

Decision No. 31828

ORIGINAL

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"

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

Case No. 4145

In the Matter of the Establishment of maximum and minimum, or maximum or minimum rates, rules and regulations of all common carriers, as defined in the Public Utilities Act of the State of California, as amended, and all highway carriers, as defined in Statutes 1935, Chapter 223, as amended, for the transportation, for compensation or hire, of any and all agricultural products.

Case No. 4293

Additional Appearance

F. W. Turcotte, for Carmichael Traffic Corporation and its members.

WAKEFIELD, Commissioner:

FOURTH SUPPLEMENTAL OPINION

By Decision No. 30640 of February 14, 1938, as amended, in Cases Nos. 4088 and 4118, the Commission established minimum distance rates for the transportation of grain, grain products and related articles by for-hire highway carriers throughout the State of California. Upon request of a number of interested parties a further hearing was had at Los Angeles on February 8, 1939, for the

purpose of receiving evidence relative to proposals that origin groups be established embracing the principal producing territories, and that specific rates be provided from such groups to consuming centers.

Eight witnesses representing Imperial Valley growers and shippers, and two highway carrier witnesses, testified in support of a proposal that the Imperial Valley be considered as one origin group, that rates now applicable from the city of Imperial be made applicable also from all other points in the proposed group, and that for local transportation from field to rail loading facility within the Imperial Valley an average rate be established in lieu of the present minimum rates which vary with the length of haul. The shipper witnesses testified not only on their own behalf, but also for members of the Imperial Grain Growers, Incorporated, the Imperial Flaxseed Association, and for growers and shippers generally; the carrier witnesses stated that in their testimony they represented a large number of carriers and shippers who had expressed themselves at an open meeting held recently in the city of El Centro.

These witnesses were uniformly and definitely of the opinion that it would be in the public interest that rates be blanket-ed from all points lying within the cultivated area of Imperial Valley. They explained that the valley is a distinct and clearly defined single agricultural area, that truck operators had in the past assessed uniform rates from all points in this area, and that rail tariffs today provide uniform rates on the commodities here involved from all stations within the valley. They stated that under the present minimum rate basis it is frequently impossible to determine the established minimum transportation charge on a given lot of grain without first computing the exact constructive mileage between the point of origin and the nearest rail depot or team track,

as well as between the point of origin and the final destination; and explained that although the precise location of the grain is sometimes unknown at the time its sale is being negotiated, nevertheless established purchasing and selling practices make it essential that transportation charges be readily ascertainable prior to purchase and movement. They stated that the necessary rate increases and reductions attendant upon the establishment of the proposed Imperial Valley group would not result in discrimination or undue disadvantages, and would meet with the approval of shippers and carriers alike.

Witnesses testified that substantially all of the grain and flaxseed produced in the Imperial Valley is shipped to mills in the Los Angeles Basin or in the San Diego area, and that while there is some local movement from fields to warehouses within the valley, there is no movement to points adjacent to the valley.

One witness testified that of the grain produced during the 1938 season by members of the Imperial Grain Growers, Incorporated, 10,656 tons were grown north of the city of Imperial and only 3,470 tons were grown south thereof. He stated further that 8,263 tons of the grain were produced within three miles of a rail shipping point, 4,044 tons more than three but not more than five miles, and only 1,827 tons more than five miles from rail. This witness and others said that little or no grain was grown more than ten miles from a rail station. He pointed out that under the present orders minimum transportation rates for distances of 10 miles or less varied from 3 cents to $4\frac{1}{2}$ cents per 100 pounds (subject to a minimum weight of 30,000 pounds), and stated that on this basis the average rate for transportation of the 1938 tonnage of his association from field to rail would have been 69.6 cents per ton, or approximately $3\frac{1}{2}$ cents per 100 pounds.

A witness for the Southwest Flaxseed Association stated that during the 1938 season 4,752 tons of flaxseed, representing about 85 per cent of the total crop, were produced by members of his association in the Imperial Valley. He testified that for the 1938 tonnage the average distance from field to nearest rail shipping point was 5.1 miles, and estimated that for the 1939 season the average distance would be somewhat less than five miles. He said that only a negligible quantity of flaxseed was produced more than ten miles from a rail shipping point.

Shipper witnesses agreed that the Imperial Valley Irrigation District embraced all of the cultivated area within the valley, and suggested that reference to that district be made for the purpose of designating the area from which the rates should be blanket-ed. Another suggestion was made that the description of Imperial Valley territory provided in Decision No. 30848 of May 9, 1938, in Case No. 4293 (which established minimum rates for the transportation of hay), be adopted here. The testimony indicates that the latter description embraces a territory substantially identical with that included within the Imperial Valley Irrigation District.

With the exception of testimony of one witness who stated in general terms that group rates are necessary in order that transportation charges may be readily computed prior to purchase and movement of grain, there are no proposals of record relative to grouping of other producing areas.

