

Decision No. 43300

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into) the rates, rules, classifications and) regulations for the transportation of) property for compensation or hire over) the public highways of the City of Los) Angeles.)

Case No. 4121

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

Appearances

Glanz & Russell, by Arthur Glanz, for petitioner Pete E. Vernand.
Arlo Poe and Ivan McWhinney, for Motor Truck Association of Southern California, interested party.

SUPPLEMENTAL OPINION

By petition a permitted carrier alleges that minimum rates, charges, rules and regulations heretofore established by this Commission are not suitable for the transportation of newspapers or newspaper sections and inserts. Petitioner seeks exemption of these commodities from minimum rate tariffs.¹

The matter was submitted at a public hearing held before Examiner Bryant at Los Angeles on August 23, 1949.

1. Petitioner is Pete E. Vernand, an individual who holds permits to operate as a radial highway common carrier, highway contract carrier, and city carrier. He does business as Vernand Trucking Company. The minimum rates, rules and regulations from which the exemption is sought are set forth in Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended, 41 CRC 671); and in City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 (Appendix "A" to Decision No. 32504, as amended, 42 CRC 239).

The evidence shows that petitioner is engaged in delivering bundles of newspapers and component parts thereof, principally from point of production in Los Angeles to various rail and bus depots, airline terminals, and news agents throughout the metropolitan area and elsewhere throughout southern California. He has performed this type of service for about 30 years, and currently uses 46 motor trucks in the operation.

It appears that speed of handling, avoidance of delays, and maintenance of schedules are primary considerations in this service. Every phase of the operation is designed to hold to a minimum the elapsed time from printing plant to news agent. As the papers come from the presses they go by conveyor belt to bundling and wrapping machines, and direct to the waiting trucks. The vehicles are loaded in a predetermined order arranged by the shipper. No shipping documents are prepared, and no receipts of any kind are given or taken by shipper, carrier, or consignee. Regular routes are followed, although there is considerable variation in the number and size of the bundles in each delivery. Deliveries are made according to addresses on "key" bundles, or according to information on trip cards with which the drivers on suburban routes are supplied. Many of the bundles, in standard amounts of 50 or 100 papers, carry no labels or other identifying marks.

Component parts of Sunday editions, consisting of comic sections, society sections, feature supplements, and occasional advertising inserts, are handled during the week in much the same manner as are the daily editions. These various sections are printed during the week, and are shipped to the news agents as they become available. They are handled on the same trucks and at the same time as the daily editions. The practice of shipping the sections throughout the week rather than in peak week-end loads tends, it appears, to improve load and use factors of the vehicles.

Petitioner testified that it would be entirely impracticable in his operations to apply and assess the established minimum rates to the transportation of newspapers or newspaper sections. He did not contend that the established rates are excessive or otherwise unreasonable, but pointed out that their application would require that the carrier issue shipping documents for each shipment transported, showing thereon the names of shipper and consignee, the points of origin and destination, the weight of each delivery, and certain other prescribed information. Some of the information, such as the shipments weights, is not readily available. If these procedures were to be followed, he declared, the resulting delays would make the service unsuitable for the transportation of newspapers. He emphasized that news is highly "perishable", and that papers become worthless if delayed in reaching the consumer.

No one opposed granting of the petition.

The Commission has heretofore recognized that the minimum rates, rules and regulations established for the transportation of general commodities may not be satisfactory for the transportation of newspapers. Newspapers are included in the list of articles on which the rates in Highway Carriers' Tariff No. 2, supra, are not required to be applied. However, newspaper supplements, sections and inserts are not specifically mentioned in this list, and the Commission in an earlier decision has concluded that the component parts are not "newspapers" within the meaning of this tariff exception.² The decision in question involved a sought tariff exemption on newspaper sections which, the evidence showed, were transported in truckloads from a newspaper plant in one city to one in another city. On that record it "was not shown that the established minimum rates are improper for such transportation, nor that it involves circumstances and conditions substantially similar to those attending the distribution of

² Decision No. 41597 of May 18, 1948, in Case No. 4246.

newspapers"; and the petition was denied. However, under the circumstances disclosed on the present record the evidence is convincing that there is no essential difference, so far as transportation characteristics and services are concerned, between the movement of the components and the movement of the assembled newspapers. On the evidence now presented it is clear that the tariff exemptions should apply on all of these articles alike.³ For the same reasons, City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 should exempt these commodities. It may well be that relief from the minimum rate tariffs is not necessary under all circumstances, but it would be impracticable on the present record to make the minimum rates applicable to transportation of newspaper sections under various designated circumstances and inapplicable under other circumstances.

Upon consideration of the evidence of record we are of the opinion and find that the minimum rates, rules and regulations heretofore established in Highway Carriers' Tariff No. 2, and in City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5, should be made inapplicable to the transportation of newspapers, or newspaper supplements, sections or inserts. The order which follows will provide for their exclusion from these tariffs.

