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Decision No.

BEFORE THE FUBLIC 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 fresh or green) fruits and vegetables and related) items (commodities for which rates are) provided in Minimum Rate Tariff No. 8).)

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Case No. 5438 (Petition No. 2 and Order Setting Hearing dated May 3, 1955)

J. C. Kaspar and R. D. Boynton, for California Trucking Associations, Inc., interested party. <u>Grant Malquist</u>, for the Commission's staff.

<u>O P I N I O N</u>

Minimum rates, rules and regulations for the transportation of fresh fruits and vegetables are set forth in Minimum Rate Tariff No. 8. By Petition for Modification No. 2 in Case No. 5438, filed March 19, 1954, Arthur W. Samuels, a merchant, requested amendment of that tariff so as to exempt from its provisions the transportation of cull potatoes, not fit for human consumption. Following public hearing of the petition, the Commission issued Decision No. 50539, dated September 14, 1954. Therein the Commission stated that while the showing was sufficient to support the conclusion that the transportation characteristics of cull potatoes were different from those of edible potatoes, the record was insufficient for a determination of just, reasonable and nondiscriminatory rates on cull potatoes. The Commission's staff was directed to make a study of the transportation of the commodity in question. Pending the outcome of that study the exemption sought in Petition No. 2 was, by the aforementioned decision, authorized on a temporary basis.

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Following completion of the staff study, the Commission issued its order of May 3, 1955, in Case No. 5438, directing that a public hearing be scheduled for the purpose of receiving evidence concerning minimum rates, rules and regulations for the transportation of cull fruits and cull vegetables.¹ Accordingly, public hearings were held before Examiner Carter R. Bishop on June 7 and 9, 1955 in San Francisco and Los Angeles, respectively. At the hearings further evidence was also received relative to the aforesaid Petition for Modification No. 2.

Notice of the hearing was sent to the California Farm Bureau Federation, California Trucking Associations, Inc., San Joaquin Farm Bureau, various agricultural commissioners and to the parties who appeared, and carrier witnesses who testified, in the original hearing in Petition No. 2.

Evidence was introduced at the 1955 hearings through two members of the Commission's staff, an associate transportation engineer and an associate transportation rate expert. The engineer testified regarding a study which he had made of the cost of transporting "off-standard" produce destined to livestock feed yards or dumping grounds by motor vehicle equipment between points in this state.² He explained that, under provisions of the Agricultural Code of the State of California, off-standard and culled produce

According to the engineer, "off-standard" produce generally consists of fruits or vegetables which fail to conform to the standards established by the State Department of Agriculture. "Culled" produce is synonymous with "off-standard" produce, except that trimmings and rejects from packing plants and from the fields are included. In this decision the terms "cull", "culled" and "off-standard" will be used interchangeably.

The staff study had not been limited to cull potatoes, but had embraced the transportation of cull fruits and cull vegetables generally.

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may, upon issuance of the necessary permit or disposal order, be transported to a packing plant, by-product plant, livestock feeding yard, dumping ground or waste disposal plant.³ Because transportation to a packing plant or by-product plant is not subject to the provisions of Minimum Rate Tariff No. 8 the engineer excluded such transportation from the scope of his study.

With respect to the off-standard produce transported the engineer found that many kinds of fruits and vegetables move to feed yards⁴ and that potentially any kind of produce grown in the state may be destined to dumping grounds or waste disposal plants. As to these last two classes of facilities, however, his investigation disclosed no movement by for-hire carriers. Relatively few for-hire carriers, he said, are engaged in any of the transportation here in issue, and most of these claimed that, in performing such transportation, they were acting in a proprietary capacity, purchasing the cull produce at point of origin and selling it at point of destination.⁵

3 Under the statutory provisions in question movement of offstandard or culled produce to a processing plant or by-product plant is limited to transportation for certain specified purposes.

According to the record the commodities most generally transported to feed yards are: avocados, beans, broccoli, carrots, cauliflower, celery, corn, dates, lettuce, melons, onions, potatoes, sweet potatoes and tomatoes.

All of these carriers, the record discloses, hold permits from this Commission and engage in the for-hire transportation of other commodities, as well as those embraced in these phases of Case No. 5438. The engineer found no evidence of transportation of cull produce by certificated highway carriers.

