is charged with the administration of Workers' Compensation statutes. Vial states that the Workers' Compensation Appeals Board, a DIR agency, has ruled that awards can be made to truck drivers injured in the course of their employment, even though the truck driver was operating as an independent contractor subhauler, and even though the overlying carrier did not have a Workers' Compensation policy insuring the subhauler. In such cases, Vial points out, the truck driver receives Workers' Compensation benefits from the Uninsured Employers Fund. Vial asks that carriers required to file operational and cost data under Appendix C of the proposed GO be required to include Workers' Compensation insurance premiums as a business expense for the overlying (prime) carrier when subhaulers will be used to perform the transportation service, whether or not the overlying carrier actually maintains Workers' Compensation coverage or incurs a cost for such coverage.

In support of this request, Vial states as follows:

"Workers compensation coverage is a cost of doing business for all employers in the State of California. Coverage is mandatory under the laws of the State (Labor Code § 3700). It is true that independent contractor relationships are not covered by the Workers' Compensation Act. (Labor Code § 3353 and § 3357.) However, recent litigation before both the Workers Compensation Appeals Board (Board) and before the California Courts of Appeal indicates that both the Board and the Courts are not inclined to classify subhaulers as 'independent contractors'. On the contrary, the Board has found an 'employment relationship' to

exist, and thus granted a subhauler workers compensation benefits, even where the subhauler owned his own truck and leased the truck to the prime contractor in exchange for a percentage of the gross receipts. (Market Produce Lines v. WCAB, (1979) 45 CCC 160; writ denied February 25, 1980, 2 Civ. No. 58423; Mission Insurance Company v. WCAB (1979) 45 CCC 551; writ denied, June 3, 1980, 2 Civ. No. 57378; hearing denied by Supreme Court on July 2, 1980.)

"There are basic principles developed under the workers compensation law which support these above cited opinions and which allow the Courts to look beyond the terms of a contract between a prime and subhauler to find that an employment relationship exists. These principles have their basis in the Workers Compensation statute itself.

"Labor Code § 3357 contains a presumption in favor of finding an employer/employee relationship whenever any person is 'rendering service' for another. This statute has been interpreted to place the burden of proving the independent contractor relationship on the individual asserting that relationship (usually the employer in workers' compensation litigation).

"While the burden is on the alleged employer to show the independent contractor relationship, Labor Code Section 3353 provides a statutory definition of this relationship, as follows:

"Independent contractor" means any person who renders service for a specified recompense for a specified result, under the control of his principal as to the result of his work only and not as to the means by which such result is accomplished. (Emphasis added.)

"It has been held that the right of the alleged employer to control the manner and means of accomplishing the result desired is the most important factor to be considered in determining whether the relationship is characterized as employer-employee. (See Empire Star Mines Co. v. California Employers Commission (1946), 28

Cal.2d 33; Tieberg v. Unemployment Insurance Appeals Board (1970), 2 Cal.3d 943; Truck Insurance Exchange v. WCAB (Brown) (writ denied) (1979), 44 CCC 278.

"Relying on these cases and the factor of 'right of control' the Board found an employment relationship between a prime and subhauler operating under lease agreements. These Board decisions have been consistently upheld by both the courts of appeal and the California Supreme Court.

"Another principle of workers' compensation law which encourages coverage for borderline employees such as subhaulers is found at Labor Code § 3202. This section mandates the courts to liberally construe all of the provisions of the Workers Compensation Act to 'extend benefits for the protection of persons injured in the course of their employment.' Thus in a case where there is evidence of an independent contractor relationship but also evidence of an employee/employer relationship, this statute favoring extension of benefits would result in an award rather than a denial of benefits."

California Carriers Association (CCA), an organization of dump truck overlying carriers, filed a motion to strike Vial's comments for the reason that overlying carrier/subhauler relationships are beyond the scope of this proceeding, having been considered most recently in D.92632 dated January 21, 1981, in C.10278. The motion was supported by California Dump Truck Owners Association (CDTOA), an organization representing primarily dump truck subhaulers, and by California Trucking Association (CTA), a carrier organization representing all classes and types of carriers. The California Teamsters Public Affairs Council (Teamsters) opposes the motion.

We have considered the reasons advanced by Vial in support of his request, the motion to strike, and the arguments for and against that motion. We conclude that the motion should be denied and the GO should provide that overlying carrier operational and cost data in a rate reduction justification statement should include the cost of Workers' Compensation coverage when an independent contractor subhauler(s) will be used to perform the transportation service, even if the overlying carrier does not actually maintain a policy of Workers' Compensation insurance insuring the independent contractor subhauler(s). In such cases the cost of Workers' Compensation insurance premiums will be imputed, for the services of the subhauler(s), into the operational and cost data required to be filed by an overlying carrier.^{1/} The cost for Workers' Compensation coverage shall not be imputed into the operational and cost data required to be filed by a single truck owner-driver who is directly engaged by a shipper and who does not engage an independent contractor subhauler(s) to perform the transportation service.

^{1/} We stress that the cost of Workers' Compensation coverage is "imputed". This Commission has no authority to require that such coverage be maintained. Further, while requiring that such coverage be "imputed", this Commission expressly and completely disavows any intention of treating subhaulers as employees of the prime or overlying carriers. The cost is "imputed" solely because, under DIR policy, it is a real cost of doing business for the overlying carrier.

The action is consistent with the application of the prevailing wage program (D.91265 dated January 15, 1981 in OII 53), wherein the current prevailing wage (as opposed to a carrier's actual wage costs) is imputed in carrier operating cost statements when sub-haulers perform all or part of the transportation service or when the carrier incurs wage costs of a different level.

By requiring the imputation of Workers' Compensation insurance costs in the circumstances described under this heading, we are not requiring that overlying carriers maintain Workers' Compensation insurance. Nor are we, in any way, attempting to enforce the requirements or support the actions of another state agency. Our sole purpose is to maintain consistency in our application of the prevailing wage concept in determination of carrier operating costs.

Comments Beyond the Scope of this Proceeding

A number of the changes proposed by the parties are beyond the scope of the OIR. Examples of the suggested changes falling in this category include:

1. The proposals of Los Angeles County and the State Department of General Services to expand reregulation exemptions to more levels of government.
2. The proposals of Frank Spellman, Kaiser Aluminum and Chemical Corporation, and the California Fertilizer Association relating to the elimination of requirements that contract carriers file their contracts.

The proposals would make material changes in the Commission's transition period reregulation plan, which is not involved in this proceeding.

Several parties ask that we set the date when the transition period will end, and some ask that the tariff and contract filing provisions to be adopted be made applicable to the post-transition period. We are not yet ready to determine the length of the transition period, nor are we prepared to consider whether all of the filing requirements applicable during the transition period are suitable or necessary after that period ends. We are still in the process of analyzing whether the remaining transportation subject to minimum rates should be made part of our current reregulation program or whether some other types of action may be appropriate. Also, we are still involved in ironing out the details of the prevailing wage program and the manner in which prevailing wages should be determined. Much of the information learned from the application of the rules adopted in this proceeding will be helpful in these determinations. For these reasons adoption of these rules for application in the post-transition period is premature.