O R D E R

An adjourned public hearing having been held in the above-entitled proceeding and based upon all of the evidence and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended, in Case No. 4246) be and it is hereby amended by substituting therein, to become effective October 20, 1949, Fifteenth Revised Page 14 cancels Fourteenth Revised Page 14, which page is attached hereto and by this reference made a part hereof.

³ It may be noted that the Interstate Commerce Act, Sec. 203(b)(7), provides for the exemption from Part II of that act of "motor vehicles used exclusively in the distribution of newspapers."

IT IS HEREBY FURTHER ORDERED that City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 (Appendix "A" of Decision No. 32504, as amended, in Case No. 4121) be and it is hereby amended by substituting therein, to become effective October 20, 1949, Seventh Revised Page 13 cancels Sixth Revised Page 13, which page is attached hereto and by this reference made a part hereof.

IT IS HEREBY FURTHER ORDERED that any tariff publications of common carrier respondents filed as a result of this order may be made effective not earlier than October 20, 1949, and on not less than five (5) days' notice to the Commission and to the public.

In all other respects said Decisions Nos. 31606 and 32504, as amended, shall remain in full force and effect.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 13th day of September, 1949.

R. Z. Johnson
Justice F. Craven
James S. Lowell
Harriet P. Hills
Kenneth Patten
Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
<p>40-F Cancel 40-E</p>	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES</p> <p>Rates in this tariff apply for the transportation of all commodities except the following:</p> <ul style="list-style-type: none"> Accessories and Supplies, motion picture, Baggage, viz.: personal baggage and baggage containing sample merchandise, transported from or to a depot, dock or other point where passengers are discharged or received by common carriers, Buttermilk, in milk shipping cans or in bottles in cases or crates, Carriers (used packages), empty, returning from an outbound paying load, or being forwarded for a return paying load of traffic for which rates are not provided in this tariff (Subject to Rule No. 130 series of the Exception Sheet), Cement, portland (building), when transported in bulk, Commodities weighing 100 pounds or less per package or per piece, delivered from retail stores, Commodities transported in bulk in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles, Commodities picked up or delivered for common carriers as defined in the Public Utilities Act, or for radial highway common or highway contract carriers as defined in the Highway Carriers' Act, when the property is in the custody of such carriers for transportation from or to points not included in the zones described in Items Nos. 30, 31, 32 and 33 series, under rates which include pickup or delivery at points within the said zones, Commodities when transported in dump trucks, for which rates are provided in Decision No. 32566 of November 14, 1939, as amended, in Cases Nos. 4246 and 4434, Commodities which consist of or contain materials essential to National Defense and which have been donated to and are transported for the United States Government, governmental agencies, or nonprofit organizations acting for or in behalf of said government in the collection, assembly or transportation of said commodities in connection with the recovery of said essential materials from the commodities transported, Cream, in milk shipping cans or in bottles in cases or crates, Directories, telephone, Fertilizers, as described in Items Nos. 535, 540 and 550 series of the Exception Sheet, Film, motion picture, Furniture, household appliances and other home furnishings, transported from retail stores where they have been sold at retail by a retail merchant, or transported from retail customers to retail stores, Live stock, Milk, in milk shipping cans or in bottles in cases or crates, *Newspapers; newspaper supplements, sections or inserts; (not scrap or waste), Parcel Post packages delivered to a United States Post Office for mailing, Used property, viz.: household goods, office and store fixtures and equipment, as described in and for which rates are provided in City Carriers' Tariff No. 3, Highway Carriers' Tariff No. 4 (Appendix "A" of Decision No. 32629 of December 7, 1939, or as amended, in Cases Nos. 4246 and 4434), and used property as described therein transported for the United States, state, county or municipal governments, Voting Booths, ballot boxes, election tents and election supplies when transported from or to polling places. <p>* Change, Decision No. 4234 (3)</p>
EFFECTIVE OCTOBER 20, 1949	
Issued by the Public Utilities Commission of the State of California, San Francisco, California.	
Correction No. 106	

