

Memorandum

December 9, 1987

To : THE COMMISSION
(For Meeting of January 13, 1988)From : Public Utilities Commission—San Francisco -- Norman Kelley
Transportation Division

File No.:

Subject: Adoption of a revised guide to filing initial applications
and renewals regarding minimum rate deviations.

RECOMMENDATION: The Commission should adopt the Transportation Division's revised guide to assist interested parties in preparing filings to deviate from the provisions of the minimum rate tariffs.

BACKGROUND: The Commission initially issued the guide in 1969. Since then, the guide has been revised on numerous occasions, the latest revision being in 1978.

DISCUSSION: The revisions reflect the changes made to Public Utilities (P.U.) Code Sections 3666 and 5195 pursuant to Assembly Bill 3029, effective January 1, 1987, limiting the duration of any deviation authority granted under these provisions to not more than one year.

Other revisions have also been made. Currently, there are two forms attached to the guide to assist carriers in filing deviation applications. Form 1 sets forth the information required by carriers who are (1) seeking initial authority to deviate from the minimum rates under P.U. Code Sections 3666 and 5195 and (2) seeking initial or renewal authority to establish rates lower than maximum reasonable rates under P.U. Code Section 452. Form 2 assists permitted carriers in the preparation of applications for renewal of such authority. For simplification, we have combined the two forms. In addition, we are informing carriers seeking other rate reduction authority to file under the appropriate General Order, e.g., General Order 147-A, 149, 150-A and 151.

A proposed resolution is attached.

Attachment

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TS-682
Transportation Division
Issuance of Deviation Guide
as Set Forth in Appendix A

RESOLUTION ADOPTING A GUIDE TO FILING INITIAL APPLICATIONS
AND RENEWALS FOR AUTHORITY TO ASSESS LESS THAN A MAXIMUM
REASONABLE RATE UNDER THE PROVISIONS OF SECTION 452 OR
LESS THAN MINIMUM RATES UNDER SECTIONS 3666 AND 5195 OF
THE PUBLIC UTILITIES CODE

The Commission issues a guide to assist interested parties in the preparation of filings to deviate from the provisions of its minimum rate tariffs. The guide is hereby revised to reflect the changes made to Sections 3666 and 5195 of the Public Utilities Code pursuant to Assembly Bill 3029, effective January 1, 1987, which directs the Commission to limit the duration of any deviation authority granted under these provisions to not more than one year. Other minor changes in the guide are also proposed.

IT IS ORDERED that the Guide to Filing Initial Applications and Renewals for Authority to Assess Less Than a Maximum Reasonable Rate Under the Provisions of Section 452 or Less Than Minimum Rates under Sections 3666 and 5195 of the Public Utilities Code is hereby adopted as set forth in Appendix A attached hereto.

The Executive Director is directed to cause service of a copy of this resolution to be made upon every highway permit and common carrier of record, or to mail a copy of this resolution to each carrier at its last known address as shown in the Commission's records.

I certify that the foregoing resolution was duly introduced, passed and adopted at a meeting of the Public Utilities Commission of the State of California, held on the 13th day of January, 1988, the following Commissioners voting favorably thereon:

DONALD VIAL
FREDERICK R. DUDA
G MITCHELL WILK
JOHN B. OGHANIAN
Commissioners

Executive Director

Commissioner Stanley W Hulet
being necessarily absent, did
not participate.