Similarly, the proposal of CDTOA designed to provide protection for subhaulers acting as independent contractors, is beyond the scope of this proceeding. Divisions of revenues between overlying carriers and subhaulers have been considered in several other proceedings, the latest being D.93632 dated January 21, 1981 in C.10278.

Teamsters urge that rate justification should be required upon the filing of a proposed rate lower than the rate of a competing carrier, regardless of whether or not the proposed rate is below the transition tariff levels. Teamsters point out that the proposed GO could result in a system in which initial justifications are never required if the transition tariffs remain in effect without change and the transition period is lengthy. As the general level of carriers' rates increases to offset labor and other operating cost increases in the present inflationary economic environment, the transition tariffs assertedly become meaningless; therefore, the rate reduction actions will be at levels above the transition tariff rates. Failure to require rate justifications in such circumstances assertedly shifts the burden of proof from the proponent of the reduced rate to the person contesting the reasonableness of the rate. In addition, Teamsters assert that failure to require rate justification may effectively circumvent the prevailing wage program (OII 53).

Adoption of Teamsters' proposal would violate both the letter and spirit of D.90663 and D.91861, in which the Commission adopted a program of carrier-filed and carrier-enforced rates. D.90663 and D.91861 do not literally reach the issue which Teamsters raise; accordingly, Teamsters' proposal is outside the scope of this proceeding. The appropriate solution to this problem is for Teamsters and/or competing carriers to challenge, via our complaint procedures, rates which they feel do not reflect the prevailing wage or are otherwise predatory. This has always been the intent of the reregulation program. A complaint procedure and competition, not a new Commission minimum rate program, are the best means for determining the appropriate rate levels in the marketplace.

Changes in Proposed General Order

We have carefully reviewed all of the comments and responses received, and appreciate the careful review and cogent comments offered by the parties. Based on the comments received from the parties and our staff, the proposed GO attached to OIR 4 has been revised in the following respects:

Rule 1 - Application

Paragraph C.1. - Removed reference to petroleum irregular route carriers and petroleum contract carriers, as those classes of carriers have been deleted from the PU Code. (See Stats. 1980, c.1096.)

Rule 2 - Definitions

Paragraphs D and F - Removed reference to petroleum irregular route carriers and petroleum contract carriers.

Paragraph I - Changed definition of "Independent Contract Subhauler" to include "sub-subhaulers."

Paragraph L - Added definition of "Rate Bureau."

Paragraph N - (Formerly M) - Delete reference to Transition Tariffs 6-B and 13, which have been canceled.

Rule 3 - Exceptions

Paragraph A - Changed to delete subhaul exemption when the prime carrier is an affiliate of the shipper.

Rule 4 - Departures

No change.

Rule 5 - Dual Operations

Rule 5 was made to expire January 1, 1982 when provisions of AB 1122 (Chapter 709, Stats. of 1981) become effective. That bill deleted statutory provisions prohibiting dual operations by common and contract carriers.

Rule 6 - Tariff Filings by Common Carriers

Paragraph A - Revised to read as follows:

- A. Common carriers who did not adopt the Commission's minimum rate tariffs before the date of their cancellation, or who do not adopt transition tariffs, shall file tariffs in accordance with the requirements of Division 1 of the PU Code and General Order Series 80.

Rule 7 - Contract Filings by Contract Carriers

Paragraph B - Reduced the number of copies of contracts required to be filed from four to three.

Paragraph F - (Content of Contracts)

Subparagraph 1(e)(3) - Revised to provide that contracts may refer to transition tariffs.

Rule 8 - Filing Procedures

Paragraph A.1. - Revised to require three copies of all documents filed under the GO.

Paragraph A.2. - Revised to require three copies of documents referred to in that paragraph.

Rule 9 - Rate Justification

Paragraph A.2. - Revised to require that common carrier rate increase applications shall be filed in accordance with rules in Appendix B of GO.

Rule 10 - Effective Dates of Rate Filings and Public Notice

Paragraph F (Added) to read as follows:

- F. If a reduced rate filing to meet the rate of a competing carrier is deficient in that it does not apply to the same kind and quantity of property, or is not applicable between the same points and subject to the same limitations, conditions, and privileges, the alleged "me too" filing may be rejected by the Executive Director within a ten-day period after the date of filing.

Rule 11 - Protest and Suspension of Rates

Paragraph B.1. - Amended to provide that a Commission-initiated action (as well as a protest) may serve as a basis for temporary suspension of a reduced rate filing.

Paragraph B.3. - Changed to read as follows:

- B.3. If a protest is filed and the Commission suspends a tariff, or contract, or any of its provisions and sets the matter for hearing, the burden of proof to show that the tariff, or contract, or provision at issue is just, reasonable, and nondiscriminatory shall be upon the proponent of the tariff or contract filing.

Paragraph C (Added) to read as follows:

- C. When, in the absence of a protest, the Commission on its own motion suspends a tariff, or contract, or any of its provisions and sets the matter for hearing, the burden of proof to show that the proposal is just, reasonable, and nondiscriminatory shall be upon the proponent of the tariff or contract filing.

Rule 12 - Complaints

No change.

Appendix A - Commission Policy on Proper Scope of Contract Carrier Operations

Title changed to delete reference to petroleum contract carriers.

Appendix B - Common Carrier Rate Increase Applications

Title changed to delete reference to petroleum irregular route carriers.

Lead-in Paragraph - Changed to read as follows:

Common carrier applications for increases in rates and charges, except increases filed under the provisions of Article 7 of the Rules of Practice and Procedure or under the provisions of Rule 9 A.2.(a) of this General Order, shall be filed in accordance with the following:

Appendix C - Forms for Operational and Cost Data in Justification Statements

The forms have been modified for clarification and ease of understanding and to provide for inclusion of all data deemed necessary for proper evaluating of rate reduction justification statements as suggested by Teamsters and other parties.

Findings of Fact

1. The Commission has embarked on a motor carrier rate reregulation program which is now in its transition phase. The reregulation program commenced April 30, 1980. The attached GO is the embodiment of the details of the program in place since that date.

2. We are not prepared at this time to designate the termination date of the transition phase of our reregulation program.

3. Outside of the general rules broadly outlined in the basic reregulation decisions (D.90663 and D.91861) there are no formally adopted rules to govern the filing of written contracts by contract carriers, or tariff schedules of common carriers that adopt the transition tariffs in whole or in part.

4. To provide such rules, our Transportation Division staff prepared a proposed new GO, which was given wide circulation to parties affected by such rules.

5. Comments and responses to comments were received from parties listed in Appendix 1.

6. After careful consideration of the comments and responses the staff proposal should be amended as described in the preceding opinion.

7. The staff-proposed GO, amended as indicated above, will provide reasonable rules to govern the preparation and filing of tariffs of common carriers and contracts of contract carriers during the transition period phase of the Commission's motor carrier rate reregulation program.

