

Decision No. 37816

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 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.

ORIGINAL

Case No. 4293

BY THE COMMISSION:

Appearances

- Berol & Handler and Reginald L. Vaughan by Reginald L. Vaughan, for petitioner Truck Owners Association of California.
- Jack Bias, for Grower-Shipper Association of California.
- J. J. Deuel, for California Farm Bureau Federation.
- Maurice Harband, for Chester Bowles, Price Administrator, Office of Price Administration, and Fred Vinson, Director, Office of Economic Stabilization.
- J. E. Lyons and Wm. Meinhold, for Southern Pacific Company and Pacific Motor Trucking Company.
- Walter A. Rohde, for San Francisco Chamber of Commerce.
- W. G. Stone, for Sacramento Chamber of Commerce.
- A. C. Street, for Barclay Traffic Co. Division of Safeway Stores, Inc.

SUPPLEMENTAL OPINION

Minimum rates for the transportation of fresh fruits and vegetables from Monterey, San Benito, Santa Clara, Santa Cruz and San Mateo County points to Alameda, San Francisco and Santa Clara County points are sought in a petition filed by The Truck Owners Association of California.

Public hearings were had at San Francisco before Examiner Mulgrew. Thereafter, an examiner's proposed report was issued and served on the parties who were afforded opportunity to file exceptions.

The rates now maintained by the carriers are not uniform and are generally stated on a per-package basis. Petitioner and interested shippers urged that the establishment of uniform minimum rates on a weight basis was necessary in order to achieve rate and market stability, to avoid discrimination, and to preserve adequate and dependable highway carrier service. Petitioner introduced studies of minimum and of maximum costs and proposed rates based thereon. They are higher than the minimum and lower than the maximum costs. They are likewise generally higher than rates heretofore prescribed for like transportation between southern California points and from southern California to the San Francisco Bay area. In the main, the proposed rates are said to exceed the present rates for small shipments and to be less than the present rates for large shipments.

From his appraisal of the record, the examiner concluded that stability of highway carrier rates for the produce hauling involved was in the public interest and that it could be best achieved by the prescription of uniform minimum rates on a weight basis. The rates, he said, should be fair and nondiscriminatory for both shippers and carriers and of a volume that would tend to make adequate transportation available at the lowest reasonable cost. He recommended that the southern California rate scale, rather than the higher scale proposed by petitioner, be established. Rates on as high a level as that sought by petitioner, the examiner concluded, were not warranted in the light of the cost showing and other evidence of record. The southern California scale, on the other hand,

The southern California rates were prescribed by Decision No. 33977 of March 11, 1941, as amended, in this proceeding. They apply within an area comprised of the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, Los Angeles, Ventura, Santa Barbara and San Luis Obispo, and from that territory to an area bounded by San Francisco, San Jose and Richmond..

the examiner said would provide rates which had been shown to be necessary for the maintenance of adequate transportation facilities and to be reasonable and sufficient. He recommended that the rules and regulations which govern that rate scale be extended to the territory in issue but that the average of San Francisco and Oakland mileages applicable in connection with rates from southern California points to those cities be limited to points more than 70 miles distant from both cities as has been done in the case of general commodities.

Petitioner also introduced a study of additional expenses incurred in handling shipments refrigerated with top or body ice and proposed that charges be established for this service. The suggested charges vary according to the size of the equipment used in transporting the shipment. The examiner recommended restatement of these charges on a per-shipment basis so that different charges would not be applicable to shipments of the same quantity of produce depending upon the size of the equipment employed by the carrier, and so as to provide for allocation of the charge when two or more shipments are transported by the same unit of equipment.

It was proposed by the petitioner and recommended by the examiner that the entry of an order be withheld until it is determined whether or not contract carriers may observe the prescribed rates without conflicting with maximum price regulations of the Office of Price Administration.

The foregoing matters are dealt with at length in the examiner's proposed report and no useful purpose would appear to be served by a more detailed discussion in this opinion.

Only one exception to the proposed report was filed. In it Spreckels Sugar Company requests that transportation of sugar beets to railroad loading dumps be specifically exempted from the

recommended minimum rates. The sugar company points out that the transportation of fruits and vegetables to canneries, packing plants or sheds and precooling or processing plants is exempt from the southern California rates and is proposed to be exempted from the recommended rates, and that beets transported to a rail dump are handled in the same manner as those transported directly to the refinery or processing plant.²

Attention has also been directed to the fact that, apparently through error, the proposed report fails to include Santa Cruz County in the group of counties from which the recommended rates are to be applied.