Attachment

APPENDIX A TO RESOLUTION TS-682

**PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA**

**A Guide to Filing INITIAL AND RENEWAL APPLICATIONS for
Authority to Assess Less Than a Maximum Reasonable
Rate Under the Provisions of Section 452 or
Less Than Minimum Rates Under Sections 3666
and 5195 of the Public Utilities Code**

**January 13, 1988
San Francisco**

When transportation is performed under operating conditions which are unusually favorable, or are substantially different from those considered in establishing the minimum rates, a highway carrier may obtain authority from the Commission to assess a rate lower than the established minimum rate for such transportation. The Public Utilities Code (Section 3666) provides that the Commission shall, upon finding that the proposed rate is reasonable, authorize the lesser rate.*

A carrier seeking to assess less than an established minimum rate must show its overall financial conditions, as well as the transportation conditions that will permit profitable operations to be performed under the proposed rate. The special circumstances under which the particular transportation will be performed shall be shown, such as:

1. High frequency of trips
2. Heavy loadweights
3. Available loading and unloading facilities
4. Efficient loading and unloading procedures
5. Special lightweight equipment
6. Any other favorable operating conditions

The cost of performing the service for which a rate lower than minimum is proposed shall be shown in appropriate terms, i.e., cost per mile, cost per 100 pounds, cost per load, or cost per hour. The anticipated revenue yield of the transportation to be performed at the sought rate shall be measured against the total cost developed for that transportation.

Initial authorizations to deviate from the minimum rates are granted for not more than one year. A carrier must reapply for such authority if it wishes to continue assessing less than the minimum rates otherwise applicable.

* Similar provisions are contained in Section 5195 for household goods carriers. Section 452 provides that the Commission may find that a common carrier may establish a rate less than a maximum reasonable rate.

A carrier seeking renewal of its deviation authority shall show its overall operating results and its experience with the particular operations involving the deviation. It shall be shown that either increases in operating expenses would be covered by expected revenues, or suitable increases in the deviation rate shall be requested.

In order to allow the time necessary for processing, applications for deviation authority shall be filed well in advance of their need. In the case of a renewal application, no less than an 8-week advance filing is advisable to guard against possible lapse of the authority.

Attached is a form to assist carriers in preparing: (1) applications seeking authority to deviate from the minimum rates under Sections 3666 and 5195 of the Public Utilities Code; and (2) petitions filed by common carriers seeking authority to establish rates lower than maximum reasonable rates under Section 452 of the Public Utilities Code. **

** Carriers seeking other rate reduction authority should file under the appropriate General Order (G.O.). For example, G.O. 147-A, general commodities; G.O. 149, trailer coaches, campers and recreational vehicles; G.O. 150-A, cement; and G.O. 151, secondary truckaway movements.

FORM

*Application for Initial or Renewal Authority to Deviate
from the Minimum Rates
(Original and 12 copies are required to be filed on 8-1/2" x 11"
letter-sized paper for initial authority, and an original and two
copies are required for renewal of authority.)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of (show name of)
applicant) for authority to)
(state specifically the deviation)
authority sought, the commodity)
or commodities involved, the name)
of the shipper for whom the trans-)
portation is to be performed, and)
the statutory provision under)
which authority is sought).)
_____)

*Application No.
(For renewals this item
should be headed:
Special Deviation Docket)

(Commission will insert
number)

APPLICATION FOR AUTHORITY TO DEVIATE FROM THE MINIMUM RATES

The application of (exact legal name of applicant)
respectfully shows:

1. That applicant's principal place of business is located
at (street address and city).
2. That communications in regard to this application are to
be addressed to (name, title, address and telephone number).
3. (If applicant is a corporation) that applicant is a
corporation organized under the laws of the State of (name). (A copy
of its articles of incorporation, certified by the Secretary of
State, shall be attached to the original of the application, but need
not be attached to copies thereof. If current articles have already
been filed, the application need only make specific reference to such
filings.)
4. Applicant is authorized to transport (concise statement
of operating authority held by applicant and commodities it is
authorized to transport).

* For Section 452 authority to assess less than a maximum
reasonable rate, the filing must be made as a petition in the
appropriate minimum rate case.

5. Authorization is requested to deviate from minimum rates for the transportation of (describe commodity and the form in which it is to be transported) between (name point or points of origin) and (name point or points of destination) for (name of shipper for whom the transportation is to be performed for not more than one year.