Conclusions of Law

1. The GO attached as Appendix 2 should be adopted.

2. The GO should become effective on the effective date of this order, which should provide ample time for distribution to affected carriers and tariff publishing agents.

O R D E R

IT IS ORDERED that:

1. General Order 147 as set forth in Appendix 2 is adopted to become effective December 13, 1981.

2. The Executive Director shall cause a copy of General Order 147 to be served by mail on each highway carrier of property holding a certificate as a highway common carrier or permit issued under the Public Utilities Act, Public Utilities Code Division 1, Chapter 5 or the Highway Carriers Act, Public Utilities Code Division 2, Chapter 1.

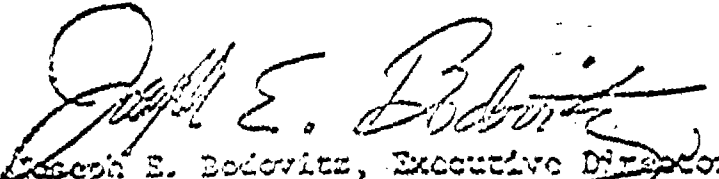
3. The Executive Director of the Commission shall cause a copy of this decision to be served on each party of record in this proceeding, and upon each tariff publishing agent filing tariffs on behalf of highway common carriers.

This order becomes effective 30 days from today.

Dated NOV 13 1981, at San Francisco,
California.

JOHN E. BRISON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

APPENDIX 1

List of Parties Filing Comments

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APPENDIX 2

GENERAL ORDER 147

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RULES AND REGULATIONS GOVERNING TARIFF FILINGS BY COMMON CARRIERS
AND CONTRACT FILINGS BY CONTRACT CARRIERS UNDER THE TRANSITION
PERIOD OF THE COMMISSION'S REREGULATION PROGRAM.

Adopted NOV 13 1981, Effective DEC 13 1981

Decision 93765 in OIR 4.

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APPENDIX A - COMMISSION POLICY ON PROPER SCOPE OF HIGHWAY
CONTRACT CARRIER OPERATIONS

APPENDIX B - CONTENTS OF RATE INCREASE APPLICATIONS

APPENDIX C - FORMS FOR OPERATIONAL AND COST DATA IN JUSTIFICATION STATEMENTS

APPENDIX 2

RULE 1 - APPLICATION

- A. This General Order is issued to implement the Commission's reregulation program and to provide guidance for tariff and contract filings during the transition period from minimum rates to carrier-filed rates as promulgated by Decision 90663.
- B. When provisions of this General Order are in conflict with the Commission's Rules of Practice and Procedure, the provisions of this General Order shall apply.
- C. Except as otherwise provided, the carriers listed below are subject to this General Order:
 - 1. Highway common carriers as defined in Section 213 and referred to in Public Utilities (PU) Code Sections 1063 and 1063.5;
 - 2. Highway contract carriers as defined in PU Code Section 3517.

APPENDIX 2

RULE 2 - DEFINITIONS

For the purpose of this General Order and when used in tariffs or contracts filed under this General Order, the definitions for the following terms shall apply:

- A. "Carrier's Equipment" means any motor truck, tractor or other self-propelled highway vehicle, trailer, semitrailer, or any combination of such highway vehicles, operated by the carrier.
- B. "Code" means the Public Utilities Code of the State of California.
- C. "Commission" means the Public Utilities Commission of the State of California.
- D. "Common Carrier" means every highway common carrier described in Rule 1.
- E. "Contract" means an agreement in writing which binds both shipper and contract carrier to good faith performance for a specific term. For terms of contract, see Rule 7F-1.
- F. "Contract Carrier" means every highway contract carrier described in Rule 1.
- G. "Exempt Commodities" and/or "Exempt Transportation" means the commodities and geographic areas described in the Commission's publication, including any revisions, entitled "Commodities and Geographic Areas Exempt from Rate Regulation Within the Permissive Scope of Highway Contract Carrier Operations." This definition also includes transportation which has been exempted for specific carriers by Commission decision.

APPENDIX 2

- H. "Governing Publication(s)" means
1. Distance Table 8 and/or the Optional All Points to All Points Table for Distance Table 8 issued by the Commission, and amendments or reissues (D.89303, August 22, 1978, C.7024);
 2. Exception Ratings Tariff 1, issued by the Commission, and amendments or reissues;
 3. Hazardous Materials Tariff ATA, 111-D (Cal. PUC 14 of American Trucking Association, Incorporated, Agent) including supplements and reissues; and/or
 4. National Motor Freight Classification NMF 100-G (Cal. PUC 18 of National Motor Freight Traffic Association, Inc., Agent), including supplements and reissues when the provisions of such supplements or reissues have been approved by the Commission; also referred to as the "Governing Classification."
- I. "Independent-Contractor Subhauler" means any carrier who renders service for a principal carrier, for a specified recompense, for a specified result as to the work only and not as to the means by which such result is accomplished. This term includes sub-subhaulers when such carriers are engaged by other subhaulers.
- J. "Point" means a particular city, town, community, extended area, metropolitan zone, or other area which is defined for the application of rates.
- K. "Rate" means the figure stated in cents, dollars and cents, or their fractions, including the charge, and also, the minimum weight and rules governing, and any accessorial charges to be used in computing the charge on the property transported.

APPENDIX 2

- L. "Rate Bureau" means each conference, bureau, committee, or other organization established or continued under any agreement approved by the Commission under the provisions of PU Code Section 496.
- M. "Tariff" means a publication containing the rates and charges of common carrier(s) including operating rights (scope of operations), rules, regulations, and provisions governing the service(s) of the carrier(s) including supplements, amendments, or revised pages or reissues.
- N. "Transition Tariffs" means Transition Tariffs 1-B, 2, 9-B, 11-A, 15, and 19.

APPENDIX 2

RULE 3 - EXCEPTIONS

- A. The provisions of this General Order do not apply to transportation by independent-contractor subhaulers when such transportation is performed by other carriers; provided however, this exception does not apply whenever the prime carrier is owned, operated, controlled, or affiliated with a shipper and engages other highway carriers for the transportation of property of the shipper, its subsidiaries or affiliates or customers or suppliers. This exception shall not be construed to exempt from this General Order carriers for whom the independent-contractor subhaulers are performing transportation service.
- B. The provisions of this General Order do not apply to transportation of the following:
1. Disaster supplies, i.e., those commodities which are allocated to provide relief during a state of extreme emergency or state of disaster; and those commodities which are transported for a civil defense or disaster organization established and functioning in accordance with the California Disaster Act to ultimate point of storage or use before or during a state of disaster or state of extreme emergency.
 2. Property of the United States or property transported under an agreement whereby the United States contracted for the carrier's services.
 3. Property transported for a displaced person when the cost is borne by a public entity as provided in Section 7262 of the Government Code.
 4. The transportation of exempt commodities and/or exempt transportation by contract carriers.

APPENDIX 2

RULE 4 - DEPARTURES

Departure from the provisions of this General Order may be granted upon formal application to the Commission and after the Commission finds that such departure is reasonable and necessary.

APPENDIX 2

RULE 5 - DUAL OPERATIONS (Rule 5 expires January 1, 1982.)

