

ORIGINAL

Decision No. 39584

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.)

Case No. 4293

Appearances

- Reginald L. Vaughan, for California Motor
Tariff Bureau, petitioner.
- Thomas R. Phillips and G. B. Moore, for
Western Growers Association, protestant.
- J. J. Duvel and Edson Abel for California
Farm Bureau Federation, protestant.
- J. C. Simpson, for Wholesale Fruit and Produce
Dealers Association of San Francisco,
protestant.
- Jack Bias, for Grower-Shipper Vegetable Asso-
ciation of Central California, protestant.

OPINION

Minimum rates, rules and regulations, including estimated weights, apply for the transportation of fresh fruits and vegetables between points in southern California and from such points and central coast territory to the San Francisco Bay area, as more specifically set forth in Highway Carriers' Tariff No. 8. By petition, California Motor Tariff Bureau requests that specific estimated weights be prescribed for the transportation of fresh carrots with tops, packed six dozen bunches per crate, and lettuce,

each when packed with ice and shipped in No. 1 containers.¹

Hearings were had at San Francisco on August 28, and at Los Angeles on September 5, 1946, before Examiner Krause. Briefs have since been filed and the matter is now ready for decision.

According to the record, there is some truck movement of lettuce and a very substantial truck movement of carrots, packed with ice in the same containers, from Salinas, Pajaro and Imperial Valleys to California markets.

Highway Carriers' Tariff No. 8 provides estimated weights of 87 and 76 pounds on carrots and lettuce, respectively. The record shows that these estimated weights apply on dry-pack carrots and lettuce and are generally observed for movements of such vegetables when packed in ice.

It is petitioner's position that the highway carriers should be compensated for the ice transported. In support thereof its rate witness testified that highway carriers are unable to transport the same number of crates of ice-pack lettuce and carrots in a given piece of equipment as when transported dry-pack; that under one basis of weights for both, carriers, when transporting dry-pack carrots and lettuce, receive higher transportation charges per truckload than when transporting ice-pack even though in both instances the gross weight of the loads transported is the same; and that the observance of the same minimum weight on both ice-pack and dry-pack carrots and lettuce prejudices the shipper who does not ice.

Witness for a carrier called by petitioner transporting

¹

Whenever reference is made to carrots we refer to carrots with tops, packed 6 dozen bunches to a No. 1 container; when reference is made to lettuce we include only lettuce packed 4 to 6 dozen heads in a No. 1 container. The inside dimensions of a No. 1 container (described in the tariff as a lettuce crate) are as follows: depth 13 to 13-3/4 inches, width 17 1/2 to 18 inches, and length 21-5/8 inches.

large quantities of ice-pack and dry-pack carrots and lettuce into the San Francisco Bay area markets testified that the transportation of such vegetables packed in ice results in expenses not incurred when they are not so packed. He pointed out that the floors and outside metal of the van bodies transporting ice-pack vegetables must be replaced once each year because of water damage as compared with floor replacements once every three years when dry freight is handled; that floor rugs, used to reduce water damage to floors, cost \$50.00 per set per van; that the yearly floor rug maintenance expense amounts to \$25.00 per set; that frequent replacements of floor rugs must be made because many of them are lost in the course of operation; that because of failure to return floor rugs to points of origin ice-pack shipments must sometimes be loaded without rug protection, resulting in considerable loss of time in drying the wet floors; and that even when floor rugs are used damage to other types of freight is sometimes experienced because the side walls do not dry fast enough after unloading the ice-pack vegetables.

Various shipper groups strongly oppose the establishment of specific estimated weights on ice-pack carrots and lettuce. They take the position that the highway carriers are not entitled to charge for the transportation of the ice and that a proper basis for securing estimated weights on carrots and lettuce packed in ice should reflect only the weight of the container and its contents excluding the weight of the ice. They assert that the rail lines do not ordinarily charge for the transportation of ice in containers and that, therefore, the trucks are not entitled to do so. In this regard, petitioner asserts that transportation

conditions encountered in rail transportation are dissimilar from those encountered in transporting these commodities by truck.

Petitioner now seeks establishment of an estimated weight of 104 pounds on carrots and 95½ pounds on lettuce, when packed in ice. Upon the completion of weight studies it proposes to request establishment of estimated weights for other vegetables packed in ice.

