

Decision No. 31996

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 common carriers as defined in the Public Utilities Act of the State of California, as amended, and all highway carriers as defined in Chapter 223, Statutes of 1935, as amended, for the transportation, for compensation or hire, of any and all commodities.

Case No. 4246

BY THE COMMISSION:

Additional Appearances

Burley, R. F., for McCormick Steamship Company  
Lyons, J. E., for Northwestern Pacific Railroad Company and Pacific Motor Trucking Company  
Shoup, Guy V., for Southern Pacific Company, Northwestern Pacific Railroad Company and Pacific Motor Trucking Company

SECOND SUPPLEMENTAL OPINION

By Decision No. 31606, as amended, in this proceeding, minimum rates of statewide application were established for the transportation of property generally by common carriers, radial highway common carriers and highway contract carriers. However, certain commodities found to require individual treatment were exempted in whole or in part from the application of that order. Among these exempted commodities was sugar, in quantities exceeding 5,000 pounds.<sup>1</sup> Thereafter, a public hearing was held in San Francisco before Examiner P. W. Davis for the purpose of receiving evidence relating specifically to rates for the latter transportation.

1. A provision was included that the charge for shipments of sugar weighing more than 5,000 pounds should not be less than the charge established as minimum for a shipment weighing 5,000 pounds. Also, the rate of 25 cents per 100 pounds previously established by Decision No. 31208, as amended, in this proceeding, for the transportation of sugar, in minimum quantities of 30,000 pounds, from San Francisco and Crockett to the Los Angeles Basin territory, was carried forward with changes only in certain rules and regulations.

At the hearing the Commission's senior engineer presented a study of the cost of transporting sugar in various types and sizes of truck equipment and for various lengths of hauls. Estimated costs were developed separately for 5, 10, 15 and 20-ton capacity vehicle units, and for representative load factors in each weight bracket. In addition, estimated costs were developed for the performance of the same service in plant facility vehicles. No other specific cost data were introduced, except that a representative of Holly Sugar Corporation presented an exhibit showing the actual costs said to have been incurred by his company in operating a 20-ton capacity tractor and semi-trailer unit from Swink, Colorado, to Colorado Springs, a distance of 208 miles per round trip. The costs shown on this exhibit are substantially lower than those developed by the Commission's witness for comparable transportation in this state, the difference being attributable largely to the absence of overhead costs in the exhibit. The witness did not attempt to show that costs experienced in connection with the particular transportation covered by the exhibit were representative of the cost of performing for-hire truck transportation within California.

A member of the Commission's Rate Division proposed (1) that rates for the transportation by highway carriers of sugar in quantities of less than 10,000 pounds be based upon 90 per cent of the 4th Class rates established by Decision No. 31606, supra; (2) that rates for minimum quantities of 10,000 and 20,000 pounds be based upon a scale related to the costs developed by the Commission's

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2. The witness for Holly Sugar Corporation stated that overhead costs had not been included for the reason that the overhead costs incurred in ordering and loading rail cars would, he believed, offset those incurred in supervising the proprietary operation.

engineer, not to exceed the Decision No. 31606 4th Class rates; (3) that rates for minimum quantities of 36,000 pounds be based upon a scale related to the estimated costs for 15 and 20-ton loads, not to exceed the Decision No. 31606 5th Class rates; (4) that common carriers maintaining rates for pickup and delivery transportation be required to establish for such transportation rates no lower than those found reasonable as minimum for highway carriers; and (5) that rail carload rates and vessel dock-to-dock rates be not changed in the absence of evidence as to their reasonableness.