- A. Except as provided in Paragraph C no contract carrier, which is also a common carrier under PU Code Section 1063, or which controls, is controlled by or is under common control with such a common carrier, shall enter into any contract for transportation as a contract carrier when such transportation is within the scope (both as to commodities and points) of its common carrier authority.
- B. Except as provided in Paragraph C no contract carrier, which is also a common carrier under PU Code Section 1063.5, or which controls, is controlled by or is under common control with such a common carrier, shall enter into any contract for transportation as a contract carrier where such transportation is within the scope (both as to commodities and points) of its common carrier tariff.
- C. Nothing in this General Order shall be construed to prohibit a common carrier from entering into a written agreement for the transportation of property, for one person or corporation, by the exclusive use of a vehicle or combination of vehicles under applicable monthly or yearly vehicle unit rates, rules, and regulations specified in its tariff, although the service to be performed under such written agreement includes operations as a contract carrier beyond or outside the scope of its authority as a common carrier. (PU Code Section 1066.2.)

RULE 6 - TARIFF FILINGS BY COMMON CARRIERS

- A. Common carriers who did not adopt the Commission's minimum rate tariffs before the date of their cancellation, or who do not adopt transition tariffs, shall file tariffs in accordance with the requirements of Division 1 of the PU Code and General Order Series 80.
- B. Nothing in this rule shall prohibit carriers from publishing their own tariffs, or from joining in tariffs issued by rate bureaus.
- C. Common carriers who adopt transition tariffs shall do so in accordance with Division 1 of the PU Code and subparagraphs (D) through (I) of this Rule.
- D. Common carriers electing to adopt transition tariffs are governed by the following:
1. (a) Common carriers shall file with the Commission three copies of their adoption notices, supplements or amendments.
 - (b) Adoption notices filed by common carriers shall be made effective not less than 30 days after date filed.
 2. Every common carrier shall strictly observe the rates, rules and provisions of the adopted transition tariff(s), except as specifically provided in its adoption notice(s).
 3. Adoption notices shall clearly state the name and number of the transition tariff(s) adopted.

APPENDIX 2

4. Adoption notices shall clearly state the territory or territories within or between which the adopted transition tariff(s) will apply.
5. Common carriers shall be participants in all governing publications which apply in connection with the adopted transition tariff(s).
6. A common carrier electing to publish an additional rate item, or an exception, including commodity limitations, to any existing rate item, shall publish in its adoption notice the additional rate item, exception, or limitation.

E. Amendments to Adoption Notices

1. Carriers that have filed tariffs by adoption may amend such tariffs by filing revised pages or supplements.
2. Revised pages on which changes are made shall be identified as consecutively numbered revisions of the previous page, e.g., "First Revised Page 2 Cancels Original Page 2."

F. A supplement to an adoption notice shall contain:

1. Reference to the item number, page number, or previous supplement which it amends.
2. A consecutive supplement number, beginning with the number 1 in the center of the first page, and immediately under it the number of any supplement canceled and a statement of every supplement which is in effect. Supplements shall be so numbered until incorporated into the adopted tariff through republication of the entire tariff by the adopting carrier.

G. Form and Content of Adoption Notices, Amendments and Supplements.

1. Adoption notices, amendments, and supplements shall be plainly typed or prepared by other similar durable process on

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paper of good quality not less than 8" x 10 1/4" nor larger than 8 1/2" x 11" and shall be clear and legible.

2. An adoption notice, supplement, or amendment which is required or authorized to be filed by a Commission decision shall refer to the decision by number.
3. Adoption notices, supplements, or amendments shall show:
 - (a) The carrier's "T" file number in the upper right-hand corner.
 - (b) The carrier's complete name as shown in the Commission's records and the address of the carrier's principal office in California. Out-of-state-based carriers, in addition to their California address, must include the address of their out-of-state headquarters.
 - (c) The following statement:

"Name of Carrier adopts as its exact rates, rules, and charges all provisions of (Name and Number of Tariff) except as otherwise provided.

Issued by

(Name and address of owner or Corporate Officer)"
 - (d) The proposed effective date in the lower right-hand corner.
4. In the event an adoption notice, supplement or amendment consists of more than one page, each subsequent page shall show:
 - (a) The carrier's "T" file number in the upper right-hand corner.
 - (b) The complete name of the carrier as shown in the Commission's records.
 - (c) The page number, whether it is original or a revised page, and if a revised page, the number of revisions of this page number

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which have been previously issued. Immediately under it any previous page canceled by the revised page should be indicated as follows: "Cancels Revised Page ___."

(d) The date on which the page will become effective in the lower right-hand corner.

5. Rate items may not be published by reference to other tariffs.

Each rate item must be published in its entirety.

H. When a carrier changes its name, without transfer of control from one company to another, it shall immediately amend the adoption notice to show the new name of the company.

I. Every common carrier shall maintain and keep open for public inspection a copy of its adoption notices, tariffs and any revisions or supplements in accordance with General Order Series 122.

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RULE 7 - CONTRACT FILINGS BY CONTRACT CARRIERS

- A. The provisions of this rule apply to contract carriers engaged in transportation governed by the transition tariffs.
- B. No contract carrier shall commence to perform any transportation or accessorial service until it has on file and in effect with the Commission three copies of an executed binding contract for such service.
- C. No contract carrier shall provide any transportation or accessorial service except in accordance with its contract or contracts as filed and in effect with the Commission. Contract carriers shall strictly observe, as their exact rates, the rates and provisions of their contracts.
- D. Contracts must be in conformance with Commission policy on the proper scope of contract carrier operations as provided in Appendix A.
- E. Every contract carrier shall keep and maintain in its files all contracts for a period of three years after the termination date of the contracts.
- F. Content and Form of Contracts; Amendments and Supplements to Contracts.
 1. Every contract shall contain:
 - (a) The name, address, signature, and "T" file number of the carrier.
 - (b) The name, address, and signature of the shipper.
 - (c) Date contract executed, effective date, and the duration of the contract.
 - (d) The area involved in performance, such as the route and/or termini.

