

Decision No. 39402**ORIGINAL**

## 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.

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Case No. 4293Appearances

Roy B. Thompson, and Berol & Handler, for The  
 Truck Owners Association of California,  
 petitioner,  
 L. H. Stewart, for California-Arizona Cotton  
 Association, protestant,  
 Myron D. Alexander and C. O. Burgin, for Office  
 of Price Administration, interested party.

O P I N I O N

By petition The Truck Owners Association of California requests establishment of minimum rates for the transportation of cotton in uncompressed bales from cotton gin yards located in the San Joaquin Valley to cotton compresses at Stockton, Tulare, Fresno and Bakersfield.

This matter was heard at San Francisco on June 28 and at Fresno on August 19 and 20 before Examiner Krause.

Substantially all of the California cotton crop is produced in the San Joaquin Valley. After ginning, the cotton is transported in uncompressed bales from the gin yards to the several cotton compresses. This movement, which normally begins in October and ends in April of the following year, is, according to shipper testimony, normally a rail movement; trucks being used only to a

limited extent. The shipper witnesses testified, however, that in periods of car shortage, trucks have been used in varying degree by numerous shippers. A car shortage obtained last year and in the opinion of both shippers and carriers could again occur during the 1946-1947 shipping season.

The record shows that approximately 95 per cent of the cotton transported from gins to compresses by truck is handled by five radial highway common carriers. Petitioner's secretary-manager testified that the establishment of minimum rates is necessary to stabilize the trucking industry and because the carriers "wanted to get their costs out of the operations at a reasonable profit". This testimony was corroborated by two of the five carriers referred to. In addition, they declared that unless they are assured of minimum rates they would not undertake to secure needed additional equipment for the coming season.

These carriers, who haul other agricultural products as well, testified that although their expenses were not segregated in their books, their cotton hauling had been conducted at a profit in 1945. They, as well as petitioner's secretary-manager, expressed some doubt that the proposed minimum rates would, in the face of increased costs, do more than return their cost of operation. These rates are in some cases lower and in others higher than those which obtained in 1945 and substantially higher than the rates they observed in previous years. They would, in the opinion of the largest California cotton shipper, produce approximately the same over-all charges as the 1945 rates.

The cotton shippers were opposed to the establishment of minimum rates. They testified that trucks were used primarily as a standby service and that they have always been able to reach satisfactory agreements with the carriers respecting the volume of

rates to be assessed. They argued that under the circumstances minimum rates were not necessary.

Counsel for protesting shipper interests made a motion that the petition be dismissed on the ground that the cotton movement in issue is almost entirely an interstate one. In this regard the record shows that although approximately 98 per cent of California cotton is ultimately shipped out of the State, the ultimate destination of a substantial amount of cotton which moves to the compresses is unknown at the time of shipment. Such cotton receives storage at the compresses. The record, however, does not show what percentage of this traffic is moving in intrastate commerce.

Minimum rates for the transportation in issue are not now established. They should be established only upon a showing that they are necessary. The record herein indicates that the movement of cotton to the compresses is one which under normal conditions is not enjoyed by highway carriers and that a substantial part of it is an interstate movement.<sup>1</sup>

Moreover, when cotton is transported to the compresses by truck in substantial quantities, it is handled predominantly by five carriers. Although minimum rates were said to be necessary to stabilize the industry, no tangible evidence of this need was offered.

In view of the showing made in this proceeding we must conclude that petitioners have not shown that minimum rates should be established for the transportation in issue.

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<sup>1</sup> Under Section 203(b) of the Interstate Commerce Act, motor vehicles used in carrying agricultural commodities are excluded from rate regulation thereunder, "if such motor vehicles are not used in carrying any other property" for compensation.

In view of our conclusion herein; an order is not required at this time.

Dated at San Francisco, California, this 17<sup>th</sup> day of September, 1946.

Harold P. Hills

Francis E. Carr

Frank P. Lowell

A. J. D. [unclear]

Commissioners