Petitioner's rate witness testified that the sought estimated weights were determined by reducing average weights of 107 pounds on lettuce and 113-¾ pounds on carrots by 11½ and 9-¾ pounds, respectively, which weight reductions reflect an allowance of 37 per cent of the weight of the ice in said packages. The average weights referred to were determined by test weighing at either Salinas or Watsonville. The average weight of 113-¾ pounds on carrots was arrived at by a test of 71 shipments comprising 12,585 crates weighing 1,431,670 pounds. These shipments moved during September and December, 1945, and January, February, May and June, 1946. The average estimated weight of 107 pounds on lettuce packed in ice is based upon test weights made of 5,989 crates weighing 640,850 pounds, representing 31 shipments which moved during August, 1945, and April, May and June, 1946.

The ice meltage allowance is in recognition of the loss in weight occasioned by the meltage of ice while in transit. The witness stated that the movements from production to market areas occurred at night and involved relatively short periods of transit time. He expressed the opinion that a 37 per cent ice meltage allowance would adequately cover actual loss of weight due to ice meltage. Also, he pointed out that it is the rail practice to allow approximately 30 per cent ice meltage allowance on these commodities

when packed in No. 1 containers containing an average of 30 pounds of ice. The proposed allowance, witness contended, is by comparison very liberal.

A carrier witness for petitioner having many years experience in transporting ice-pack and dry-pack fruits and vegetables from Imperial, Salinas and Pajaro Valleys testified that the temperatures obtaining during the Imperial Valley shipping seasons are comparable to temperatures obtaining during the Salinas and Pajaro Valleys shipping seasons; and that the transportation conditions surrounding the movement of ice-pack vegetables from the respective producing areas are likewise comparable.

Protestants contend that the test weighings made in support of the estimated weights sought are inadequate and not representative. They point out that the tests were confined to carrots and lettuce produced in the Salinas and Pajaro Valleys and to shipments transported by only one carrier. They object to using such test weights as a basis for establishing estimated weights on Imperial Valley carrots and lettuce. A shipper witness testified that lettuce grown in the Imperial Valley "is the hardest and most compact lettuce grown" and hence weighs more than lettuce grown elsewhere in California; and that because of these characteristics the tendency is to use less container ice in shipping ice-pack lettuce from the Imperial Valley. He testified, moreover, that, if anything, temperatures during the Imperial Valley lettuce shipping season are lower than those obtaining in the Salinas and Pajaro Valleys. He stated that the weight of ice used, per crate, of ice-pack lettuce averages 25 pounds.

2

The average amount of ice used per crate of lettuce as determined by the weighing tests conducted by petitioner is 31 pounds.

It is clear that highway carriers, when transporting ice-pack carrots and lettuce, are entitled to compensation for the weight of the ice transported and for the added expense incurred by virtue of the transportation characteristics of ice-pack vegetables.

Assessment of a charge for the transportation of the ice appears justified. Petitioner requests that the vegetable rate be observed for the transportation of the ice. The Commission in Decision No. 37816, in this proceeding, prescribed the fruit and vegetable rates for the transportation of top and body ice used in refrigerating fresh fruits and vegetables. Similar action is warranted here if the estimated weights themselves are found reasonable.

The proposed estimated weights appear supported by the results of the weight tests on movements from Salinas and Pajaro Valleys. In view of the absence of weight tests on Imperial Valley ice-pack carrots and lettuce and of the conflict of testimony as to the extent to which conditions in the Imperial Valley are comparable to those existing in the Salinas and Pajaro Valleys with respect to ice-pack lettuce shipping and marketing, we must find that the establishment of the estimated weights sought has not been justified on Imperial Valley movements. We will, however, establish the proposed estimated weights for Salinas and Pajaro Valley ice-pack carrots and lettuce movements following within the scope of Highway Carriers' Tariff No. 8.

Upon careful consideration of all of the facts and circumstances of record in this proceeding the Commission is of the opinion and finds as a fact that the sought estimated weights are reasonable for the transportation of ice-pack lettuce and carrots from Salinas and Pajaro Valley points to the extent hereinbefore stated. In all other respects the petition will be denied.

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 December 1, 1946, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Second Revised Page 36 Cancels First Revised Page 36

First Revised Page 37 Cancels Original Page 37

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 December 1, 1946, on not less than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that in all other respects the petition of California Motor Tariff Bureau, referred to in the preceding opinion, be and it is hereby denied.

In all other respects 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 29th day of October, 1946.

