

Decision No. 28928

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of maximum or minimum, or maximum and minimum rates, rules and regulations of all Radial Highway Common Carriers and Highway Contract Carriers operating motor vehicles over the public highways of the State of California, pursuant to Chapter 223, Statutes of 1935, for the transportation for compensation or hire of any and all commodities and accessorial services incident to such transportation.

Case No. 4088 (Part "D", Rates for Transportation of Fresh Fruit)

In the Matter of the Investigation and Establishment of rates, charges, classifications, rules, regulations, contracts and practices, or any thereof, of Common Carriers, applicable to the transportation of fresh fruits.

Case No. 4115

**ORIGINAL**

APPEARANCES

A list of the appearances in Case No. 4088 is contained in Decision No. 28761 in Part "A" of this proceeding (39 C.R.C. 732).

Appearances in Case No. 4115

- Edward M. Berol, for Truck Owners Association of California.
- Guy V. Shoup, J.E. Lyons, J.J. Geary and Morton G. Smith (by Morton G. Smith), for Northwestern Pacific Railroad Company, Pacific Motor Transport Company, Pacific Motor Trucking Company and Southern Pacific Company.
- Edward Stern, for Railway Express Agency, Inc.

BY THE COMMISSION:

O P I N I O N

Case No. 4088 has been instituted pursuant to the mandate of the legislature contained in Section 10 of the Highway Carriers' Act (Chapter 223, Statutes 1935). A full discussion of its purpose, the procedure to be followed and other matters of general concern relating to the proceeding is contained in Decision No. 28761, issued April 27, 1936 in Part "A" of the Case (39 C.R.C. 732).

The subject of rates, rules and regulations for the trans-

portation by radial highway common carriers and highway contract carriers of fresh fruits, including pears, between points located in Lake County on the one hand and other points in the State of California on the other, has for convenience been designated as Part "D" of Case No. 4088. Case No. 4115 is an investigation on the Commission's own motion into the lawfulness of the rates of common carriers transporting fresh fruits, including pears, between points in Lake County on the one hand and other points in the State of California on the other. Both proceedings were heard on a common record before Examiner Hunter at Lakeport, California. The evidence received at the hearing, however, was largely confined to rates for the movement of fresh pears, the principal agricultural product of Lake County. Likewise, it appears from the record that the principal producing area is confined to that section of Lake County lying south and west of Clear Lake and extending from Kelseyville on the south to Upper Lake on the north. Lakeport is located in the approximate center of this area. For convenience it will hereinafter be referred to as the Clear Lake Basin.

The record indicates that pears are ordinarily packed and prepared for marketing between August 1 and October 1 of each year. Inasmuch as neither storage facilities nor canneries are located in the Clear Lake Basin, practically all of the crop is transported elsewhere for canning or marketing. Market price fluctuation is said to be the principal factor in determining the volume of the annual pear movement to canneries.

In general, pears may be said to move from the orchards to packing houses located in Clear Lake Basin and from such packing houses to rail facility, market or cannery. The evidence shows that pears are usually and ordinarily transported in standard packing boxes when moving to eastern or foreign markets; when marketed locally or moved to canneries they are transported in open lug boxes.

Clear Lake Basin is situated in a valley and all of the highway outlets involve mountain grades. It is not served by rail facility, the closest rail junction points being Hopland, Ukiah, Calistoga and Williams. The record shows, however, that of the traffic that is transported from Clear Lake Basin by motor truck for rail movement, the preponderance is interchanged at Hopland.

During the course of the hearing, the Commission's Engineering Division presented a study of the minimum cost of transporting fresh fruits (pears) from Clear Lake Basin for varying distances. A 50 per cent load factor was employed.<sup>1</sup> While the shipping season for pears is but approximately sixty days in duration, a use factor of 200 days per year was employed. In the opinion of the engineers this gives reasonable recognition to the availability of motor trucking equipment for the transportation of the other commodities through out the year. Based on these factors, costs in dollars per ton for varying distances were developed for the transportation of varying quantity shipments. The following tabulation shows the costs thus developed.

Between Clear Lake Basin : and the points indicated :	Size of Shipment - Pounds	
	20,000	30,000
Hopland-(Via Ukiah)	\$1.86	
Hopland-(Via Summit)	1.82	
San Francisco-(Via Summit)	5.785	\$4.485
San Francisco-(Via Ukiah)	5.955	4.625
Oakland (Via Summit)	5.92	4.46
Oakland-(Via Ukiah)	6.09	4.61
Oakland-(Via Calistoga)	5.52	4.24
Los Angeles-(Via Williams)		14.84
Sacramento-(Via Williams)	5.41	4.04

1. The record indicates that with the exception of empty lug boxes returning from canneries and local markets, little return traffic is available.