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- (e) A description of all mutual obligations and understandings of the parties, including but not limited to:
- (1) The services to be provided and the projected frequency.
 - (2) The commodities involved and the projected tonnage (or other appropriate unit of measurement) of the commodities to be transported.
 - (3) The compensation to be paid and received. (Rate items may not be published by reference to other tariffs (unless such reference is made to a transition tariff) or to other contracts. Each rate item published must be published in its entirety.)
- (f) The conditions, if any, under which changes in compensation or other terms of the contract may be made by the parties.
- (g) Reference to governing publications.
- (h) Such explanatory statements that remove all reasonable doubt as to its proper application.
2. Contracts shall be plainly typed, or prepared by other similar durable process, on letter-size (not less than 8" x 10 $\frac{1}{2}$ " nor larger than 8 $\frac{1}{2}$ " x 11") paper of good quality and shall be clear and legible.
3. Each carrier shall issue contracts under the "T" file number assigned to it by the Commission with a suffix number beginning with the number 1. Subsequent contracts shall bear consecutive suffix numbers. The contract number shall appear on every page in the following manner:
- "CONTRACT NUMBER
CAL T-000,000-1"
4. A contract or an amendment which is required or authorized to be filed by a Commission decision shall refer to that decision in connection with the item or supplement which

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- incorporates the change resulting from the decision.
5. Contracts may be amended by filing a supplement or by filing new pages on which changes are made. Revised pages shall be identified as consecutively numbered revisions of the previous page, e.g., "First Revised Page 2 Cancels Original Page 2."
 6. A supplement to a contract shall contain:
 - (a) Those requirements set forth in subparagraph F.1. necessary to clearly and effectively identify and amend the original contract.
 - (b) Reference to the item number, page number, and/or previous supplement number which it amends.
 7. When a carrier changes its name, as shown in the Commission's records, without transfer of control from one company to another, it shall immediately amend each contract issued by it to show the new name of the company. (See subparagraph F.9.)
 8. When a shipper changes its name, whether or not control is transferred from one company to another, the carrier shall immediately amend its contract with that shipper to reflect the change. (See subparagraph F.9.)
 9. Amendments required by subparagraphs F.7. and F.8. may be accomplished by the filing of a supplement containing a provision that "Whenever the name [enter the old name] appears it shall be construed as meaning [enter the new name]."
 10. The Commission shall be notified in writing when a contract is canceled. Unless an amendment is filed with the Commission extending the duration of the contract, it shall be deemed canceled on the expiration date.

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RULE 8 - FILING PROCEDURES - CARRIER RESPONSIBILITY

A. Rate Filings - Where and When Filed, Transmitted, Copies, and Retention

1. Three copies of tariffs, adoption notices, and contract filings, including any supplements and amendments, which are rate reductions and result in rates lower than both rates in the transition tariffs and rates of competing highway carriers, together with a statement of rate justification, shall be received at the Commission's office at:

Truck Tariff Section
State Building
350 McAllister Street
San Francisco, CA 94102; or

State Building
107 South Broadway
Los Angeles, CA 90012; or

State Building
1350 Front Street
San Diego, CA 92101

Documents received are not considered filed until they have been reviewed for compliance with this General Order and accepted for filing. A document accepted for filing in accordance with this paragraph will be deemed filed as of the date it is published in the Commission's Daily Calendar (or any other Commission publication that may in the future be designated for this purpose).

Only hand-delivered documents shall be received by the Los Angeles and San Diego offices. First class postage to San Francisco shall be paid at the time documents are tendered at the Los Angeles and San Diego offices. Payment of postage shall be made by personal check or money order.

2. Three copies of tariffs, adoption notices, and contract filings, including any supplements and amendments,
 - (a) Which are rate increases and result in rates above the transition tariffs,

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- (b) Which are changes in rules or provisions not resulting in a reduction from rates in the transition tariff, or
- (c) Which are filed to meet the rates of competing highway carriers (i.e., lower than the transition tariff and at or above the level of a competing highway carrier),

together with a statement of justification, may be mailed direct to the Truck Tariff Section, San Francisco Office, or hand-delivered to the Los Angeles or San Diego offices or any district office. Tariff and contract filings made in accordance with this paragraph and accepted for filing shall be deemed filed: (1) on the date of mailing as evidenced by the postmark, or (2) if hand-delivered, by the date received at any of the Commission's offices or district offices.

B. Transmittal Letters

Regardless of where documents are filed, they shall be accompanied by a letter of transmittal identifying the documents filed and addressed to the Public Utilities Commission of the State of California, Truck Tariff Section, 350 McAllister Street, San Francisco, California 94102. If a receipt for the filings is desired, the letter of transmittal shall be sent in duplicate; one copy will be stamped and returned as a receipt. A self-addressed stamped envelope must be provided for the copy to be returned. Tariffs, contracts, rate filings, adoption notices, and supporting documents shall be filed in a single package which shall also include the letter of transmittal required to accompany the filing.

- C. Rejected documents will be returned to the sender with a statement explaining why the documents were not accepted.

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D. Carrier Responsibility for Maintenance of Tariffs, etc.

1. Carriers shall maintain at their home office one copy of all tariffs, contracts, and governing publications at all times in current condition.
2. Upon request from any party, a carrier or its agent shall furnish a copy of, or a subscription to, any tariff which it issues, or a copy of any tariff, contract, or rate filing, with supporting documents, including any statement of justification. A reasonable charge may be assessed for such copies or subscriptions.

E. Public Inspection

All contracts and tariffs will be available for public inspection at the Commission's office, San Francisco.

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RULE 9 - RATE JUSTIFICATION

A. Common Carrier Rate Justification

1. Common carrier rate reductions which result in rates below the applicable rates published in any transition tariff, or its governing publications, must be accompanied by a statement of justification.

The statement shall consist of:

- (a) Reference to the rate of a competing highway carrier, including the identity of the tariff and item number or contract containing the rate being met, or
 - (b) Operational and cost data showing that the proposed rate will contribute to carrier profitability. These data must reflect individual carrier costs, except those labor costs which are subject to prevailing wage criteria. (See Appendix C.)
2. Common carrier rate increase applications shall be filed in accordance with the rules provided in Appendix B. (See EXCEPTION in subparagraph A.2.(a).) Justification supporting the need for an increase in rates and/or charges must accompany the application. The proposed increase shall not become effective until it has been approved by the Commission.
 - (a) EXCEPTION: No application is required to increase a rate to a level which is less than or equal to the rate stated in the transition tariff or which is less than or equal to a rate previously authorized by the Commission for the same transportation by the same carrier.

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3. Common carrier rate filings which depart from the rules of any transition tariff, or its governing publications, and result neither in an increase nor a reduction, must be accompanied by a statement demonstrating that the filing does not result in any change in rates.
4. Increases will be authorized on 30 days' notice unless sooner requested and justified by applicants.

B. Contract Carrier Rate Justification

1. Any contract carrier rate reduction which results in rates below the transition tariff, or its governing publications, must be accompanied by a statement of justification with each copy of the contract filing. The justification shall consist of:
 - (a) Reference to the rate of a competing highway carrier, including the identity of the tariff and item number or contract containing the rate being met, or
 - (b) Operational and cost data showing that the proposed rate will contribute to carrier profitability. These data must reflect individual carrier costs, except those labor costs which are subject to prevailing wage criteria. (See Appendix C.)
2. A contract carrier may increase its rates by filing an appropriate amendment or a new contract. The increases will be effective on the date filed or such later date as may be provided by terms of the contract.