We have reviewed the examiner's recommendations in the light of all of the evidence of record and have concluded that they should be adopted except in regard to the sugar beets and with respect to the Santa Cruz County points. As indicated by the exclusion of traffic moving to canneries, packing plants and other processing plants, the southern California rate basis which is to be extended to the territory in issue here is primarily a scale of rates for hauling produce to market. It is apparent that the handling of sugar beets to railroad loading dumps is entirely unlike the market hauling, that the transportation of beets is similar to the exempted traffic and that its exemption is, therefore, justified. The examiner's failure to include Santa Cruz County origin points in the territory embraced by his recommendations is clearly an oversight.

The Office of Price Administration has advised that it has no objection to establishment of the recommended rates and that it will proceed to adjust contract-carrier rates accordingly. Under

2. It was explained that the beets are transported in trucks especially equipped with tilting, side-dumping bodies or racks; are loaded in the field by the grower at rates of speed varying from slightly more than one minute to about two minutes per ton, and are unloaded by means of power loading devices in two minutes or less, the carrier performing no loading or unloading.

the circumstances it is not necessary to defer the issuance of our order.

Upon consideration of all the evidence of record we are of the opinion and find (1) that, except to the extent hereinbefore indicated, the establishment of minimum rates, rules and regulations for the transportation of fresh fruits and vegetables by highway carriers between points in Monterey, San Benito, Santa Clara, Santa Cruz and San Mateo County points, on the one hand, and Alameda, San Francisco and Santa Clara County points, on the other, on the same bases as, and to the same extent as, minimum rates, rules and regulations have heretofore been established from, to and between southern California points, is justified; (2) that the use of average distances from and to San Francisco and Oakland in connection with said minimum rates should be restricted to points more than 70 miles distant from those cities; (3) that additional charges are justified for service incidental to the refrigeration of produce on the basis of the conclusions previously stated in this opinion; (4) that in all other respects petitioner's proposals have not been justified and should be denied; and (5) that the transportation of sugar beets to railroad loading dumps should be exempted from the prescribed minimum rates.

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 Decision No. 33977 of March 11, 1941, as amended, in this proceeding, be and it is hereby further amended, in so far as highway common, radial highway common and highway contract carriers are concerned, by substituting in Highway Carriers' Tariff No. 8 (Appendix "C" of said Decision No. 33977) to

become effective June 1, 1945, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Second Revised Page 2 Cancels First Revised Page 2
 Third Revised Page 6 Cancels Second Revised Page 6
 Third Revised Page 8 Cancels Second Revised Page 8
 Third Revised Page 12 Cancels Second Revised Page 12
 First Revised Page 14 Cancels Original Page 14
 First Revised Page 25 Cancels Original Page 25

IT IS HEREBY FURTHER ORDERED that the tariff publications to be made by highway common carriers as the result of the further amendment herein of the aforesaid Decision No. 33977, as amended, shall be made effective on or before June 1, 1945, on not less than three (3) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that in all other respects the aforesaid Decision No. 33977, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 24th day of April, 1945.

Harold Anderson
Justice D. C. Cullen
Richard L. Lohr
Frank W. Clark
Wm. H. Keene
 Commissioners

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*Change, Decision No. **37816**

EFFECTIVE JUNE 1, 1945

Issued by The Railroad Commission of the State of California,
San Francisco, California.