The grouping of producing territories is frequently accompanied by substantial practical difficulties. In order to establish just, reasonable and non-discriminatory rates on this basis the groups must of necessity be clearly and specifically defined, and must moreover be such as will not result in undue discrimination or unfair disadvantages. At a previous hearing in these proceedings,

held at San Francisco on November 22, 1938, the Commission received evidence relative to the proposed grouping of Imperial Valley points, and found at that time that the requested modifications had not been justified.¹

However, upon the later record now under consideration it has been clearly shown that the circumstances here are substantially different from those generally prevailing throughout the state; that the practical difficulties usually encountered in the establishment of large groups are not present in any important degree in this instance; that because of its physical and geographical situation the contemplated group may be clearly and specifically defined; that while the establishing of the group would necessarily somewhat increase rates from the nearest points and decrease them from the more distant points, such an adjustment would not in this instance result in undue disadvantages; that because of the rather uniform location of rail facilities with reference to points of production within the group a fair and equitable average rate may in this case be prescribed for transportation from field to nearest rail shipping point; and that it is in the public interest that the

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In reaching its conclusion the Commission said (in Decision No. 31626 of January 3, 1939): "While minimum rates should not unnecessarily disrupt accustomed selling practices, it does not appear that the desire of the grain brokers that the transportation rate be ascertainable before the origin point of the grain is known is sufficient reason for establishing equal rates from all points in a producing area in disregard of differences in the cost of performing the service and of other transportation characteristics attending individual hauls. Nor does the fact that Imperial Valley points are blanketed in the rail rate structure require that they be similarly blanketed for highway transportation. As pointed out in Decision No. 30640, supra, the propriety of the rail groupings has never been passed upon by the Commission. To the extent that the rail rates are lower than the basic truck rates they alternate with the truck scale. Neither has it been shown that the conditions found by Decision No. 30848, supra, to justify the blanketing of Imperial Valley points in connection with the transportation of hay exist to the same extent in connection with grain transportation. The requested modification will not be made."

proposed group and the proposed average rate be established.

Under the circumstances, and in view of the later and much more comprehensive record, it now appears that the proposed rate group should be established, and that average rates should be prescribed for certain local transportation within the group.

I recommend the following form of order.

O R D E R

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

IT IS HEREBY ORDERED that Appendix "A" of Decision No. 30640 of February 14, 1939, as amended, in Cases Nos. 4088 and 4118, be and it is hereby further amended as provided in Appendix "A-1" attached hereto and hereby made a part hereof, such amendments to become effective twenty (20) days from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that all highway common carriers, as defined in the Public Utilities Act, maintaining lower rates, rules and regulations, be and they are hereby ordered and directed to establish, to become effective twenty (20) days from the effective date of this order, on not less than five (5) days' notice to the Commission and to the public, rates, rules and regulations no lower in volume or effect than those provided in said Appendix "A" of said Decision No. 30640, as amended by prior orders and by this order, for the transportation of the commodities and between the points for which rates are provided in said Appendix "A", as amended.

IT IS HEREBY FURTHER ORDERED that all radial highway common carriers and highway contract carriers, as defined in the Highway

Carriers' Act, and all highway common carriers, as defined in the Public Utilities Act, be and they are hereby ordered to cease and desist twenty (20) days from the effective date of this order, and thereafter abstain from charging, collecting or observing rates, rules or regulations lower in volume or effect than those provided in said Appendix "A", as amended by prior orders and by this order.

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

This order shall become effective twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of March, 1939.

Robert H. Jones
Frank R. Nelson
Carl H. Tracy
H. B. Miller
Justus J. Cannon
Commissioners.

APPENDIX "A-1"

ADDITIONS AND CHANGES IN APPENDIX "A"
TO DECISION NO. 30640, AS AMENDED

1. Change Item No. 40-A to read as follows:

"Item No. 40-A - Computation of Distances

Distances shall be computed in accordance with Decision No. 31605 dated December 27, 1938, in Case No. 4088, Part 'N', Case No. 4145 and Case No. 4246, except that:

(a) For transportation between points lying within the Imperial Valley Irrigation District on the one hand and points lying without such district on the other hand, distances shall be those computed in accordance with said Decision No. 31605 from or to the city of Imperial."

2. Amend Item No. 105 by inserting the symbol "(1)" before the letter "A" at the head of the columns for minimum weights of 10,000 pounds, 20,000 pounds and 30,000 pounds, and by adding the following explanation of said symbol:

"(1) - Exception to Rates: For the transportation of Column A commodities within the Imperial Valley Irrigation District for distances of 10 miles or less, or for distances of more than 10 miles when movement is to a team track or to an established depot, the rates shall be as follows:

<u>Rates in Cents</u> <u>Per 100 Pounds</u>	<u>Minimum Weight</u>
5	10,000 Pounds
4	20,000 Pounds
3½	30,000 Pounds "

(End of Appendix "A-1")