James P. Hula
Justin F. Grewer
Francis J. Deane
W. H. Kameel

Commissioners

Cancel

Item No.	SECTION NO. 3 - ESTIMATED WEIGHTS AND CONTAINER DESCRIPTIONS		
ESTIMATED WEIGHTS			
COMMODITY	CONTAINER NUMBER	PACKING SPECIFICATIONS	Gross Weight (In Pounds)
Carrots-with tops	1	4-Dozen Bunches	66
*Carrots-with tops	1	6-Dozen Bunches	(2)87
*Carrots-with tops	1	6-Dozen Bunches	(1)104
Carrots-with tops	67	3-Dozen Bunches	44
Cauliflower	2	8 to 12 Heads	53
Cauliflower	1	12 Heads	66
Celery	22	.....	20
Celery	23	.....	43
Celery	24	.....	50
Celery	25	.....	53
Celery	26	.....	59
Celery	27	.....	64
Celery Root	28	.....	66
Celery Root	1	2-Dozen Bunches	46
Cherries	29	Packed with center partition	11
Cherries	30	Packed without center partition	15
Cherries	31	12 1-Pound Baskets	14
Cherries	32	Packed with center piece	15
Cherries	33	Packed	17
Cherries	34	Face and Fill	17
Cherries	35	Packed	19
401-B Cherries	5	Loose or Face and Fill	32
401-A Chicory (Endive)	1	.....	72
401-A Cucumbers	5	.....	35
Cucumbers	36	2 to 3 Dozen	22
Cucumbers	37	2 to 3-Dozen	22
Currants	38	9 2-Pound Baskets	22
Currants	38	4 4-Pound Baskets	22
Currants	38	4 5-Pound Baskets	23
Dikon	1	2-Dozen Bunches	75
Eggplant	39	18 to 40 Pack	24
Eggplant	1	Not packed	71
Escarole	1	3 to 5 Dozen Heads	53
Escarole	1	Over 5 Dozen Heads	66
Figs	40	Single Layer	8
Figs	41	1 to 2 Layer	14
Figs	42	1 to 2 Layer, center partition	17
Figs	43	3 4-Pound Baskets	17
Figs	5	2 or more Layers	27
Garlic	5	.....	28
Grapefruit	44	Packed	68
Grapefruit	45	Packed	36
Grapefruit	44	Loose	60

(Continued in Item No. 402)

*Change, Decision No- 39524

(1) Applies only to transportation of commodity shown packed with ice in crate from and to the points described in Paragraph 3 of Item No. 30 Series.

(2) Will not apply in connection with transportation for which an estimated weight is provided by reference (1) hereof.

EFFECTIVE DECEMBER 1, 1946

Issued by The Railroad Commission of the State of California,

Correction No. 31

San Francisco, California

Item No.	SECTION NO. 3 - ESTIMATED WEIGHTS AND CONTAINER DESCRIPTIONS				
	ESTIMATED WEIGHTS				
	COMMODITY	CONTAINER NUMBER	PACKING SPECIFICATIONS	Gross Weight (In Pounds)	
Unlidded				Lidded	
	Grapes	46	Packed	-	27
	Grapes	47	Packed	27	29
	Grapes	48	Packed	29	31
	Grapes	49	Packed	30	35
	Grapes	50	Packed	30	37
	Grapes	51	Packed	30	39
	Grapes	52	Packed	-	41
	Grapes	53	Packed	-	43
	Grapes	54	Packed	-	50
	Grapes	55	Packed	-	32
	Grapes	56	Packed	-	31
	Grapes	57	Packed	-	33
	Grapes	58	Packed	-	29
	Grapes	59	Packed	-	33
	Grapes	60	Packed 4 Baskets		33
	Grapes	61	Packed 9 Baskets		29
	Grapes	62	Packed 9 Baskets		31
	Grapes	63	Packed in Sawdust		50
	Kohl Rabi	1	3-Dozen Bunches		63
402-A	Loeks	1	4-Dozen Bunches		61
Cancel	Lemons	64	Packed		84
402	Lemons	64	Loose		68
	Lemons	65	Packed		92
	Lemons	65	Loose		76
	Lemons	66	Packed		42
	*Lettuce	1	4 to 6-Dozen Heads	(2)	76
	*Lettuce	1	4 to 6-Dozen Heads	(1)	95½
	Lettuce	67	36 Heads		40
	Loquats	5	Loose		32
	Melons:				
	Cantaloupes and				
	Honey Balls	68	Packed		26
	do	69	Packed		28
	do	70	Packed		32
	do	71	Packed		57
	do	72	Packed		68
	do	73	Packed		78
	Melons: not other-				
	wise specified	74	Packed		34
	do	75	Packed		44
	do	76	Packed		54
	do	77	Packed		56
	do	78	Packed		69
	do	72	Packed		68

(Continued in Item No. 403)

*Change Decision No. 39584

(1) Applies only to transportation of commodity shown packed with ice in crate from and to the points described in Paragraph 3 of Item No. 30 series.

(2) Will not apply in connection with transportation for which an estimated weight is provided by reference (1) hereof.

EFFECTIVE DECEMBER 1, 1946

Issued by The Railroad Commission of the State of California,
 Connection No. 32 San Francisco, California