RULE 10 - EFFECTIVE DATES OF RATE FILINGS AND PUBLIC NOTICE

- A. No tariff or contract filing resulting in a rate reduction below both the transition tariff and rates of competing highway carriers shall be made effective on less than 30 days' notice to the Commission and the public.
(See paragraph E.)
- B. Except as provided in paragraph A, contracts may be made effective on the date filed with the Commission or such later date as may be provided by the terms of the contract. Contract rate increases do not require prior notice. Contract rate reductions made to meet rates of competing highway carriers will be effective only when the rate of the competing carrier becomes effective. (See paragraph F.)
- C. No tariff rate reduction filed to meet a rate of a competing highway carrier shall be made effective earlier than the effective date of the competing carrier rate. If the rate of the competing carrier is already effective such filing may be made effective on the date filed. (See paragraph F.)
- D. Except as provided in paragraphs A and C, common carrier tariff filings resulting in rate reductions, or in changes which are neither increases nor reductions, may be made effective on 30 days' notice to the Commission or such later date as may be provided in the tariff filings. Except as provided in Rule 9A.2.(a), tariff filings resulting in increases shall not be made effective until the increased rates have been approved by the Commission's order.
- E. Tariff and contract filings which result in rates less than both the transition tariff and rates of competing highway carriers shall be docketed and published in the Commission's Daily Calendar, or any Commission publication designated for this purpose. Publication in the Commission's Daily Calendar shall constitute public notice.

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- F. If a reduced rate filing to meet the rate of a competing carrier is deficient in that it does not apply to the same kind and quantity of property, or is not applicable between the same points and subject to the limitations, conditions, and privileges, the alleged "me too" filing may be rejected by the Executive Director within a ten-day period after the date of filing.

RULE 11 - PROTEST AND SUSPENSION OF RATES

- A. Commission review of any tariff or contract rate, required to be filed on 30 days' notice, may be initiated by the filing of a protest.
1. Any such protest must be filed five or more days before the rates are scheduled to become effective.
 2. Protests shall be deemed filed on the date received by the Truck Tariff Section, 350 McAllister Street, San Francisco, California 94102.
 3. Protests must be in writing, must identify the rate protested, and must clearly state the grounds on which the protest is based.
 4. Protests must be filed in triplicate with the Commission.
 5. A copy of each protest filed shall be simultaneously served upon the carrier making the rate filing, or his designated agent.
 6. Notice of any protest filed will be provided in the Commission's Daily Calendar (or any other Commission publication that may in the future be designated for this purpose).
- B. 1. If a protest is filed, or if the Commission on its own motion decides to suspend a tariff or contract, the tariff or contract or any of its provisions at issue may be temporarily suspended for a period of time not to exceed 45 days beyond the date of suspension, during which time the Commission will either reject the protest or further suspend the rate and set the matter for hearing. If the Commission further suspends the effective date of the tariff, or contract filing, or any of its provisions, and sets the matter for hearing, the period of suspension shall not extend more than 120 days beyond the date the tariff or contract or provision would otherwise go into effect, unless the Commission extends the period of suspension for a further period not exceeding six months.

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2. Notice of any rate suspension will be provided in the Commission's Daily Calendar (or any other Commission publication that may in the future be designated for this purpose).
 3. If a protest is filed and the Commission suspends a tariff, or contract, or any of its provisions and sets the matter for hearing, the burden of proof to show that the tariff, or contract, or provision at issue is just, reasonable, and nondiscriminatory shall be upon the proponent of the tariff or contract filing.
- C. When, in the absence of a protest, the Commission on its own motion suspends a tariff, or contract, or any of its provisions and sets the matter for hearing, the burden of proof to show that the proposal is just, reasonable, and nondiscriminatory shall be upon the proponent of the tariff or contract filing.

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RULE 12 - COMPLAINTS

Commission review of any tariff or contract rate which is in effect may be initiated by filing a formal complaint in accordance with the Commission's Rules of Practice and Procedure. The burden of proof to show that any tariff or contract rate in effect is not just, reasonable, and nondiscriminatory shall be upon the complainant.

Approved and dated NOV 13 1981, at San Francisco,
California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

Joseph E. Bobritz
By _____
Executive Director

(END OF APPENDIX 2)

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Page 1

COMMISSION POLICY ON THE PROPER SCOPE OF
HIGHWAY CONTRACT CARRIER OPERATIONS

The purpose of this statement is to inform carriers engaged in contract carriage of the Commission's policy on the proper scope of such operations and to set the following guidelines which the Commission will apply in determining whether a highway carrier is operating as a contract carrier. The question of whether a contract carrier is lawfully operating is determined on a case-by-case basis dependent upon the facts surrounding the carrier's operations.

1. A contract carrier generally may not solicit individual one-time shipments; it may solicit and enter into negotiated continuing hauling relationships with shippers, i.e., contracts. Individual one-time shipments may be solicited where the specialized nature of the transportation is sufficient to distinguish it from common carrier service or where a carrier is performing a rate-exempt transportation service.
2. A contract carrier must generally have a continuing relationship with the shipper or shippers it serves. A continuing relationship requires that service be provided periodically over a period of time not less than 30 days in duration. A continuing relationship cannot be predicated upon a single shipment.
3. A shipper using the service of a contract carrier can be either the consignee or consignor. Normally, the shipper is regarded as the party who pays the charges for the transportation provided; however, the shipper may also be the party who controls the traffic such as the manufacturer of Brand X who ships freight collect to exclusive dealers of Brand X.
4. A contract carrier must provide services that are specialized or tailored to the particular requirements of the shipper being served. Examples of specialized services include, but are not limited to, providing repeat service over a period of time with specialized equipment, unique loading/unloading and accessorial activity, or specialized scheduling of service. Such

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specialization alone in some instances distinguishes contract from common carrier operations. Heavy hauling and the transportation of rate-exempt commodities are examples of such specialized operations.

5. All contract carriers, except carriers engaged in rate-exempt transportation, must file written contracts with the Commission. Such contracts shall be available for inspection by the public. Contract carriers may provide service only under written contracts which shall bind both carrier and shipper to good faith performance for a specific term.
6. Copies of contracts must also be kept on file in the carrier's office and available for inspection by the Commission or the Commission staff. They shall be retained by the carrier for not less than three years after expiration.

(END OF APPENDIX A TO GENERAL ORDER)

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Page 1

COMMON CARRIER RATE INCREASE APPLICATIONS

Common carrier applications for increases in rates and charges, except increases filed under the provisions of Article 7 of the Rules of Practice and Procedure or under the provisions of Rule 9 A.2.(a) of this General Order, shall be filed in accordance with the following:

- (a) Form and Size. Pleadings and briefs shall be typewritten or printed upon paper 8½" wide and 11" long, and annexed exhibits shall be folded to the same size. Unless printed, the impression shall be on one side of the paper only and shall be double-spaced, except that footnotes and quotations in excess of a few lines may be single-spaced. Pleadings shall be bound on the left side. Reproductions may be by any process, provided all copies are clear and permanently legible.
- (b) Title and Docket Number. All applications presented for filing shall show the caption for the proceeding, the docket number and the title of the document, and leave sufficient space in the upper right-hand corner for a time and date stamp.
- (c) Signatures. The original of each application or amendment shall be signed in ink by each party. If such party is a corporation or association, the pleading may be signed by an officer. Any attorney for or representative of a party shall also sign the pleading, and show his address and telephone number.
- (d) Verification. Applications or amendments shall be verified by each applicant. If the party filing the pleading is a corporation or association, the pleading may be verified by an officer.

