

ORIGINAL

Decision No. 42916

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
into the rates, rules, regulations,)
charges, allowances and practices)
of all common carriers, highway)
carriers and city carriers relating)
to the transportation of property.)

Case No. 4808

Appearance

Reginald L. Vaughan, for petitioners.

SUPPLEMENTAL OPINION

Clark Bros. Motor Transport, Inc., Gilbert's Freight Line, Meidl Trucking Co., Santa Cruz Motor Express, and Tony Victorine are highway carriers. They seek an increase of approximately 21 per cent in minimum rates for the transportation of fresh fruits and vegetables between Monterey, San Benito and Santa Cruz Counties, on the one hand, and San Francisco, Alameda and Santa Clara Counties, on the other.

Public hearings were had at San Francisco on April 29, and May 3, 1949, before Examiner Mulgrew.

In the counties involved, fruit and vegetable production is largely centered in the Salinas and Watsonville areas. The produce is distributed chiefly through the San Francisco, Oakland and San Jose markets. Petitioner Clark Bros., a highway common carrier, is the principal carrier engaged in transporting the produce to market. Its operations are confined almost exclusively to this

¹ The minimum rates are set forth in Highway Carriers' Tariff No. 8 (Appendix "C" of Decision No. 33977, as amended). They do not apply to the movement of fresh fruits and vegetables to canneries or packing or processing plants.

traffic and the southbound movement of general commodities from the San Francisco Bay Area.

Until October 25, 1948, Clark Bros.' tariff rates for shipments of 10,000 pounds or less were generally equal to the minimum rates established for like transportation by radial and contract carriers. Its tariff also provided 18,000 and 24,000-pound rates for specified fruits and vegetables ordinarily moving in such quantities. The 18,000-pound rates were substantially the same as, and the 24,000-pound rates were somewhat above, the corresponding minimum rates. On October 25, 1948, Clark Bros.' tariff rates for shipments of less than 24,000 pounds were increased by 11 per cent pursuant to permissive authority granted by Decision No. 42101 of October 5, 1948, in this proceeding. No change was authorized in the 24,000-pound rates. A proposed 11 per cent increase in the minimum rates, regardless of the weight of the shipments, was denied. Stating that Clark Bros. appeared to have a virtual monopoly of less-carload traffic and little actual competition for truck-load traffic, the Commission held that carrier competition had not been shown to require that Clark Bros.' rates be on the same levels as the corresponding minimum rates.

The instant petition stems from the continued failure of Clark Bros. to achieve satisfactory operating results, from the reduction in the volume of its traffic under the higher fruit and vegetable rates, from the claimed insufficiency of the minimum rates, and from the asserted inability of other petitioners to provide service without an upward adjustment of these rates.

Clark Bros.' operating results, as disclosed by studies submitted by its consultant, follow:

<u>Period</u>	<u>Revenue</u>	<u>Expense</u>	<u>Profit or Loss</u>	<u>Operating *Ratio</u>
July 1, 1941-June 30, 1948	\$2,512,223	\$2,456,059	\$56,164	98
July 1, 1947-June 30, 1948	526,240	521,648	4,592	99
Jan. 1, 1948-Dec. 31, 1948	520,022	530,166	(10,144)	102
Apr. 1, 1948-Mar. 31, 1949	512,825	532,747	(19,922)	104
Nov. 1, 1948-Mar. 31, 1949	188,134	216,757	(28,623)	115
Jan. 1, 1949-Mar. 31, 1949	98,697	117,076	(18,379)	119

* - Before provision for income taxes
 () - Indicates loss.

The consultant estimated that had the present tariff rates been in effect throughout 1948 and the volume of traffic had remained unchanged Clark Bros.' revenue would have been \$551,110. Giving effect to wage, fuel and rent increases, he developed adjusted expense as \$544,069. The resulting profit would have been \$7,041 and the operating ratio before taxes 99.

Clark Bros.' president testified that, at the time Decision No. 42101, supra, was issued, its need for additional revenue was so acute that it had no feasible alternative to exercising the permissive authority to increase its rates. He said that, following the establishment of the higher rates, several shippers who had theretofore patronized his company almost exclusively began to ship truckload quantities (18,000 pounds or more) via radial and contract carriers intermittently providing service in the area. To the extent that less-truckload shipments were available in lots sufficient to make up full truckloads, the president said that shippers had also used the services of these carriers. He asserted that there was no accurate way fully to evaluate the extent of these diversions. However, he gave several examples of substantial losses of business to the competing carriers. The witness pointed out that his company's loss in the period from January 1, 1948, to March 31, 1949, amounted to

approximately \$28,500. This, he said, represented some 25 per cent of its net worth on January 1, 1948. He claimed that without a substantial and immediate improvement in earnings the company could not continue to operate. He insisted that there was no prospect of achieving this result while his company's rates were generally at higher levels than the minimum rates and while rates remain below the costs incurred in providing service.