Correction No. 25

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
20	<p style="text-align: center;">APPLICATION OF TARIFF - CARRIERS</p> <p>Rates provided in this tariff are minimum rates, established pursuant to the Highway Carriers' Act (Chapter 223, Statutes of 1935, as amended) and apply for the transportation of property by radial highway common carriers and highway contract carriers, as defined in said act.</p> <p>When property in continuous through movement is transported by two or more such carriers, the rates (including minimum charges) provided herein shall be the minimum rates for the combined transportation.</p>
30-C Cancels 30-B	<p style="text-align: center;">APPLICATION OF TARIFF - TERRITORIAL (Items Nos. 30 and 31 series)</p> <p>Subject to Exceptions 1 and 2, rates in this tariff shall apply as follows:</p> <ol style="list-style-type: none"> 1. Between points of origin and points of destination located in Imperial, San Diego, Riverside, San Bernardino, Orange, Los Angeles, Ventura, Santa Barbara and San Luis Obispo Counties; 2. From points of origin in the above described territory on the one hand to points of destination located in San Francisco territory as described in Item No. 280 series, on the other hand, except that rates on empty containers as described in Item No. 40 series also apply from points of origin in San Francisco territory as described in Item 280 series to points of destination described in paragraph 1 hereof. *3. From points of origin located in Monterey, San Benito, Santa Clara, Santa Cruz and San Mateo Counties to points of destination located in San Francisco, Alameda and Santa Clara Counties on fruits and vegetables, including mushrooms, as described in Item No. 40 series; and from points of origin in San Francisco, Alameda and Santa Clara Counties to points of destination in Monterey, San Benito, Santa Clara, Santa Cruz and San Mateo Counties on empty containers as described in Item No. 40 series. <p>EXCEPTION 1.-Rates in this tariff do not apply to shipments having point of origin and point of destination within the San Diego Drayage Area as described in Items Nos. 30 and 31 series of City Carriers' Tariff No. 7 - Highway Carriers' Tariff No. 9 (Appendix "A" of Decision No. 35055, in Cases Nos. 4246 and 4434).</p> <p>EXCEPTION 2.-Rates in this tariff do not apply to shipments having point of origin and point of destination within the Los Angeles Drayage Area, as described in Item No. 31 hereof.</p>
*Change, Decision No. 37816	
EFFECTIVE JUNE 1, 1945	
Issued by The Railroad Commission of the State of California, San Francisco, California.	
Correction No. 26	

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
*40-C Cancels 40-B	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES</p> <p>Rates in this tariff apply to transportation of the following commodities (See Exception):</p> <p>Fruits, fresh or green; Vegetables, fresh or green, including Mushrooms, fresh; Containers, empty, second-hand, returning from an outbound paying load or forwarded for a return paying load, subject to Note 1.</p> <p>NOTE 1.-Highway carriers must determine before accepting shipment that said containers were never filled and are being returned by the same carrier or carriers to consignor of the filled containers; or that containers shipped for return paying load will, when filled, move by the same carrier or carriers to the consignor of the original empty containers.</p> <p>EXCEPTION.-Rates in this tariff do not apply to transportation of:</p> <p>(a) Fresh or green fruits, fresh or green vegetables, or mushrooms, when the point of destination of the shipment is a cannery, packing plant, packing shed, processing plant or processing plant; nor to the empty containers used or shipped out for use in connection with such transportation.</p> <p>(b) Citrus fruits when the point of destination of the shipment is within the Los Angeles Drayage Area, as described in Item No. 31 series; nor to the empty containers used or shipped out for use in connection with such transportation.</p> <p>(c) Sugar beets when the point of destination of the shipment is a beet sugar factory or a railroad loading dump.</p>
50	<p style="text-align: center;">SHIPMENTS TO BE RATED SEPARATELY</p> <p>Each shipment shall be rated separately. Shipments shall not be consolidated nor combined by the carrier. (Component parts of split pickup or split delivery shipments, as defined in Item No. 11 series, may be combined under the provisions of Items Nos. 170 and 180 series.)</p>
60	<p style="text-align: center;">GROSS WEIGHT</p> <p>Charges shall be assessed on the gross weight of the shipment. No allowance shall be made for the weight of containers. (See Items Nos. 80 and 81 series.)</p>
*Change Reduction	Decision No. 37816
EFFECTIVE JUNE 1, 1945	
Issued by The Railroad Commission of the State of California, San Francisco, California	
Correction No. 27	