The engineer had developed costs of performing the transportation of off-standard produce in four different types of motor vehicle equipment, herein designated as Groups No. 3 (2 axles), No. 8 (3 axles); No. 10 (4 axles) and No. 12 (5 axles), for representative distances, ranging from 15 miles to 250 miles according to the type of equipment employed. Average truckload weights were 14,500 pounds, 23,000 pounds, 34,000 pounds and 44,000 pounds, for the above-mentioned types of equipment, respectively.

In the table below are shown the full costs, as developed by the staff engineer, for representative hauls of each of the four equipment groups. The costs are expanded for gross revenue 127.1 expense and to reflect operating ratios of 100 per cent and 90 per cent, respectively. The many ST PROV THE NEW

Vehicle Equipment	Minimum Weight <u>Group</u>	Miles	Operating Ratio 100 Per Cent	Operating Ratio 90 Per Cent
Group No. 3	12,000	50	,	11.9 16.9 23.5
Group No. 8	20,000	20' ere 40 75	13.9.2 mi kok - 13.9 - 2 mi kok - 13.9 - 2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 -	10.3 15.0 22.0
Group No. 10	30,000	30 75 150	9-56-0 15-72-5 24-6	10.7 17.6 27.6
Group No. 12	40,000	30 75 150 250	8.6. 13.7 21.1 30.0	9-7 15-4 23-6 33-7

month of Full Costs in Cents permiloo Pounds

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In his analysis of operating costs the witness had developed the total labor cost per hour, fixed expense per hour, and running cost per mile. In conjunction with these factors he calculated the total direct cost per 100 pounds, which he then

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expanded to include indirect expense and gross revenue expense. Intert exter The resulting figures, shown in the column in the table headed "Operating Ratio 100 Per Cent", reflect the calculated full costs exclusive of any provision for profit. The figures in the last column of the table purport to show the full costs plus an allowance for profit which would produce an estimated operating ratio of 90 per cent. These last figures, the witness said, were included merely for the Commission's information.

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The cost data which the engineer employed in his study were not in all instances taken from the books of the carriers. Because of the relatively small number of for-hire carriers engaged in the transportation of cull produce and the inadequacy of the records of some of those carriers, the witness testified, it was necessary in some instances to utilize figures which had been developed in other staff studies of comparable operations or which were predicated on his own knowledge and experience in the analysis of highway carrier costs. The witness stated, however, that wherever reliable data could be obtained from the books and other records of the carriers involved, such data were utilized in the study.

The rate expert testified regarding the transportation characteristics of the commodities here under consideration. Cull produce, he stated, normally originates at packing sheds or plants, disposition usually being made through sale or direct gift to farmers for livestock feeding purposes or to speculators or by dumping. He found that cull produce is transported both by forhire and proprietary carriers, and that it moves sometimes in containers but more often in bulk.

6 Neither the rate expert nor the transportation engineer had found any indication of movement of cull produce between points in this state by rail.

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Cull fruits and vegetables, this witness said, differ substantially from marketable produce in transportation characteristics. Among the differences which he enumerated, were the following: cull produce requires neither expedited service nor refrigeration; less care is necessary in the loading and unloading of culls than in the handling of marketable fruits and vegetables, which must be kept free from bruising and other damage; culls are generally tendered in heavier lots and shipments weighing up to 46,000 pounds are not uncommon; while helpers are normally employed in unloading marketable produce this is not true of cull produce. The witness also testified that the value of cull produce is considerably below that of marketable produce.

In view of the aforementioned differences in transportation characteristics it was the view of the rate expert that different rate treatment should be accorded cull produce than is given marketable produce.⁷ In his study he had developed, for statewide application, scales of suggested minimum commodity rates for cull produce. These rates, he believed, would meet the statutory requirement that the Commission shall, in order to promote the freedom of movement by carriers of agricultural products, establish for such transportation the lowest lawful rates compatible with the maintenance of adequate transportation service.⁸

In order to provide rates which would be reasonably related to the costs developed by the engineer and to give effect to practical minimum weight considerations, the rate expert suggested four scales

No. 8 for the transportati	re now provided in Minimum Rate Tariff on of cull or off-standard produce ly applicable to fresh fruits and
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⁸ Sections 726 and 3661 of the Public Utilities Code of the State of California.