In addition to the exhibit presented by the Commission's engineer, a study was made and introduced in evidence by the Truck Owners' Association of California. The costs developed in this study are somewhat higher than those constructed by the Commission's engineer, as illustrated in the following tabulation:

(Costs are in Cents per 100 Pounds)

Point of Destina- tion	Commission Engineering Division Study (Ex.D-1)		Truck Owners Assn. of Calif. (Ex.D-6)		
	Size of Shipment		Size of Shipment		
	10 Ton	15 Ton	6 Ton	10 Ton	16 Ton
Hopland	9½	-	12½	-	-
San Francisco	29	22½	62	41	35½
Oakland	29	22½	57	38	31
Sacramento	27	20½	59½	38½	30½
San Jose	35	26½	76½	30	40½

The record shows that the variation in costs developed by the two witnesses and illustrated in the foregoing tabulation is largely due to the fact that different use factors were employed. The costs constructed by the Commission's engineer for distances of 50 to 200 miles are based upon the assumption that in such service, trucking equipment operating 200 days per year would operate in excess of 45,000 miles per year while the costs shown in the study of Truck Owners' Association are based on an annual operation of 60 days and approximately 10,500 miles per truck per year.

A group of carriers engaged in transporting pears from Clear Lake Basin filed a petition with the Commission seeking approval of the following truck-load rates on pears:

Lake County to San Francisco	\$6.00 per ton
Lake County to East Bay points	5.50 " "
Lake County to Sacramento	5.00 " "
Lake County to Los Angeles	12.00 " "
Lake County to Hopland (Standard packed boxes)	.06 per box
Hopland to Lake County	2.50 per ton
Lake County to Hopland (Los Angeles lugs)	.03 per box
Lake County to San Francisco (S.F. Market lugs)	.15 " "

2 The petition was signed by: J. Paulsen, Mrs. J.A. Keithley, M.W. Prather, Rutherford E. McMahon, Charles Kuppinger, Guido de Ghetaldi, Tom Campbell and R.L. Young.

This petition was endorsed by numerous shippers said to control approximately 65% of the Clear Lake Basin pear traffic.<sup>3</sup>

While the foregoing rates are said to be acceptable to a large number of shippers of pears, little evidence was offered to justify their volume as proper minimum rates for the transportation services here involved. Moreover, the proposal fails to recognize the difference in operating costs incurred in transporting pears in varying quantities.

Exhibits were presented by a member of the Commission's Rate Division showing an historical study of common carrier rates, present common carrier rates and minimum rates for radial highway common and highway contract carriers sufficient in volume to return the operating costs developed in the engineer's cost study. The rates thus developed are as follows:

		(Rates are in Cents per 100 Pounds)	
From	:	Kelseyville - Lakeport	
		Minimum Weight in Pounds	
To	:	20,000 Lb.	30,000 Lb.
Hopland	:	9½	-
San Francisco )	:	29	22½
Oakland )	:		
Sacramento	:	27	20½
Los Angeles	:	-	74½
Niles	:	32	24
San Jose	:	35	26½

Minimum rates for the transportation of property including fresh fruits between points in California served by common carriers, except from or to points in the Coachella and Imperial Valleys south of Indio, on the one hand, and other points in the State on the other

<sup>3</sup> The endorsement, however, is subject to the following qualification: "While we believe them (proposed rates of carriers) to be fairly reasonable, we would not consent to any further raise in these rates."

hand, in lots of less than 4000 pounds were established in Decision No. 28761 in Part "A" of this proceeding and are now in effect. The record here neither requires nor justifies the establishment of minimum rates on pears from and to the points here involved in lots of less than 4000 pounds differing in volume from those heretofore established and now in effect. Indeed there is no evidence that pears are transported between the points here involved in lots of less than 4000 pounds.

As hereinbefore stated, empty lug boxes are transported in return movement from the local markets and canneries to Clear Lake Basin. The record indicates that it has been the custom to perform this service without additional charge over and above that assessed for transporting the pears to the markets and canneries. On the other hand, the evidence indicates that additional expense is incurred in performing this service. Appropriate rates designed to return the added cost of transporting empty carriers returning should be established at this time.

Split delivery service is occasionally rendered in the transportation of pears, two or more deliveries of one lot being made to two or more consignees at one or more destinations. It appears that no additional charge is made in such instances. It is apparent, however that added expense is incurred and appropriate rules and regulations designed to return such added expense should be included in this order.

As in the case of shipments weighing less than 4000 pounds, and for the same reasons, a form of shipping order and freight bill substantially in the form adopted and set forth in Decision No. 28761 in Part "A" of Case No. 4088 for shipments weighing less than 4000 pounds should likewise be prescribed for use in connection with the transportation of each shipment of pears and empty lug boxes returning transported between the points involved herein.