In support of the proposal to use 90 per cent of 4th Class as minimum for shipments weighing less than 10,000 pounds, 4th Class for shipments subject to a minimum weight of 10,000 or 20,000 pounds, and 5th Class subject to a minimum weight of 36,000 pounds, the witness pointed out that no estimated costs, other than those designed for the transportation of general merchandise, had been developed for the transportation of sugar in quantities of less than 10,000 pounds but that in Decision No. 29480, as amended, in Part "M" of Case No. 4088, and in Decision No. 31606, supra, the Commission provided a rating of 90 per cent of 4th Class for this commodity.<sup>3</sup> In quantities in excess of 10,000 pounds, he claimed, the specific cost information in this record should be given effect, but the rates developed therefrom should not exceed the less-carload 4th Class rating or the carload 5th Class rating under which, assertedly, sugar has long been rated in the Western Classification.

Witnesses for the sugar interests stated that the scale proposed by the Commission's witness was generally satisfactory to them.

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3. In the Part "M" order the 90 per cent of 4th Class rating applies to sugar in quantities of 15,000 pounds or less within southern California. In Decision No. 31606, it applies to quantities of 5,000 pounds or less. A rating of 90 per cent of 4th Class was also established in Decision No. 30370, in Parts "U" and "V" of Case No. 4088, for the transportation of sugar within northern California in quantities of 7,500 pounds or less; however, sugar was exempted entirely from the application of that order before the rates became effective.

They claimed, however, that the rates established for the transportation of sugar in quantities of 10,000 pounds or more should in no case exceed 90 per cent of the established minimum 4th Class rates, rather than the 4th Class rates as suggested by the Commission witness. In support of this position they asserted (1) that a 90 per cent of 4th Class rating had been established by the Commission in other proceedings; (2) that prior to the establishment of minimum rates sugar had enjoyed commodity rates comparable to 90 per cent of the 4th Class rates; (3) that carriers had always willingly transported sugar at rates lower than those for which they would transport other 4th Class commodities; (4) that sugar has a greater density than many other 4th Class commodities; and (5) that sugar is not greatly susceptible to loss or damage.

Also, the witnesses for the sugar interests pointed out that in carrying forward into Decision No. 31606, supra, the rate of 25 cents per 100 pounds, which had previously been established for the transportation of sugar from San Francisco and Crockett to the Los Angeles Basin territory, the general split delivery rules permitting any number of component parts had been made applicable, whereas, theretofore, split deliveries had been limited to component parts weighing not less than 10,000 pounds. They claimed that the trade practices and conditions originally found by the Commission to justify this limitation still exist in the Los Angeles territory and asked that it be restored.

Neither the truck nor rail interests presented evidence relative to rates for the transportation of sugar.

The rates proposed by the Commission's witness appear to be reasonably related to the estimated costs of record and to the rates established in Decision No. 31606 for general merchandise carrying equivalent classification ratings. No sufficient justification for basing rates upon 90 per cent of 4th Class when lower than the estimated

costs of performing the service appears. While it is true that this rating has been employed by the Commission in previous orders, it should be borne in mind that a study of the cost of transporting this commodity has not been available heretofore. Representations that, from a relative standpoint, sugar is more economical to transport than are other 4th Class commodities, should not be allowed to outweigh specific cost information and cause a reduction below the normal classification rating. Instances where, prior to the establishment of minimum rates, sugar has enjoyed commodity rates equivalent to 90 per cent of 4th Class rates appear generally to be those in which sugar has been included in various grocery groupings which were subject to commodity rates maintained to meet unregulated truck competition. However, in Decision No. 31606, supra, it was found that grocery items should be rated thereafter under their normal classification ratings, except that in minimum quantities of 20,000 pounds and 30,000 pounds, respectively, a limited grocery group carrying ratings of 4th and 5th Class, respectively, should be provided. The scale proposed by the Commission's witness will be adopted.

In view of the representation that conditions attending the distribution of sugar in the Los Angeles Basin territory differ from those attending the distribution of other commodities, and require that split deliveries be restricted to component parts weighing not less than 10,000 pounds, the limitation previously applicable in connection with the rate of 25 cents per 100 pounds will be restored.

