

Decision No. 32165

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. )

ORIGINAL

Case No. 4246

BY THE COMMISSION:

FOURTH SUPPLEMENTAL OPINION AND ORDER

Decision No. 31606, as amended, in the above entitled proceeding, established minimum rates, rules and regulations to become effective August 7, 1939, for transportation of property within California by common carriers, radial highway common carriers and highway contract carriers. At an adjourned hearing held in San Francisco on July 17, 1939, before Examiner P. W. Davis, evidence was received relative to the following matters, among others:

Approval of New Classification and of New Supplements to Exception Sheet

Highway Carriers' Tariff No. 2, in which the minimum rates established by Decision No. 31606, supra, as amended, are contained, is governed, except as otherwise provided therein, by Western Classification No. 67, C.R.C. No. 6 of J. P. Haynes, Agent, by Pacific Freight Tariff Bureau Exception Sheet No. 1-P, C.R.C. No. 597 (L. F. Potter series) of J. P. Haynes, Agent, and "by supplements to and reissues of said publications when such supplements and reissues

1

Evidence received at that time relative to matters other than those treated in this opinion will be disposed of later.

have been approved by the Commission." A rate witness for the Commission pointed out that Western Classification No. 67 has since been reissued as Western Classification No. 68, C.R.C.-W.C. No. 1 of R. C. Fyfe, Agent, and that several supplements of the latter classification as well as of the Exception Sheet have also been issued. He stated that the reissued Classification, Supplements 1 and 2 thereto, and Supplements 43, 46 and 48 to the Exception Sheet, were already in effect for common carrier transportation within California, within other western states, and for interstate transportation in the western district, and that, in his opinion, the changed ratings therein contained were just, reasonable and nondiscriminatory. He recommended their approval by the Commission as proper ratings to govern the minimum rates contained in Highway Carriers' Tariff No. 2. No one objected to this proposal. The reissued classification and new supplements will be approved.

#### Affording a Hearing to New Carriers

Carriers who had not previously been afforded an opportunity to be heard in this proceeding respecting the establishment of minimum rates, rules and regulations were duly served with notice of the adjourned hearing and were afforded an opportunity to be heard at that time. The Commission's rate witness recommended that Decision No. 31606, supra, be made applicable to all highway carriers, excepting only those carriers specifically exempted by Finding No. 14 thereof, as amended,<sup>2</sup> and carriers specifically authorized to transport at lower rates under Section 11 of the Highway Carriers' Act. He based this recommendation principally upon the fact that the decision was based upon cost studies, testimony of expert rate witnesses, and

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2

Finding No. 14 of Decision No. 31606, as amended, exempts certain specified carriers found to be engaging exclusively in specialized types of transportation.

of carrier and shipper representatives, which, taken cumulatively, portrayed conditions ordinarily encountered in average operations of reasonably efficient carriers, rather than operations of any particular carriers who appeared at the original hearings. There was no cross-examination of this witness nor was any additional evidence introduced in this regard.

As pointed out by the witness, the evidence upon which Decision No. 31606, supra, as amended, was based, related to average conditions encountered in varied types of operations. Rates, charges, accessorial charges, ratings, rules and regulations developed from that evidence were found in that decision to be just, reasonable and nondiscriminatory for all radial highway common carriers and highway contract carriers, as well as for the other carriers involved in the proceeding, and were established therein as the just, reasonable and nondiscriminatory minimum rates, charges and accessorial charges to be assessed, charged and collected, and rules and regulations to be observed by any and all such carriers. The opinion, findings and order in Decision No. 31606, as amended, appear equally proper and just, reasonable and nondiscriminatory for the carriers for whom the hearing herein referred to was provided. The recommendation will be adopted.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that Western Classification No. 68, C.R.C.-W.C. No. 1 of R. C. Fyfe, Agent, Supplements Nos. 1 and 2 thereof, and Supplements Nos. 43, 46 and 48 of Pacific Freight Tariff Bureau Exception Sheet No. 1-P, C.R.C. No. 597 (L. F. Potter series) of J. P. Hynes, Agent, be and they are hereby approved to govern Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended, in this proceeding).

IT IS HEREBY FURTHER ORDERED that the opinion, findings and order in said Decision No. 31606, as amended, in the above entitled proceeding, copies of which order and amendments thereto are attached hereto and hereby referred to and made a part hereof, be and they are hereby adopted as the opinion, findings and order herein.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day of July, 1939.

Charles D. Wilson  
Robert J. Kelly  
A. J. Barr  
Justus F. Caswell  
Commissioners.