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of distance rates subject to minimum weights of 10,000, 20,000, 30,000 and 40,000 pounds, respectively. To take care of occasional shipments that might exceed the maximum distances which shipments of cull produce had been found to be transported, the suggested scales were developed to 50 miles beyond such maximum distances.⁹

The suggested rates, the witness said, would, if established, alternate with other rates now provided in Minimum Rate Tariff No. 8. The suggested rate structure also contemplates cancellation of the provision under which the rates named therein are made non-applicable to the transportation of cull potatoes. The rate expert proposed, moreover, that the suggested rates be made subject to the condition that each shipping document covering the transportation of cull produce shall show thereon the number, date and issuing office of the permit or disposal order issued in connection with such shipment under the provisions of the Agricultural Code of the State of California. Such a requirement, he said, is necessary in order to protect the minimum rates on marketable produce.

In Appendix "A" hereof, the minimum rates suggested by the rate expert for cull produce are compared with the present minimum rates on fresh fruits and fresh vegetables for the corresponding distances.

California Trucking Associations, Inc. appeared in these phases of Case No. 5438 as an interested party. At the San Francisco hearing its director of research stated that the asso-

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According to the record cull produce is transported for relatively short distances. In the staff studies it was found that the greatest length of haul in each of the four abovementioned weight groups was 50, 75, 150 and 250 miles, respectively.

ciation supports the staff rate proposals and that if such proposals are adopted it is prepared to notify its members of the fact.

No one opposed the adoption of the staff rate proposals.

It is clear from the record that the transportation characteristics of cull produce are substantially different from those of marketable produce. While it appears that some obstacles have been encountered by the staff in the development of reliable cost figures for the transportation here in issue, the record is convincing that those costs are substantially lower than the costs incurred in the hauling of marketable produce. It follows that lower minimum rates than those now provided in Minimum Rate Tariff No. 8 for the transportation of fresh fruits and fresh vogetables should be established for the movement of cull produce. We hereby find that the suggested minimum rate revisions, including cancellation of the present exemption on cull potatoes, have been justified.

Not related to the foregoing, but included in Item No. 40-G of Minimum Rate Tariff No. 8, is the matter of the description of empty, second hand containers. The description will be clarified hereinafter. This is a matter not requiring public hearing.

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

IT IS HEREBY ORDERED that Minimum Rate Tariff No. 8 (Appendix "C" to Decision No. 33977 as amended) be and it is hereby further amended by incorporating therein, to become effective November 1, 1955, the revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

> Tenth Revised Page 8 cancels Ninth Revised Page 8 Third Revised Page 30-A cancels Second Revised Page 30-A

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IT IS HEREBY FURTHER ORDERED that tariff publications of required or authorized to be made by common carrier's as a result of the order herein may be made effective not earlier than the effective date hereof on not less than five days notice to the Commission and to the public; and that such required tariff publications shall be made effective not later than November 1, 1955.

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IT IS HEREBY FURTHER ORDERED that, except to the extent that it was granted by Decision No. 50539, as modified herein, Petition for Modification No. 2 in this proceeding be and it is hereby denied.

In all other respects said Decision No. 33977, as amended, shall remain in full force and effect.

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

Dated at <u>San Francisco</u>, California, this <u>27</u> day of the Atten hand, 1955. Commissioners

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APPENDIX "A"

Comparison of Present Distance Commodity Rates in Minimum Rate Tariff No. 8 and Suggested Distance Commodity Rates for Cull Produce

Rates in Cents per 100 Pounds

Mi	Les			Minir	num Wo	ight_in	Pound	5	
	But Not	10,	000	20,0		30,0		40,0	000
Over	Over	(A)	(B)	#(A)	(B)	**(A)	(B)	*(A)	(B)
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250 3350 45	305050 35050	29克 30克 32克 32克 33克	15 17 18 20 21	214 25 267 28 278 28	12 13 14 15 16	222245	10 11 12 13	2223 2223 2455 255	9 10 10 11
50 60 70 80 90	60 70 80 90 100	342 36 37 38 41	24 27 30 33 36	29年 30年 31年 32年 32年 33章	17 19 21 22 24	26264 27284 2992 302	14 16 17 18 19	267 2757 287 297 302	13 14 15 16 17
100 110 120 130 140	110 120 130 140 150	4357 44792		3456 356 36 38 38 38	26 28 30	3123 323 345 345 35	20 21 23 25 26	31 32 33 34 35 余 35 余	18 19 20 22 23
150 160 170 180 190	160 170 180 190 200	54 56 58 59		47 435 478		362 375 382 40 47	28 29 30 32 33	362 372 380 40	24 25 26 27 28
200 220 240 260 280	220 240 260 280 300	602 662 668 668		502409		424468 4468 50		1448 1468 1468	29 31 33 35 37