Upon consideration of all the evidence of record the Commission is of the opinion and finds that the tariff designated as Appendix "D" of Decision No. 31606, dated December 27, 1938, in this proceeding, should be amended as shown in the revised and new pages attached to and made a part of the order herein, and that in all other respects said Decision No. 31606, as amended, should remain in full force and effect.

O R D E R

An adjourned public hearing having been held in the above entitled proceeding, and based upon the evidence there received and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that the tariff designated as Appendix "D" of Decision No. 31606, dated December 27, 1938, in this proceeding, as amended, be and it is hereby further amended by substituting therein and adding thereto the revised and new pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

First Revised Page 2  
First Revised Page 9  
Second Revised Page 14  
Second Revised Page 15  
First Revised Page 39  
First Revised Page 68  
Original Page 68-A

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

The effective date of this order shall be thirty (30) days from the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day of May, 1939.

Ray B. ...  
Frank R. ...

Justus J. ...  
Commissioners

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 Cancels  
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HIGHWAY CARRIERS' TARIFF NO. 2

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\*Change, Decision No.

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 Correction No. 22 San Francisco, California.

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HIGHWAY CARRIERS' TARIFF NO. 2

INDEX OF COMMODITIES (Concluded)			
COMMODITY	Item Number	COMMODITY	Item Number
Stair Work	660,690	Trucks, Steam Boiler (M)	700-720
Stakes	660,690	Tubes, Boiler	700-720
Staves	660,690	Tubing, Cast or Wrought Iron	700-720
Steam Boiler Trucks (M)	700-720	Tubing, Plate or Sheet Iron	700-720
Steel, plate or sheet	700-720	Tubs, Cooling	700-720
Steps, pole, wooden	660,690	Underreamers	700-720
Stirrups, Disconnecting	700-720	Valves	700-720
Stock, battery separator	660,690	Valves, Pump Working Barrel	700-720
Stools, Window	660,690	Vegetables (not dehydrated, dried, evaporated nor fresh)	(1)
Stout	310,360,600	Veneering	660,690
Sugar	360,390,740,*750	Vermicelli	360
Swabs	700-720	Vermicelli (prepared)	(1)
Swivels, Hydraulic Rotary	700-720	Vinegar	(1)
Syrup	360,(1)	Wagons, Casing or Bit	700-720
Syrup, Fruit	360	Weinscoting	660,690
Syrup, grape juice	600	Washing Powders	730
Syrup, Malt	360,600	Washing Soda	730
Tank Material, wooden	660,690	Water	600
Tanks, Iron or Steel	700-720	Wedges	660,690,700,710,720
Tanks, oil and gas Separating (M)	700-720	Wedges, mine	660,690
Tank Steel	700-720	Welsh Rarebit	(1)
Tapioca	360	Wheels, Band, Bull or Calf	700-720
Tea	360	Window Seats	660,690
Telephone Cabinets	660,690	Wine	400
Temper Screws	700-720	Wire Rope	700-720
Templates, Box and Pin	700-720	Wobblers	700-720
Thief Hole Covers	700-720	Wrenches	700-720
Ties, railroad	660,690	Yeast	360
Timbers, mining	660,690		
Timbers, rough	660,690		
Tongs, pipe	700-720		
Tonics	600		
Tools, Drilling or Fishing	700-720		
Tools, Mechanics (M)	700-720		
Towers, Atmospheric Water Cooling	660,690,700,710,720		

(1) See "Canned Goods and Other Articles as described in Item No. 610 series."

(M) Denotes articles on which application of rates is limited to mixed shipments.

\*Change, Decision No.

