

ORIGINAL

Decision No. 36726

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment)
of maximum and minimum, or maximum)
or minimum rates, rules and regula-)
tions of all common carriers, as de-)
fined 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

BY THE COMMISSION:

Additional Appearances

C. J. Riedy and George S. Beach,
for Cannery League of California.
Carl R. Schulz, for Walton G. Alford
and co-petitioners.

SUPPLEMENTAL OPINION

By prior orders in this proceeding minimum rates, rules, and regulations have been established for the transportation of fresh fruits and fresh vegetables between points within southern California, and from southern California to San Francisco Bay points.¹ This decision deals with a proposed cancellation of the rates based upon a minimum weight of 24,000 pounds for the transportation of fresh vegetables, including tomatoes, and melons, leaving as applicable to such shipments the higher rates prescribed for a minimum weight of 18,000 pounds.²

¹ The established rates are set forth in Highway Carriers' Tariff No. 8, which is Appendix "C" to Decision No. 33977 of March 11, 1941, as amended, in this proceeding. This tariff named minimum rates, rules, and regulations for the transportation of fresh or green fruits and vegetables; and for the transportation of empty second-hand containers returning from an outbound paying load or forwarded for a return paying load of said commodities.

² Petitioners first asked that the modification be made in connection with all fresh or green fruits and vegetables, but prior to conclusion of the hearing stipulated that the modification should be restricted to the commodities indicated above.

Evidence concerning the suggested change was received at a public hearing held at Los Angeles before Examiner Bryant.

The modification herein considered was proposed by twenty-nine petitioning highway carriers. Testimony in support of the proposal was offered by three of the carriers, and by the secretary-manager of an association of Los Angeles produce dealers and brokers. Resolutions favoring the proposal were offered on behalf of this and a similar association, and petitioners introduced in evidence a statement supporting the proposed modification signed by eight Imperial growers and shippers and by four wholesale produce dealers. In addition to this evidence, petitioners were permitted to file, after the hearing, statements of the gross revenue received for stated periods by two of the carriers from the transportation of produce in shipments of 24,000 pounds or more between points for which minimum rates were applicable. Annual reports of these two carriers for the years 1940 and 1941 were incorporated into the record by reference. Petitioners also submitted a brief in argument.

The modification was opposed by Southern California Freight Lines and Southern California Freight Forwarders. An officer of these companies expressed the opinion that if a rate increase was necessary it should not be limited to large shipments as here proposed, but should be applied to all weight brackets. He made no specific detailed proposals, explaining that this could not be undertaken until it was determined how much additional revenue the carriers might require.

It is not necessary for purposes of this decision to describe the evidence in detail. The information of record concerning gross and net revenue of two of the petitioning carriers for the years 1940 and 1941, and of a third carrier for 1941 only, discloses nothing of the sufficiency or insufficiency of any particular rate or rates. None of the carrier witnesses undertook to

estimate how much additional revenue his company had received or would likely receive from the general increase granted by Decision No. 35271 of April 14, 1942, in this and other proceedings. Without knowing, apparently, whether they were making or losing money at the existing rate level, petitioners are here asking for a substantial increase on an important part of their traffic.³ Assertions of one carrier witness that the rates based upon a minimum weight of 24,000 pounds are not compensatory, unsupported by cost evidence of probative value, afford little support for petitioners' allegation that the assailed rates are below the cost of performing the service.

Fundamentally, petitioners rest their case upon cost studies introduced in earlier phases of this proceeding and previously considered by the Commission. What they seek here, according to their brief, is "reconsideration of the judgment of the Commission that transportation considerations required that rates on 24,000 pound shipments of fresh vegetables be set far below the cost of the transportation." In Decision No. 33977, supra, the Commission reached the conclusion that the rates therein established accorded adequate treatment to the cost principle, as well as to other principles of rate making. No good reason appears from the present record for revising that conclusion. The rates have since been increased, as previously explained. Rate and cost comparisons set forth in petitioners' brief indicate that the petitioning carriers have overlooked or disregarded this rate increase as well as differences in weight minima, and have failed to recognize that the established rates are subject to additional charges for various accessorial services which were not separately

³ The increases would amount to 6 cents per 100 pounds from Imperial Valley to Los Angeles, 13 cents from Imperial Valley to San Francisco and 7 cents from Los Angeles to San Francisco. On the rates in question these increases are 24, 23, and 22½ per cent respectively. One of the carriers testified that 60 per cent of his tonnage from Imperial Valley to Los Angeles moves at rates subject to a minimum weight of 24,000 pounds.

treated in the cost studies.

The proposal to cancel rates based upon a minimum weight of 24,000 pounds has not been justified. The petition will be denied. This should not be construed as an affirmative finding that no rate increase should be permitted, either under transportation conditions at the time of the hearing or under those now existing. Our conclusion, simply stated, is that petitioners have not sustained the burden of proof.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the petition filed in this proceeding on April 9, 1942 by Walton G. Alford and others be and it is hereby denied.

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

Dated at San Francisco, California, this 23^d day of November, 1943.

Francis D. Haveman
J. P. Kelly
Justus D. Cramer
Robert D. Clarke
Francis O. Price
Commissioners