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LINIMULI RATE TARIFF NO: 8

Item	SECTION NO. 1-RULES AND REGULATIONS OF CEMERAL					
No.	APPLICATION (Continued)					
	APPLICATION OF TARIFF-COMMODITIES					
	Rates in this tariff apply to transportation of the following commodities (See Exception):					
	Fruits, fresh or green (not cold pack nor frozen); Vegetables, fresh or green (not cold pack nor frozen), including mushrooms, fresh; *Containers, empty, second-hand, returning from an outbound paying load, of commodities for which rates are provided horein or forwarded for a return paying load, of commodities for which rates are provided in this tariff, subject to Note 1.					
*40-H Cancels 40-C	NOTE 1Highway carriers must determine before accepting ship- ment that said containers were moved filled and are being returned by the same carrier or carriers to consigner of the filled contain- ers; or that containers shipped for return paying load will, when filled, move by the same carrier or carriers to the consigner of the original empty containers.					
	EXCEPTIONRates in this tariff do not apply to transportation of: (a) Fresh or green fruits, fresh or green vegetables, or much- rooms, as described herein, when the point of destination of the shipment is a cannery, packing plant, packing shed, preceeding plant, winery or processing plant; nor to the empty containers used or shipped out for use in connection with such transportation. (b) Citrus fruits when the point of destination of the shipment is within the Los Angeles Drayage Area, as described in Minimum Rate Tariff No. 5; nor to the empty containers used or shipped out for use in connection with such transportation. (c) Sugar beets when the point of destination of the shipment is a beet sugar factory or a railroad loading dump. ****					
	SHIPMENTS TO BE RATED SEPARATELY					
50.	Each shipmont shall be rated separately. Shipmonts shall not be consolidated nor combined by the carrier. Component parts of split pickup or split delivery shipmonts, as defined in Itom No. 11, may be combined under the provisions of Itoms Nos. 170 and 180.					
60.4	GROSS WEIGHT					
60-A Cancels 60	Charges shall be assessed on the gross weight of the shipment, including container icing, if any. No allowance shall be made for the weight of containers.					



UNITS OF LEASUREMENT IN QUOTATION OF RATES AND CHARGES

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Rates or accessorial charges shall not be quoted or assessed by carriers based upon a unit of measurement different from that in which the minimum rates and charges in this tariff are stated.

* Chango *** Paragraph (d) eliminated) Decision No. 51990

EFFECTIVE NOVELBER 1, 1955

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

Correction No. 178

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LINILULI RATE TARIFF NO. 8

Item No.	SECTION NO. 2-DISTANCE COMMODITY RATES (In Cents per 100 Pounds)							
	FRUITS A	FRUITS AND VEGETABLES, CULL, subject to Note 1.						
	1510	05		MStanimum	Weight			
	Over	But Not Over	10,000 Pounds	20,000 Pounds	30,000 Pounds	40,000 Pounds		
	0 5 10 15 20	5 10 15 20 25	9 10 12 14	7 8 9 סו גב	6 7 8 9 10	56789		
	25 30 35 40 45	30 35 40 45 50	15 17 18 20 21	12 13 14 15 16	10 11 12 13	9 01 01 11 12		
#0&30L	50 60 70 80 90	60 70 80 90 100	24 27 30 33 36	17 19 21 22 24	14 16 17 18 19	23 24 15 16 17		
	100 110 120 130 140	. 110 120 130 140 150		26. 28 30 	20 21 23 25 26	18 19 20 22 23		
) 	150 160 170 180 190	160 170 180 190 200			28 29 30 32 33	24 25 26 27 28		
	200 220 2110 260 280	220 260 280 300				29 31 33 35 37		
	ing th issuin tion t	he transport ng office of with such sh	es apply only ation shows : the permit (ipment under of Californ	reference to or disposal the provisi	the number, order issued	date and in connoc-		
	# Addition > Increase 5 Reduction) Decisio	n No. 519	90				
				EFFECTIVE NO	VEMBER 1, 19	55		
	Issuo	d by the Pub	lic Utilitie	s Commission		c of California,		
Corre	ction No.	179			San Franci	sco, California.		

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