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Correction No. 23



Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>40-B Cancels 40-A</p>	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES</p> <p>Rates in this tariff apply for the transportation of all commodities, except the following:</p> <p>Accessories, motion picture, Automobiles, set up, Baggage, Butter, dairy, Buttermilk, liquid, (Subject to Note 2), Carriers (used packages), empty returning or forwarded for return loads (Subject to Note 1), Cement, portland (building), Cement Clinker, Cheese (including cottage cheese and pot cheese), Commodities transported in bulk in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles, Cotton, Cream (Subject to Note 2), Directories, telephone, Eggs (other than shelled, dehydrated or frozen), Fertilizers, as described in Items Nos. 535, 540 and 550 series of the Exception Sheet, Film, motion picture, Fodder, bean, cane, corn or pea (Subject to Note 3), Fruit, dried, unmanufactured and unprocessed, (Subject to Note 8), Fruit, fresh (Subject to Note 4), Fungicides, agricultural, Grain, Grain Products and Related Articles (Subject to Note 5), Hay, (Subject to Note 3), Hops, Ice Cream Mix, unflavored, Insecticides, agricultural, Leaves, dried cactus (Subject to Note 3), Livestock</p> <p style="text-align: right;">(Continued)</p> <p>Logs (wood), Margarine, Milk, liquid (Subject to Note 2), Newspapers, Nuts, edible, in the shell, Petroleum or Petroleum Products, including Compounded Oils or Greases having a Petroleum base, as described under that heading in the Western Classification (Subject to Note 6), Pits, fruit, Poultry, live or dressed, Rice, viz.: Clean Rice, Paddy Rice and Brewers' Rice, Sand, Rock, Gravel, Road Building Material, Excavated Material, Building Materials, Asphaltic Concrete, Decomposed Granite and Stabilizing Materials when transported in dump trucks, Screenings, rice, Seed, cotton, Seeds, field, Straw (Subject to Note 3), *(Reference to Sugar eliminated), Sulphur, Used Property, uncrated, viz.: household goods, personal effects, furniture, musical instruments, radios, and office and store fixtures and equipment, as described in and for which rates are provided in Decision No. 29891 of June 28, 1937, as amended, in Case No. 4086, Vegetables, fresh, Vegetables, dried, viz.: Beans, Lentils, Onions, Peas, Pepper Pods, Voting Booths, Ballot Boxes, Election Tents and Election Supplies, when transported from or to polling places.</p>

\*Change, Decision No.

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Correction No. 24

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Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>40-B (Con- clu- ded) Cancels 40-A</p>	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES (Concluded)</p> <p>Note 1.-Includes only used empty carriers which are returning from an outbound paying load of traffic for which rates are not provided in this tariff, or which are being forwarded for a return paying load of traffic for which rates are not provided in this tariff (subject to Rule No. 130 of the Exception Sheet). Rates in this tariff will apply on empty returning pear containers for which rates are provided in Decision No. 29618 of March 22, 1937, as amended, in Case No. 4088, Part "D", to the extent that rates in this tariff are lower than those provided in said decision.</p> <p>Note 2.-Exemption applies only when commodities flagged subject to this note are shipped in milk shipping cans, in bottles in cases or crates, or in bulk in tanks.</p> <p>Note 3.-Rates in this tariff apply on commodities flagged subject to this note to the extent they are lower than rates provided in Decision No. 30848 of May 9, 1938, as amended, in Case No. 4293.</p> <p>Note 4.-Rates in this tariff will apply on fresh pears, to the extent they are lower than rates provided in Decision No. 29618 of March 22, 1937, as amended, in Case No. 4088, Part "D".</p> <p>Note 5.-Exemption applies on grain, grain products and related articles, as described in Decision No. 30640 of February 14, 1938, as amended, in Case No. 4088, Part "F". Rates in this tariff will apply on said commodities to the extent they are lower than rates provided in said decision, as amended.</p> <p>Note 6.-Exemption applies only as to shipments of the named commodities weighing more than 20,000 pounds. The charges assessed for shipments of such commodities weighing more than 20,000 pounds shall not be less than the charges provided in this tariff either specifically or by use of Items Nos. 200 to 240 series, inclusive, for shipments of the same commodity (or the same commodities in the same proportion) weighing 20,000 pounds.</p> <p>*Note 7.-Canceled.</p> <p>Note 8.-Exemption applies only as to dried fruit in its natural state and which has not been cleaned, washed, stemmed, fumigated or otherwise prepared or partially prepared for human consumption.</p>
	<p>*Change, Decision No.</p>
	<p style="text-align: center;">EFFECTIVE AS SHOWN ON ORIGINAL TITLE PAGE</p>
<p>Correction No. 25</p>	<p style="text-align: center;">Issued by The Railroad Commission of the State of California, San Francisco, California.</p>