Studies submitted by an engineer from the Commission's staff and by petitioners' consultant show that, in the service involved, radial and contract carrier costs are greater than the corresponding costs of highway common carrier operations. The lower common carrier costs reflect the higher load factors resulting from the regular southbound movement of general commodities. The cost figures substantiate petitioners' contention that the minimum rates are below the levels necessary to return costs and make provision for profit. This is illustrated by the Watsonville to San Francisco costs for 16,000 to 24,000 pound lots. The engineer's estimate is 19.36 cents per 100 pounds for common carrier operation. It is based largely on the experience of Clark Bros. For radial and contract carrier operation, the engineer developed a cost of 28.42 cents. The consultant's estimate, designed to give effect to the cost of all highway carrier operation, is 28.57 cents. The minimum rate is 21 cents. The cost figures include the expense of helpers used in loading and unloading. Added charges for helpers on a per man per hour basis are named in the Clark Bros.' and in the minimum rate tariff.

According to Clark Bros.' consultant and its president, the engineer's figures understate fuel expense and make inadequate provision for depreciation on equipment. The president also testified that an agreement between the highway carriers and their drivers, effective May 1, 1949, increased wages by 5 cents per hour. This

recent adjustment is not included in any of the cost estimates.

Radial and contract carrier petitioners testified that they had formerly operated from the Watsonville and Salinas areas to the San Francisco and Oakland markets. They said that they had been compelled to withdraw from these operations because they could not secure rates higher than Clark Bros.' rates and because such rates were not remunerative.

At the hearing had prior to the issuance of Decision No. 42101, supra, California Farm Bureau Federation contended that transportation costs had been raised to abnormal levels and that further increases would retard the free movement of fruits and vegetables and decrease their production and consumption. It offered no evidence in support of these contentions. No representative of shipper interests appeared at the subsequent hearings.

It is not disputed and the record shows that Clark Bros. provides the only regular for-hire carrier transportation to Bay area markets available to Watsonville and Salinas produce shippers. The record also shows that this carrier's rates do not return sufficient revenue to enable it to meet its current expenses. Its endeavor to improve its earnings by maintaining higher rates than the minimum rates for radial and contract carriers, the evidence on further hearing discloses, resulted in serious diversion of traffic and an attending loss of revenue. The cost figures of record demonstrate that the minimum rates are below the cost of radial and contract operations.

For shipments weighing less than 24,000 pounds, the existing Clark Bros.' rates plus 2 cents per 100 pounds appear to give reasonable recognition to current costs of providing service, including loading and unloading. The 24,000-pound rates, which were not increased by Clark Bros. in October, 1948, have been shown to require similar adjustment, namely, 11 per cent plus 2 cents per

100 pounds. Lower rates for radial and contract carriers are not reasonable in view of the higher cost of their operation. The minimum rates should be increased accordingly. Provision having been made in these rates for helpers in loading and unloading, the additional charges for their services should be canceled. To the extent that Clark Bros.' rates are below the increased minimum rate levels, it will be authorized to raise its rates.

Upon consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that modification of the existing rates, rules, and regulations for the transportation of fresh fruits and vegetables is justified to the extent hereinbefore indicated and as provided by the order herein; and that in other respects, the proposals made have not been justified.

O R D E R

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

IT IS HEREBY ORDERED that Decision No. 33977, as amended, be and it is hereby further amended by incorporating in Highway Carriers' Tariff No. 8 (Appendix "C" of said Decision No. 33977, as amended) the original and revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Fifth Revised Page 2 cancels Fourth Revised Page 2
Fifth Revised Page 14 cancels Fourth Revised Page 14
Fourth Revised Page 29 cancels Third Revised Page 29
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* Change, Decision No. **42916**

EFFECTIVE JUNE 20, 1949

Issued by the Public Utilities Commission of the State of California,
 San Francisco, California.

Correction No. 81

Cancels

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)												
*140-D Cancels 140-C	<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, except those provided in Item No. 305 series, include service of driver only for loading into and unloading from the carrier's equipment, subject to Note 1.</p> <p>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 \$2.78 per hour shall be assessed for the time consumed in excess of 20 minutes per ton.</p>												
150-D Cancels 150-C	<p style="text-align: center;">ACCESSORIAL CHARGES</p> <p>An additional charge of \$2.10 per man per hour, minimum charge \$1.05, 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>												
155-B Cancels 155-A	<p style="text-align: center;">REFRIGERATION - TOP OR BODY ICING</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="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Minimum Weight (In Pounds)</th> <th style="text-align: right;">Additional Charge (Per Shipment)</th> </tr> </thead> <tbody> <tr> <td>10,000 -----</td> <td style="text-align: right;">\$1.97</td> </tr> <tr> <td>18,000 -----</td> <td style="text-align: right;">3.94</td> </tr> <tr> <td>24,000 -----</td> <td style="text-align: right;">5.91</td> </tr> </tbody> </table>	Minimum Weight (In Pounds)	Additional Charge (Per Shipment)	10,000 -----	\$1.97	18,000 -----	3.94	24,000 -----	5.91				
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10,000 -----	\$1.97												
18,000 -----	3.94												
24,000 -----	5.91												
160-C Cancels 160-B	<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="0" style="width: 100%;"> <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;">49</td> </tr> <tr> <td>Over 25 pounds but not over 50 pounds-----</td> <td style="text-align: right;">62</td> </tr> <tr> <td>Over 50 pounds but not over 75 pounds-----</td> <td style="text-align: right;">75</td> </tr> <tr> <td>Over 75 pounds but not over 100 pounds-----</td> <td style="text-align: right;">87</td> </tr> <tr> <td>Over 100 pounds-----</td> <td style="text-align: right;">93</td> </tr> </tbody> </table> <p>(b) When the constructive distance exceeds 150 miles: The charge for 100 pounds at the commodity rate applicable thereto but not less than \$1.05.</p>	Weight of Shipment	Minimum Charge in Cents	25 pounds or less-----	49	Over 25 pounds but not over 50 pounds-----	62	Over 50 pounds but not over 75 pounds-----	75	Over 75 pounds but not over 100 pounds-----	87	Over 100 pounds-----	93
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*Change, Decision No. 42916													
EFFECTIVE JUNE 20, 1949													
Issued by the Public Utilities Commission of the State of California, San Francisco, California.													