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
110-C Cancels 110-B	<p style="text-align: center;">COMPUTATION OF DISTANCES</p> <p>Distances to be used in connection with distance rates named herein shall be the shortest resulting mileage via any public highway route, computed in accordance with the method provided in Distance Table No. 3 (Appendix "A" to Decision No. 31605 of December 27, 1938, as amended, in Case No. 4088, Part "N", Case No. 4145 and Case No. 4246), subject to the following exceptions:</p> <p>(a) Distances from or to points located within zones described in Items Nos. 270, 271 and 272 series or within territories described in Item No. 281 series shall be computed in accordance with the method hereinabove provided from or to the mileage basing points designated in connection with such descriptions (See Notes 1 and 2). The provisions of this paragraph will not apply in computing mileages between points located within a single zone or territory.</p> <p>*(b) From points of origin or to points of destination more than 70 miles distant from both the San Francisco and the Oakland pickup and delivery zones (computed in accordance with the method hereinabove provided), distances from or to points located within the San Francisco pickup and delivery zone or located within the Oakland pickup and delivery zone shall be the average of the distances from or to the San Francisco pickup and delivery zone and the Oakland pickup and delivery zone (computed in accordance with the method hereinabove provided). In the event such average distance is less than the distance computed from or to an intermediate point via the shortest constructive route, such lesser mileage shall apply from or to such intermediate point (See Note 3).</p> <p>Note 1.-When two or more component parts of a split pickup shipment originate at points within a zone described in Items Nos. 270, 271 and 272 series or within a territory described in Item No. 281 series add to the basing point mileage the distance by which the distance from point of origin of any component part within said zone or territory to destination via the other points of origin within said zone or territory exceeds the shortest constructive mileage from that same point of origin to destination.</p> <p>Note 2.-When two or more component parts of a split delivery shipment are destined to points within a zone described in Items Nos. 270, 271 and 272 series or within a territory described in Item No. 281 series add to the basing point mileage the distance by which the distance from point of origin to destination of any component part within said zone or territory via the other points of destination within said zone or territory exceeds the shortest constructive mileage from point of origin to that same point of destination.</p> <p>Note 3.-In computing distances under the provisions of Item No. 170 series in connection with split pickup shipments, or under the provisions of Item No. 180 series in connection with split delivery shipments, the average of the distance from or to (or from and to) the San Francisco Pickup and Delivery Zone and the distance from or to (or from and to) the Oakland Pickup and Delivery Zone shall be used only when the distance computed under the provisions of those items from or to (or from and to) both zones is more than 70 constructive miles.</p>
	*Change, Decision No. 37816
	EFFECTIVE JUNE 1, 1945
Correction No. 28	Issued by The Railroad Commission of the State of California, San Francisco, California.

Rates and Charges published on this page are NOT SUBJECT to the increases provided in Supplement No. 1 to this tariff or successive issues thereof.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)												
<p>▲ 140-A Cancel 140</p>	<p style="text-align: center;">APPLICATION OF RATES ON SHIPMENTS SUBJECT TO MINIMUM WEIGHTS IN EXCESS OF 10,000 POUNDS</p> <p>Rates in this tariff subject to minimum weights in excess of 10,000 pounds include loading into and unloading from the carrier's equipment at established depots. At points of origin or points of destination other than established depots, such rates include service of driver only for loading into and unloading from the carrier's equipment, subject to Note 1.</p> <p style="text-align: center;">NOTE 1.—When the time consumed in performing loading, unloading or accessorial services exceeds 20 minutes per ton (based on the weight on which transportation charges are computed) a charge of \$2.12 per hour shall be assessed for the time consumed in excess of 20 minutes per ton.</p>												
<p>▲ 150-A Cancel 150</p>	<p style="text-align: center;">ACCESSORIAL CHARGES</p> <p>An additional charge of \$1.06 per man per hour, minimum charge 53 cents, shall be made for helpers for loading or unloading, or any other accessorial or incidental service which is not authorized to be performed under the rates named in this tariff and for which a charge is not otherwise provided.</p>												
<p>*155</p>	<p style="text-align: center;">REFRIGERATION - TOP OR BODY ICING (Applies only to transportation from and to the points described in Paragraph 3 of Item No. 30 series)</p> <p>When shipments of fruits and vegetables, including mushrooms, as described in Item No. 40 series, are refrigerated by the shipper or his agent by means of top or body icing, the weight of the ice used, less 30 per cent meltage allowance, shall be added to the weight of the fruits and vegetables determined under the provisions of this tariff and the applicable fruit and vegetable rate applied thereto, provided that on the basis of the aggregate weight so ascertained the shipment is subject to a rate governed by a minimum weight of 10,000 pounds or more. On such shipments the following additional charges shall be assessed:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Minimum Weight (In Pounds)</th> <th style="text-align: center;">Additional Charge (Per Shipment)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">10,000</td> <td style="text-align: center;">\$1.50</td> </tr> <tr> <td style="text-align: center;">18,000</td> <td style="text-align: center;">3.00</td> </tr> <tr> <td style="text-align: center;">24,000</td> <td style="text-align: center;">4.50</td> </tr> </tbody> </table>	Minimum Weight (In Pounds)	Additional Charge (Per Shipment)	10,000	\$1.50	18,000	3.00	24,000	4.50				
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18,000	3.00												
24,000	4.50												
<p>▲ 160-A Cancel 160</p>	<p style="text-align: center;">MINIMUM CHARGE</p> <p>The minimum charge per shipment shall be as follows:</p> <p>(a) When the constructive distance from point of origin to point of destination does not exceed 150 miles:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Weight of Shipment</th> <th style="text-align: right;">Minimum Charge in Cents</th> </tr> </thead> <tbody> <tr> <td>25 pounds or less</td> <td style="text-align: right;">42</td> </tr> <tr> <td>Over 25 pounds but not over 50 pounds</td> <td style="text-align: right;">53</td> </tr> <tr> <td>Over 50 pounds but not over 75 pounds</td> <td style="text-align: right;">64</td> </tr> <tr> <td>Over 75 pounds but not over 100 pounds</td> <td style="text-align: right;">74</td> </tr> <tr> <td>Over 100 pounds</td> <td style="text-align: right;">80</td> </tr> </tbody> </table> <p>(b) When the constructive distance exceeds 150 miles:</p> <p>The charge for 100 pounds at the commodity rate applicable thereto but not less than the charge accruing under paragraph (a) of this item.</p>	Weight of Shipment	Minimum Charge in Cents	25 pounds or less	42	Over 25 pounds but not over 50 pounds	53	Over 50 pounds but not over 75 pounds	64	Over 75 pounds but not over 100 pounds	74	Over 100 pounds	80
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*Change,
▲ Change, no increase or reduction } Decision No. 37816