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HIGHWAY CARRIERS' TARIFF NO. 2

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Concluded)	
	EXCEPTIONS TO WESTERN CLASSIFICATION AND EXCEPTION SHEET (Concluded)	Class Rating
370	Ice Cream, less carload .....	2
380	Salt, common, less carload .....	90% of 4
*390-A Cancels 390	*Sugar (Applies only in connection with rates which are subject to a minimum weight of less than 10,000 pounds) .....	90% of 4
400	Wine, domestic, having a declared value of not more than \$2.00 per gallon, less carload .....	4
*Change, Decision No.		
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Correction No. 26

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HIGHWAY CARRIERS' TARIFF NO. 2

Item No.	SECTION NO. 3		COMMODITY RATES (Continued) In cents per 100 Pounds	
	COMMODITY	FROM	TO	RATE
*740-A Cancels 740	Sugar, minimum weight 30,000 pounds	SAN FRANCISCO (See Item No. 260 series)  CROCKETT	LOS ANGELES BASIN TERRI- TORY as des- cribed in Item No.270 series	(1)(2)*(3) 25
	<p>(1) Subject to Item No. 900 series.</p> <p>(2) When accessorial services are rendered by carrier in connection with shipments moving under rate in this item the following charges shall be in addition to rate shown:</p> <p>(a) For loading or unloading other than tailgate loading or tailgate unloading - 2 cents per 100 pounds.</p> <p>(b) For other accessorial charges see Items Nos. 140 and 180 series.</p> <p>* (3) Item No. 170 series will apply in connection with rate in this item only when the weight of each component part is not less than 10,000 pounds.</p>			
*Change, Decision No.				
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Correction No. 27				

Item No.	SECTION NO. 3		COMMODITY RATES (Continued) In Cents per 100 Pounds		
	SUGAR				
	MILES		MINIMUM WEIGHT IN POUNDS		
	Over	But not Over	10,000	20,000	36,000
	0	3	6½	4	3½
	3	5	7	4½	3½
	5	10	7½	5	4
	10	15	8	5½	4½
	15	20	8½	6	5
	20	25	9	6½	5½
	25	30	10	7	6
	30	35	10½	7½	6½
	35	40	11	8	7
	40	45	12	8½	7½
	45	50	12½	9	8
	50	60	14	10½	9
	60	70	15½	11½	10
	70	80	17	13	11
	80	90	18½	14	12
*750	90	100	20	15½	12½
	100	110	21	16½	13½
	110	120	22½	18	14½
	120	130	23½	19	15½
	130	140	24½	20½	16½
	140	150	25½	21½	17½
	150	160	26½	23	18½
	160	170	27½	24	19½
	170	180	28½	25½	20½
	180	190	30	27	21½
	190	200	31	28	22½
	200	220	33	30	24½
	220	240	35	31½	26½
	240	260	37	33½	28½
	260	280	39	35	30
	280	300	41½	37	31½
	300	325	44	39	33½
	325	350	46	41½	35½
	350	375	48½	44	37½
	375	400	51	46	39½
	400	425	53½	48½	41½
	425	450	56	51	43½
	450	475	58½	53	45½
	475	500	61	55½	47½
	500	525	63½	58	49½

525	550	66	60	51½
550	575	68½	62½	53½
575	600	70½	65	55½
600	625	73	67	57½
625	650	75½	69½	59½
650	675	78	72	61½
675	700	80½	74	63½
*Change, Decision No.				
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