Cancels

Item No.	SECTION NO. 2 - DISTANCE COMMODITY RATES (In Cents per 100 Pounds)							
	FRUITS AND VEGETABLES, INCLUDING MUSHROOMS, as described in Item No. 40 series. (Items Nos. 300 and 301 series) ◊ Rates in this item will not apply on shipments for which distance commodity rates are provided in Item No. 305 series.							
MILES		MINIMUM WEIGHT						
Over	But not Over	Any Quantity	2,000 Pounds	4,000 Pounds	10,000 Pounds	18,000 Pounds	24,000 Pounds	
	0	3	43	22	20	12	6	5
	3	5	43	25	21	13	7	6
	5	10	44	25	21	13	7½	7
	10	15	45	26	22	14	8½	7
	15	20	46	26	24	16	9	7½
	20	25	46	27	25	16	9½	8½
	25	30	48	29	25	17	10	9
	30	35	49	29	26	19	12	9½
	35	40	50	30	27	19	13	10
	40	45	51	30	27	20	14	12
	45	50	51	32	29	21	14	12
	50	60	55	33	30	22	15	14
	60	70	56	36	32	24	17	14
	70	80	57	37	33	25	18	15
	80	90	60	38	36	27	19	17
	90	100	62	40	37	29	21	18
	100	110	64	41	38	30	23	19
	110	120	65	43	40	32	24	20
	120	130	66	45	41	33	26	21
	130	140	67	46	42	35	27	23
	140	150	67	48	43	36	29	24
	150	160	69	50	45	37	30	25
	160	170	70	51	47	38	32	26
	170	180	71	53	48	40	33	26
	180	190	72	54	50	42	36	27
	190	200	75	56	51	43	37	29
	200	220	77	59	54	46	39	32
	220	240	81	62	57	48	40	33
	240	260	85	66	59	51	44	36
	260	280	87	68	62	54	45	37

*300-D
Cancels
300-C

(Continued in Item No. 301 series)

◊ Increase }
* Change } Decision No. 42916

EFFECTIVE JUNE 20, 1949

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 83

Item No.	SECTION NO. 2 - DISTANCE COMMODITY RATES (In Cents per 100 Pounds)									
FRUITS AND VEGETABLES, INCLUDING MUSHROOMS, as described in Item No. 40 series.										
BETWEEN			AND		MILES But not Over Over		MINIMUM WEIGHT			
							Any Quantity	2,000 Pounds	4,000 Pounds	10,000 Pounds
0305 Added	Points in Monterey, San Benito and Santa Cruz Counties	Points in San Francisco, Alameda and Santa Clara Counties	0	30	55	34	30	21	13	12
			30	35	56	34	31	23	15	13
			35	40	58	35	32	23	16	13
			40	45	59	35	32	24	18	15
			45	50	59	38	34	25	18	15
			50	60	63	39	35	26	19	18
			60	70	64	42	38	29	21	18
			70	80	65	43	39	30	22	19
			80	90	69	44	42	32	23	21
			90	100	71	46	43	34	25	22
			100	110	73	48	44	35	28	23
			110	120	74	50	46	38	29	24
			120	130	75	52	48	39	31	25
			130	140	76	53	49	41	32	28
			140	---	76	55	50	42	34	29

(1) (Exception to Item No. 140 series). Rates include loading into and unloading from carrier's equipment.

◇ Increase, Decision No. 42916

EFFECTIVE JUNE 20, 1949

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 84

IT IS HEREBY FURTHER ORDERED that tariff publications required to be made by common carriers as a result of the amendments hereof of the aforesaid tariff may be made effective on not less than five (5) days' notice to the Commission and to the public..

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

Dated at San Francisco, California, this 24th day of May, 1949.

B. Z. Mason
Justice J. Casper
James H. Lowell
Harold P. Hull
Samuel P. Potter
Commissioners