

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TS-674
Transportation Division

(RESOLUTION IMPLEMENTING REVIEW AND REJUSTIFICATION OF)
 (HIGHWAY COMMON AND CONTRACT CARRIER FILED RATES BELOW)
 (✓ TRANSITION TARIFF LEVELS AS REQUIRED BY D.86-04-045)

Decision (D.) 86-04-045 which was signed by the Commission on April 16, 1986, substantially changed the regulation of the general commodities trucking industry in California.

The decision directs carriers that have active rate reductions on file (rate levels below transition level) and carriers that have filed "me-toos" (rates filed to meet a competing carrier's level of rates) to rejustify the reduced rates. Cost and operational data must be filed to show that the reduced rates continue to contribute to profitability.

As of this date, approximately 1,850 rate reductions and 5,000 "me-toos" have been filed. A schedule will be established to provide for a series of consecutive time periods, most likely monthly, in which the carriers that filed the rate reductions or "me-toos" must make the required showing of profitability. Generally, rejustification will commence with the oldest rate reductions and associated "me-toos" and will continue until the basis for all such rates are examined. However, in accordance with (D.) 86-04-045, reviews initiated through an OII or complaint process will receive a higher staff priority than those subject to the general phased review. The staff will review the justification data and its consistency with the carriers' annual reports and will indicate acceptance or rejection by notification in the Daily Transportation Calendar. The justification data is to be accompanied by the carriers' statements of validity under penalty of perjury. If the data is timely filed, but is found to be deficient and is rejected, the carrier will be allowed 30 days in which to appeal the staffs' action by a formal filing submitted under Rule 4 of General Order 147. During this time and until the effective date of the Commission decisions on these filings, the reduced rate may continue in effect. The Daily Transportation Calendar will also show:

- 1) The date carriers are notified of the need to rejustify reduced rates for each time period.
- 2) When a reduced rate is approved and may continue in effect.
- 3) The date the rejustification is rejected or not timely filed by the carrier.

Because it is difficult to forecast how many rates ultimately will need to be reexamined, the extent of staff activity which will be required for this program is uncertain. Accordingly, the staff should have flexibility in this area. The staff indicates that it will attempt to complete this project within 12 months of its initiation. However, the staff should start the phased review in relatively small increments to gain experience and a better understanding of the overall resources and time needed to complete the program and report back to the Commission periodically on its findings.

Findings of Fact

1. D. 86-04-045, which became effective April 16, 1986, substantially changes the regulation of the general commodities trucking industry within California for highway common and highway contract carriers.

2. D. 86-04-045 requires carriers performing transportation of general commodities at reduced rates and rates which are below the modified transition level to rejustify the reduced rates by demonstrating that the rates currently contribute to profitability.

3. The Transportation Division recommends that a general schedule be established commencing by August 1, 1986 to provide for a series of consecutive time periods when carriers that have filed the approximately 1,850 rate reductions and the related "me-toos" will be required to rejustify the reduced rates.

4. The rate increases resulting from the termination of reduced rates and their replacement by the lowest rates which otherwise legally apply are justified.

5. To effectively implement this program, it is desirable to suspend and revoke the carriers' operating authorities if the carriers fail to promptly amend tariffs and contracts to eliminate reduced rates which are not timely justified.

Conclusion of Law

The procedure recommended by the staff to provide for rejustification and demonstration of the profitability of reduced rates should be adopted.

IT IS ORDERED that:

1. The procedures recommended by the Transportation Division as specifically set forth in the body of this resolution are adopted.

2. The Executive Director is hereby delegated authority to suspend and revoke the highway common carrier certificates and highway contract carrier permits of those carriers who fail to promptly amend tariffs and contracts to eliminate reduced rates which are not justified.

3. Suspended certificates and permits may be reinstated effective the date the required amended or reissued tariffs or contracts are filed with and accepted by the Executive Director and upon compliance with all other applicable Commission requirements.

4. The Executive Director is authorized to reinstate revoked certificates and permits upon compliance by the carriers with this resolution and acceptance of the amended or reissued tariff or contract and the receipt of a reinstatement fee of \$125 for each certificate or permit to be reinstated, and upon compliance with all other applicable Commission requirements.

5. A carrier may appeal any action taken pursuant to this resolution by filing an application with the Commission pursuant to the Commission's Rules of Practice and Procedure.

This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on MAY 28 1986.

The following Commissioners approved it.

DONALD VIAL
President
VICTOR CALVO
PRISCILLA C. GREW
FREDERICK R. DUDA
STANLEY W. HULETT
Commissioners

Howard A. Sarason

Howard A. Sarason
Acting Executive Director