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Verification may be made before a notary public or by certificate or declaration under the penalty of perjury.

- (e) Signature and Verification by attorney. The attorney for an applicant may sign and verify a pleading if the applicant is absent from the county where the attorney has his office, or for some cause is unable to sign and verify the application. When an application is signed and verified by the attorney, he shall set forth in the affidavit the reasons why the verification is not made by the applicant.
- (f) Copies. There shall be filed with the Commission the original and two conformed copies of each application or amendment.
- (g) Amended Applications. Amendments to applications may be filed before a hearing, provided they are served upon all known interested parties, are filed at least five days before the hearing, and contain a certification of service. Thereafter, applications may be amended as permitted or directed by the Commission or the presiding officer.
- (h) Contents. All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought, and shall state the following:
 1. The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which the applicant was created or organized.
 2. The name, title, address, and telephone number of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person named, and such service shall be deemed to be service upon applicant.
 3. Such additional information as may be required by the Commission in a particular proceeding.

4. Applications for ex parte (without formal hearing) action shall set forth the basis for such request, and those seeking the granting of relief pending full hearing shall set forth the necessity for such relief.

(i) Articles of Incorporation. If applicant is a corporation, a copy of its articles of incorporation, certified by the Secretary of State, shall be annexed to the original of the application but need not be annexed to the copies. If current articles have already been filed, the application need only make specific reference to such filings.

(j) Applications shall contain the following data, either in the body of the application or as annexed exhibits or accompanying the application:

1. A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.
2. A statement of the presently effective rates or charges which are proposed to be increased, or of the classification, contract, practice, or rule proposed to be altered. The statement need not be in tariff form.
3. A statement of the proposed increases or changes which will result in increases, which applicant requests authority to make effective. The statement need not be in tariff form, but shall set forth the proposed rate structure with reasonable clarity. Where a general rate increase application is filed, the statement shall include an estimate of the amount of additional annual gross revenue estimated to result from the increase, which shall be based on the amount of involved traffic handled for the preceding calendar year, and shall indicate the percentage by which such estimate exceeds the gross revenues on the involved traffic for the preceding calendar year, if more than one percent.

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4. A general rate increase application shall contain a general description of applicant's property and equipment, or reference to such description in a recent prior application, and a statement of the original cost together with a statement of the applicable depreciation reserve. If it is impossible to state original cost, the facts creating such impossibility shall be set forth.
5. Applicant's exhibits must accompany the application and applicant shall state the date it will be ready to proceed with its showing.
6. If applicant desires to revise the level of rates shown in its original application before hearing, applicant shall file an amendment to application in accordance with paragraph (g). Such amendments shall contain a complete revised statement of proposed changes as required by paragraph (j)3.

(END OF APPENDIX B TO GENERAL ORDER)

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Page 1

FORMS FOR OPERATIONAL AND
COST DATA IN JUSTIFICATION STATEMENTS.

The forms on pages 2 through 9 of this Appendix are supplied as models for carriers' statements of justification in support of rate reduction filings.

If a rate reduction filing includes scales of distance rates, the Summary of Revenues and Expenses on page 2 should be prepared for typical distances. For example, a scale of rates for distances of 5 to 500 miles could be supported by revenues and expenses for selected hauls of 25, 100, 175, 250, 350, and 450 miles.

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Page 2

SUMMARY OF REVENUES AND EXPENSES

I. REVENUE

- A. Front Haul Revenue 1/ _____
- B. Back Haul Revenue 2/ _____
- C. Total Revenue (A + B) _____
- D. Actual Round Trip Mileage
(including all empty miles) 3/ _____
- E. Revenue Per Mile (C + D) _____
- F. Revenue Per Other Unit of Measurement,
if any, (C + Units of Measurement) _____

II. EXPENSE

- A. Labor
 - 1. Hourly Basis (See Page 3) _____
 - 2. Mileage Basis (See page 4) _____
 - 3. Loading & Unloading Expense 4/
@ _____ Per Hour _____
- B. Vehicle Fixed Costs (See page 6)
Mileage @ _____ _____
- C. Vehicle Running Cost (See page 8)
Mileage @ _____ _____
- D. Any Other Direct Cost, e.g.,
Subsistence Allowance _____
- E. Indirect Expense @ _____ %
(See page 9) _____
- F. Gross Revenue Expenses (See page 9) _____

TOTAL _____

1/ Revenue for typical examples of hauls included in rate reduction filing. NEE
OR _____ %

2/ Revenue, if any, derived from return movement.

3/ Include mileage to and from terminals.

4/ Includes driver, vehicle and helper time, if used.

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DRIVER WAGE COST (HOURLY BASIS)

In developing driver labor costs, carriers must use the prevailing wages established by the Commission. Carriers should refer to Prevailing Wage Report 181-2 and succeeding reports issued by the Transportation Division staff to obtain the prevailing wage elements and the methodology (including determination of annual hours and appropriate premium pay factors) for total labor cost development based on those prevailing wage elements.

<u>Line</u>	<u>Item</u>	<u>Hourly Amount</u>
* 1.	Base Wage	\$ _____
2.	Holiday-sick-funeral leave (_____ % x L.1	_____
3.	Vacation (_____ % x L.1)	_____
4.	Subtotal	\$ _____
5.	Health, welfare & pension	_____
6.	Subtotal	\$ _____
7.	Payroll taxes	_____
8.	Worker's Comp. Ins. (_____ L.16 % x L.4)	_____
9.	Total hourly labor cost	\$ _____
* 10.	Holidays _____ days/yr. x 8)	
* 11.	Sick leave & funeral leave _____ days/yr. x 8) _____ Hrs. ÷ _____ L.17 = _____ %	
* 12.	Vacation _____ days/yr. x 8 = _____ Hrs. ÷ _____ L.17 = _____ %	
* 13.	Health & welfare \$ _____/mo. x 12)	
* 14.	Pension \$ _____/wks. x 52) \$ _____ ÷ _____ L.17 = \$ _____/hr.	
15.	Payroll taxes	
	a. FICA ** _____ % x \$ _____	
	b. FUI _____ % x \$ _____	
	c. SUI _____ % x \$ _____	
	Manual _____ ÷ _____ L.17 = \$ _____/hr.	
16.	Worker's Comp. Ins. _____ Modifier x Rate = _____ %	
17.	Annual hours _____ hrs.	

* Prevailing Wage Elements obtained from current prevailing wage report.
 ** Self-employment (FICA) taxes applicable to owner-driver operations should reflect actual cost.

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DRIVER WAGE COST (MILEAGE BASIS)

In developing driver labor costs, carriers must use the prevailing wages established by the Commission. Carriers should refer to Prevailing Wage Report 181-2 and succeeding reports issued by the Transportation Division staff to obtain the prevailing wage elements and the methodology (including determination of annual hours and appropriate premium pay factors) for total labor cost development based on those prevailing wage elements.