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)		
<p>40-0 Cancels 40-N</p>	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES (Items Nos. 40 and 41 Series)</p> <p>Rates in this tariff apply for the transportation of all commodities, except the following:</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 50%;"> <p>Accessories, motion picture, Automobiles, set up,</p> <p>Baggage, Butter, dairy (Subject to Note 3), Buttermilk, liquid (Subject to Note 2),</p> <p>Carriers (used packages), empty returning or forwarded for return loads (Subject to Note 1), Cement, portland (Building) (Subject to Note 9), Cement Clinker, Cheese (including cottage cheese and pot cheese (Subject to Note 8), Commodities transported in bulk in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles, Commodities of abnormal size or weight which because of such size or weight require the use of and are transported on low-bed trailers, Commodities weighing 100 pounds or less per package or piece when delivered from retail stores, or when returned to the original retail store shipper via the carrier which handled the outbound movement (Subject to Note 3), Commodities when transported in dump trucks, for which rates are provided in Decision No. 32566 of November 14, 1939, as amended, in Case No. 4246, Commodities which consist of or contain materials essential to National Defense and which have been donated to and are transported for the United States Government, governmental agencies, or nonprofit organizations acting for or in behalf of said government in the collection, assembly or transportation of said commodities in connection with the recovery of said essential materials from the commodities transported,</p> <p>Cotton, Cream (Subject to Note 2), Directories, telephone,</p> </td> <td style="vertical-align: top; width: 50%;"> <p>Eggs (other than shelled, desiccated or frozen),</p> <p>Fertilizers, as described in Items Nos. 535, 540 and 550 series of the Exception Sheet, Film, motion picture, Fodder, Bean, Cane, Corn or Peas (Subject to Note 7), Fruit, dried, unmanufactured and unprocessed (Subject to Note 4), Fruit, fresh, Fungicides, agricultural, Furniture, household appliances and other home furnishings, transported from retail stores where they have been sold at retail by a retail merchant, or transported from retail customers to retail stores (Subject to Note 3),</p> <p>Hops, House Trailers, set up,</p> <p>Ice Cream Mix, unflavored, Insecticides, agricultural,</p> <p>Leaves, Cactus, dried (Subject to Note 7), Live stock, Logs (wood),</p> <p>Margarine (Subject to Note 8), Milk, liquid (Subject to Note 2),</p> <p>*Newspapers; newspaper supplements, sections or inserts; (not scrap or waste), Nuts, edible, in the shell,</p> <p>Pits, fruit, Poultry, live or dressed,</p> <p>Sea Shells, crushed, ground, powdered or disintegrated (Subject to Note 5), Seed, cotton,</p> </td> </tr> </table>	<p>Accessories, motion picture, Automobiles, set up,</p> <p>Baggage, Butter, dairy (Subject to Note 3), Buttermilk, liquid (Subject to Note 2),</p> <p>Carriers (used packages), empty returning or forwarded for return loads (Subject to Note 1), Cement, portland (Building) (Subject to Note 9), Cement Clinker, Cheese (including cottage cheese and pot cheese (Subject to Note 8), Commodities transported in bulk in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles, Commodities of abnormal size or weight which because of such size or weight require the use of and are transported on low-bed trailers, Commodities weighing 100 pounds or less per package or piece when delivered from retail stores, or when returned to the original retail store shipper via the carrier which handled the outbound movement (Subject to Note 3), Commodities when transported in dump trucks, for which rates are provided in Decision No. 32566 of November 14, 1939, as amended, in Case No. 4246, Commodities which consist of or contain materials essential to National Defense and which have been donated to and are transported for the United States Government, governmental agencies, or nonprofit organizations acting for or in behalf of said government in the collection, assembly or transportation of said commodities in connection with the recovery of said essential materials from the commodities transported,</p> <p>Cotton, Cream (Subject to Note 2), Directories, telephone,</p>	<p>Eggs (other than shelled, desiccated or frozen),</p> <p>Fertilizers, as described in Items Nos. 535, 540 and 550 series of the Exception Sheet, Film, motion picture, Fodder, Bean, Cane, Corn or Peas (Subject to Note 7), Fruit, dried, unmanufactured and unprocessed (Subject to Note 4), Fruit, fresh, Fungicides, agricultural, Furniture, household appliances and other home furnishings, transported from retail stores where they have been sold at retail by a retail merchant, or transported from retail customers to retail stores (Subject to Note 3),</p> <p>Hops, House Trailers, set up,</p> <p>Ice Cream Mix, unflavored, Insecticides, agricultural,</p> <p>Leaves, Cactus, dried (Subject to Note 7), Live stock, Logs (wood),</p> <p>Margarine (Subject to Note 8), Milk, liquid (Subject to Note 2),</p> <p>*Newspapers; 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Seeds, field, as described in Note 6,
Shell Marl, crushed, ground or powdered,
Straw (Subject to Note 7),
Sulphur,

Used Property, viz.: household goods,
personal effects, furniture, musical
instruments, radios, and office and
store fixtures and equipment, as de-
scribed in and for which rates are
provided in Decision No. 32629 of
December 7, 1939, as amended, in Case
No. 4246, and such used property
transported for the United States,
state, county or municipal govern-
ments but excluded from the provi-
sions of said Decision No. 32629, as
amended, by the exception of that
property therein contained,

Vegetables, fresh,
Vegetables, dried, viz.:
Beans, (except Mesquite),
Lentils,
Onions,
Peas, (except Cow Peas),
Pepper Pods,
Voting Booths, Ballot Boxes,
Election Tents and Elec-
tion Supplies, when trans-
ported from or to polling
places.

(Continued in Item No. 41 Series)

* Change, Decision No. 42300

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