Upon consideration of all the facts of record, it must be concluded and found:

1. That the minimum rates, rules and regulations set forth in Appendix "A" hereof are justified and should be established as the just, reasonable and non-discriminatory minimum rates for the transportation by radial highway common and highway contract carriers of fresh pears and empty carriers returning between the points involved in Part "D" of Case No. 4088.

2. That transportation conditions and competition do not justify the maintenance by highway common carriers of rates for the transportation of fresh pears and empty carriers returning between points here involved lower than the minimum rates set forth in Appendix "A" hereof.

#### ORDER

Public hearings having been held in the above entitled proceedings and based upon the evidence received at the hearings therein, and upon the conclusions set forth in the preceding opinion:

IT IS HEREBY ORDERED that the rates, rules and regulations set forth in Appendix "A" attached hereto and made a part hereof, be and they are hereby approved and established, to become effective July 20, 1936, as the just, reasonable and non-discriminatory minimum rates, rules and regulations to be charged, collected and observed by all radial highway common carriers and highway contract carriers, as defined in Chapter 223, Statutes of 1935, for the transportation of fresh pears and empty carriers, returning, over the public highways from and to the points involved herein and set forth and included in said Appendix "A"

IT IS HEREBY FURTHER ORDERED that the minimum rates herein established for the transportation of empty carriers, returning, supersede the minimum rates established in Decision No. 28761 in Part "A" of Case No. 4088.

IT IS HEREBY FURTHER ORDERED that Mervin W. Prather, Mrs. J.A. Keithly, Charles Kuppinger, Guido de Ghetaldi, A. M. Atkins, The Herrick Company, C.F. Frederickson & Sons, Wilbur Springs Stage Company, Pacific Greyhound Lines, Inc., Railway Express Agency and Pacific Motor Transport Company, be and they are hereby ordered to cease and desist on or before July 20, 1936, and thereafter abstain from applying, demanding, collecting or receiving for the transportation of the articles and commodities described in Appendix "A" hereof from and to the points involved herein, rates less than those set forth in said Appendix "A" hereof.

IT IS HEREBY FURTHER ORDERED that the respondents named in the next preceding paragraph and each of them be and they are hereby ordered and directed to establish on or before July 20, 1936, upon not less than three (3) days' notice to the Commission and the public for the transportation of the articles and commodities described in Appendix "A" hereof, from and to the points involved herein, rates no lower than those set forth in said Appendix "A" hereof.

IT IS HEREBY FURTHER ORDERED that every radial highway common carrier and highway contract carrier shall issue to the shipper, for each shipment received for transportation, a freight bill in substantially the form set forth in Appendix "B" hereof, but may include in said freight bill, in addition to the provisions appearing on said form, such other reasonable and lawful provisions as may be deemed proper, and shall retain and preserve for reference, subject to the inspection of the Commission or its employees, a copy of said freight bill for a period of not less than three (3) years from the date of its issuance.

IT IS HEREBY FURTHER ORDERED that the Commission shall and it does hereby retain jurisdiction of these proceedings for the purpose of establishing or approving the just, reasonable and non-discriminatory maximum and minimum or maximum or minimum rates, charges, classifications, rules and regulations to be charged, collected and observed by radial



highway common carriers and highway contract carriers both for transportation service hereinabove described and for other transportation and accessorial services as may from time to time appear proper in the light of other or further evidence received herein and for the purpose of establishing and prescribing such rates as will provide an equality of transportation rates for the transportation of the articles and commodities here involved between all competing agencies of transportation.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of June, 1936.

W B Harris

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Walter Brown  
David R. Brown

Commissioners.

APPENDIX "A"

naming

Minimum Rates and Rules and Regulations

for the

Transportation of Fresh Pears

and

Empty Carriers, returning

from and to points in Lake  
County on the one hand, and  
other points in California  
on the other hand.

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## EXPLANATION OF TECHNICAL TERMS AND ABBREVIATIONS

POINT OF ORIGIN means the precise location at which property is picked up or to be picked up and loaded in or on equipment of the carrier for transportation.

POINT OF DESTINATION means the precise location at which property is discharged or to be discharged from the equipment of the carrier.

SHIPMENT means a lot received from one shipper on one shipping order or bill of lading at one point of origin at one time for one consignee and one destination.

SPLIT PICK-UP SHIPMENT means a lot received from two or more consignors on one shipping order or bill of lading located at a single origin or at points intermediate between the point of origin farthest from destination and destination, to one consignee at one destination.

SPLIT DELIVERY SHIPMENT means a lot received from one consignor on one shipping order or bill of lading at one point of origin to two or more consignees located at a single destination or at points intermediate between the point of origin and the most distant point of destination.