<u>Line</u>	<u>Item</u>	<u>Mileage Amount</u>
* 1.	Base wage	\$ _____
2.	Holiday-sick-funeral leave (_____ % x L-1)	_____
3.	Vacation (_____ % x L-1)	_____
4.	Subtotal	\$ _____
5.	Health, welfare & pension	_____
6.	Subtotal	\$ _____
7.	Payroll taxes	_____
8.	Worker's Comp. Ins. (_____ L-16 % x L-4)	_____
9.	Total mileage labor cost	\$ _____
* 10.	Holidays _____ days/yr. x 8 }	
* 11.	Sick leave & funeral leave _____ days/yr. x 8 }	_____ Hrs. ÷ _____ L-17 = _____ %
* 12.	Vacation _____ days/yr. x 8 _____ Hrs. ÷ _____ L-17 = _____ %	
* 13.	Health & welfare \$ _____ /mo. x 12 }	
* 14.	Pension \$ _____ /wk. x 52 }	_____ ÷ _____ L-17 = \$ _____ /hr. or \$ _____ ÷ MPH = \$ _____ /mi.
15.	Payroll taxes	
a.	FICA ** _____ % x \$ _____ }	
b.	FUI _____ % x \$ _____ }	
c.	SUI _____ % x \$ _____ }	
		\$ _____ ÷ _____ L-17 = \$ _____ /hr. or \$ _____ ÷ MPH = \$ _____ /mi.
16.	Worker's Comp. Ins. _____ Modifier x _____ Rate = _____ %	
17.	Annual hours	_____ hrs.

* Prevailing Wage Elements obtained from current prevailing wage report.
 ** Self-employment (FICA) taxes applicable to owner-driver operations should reflect actual cost.

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EQUIPMENT INVESTMENT AND FEES

Equipment investment costs allow you to recover the value of equipment lost through depreciation. The method set forth in this section depreciates the equipment over the useful (service) life of the equipment. (Such method differs from methods used for income tax purposes, where rapid, accelerated depreciation is allowed.)

To properly develop depreciation costs, carriers must determine the following for each unit of equipment:

1. The price of the equipment (less tires and tubes) including any additional equipment on the vehicle at the time of vehicle licensing and any sales taxes;
2. The useful (service) life of the specific equipment;
3. The estimated salvage value of the equipment at the end of its useful life.
4. License fees include, but are not limited to, the following:
 - a. Registration;
 - b. Vehicle license fees;
 - c. Vehicle weight fees;
 - d. Highway use taxes;

Any additional fees that you incur on a regular basis may also be included.

It may be desirable, because of varying service lives, to segregate equipment costs by categories such as: power equipment, trailing equipment, dollies, tractors (diesel and gas), trucks (diesel and gas), trailers (van, flatbed), etc.

Page 6 sets forth investment and fee costs on hourly, mileage, and trip bases. This development is considered the simplest method for calculating depreciation costs. It can be used to develop total costs on hourly, mileage, tonnage, shipment, or trip basis.

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INVESTMENT - DEPRECIATED SERVICE LIFE

Line No.	Item	Equipment Classification
1	Equipment Cost	
2	Salvage Value (Note 1.)	
3	Service Value (Note 2)	
4	Service Life (Note 3)	
5	Depreciation Cost per Year (Note 4)	
6	Vehicle Registration (Note 5)	
7	Vehicle License Fee (Note 6)	
8	Vehicle Weight Fee (Note 7)	
9	Highway Use Tax (Note 8)	
10	TOTALS (Lines 5 thru 9)	
11	Cost Per Hour (Note 9)	
12	Cost Per Mile (Note 10)	

Notes:

- 1 Salvage value at end of useful life
- 2 Equipment cost less salvage value
- 3 Useful life of equipment in years
- 4 Service value \div service life ✓
- 5 Current registration fee under California Vehicle Code Sec. 9250
- 6 Current license fee under Revenue and Taxation Code Sec. 10753
- 7 Current weight fee under California Vehicle Code Sec. 9400
- 8 Current tax under U.S. Publication No. 349
- 9 Line 10 \div Annual hours that vehicle is in revenue service ✓
- 10 Line 10 \div Annual miles that vehicle is in revenue service ✓

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RUNNING AND INSURANCE COSTS

Running costs are those costs which are incurred during actual operation of the vehicle or which are required to maintain the vehicle in adequate operating condition.

The elements of these costs are as follows:

1. Cost of fuel;
2. Cost of oil;
3. Cost of tires and tubes; and
4. Cost of maintenance and repairs.

Prices should reflect the cost of both bulk and road purchases of gasoline and diesel fuel. Fuel costs should include all applicable taxes.

Oil costs should give consideration to the quantity purchased, frequency of change, and frequency of adding oil.

The cost of tires and tubes should consider the purchase price of tires and tubes, the frequency of recapping tires, and the annual miles experienced (including new tires and recaps).

Repair and maintenance costs should include all costs for materials and labor incurred by carrier performing their own maintenance work on operating equipment. (The labor cost should not be limited, only to time spent on repairs, but should include all labor costs associated with fueling, with adding or changing oil, and with changing or repairing tires and tubes.) Additionally, any costs incurred for outside repairs should be included in this item.

Insurance costs on equipment may be stated either as an annualized premium or as a percentage of revenue. (For percentage of revenue see page 9.) Insurance cost for equipment should include the premiums paid for public liability, property damage, and cargo.

PAGE 8 DEVELOPS TOTAL RUNNING AND INSURANCE COSTS ON A PER MILE BASIS.

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RUNNING COSTS - INSURANCE COSTS
PER MILE

: Line :		: Equipment Classification :		
: No. :	Item	:	:	:
1	Fuel Cost (Note 1)	_____	_____	_____
2	Oil Cost (Note 2)	_____	_____	_____
3	Tire and Tubes Cost (Note 3)	_____	_____	_____
4	Repair and Maintenance Cost (Note 4)	_____	_____	_____
5	Total Cost	=====	=====	=====
6	Running Costs Per Mile (Note 5)	_____	_____	_____

Notes:

- 1 Include all applicable taxes and consider bulk and pump purchases.
- 2 Include consideration of bulk and road purchases.
- 3 Include all costs including outside service costs.
- 4 Include all labor and material costs.
- 5 Divide line 5 by miles traveled during cost period.

Insurance Cost per Mile _____

Annual Premium divided by annual miles traveled.

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INDIRECT COSTS

Indirect operating costs include those expenses which are necessary for the operation of a transportation service but which cannot be directly assigned to any particular phase of the operation. Such items include general administrative salaries and expenses; general office salaries and expenses; supervision of the various phases of the operation; solicitation and advertising expense; rent; utilities; other expenses of like nature. They may be expressed as a percentage of direct costs.

$$\text{INDIRECT RATIO} = \frac{\text{INDIRECT EXPENSE}}{\text{DIRECT EXPENSE}}$$

GROSS REVENUE EXPENSES

Gross revenue expenses include:

PUC Tax	_____ %
City Business License Tax	_____ %
Insurance	(Variable)

* Insurance on equipment when the premium is computed as a percentage of gross revenue. (Insurance costs include PL/PD and cargo premiums.)

(END OF APPENDIX C TO GENERAL ORDER)