6. Minimum rates for said transportation, provided in Minimum Rate Tariff No. _____, are as follows: (Show applicable minimum rates and the unit of measure in which they are stated.)

7. The following rates are proposed for said transportation: (Show proposed rates and provisions governing their application. If the proposed rates are predicated upon a minimum quantity of freight per load, per day or other period of time, state whether such minimum is guaranteed. Show the rates to be applied if such minimum is not met. Show additional charges, if any, to be assessed for split pickup, split delivery or other accessorial services.)

8. This application is based upon the following facts and circumstances: (Set forth information specified in paragraphs 9 through 17 below.)

9. Describe the transportation to be performed, including methods utilized in loading and unloading equipment. State whether loading and/or unloading will be performed by the carrier or by the shipper and/or consignee.

10. State whether the transportation will be performed regularly or periodically, show the anticipated volume of movement in terms of loads per day or other specified period of time.

11. Show the estimated cost of performing the transportation for which deviation authority is sought. The statement should include the development of labor costs, vehicle fixed costs and mileage costs, other direct costs and allocations of administrative and other indirect costs. Overall cost should be expressed in terms of cost per 100 pounds, cost per load, or other appropriate unit of measure (if subhaulers are involved, see paragraph 15).

12. Show expected revenue from the transportation for which deviation authority is sought in terms of revenue per 100 pounds, revenue per load or other appropriate unit of measure that will permit evaluation of the profitableness of the service at the proposed rates. Explain the method or methods used in developing the revenue figures.

13. Letter of support from shipper.

14. Identification of any carrier(s) presently providing the specific service as sought by the applicant.

15. If authority is sought to utilize subhaulers to transport the commodity at a lesser rate or charge than that sought by the applicant, the following facts and statements must be submitted and joined with the filing of the application:

A. Name of subhauler(s) as registered with the Commission.

B. Permit number(s) of subhauler(s).

C. Current address(es) of subhauler(s).

D. A detailed financial statement from each subhauler showing its total gross revenues and expenses for the last fiscal year (a profit and loss statement), and a balance sheet.

E. A detailed financial statement from each subhauler showing its total revenues and expenses in performing the transportation for the prime carrier for the last fiscal year and the subhauler's projected revenues and costs for the specific transportation sought under this application.

16. Other facts relied upon to support the reasonableness of the proposed rate.

17. Attached is the applicant's latest available balance sheet, dated _____, 19__, and an income statement for the latest fiscal year ending _____, 19__.

18. Applicant will furnish a copy of this application to any interested party upon written request.

Renewal applications must additionally include:

19. Applicant requests that the authority first granted in Decision (number) , dated _____, in Application (number) , under which authority was first granted to expire (date) , be renewed for a period not to exceed one year. (If authority was subsequently renewed, show the number and date of the most recent decision authorizing such renewal together with the related application number.)

20. Revenue, expense and cost statements showing that the transportation involved has been profitable during the previous year and reasonably may be expected to be profitable during the ensuing year.

21. Copies of this application have been served upon the parties of record in the proceeding involving the original deviation, and upon parties in any subsequent proceedings, and upon additional parties who may have an interest in this filing:

(Show list of parties.)

Applicant will furnish a copy of this application to any interested party upon request of the Commission.

Dated at _____, California, this _____
day of _____, 19__.

Signature: _____
Title: _____
Address: _____
Telephone Number: _____

Verification

(Where Applicant Is an Individual)

I am the applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(Date) (Name of City)

(Applicant)

Verification

(Where Applicant Is a Corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(Date) (Name of City)

(Signature and Title of Corporate Officer)

Certificate of Service

I hereby certify that a true copy of the foregoing application has been served by (specify method of service) upon each of the following:

(List names and addresses of parties served.)

Dated at _____, California, this _____
(Name of City) (Day)
of _____, 19__.
(Month)

(Signature of Person Responsible for Service)