EFFECTIVE JUNE 1, 1945

Issued by The Railroad Commission of the State of California,
San Francisco, California.
Correction No. 29

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>272-1 Cancels 272</p>	<p style="text-align: center;">PICKUP AND DELIVERY ZONES (Concluded) (Items Nos. 270, 271 and 272 series)</p> <p>*SAN FRANCISCO: (Mileage Basing Point, San Francisco.) Including all of the City of San Francisco, also, except in connection with rates applicable under the provisions of paragraph 3 of Item No. 30 series, the territory bounded as follows:</p> <p>Beginning at the point of intersection of the southern boundary line of the City of South San Francisco and the shore line of San Francisco Bay; thence westerly along said line to the western side of the Southern Pacific's main line right of way; northerly along the western side of said right of way to Tanforan Avenue; southwesterly along Tanforan Avenue to the western side of the Southern Pacific's Valencia Street line right of way; northwesterly along the western side of said right of way to Orange Avenue; northeasterly along Orange Avenue to Railroad Avenue; easterly along Railroad Avenue to Bay Shore Highway; northerly along Bay Shore Highway to Main Street; westerly along Main Street to Schworin Street; northerly along Schworin Street to Partridge Street; westerly along Partridge Street to the easterly boundary of the Grand National Exposition Live Stock property of Agricultural District No. 1-A of the State of California; southerly, westerly and northerly along the boundaries of said property to the corporate boundary of the City of San Francisco at Santos Street and Geneva Avenue; easterly along said boundary line to the shore line of San Francisco Bay; southerly along the shore line of San Francisco Bay to the point of beginning.</p> <p>SAN LEANDRO: (Mileage Basing Point, San Leandro.) Including all of the City of San Leandro, also the territory bounded as follows:</p> <p>Beginning at easterly city limits and Washington Avenue; thence easterly on Washington Avenue to West Avenue 137; thence southerly on West Avenue 137 to Southern Pacific Oakland-Niles main line; thence westerly along Southern Pacific tracks to eastern city limits.</p> <p>Beginning at a point where Davis Street intersects the southern boundary of city limits; thence southwestwardly on Davis Street to Southern Pacific Elmhurst-Newark line; thence return via Davis Street to city limits.</p> <p>Beginning at intersection of city limits and Apricot Street; thence northwesterly on Apricot Street to 107th Avenue; thence northeasterly on 107th Avenue to East 14th Street; thence easterly on East 14th Street to western city limits.</p>
<p>*Change, Decision No. 37816</p>	
<p style="text-align: right;">EFFECTIVE JUNE 1, 1945</p>	
<p>Issued by The Railroad Commission of the State of California, San Francisco, California. Correction No. 30.</p>	