## RULES AND REGULATIONS

PICK-UP AND DELIVERY: Rates named herein include pick-up at point of origin and delivery at point of destination.

ASSESSMENT OF CHARGES: Charges will be assessed upon the gross weight of the shipment. No allowance or deduction will be made for the weight of containers.

ACTUAL WEIGHT VERSUS MINIMUM WEIGHT: When the charges accruing on a shipment based upon actual weight exceed the charges computed from a rate based upon the next greater unit of minimum weight, the latter will apply.

CHARGES FOR SPLIT PICK-UP AND SPLIT DELIVERY SERVICE:

Split Pick-up and Split Delivery Service, as defined in this Appendix, may be rendered only when the entire lot of property weighs 4,000 pounds or more. The minimum charges for such transportation services shall be computed on the following basis:

(1) In split pick-up service, the weight of each component part picked up from each consignor at the rate applicable for the entire lot from the highest rated point of origin to destination plus a sum equal to 1 cent per 100 pounds for the weight of each pick-up but in no case less than 25 cents per pick-up.

(2) In split delivery service, the weight of each component part of the entire lot at the rate applicable for the entire lot from point of origin to the highest rated point of destination of any part of the entire lot plus a sum equal to 1 cent per 100 pounds for the weight of each delivery but in no case less than 25 cents per delivery.

PEARS, fresh, in packages.  
 (Rates are in Cents per 100 pounds.)

FROM: Points in Lake County not more than 20 miles  
 distant by highway from Lakeport.

TO Points :  
 located within :  
 the city limits: MINIMUM WEIGHT IN POUNDS  
 of : 4,000 : 18,000 : 30,000

*Hopland	15	11	10
Ukiah	15	11	10
Santa Rosa	28	19	15
Petaluma	32	21	17
San Francisco	48	33	27
Oakland	48	33	27
Alameda	48	33	27
Emeryville	48	33	27
Berkeley	48	33	27
Albany	48	33	27
El Cerrito	48	33	27
Richmond	48	33	27
San Leandro	48	33	27
Hayward	52	35	28
*Niles	52	35	28
*Centerville	52	35	28
San Jose	58	38	30
Santa Clara	58	38	30
Sunnyvale	58	38	30
*Campbell	58	38	30
Sacramento	48	33	27
Stockton	55	40	32
Modesto	60	45	35
Los Angeles	-	-	65

\*Rates apply to and include delivery to points located  
 within a radius of not more than 2 miles of the rail  
 depot.

CARRIERS, empty, returned, or when shipped for a return pay load via the same carrier as the outbound movement					
TO points in Lake County not more than 20 miles distant by highway from Lakeport.					
FROM	:Rate : : in : : points lo- : : cated with- : : in the City : : Limits of :	FROM	:Rate : : in : : points lo- : : cated with- : : in the City : : Limits of :	FROM	:Rate : : in : : points lo- : : cated with- : : in the City : : Limits of :
	cents: per 100 lbs.		cents: per 100 lbs.		cents: per 100 lbs.
*Eopland	6	Albany	14	Santa Clara	15
Ukiah	6	El Cerrito	14	Sunnyvale	15
Santa Rosa	8	Richmond	14	*Campbell	15
Petaluma	9	San Leandro	14	Sacramento	14
San Francisco	14	Hayward	14	Stockton	16
Oakland	14	*Niles	14	Modesto	18
Alameda	14	*Centerville	14	Los Angeles	33
Emeryville	14	San Jose	15		
Berkeley	14				

\*Rates apply from and include pick-up at points located within  
a radius of not more than 2 miles of the rail depot.

APPENDIX "B"

SHIPPING ORDER AND FREIGHT BILL

Bill No. \_\_\_\_\_

Name of Carrier \_\_\_\_\_ Permit No. \_\_\_\_\_  
 (Name of Carrier must be same as shown  
 on Permit)

Point of Origin \_\_\_\_\_ Date \_\_\_\_\_ 193\_\_\_\_  
 Shipper \_\_\_\_\_ Consignee \_\_\_\_\_  
 Street Address \_\_\_\_\_ Street Address \_\_\_\_\_  
 City \_\_\_\_\_ City \_\_\_\_\_

Packages Kind	Description of Commodities	Weight	Rate	Charges

	<u>Check here</u>		
Shipper _____	Origin	Destination	
By _____			C. O. D. _____
(Show name in full)	Store	Store	C. O. D. Fee _____
	Terminal Door	Terminal Door	
Received by Carrier in good condition except as noted			*Advances _____
By _____			*Other charges _____
(Driver show name in full)			Prepaid _____
Received by Consignee in good condition except as noted			Total to Collect _____
By _____			
(Show name in full)			

\*Show each charge separately and what it represents.  
 \*\*If other unit of charges, show per box, crate, bundle, bag, head, etc.