

Decision No. 30912

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 "F"

ORIGINAL

In the Matter of the Investigation and Establishment of rates, charges, classifications, rules, regulations, contracts and practices, or any thereof, of Common Carriers of grain and grain products, and related articles.

Case No. 4118

BY THE COMMISSION:

FIRST SUPPLEMENTAL ORDER AND ORDER DENYING PETITIONS FOR REHEARING, RECONSIDERATION OR MODIFICATION

Petitions for rehearing, reconsideration and modification of Decision No. 30640, dated February 14, 1938, in the above entitled proceedings, have been filed by Albers Bros. Milling Co.; California Hay, Grain & Feed Dealers Association; Poultry Producers of Central California; California Milling Corporation, et al.; and D. L. Robinson. The Commission has carefully considered each of said petitions and each and every allegation therein contained and is of the opinion that Finding No. 2 of Decision No. 30640 relating to the reasonableness and sufficiency of the temporary rates maintained by common carriers which are lower in volume or effect than the rates established as minimum for highway carriers, should be vacated. Other minor modifications relative to commodity descriptions, split delivery and split pick-ups following harvesters should be made. With these exceptions the Commission is of the opinion that no good cause for the granting of said petitions has been made to appear.

Objections are contained in several of the petitions to the finding heretofore referred to and to the provision contained in said Decision No. 30640, to the effect that the "temporary" rail rates may not be extended beyond May 31, 1938. The latter provision was directed against the rate structure as a whole. Although it has been continued for temporary periods since 1933, it contains maladjustments and inconsistencies. The provision that the "temporary" rates might not be extended beyond May 31, 1938, was not a finding by the Commission that the "permanent" rates were just, reasonable, sufficient and non-discriminatory. The record before the Commission showed that the grain rate structure as a whole was in need of revision. For this reason the Commission issued its order more than three months prior to May 31, 1938, in the expectation that the rail lines would promptly commence the development of a reasonable and consistent grain rate adjustment. However, the rails contend that because of the magnitude of this task they will be unable by June 1, 1938, to readjust grain rates on an equitable basis. Unless such an adjustment is made effective June 1, 1938, the "permanent" rates will automatically become effective. If this is allowed to occur the Commission is of the opinion that, in many cases, shippers may suffer irreparable injury. In view of these circumstances the vacation of Finding No. 2 of Decision No. 30640, dated February 14, 1938, in the above entitled proceeding, relating to the reasonableness and sufficiency of the "temporary" rates maintained by common carriers is justified. With the vacation of this finding the common carriers should continue in effect the temporary rates.

Upon further consideration of the record and good cause appearing,

IT IS HEREBY ORDERED that Finding No. 2 of Decision No. 30640, dated February 14, 1938, in the above entitled proceedings relating to the reasonableness and sufficiency of the temporary

rates maintained by common carriers, be and it is hereby vacated and set aside.

IT IS HEREBY ORDERED that List 4, Item No. 20, Appendix "A" of Decision No. 30640, dated February 14, 1938, in the above entitled proceedings, be and it is hereby amended by substituting the following commodity descriptions for those set forth in the first portion of said List 4 under the general heading "Feed, Animal or Poultry, and other articles not prepared for human consumption, viz.:"

"LIST 4:

Feed, Animal or Poultry, and other articles not prepared for human consumption, viz.:

Feed, Animal or Poultry (except cooked or baked cakes, biscuits, or bread - See Note 1), consisting of mixtures or blended products containing 70% or more by weight of two or more of the following articles (except as noted).

Grain or Grain Products specified in Lists 1 or 2,

Alfalfa)	
Barley Hay Feed)	
Bean Straw Feed)	cut or ground
Clover Feed)	
Sorghum Feed)	

The following articles not to exceed 70% of the total weight of such prepared animal or poultry feed:

Bran, cottonseed,
Cake or Meal, viz.:

Babassu Nut,	Perilla Seed,
Cocconut (Copra),	Rape Seed,
Corn Germ,	Sesame Seed,
Corn Oil,	Soya Bean,
Cottonseed,	Sunflower Seed,
Hemp Seed,	Tucum Nut,
Kapok Seed,	Velvet Bean
Linseed,	Hulls, cottonseed, whole
Mesquite,	or ground,
Palm,	Milk or Buttermilk, dried,
Palm Kernel	Milk, sour skim,
Peanut	Molasses, viz.: Black Strap,
	Beet Sugar Final, or Corn
	Sugar Final (Hydrol),
	Rice Bran, Hulls or Polish

Note 1.- Steaming as a preliminary to further process of manufacture to produce animal or poultry feed as described herein shall not be considered cooking."

IT IS HEREBY FURTHER ORDERED that List 7, Item No. 20 of said Appendix "A", be and it is hereby amended by substituting the following commodity descriptions:

"LIST 7:

Food Preparations, (not included in other lists) viz:

Cereals, cooked (Prepared cereals ready for human consumption but without further cooking)
Bran; bran and wheat combined, flaked; or bran or bran and wheat combined with dried fruit, flaked or shredded,
Corn, roasted,
Flaked or shredded,
Compressed and then crumbled,
Not compressed, in flakes, or in forms not flat,
Flaked wheat and grained flaxseed, combined,
Granulated,
Hollow Forms, (Food preparations made of flour and cut from tubes),
Oats, flaked and toasted,
Puffed,
Rice, rolled and toasted,
Cereal (cracked, ground, granulated, hulled or rolled cereals, partially prepared for human consumption, but requiring cooking)."

IT IS HEREBY FURTHER ORDERED that the following new items be and they are hereby added to said Appendix "A":

"ITEM No. 73 - PICK-UPS FOLLOWING HARVESTERS

When commodities for which rates are provided in this appendix are picked up from several points in one field, at which points they have theretofore been deposited by the harvester, the point of origin will be deemed to be the point at which the load is completed. A charge of \$2.00 per hour shall be assessed for the aggregate time in excess of 20 minutes per ton consumed in performing such pick-ups.

ITEM No. 95 - SPLIT DELIVERY UNDER RATES CONSTRUCTED BY USE OF COMBINATIONS WITH COMMON CARRIER RATES

Charges on shipments consisting of several component parts delivered to (a) one consignee at more than one point of destination, or (b) more than one consignee at one or more points of destination, may be computed by use of combinations with common carrier rates, as follows:

(1) Compute the charge applicable under Item No. 80 or Item No. 85 for the weight of the composite shipment from point of origin to any team track.

(2) Add to such charge the charges provided in Item No. 105 for a split delivery shipment (See Item No. 70) from the team track to which the common carrier rate used applies to the point of destination or points of destination of the several component parts (or for separate shipments of each component part, whichever is lower). (See Note.)

NOTE:- If the point of destination of any component part is within the limits of an incorporated city within which the team track is located, and no rate for transportation from the team track to such point of destination is provided in this tariff, the rates provided in Item No. 105 for transportation for distances of 3 miles or less, or rates established for transportation by carriers as defined in the City Carriers' Act (Chapter 312, Statutes of 1935, as amended), whichever are the lower, shall apply from such team track to such point of destination."

IT IS HEREBY FURTHER ORDERED that in all other respects said petitions be and they are and each of them is hereby denied.

In all other respects said Decision No. 30640 shall remain in full force and effect.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 26th day of May, 1938.

William H. Allen
Leon A. Whittell
Francis P. Kelly
Roger W. Abigail

COMMISSIONERS