

ORIGINAL

Decision No. 53840

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

Case No. 5438  
 Order Setting Hearing  
 dated August 31, 1954

In the Matter of the Investigation into  
 the rates, rules, regulations, charges,  
 allowances and practices of all common  
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 of fresh or green fruits and vegetables  
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 Tariff No. 8).

Case No. 5438  
 Petition No. 11

Alan Mills, for California Grape and Tree Fruit League,  
 interested party and petitioner.  
Lonnie Case, Tom Clark, Walter Dennison, and Francis McNeil,  
 for various respondent carriers.  
Arlo D. Poe and J. C. Maspar, for California Trucking  
 Associations, Inc., interested party.  
J. J. Deuel and Joe Joynt, for the California Farm Bureau  
 Federation, interested party.  
Robert C. Neill and James C. Uhler, for Sunkist Growers, Inc.,  
 interested party.  
Harry H. Ross, for California Packing Corporation, interested  
 party.  
James Quintrall, for the Western Motor Tariff Bureau,  
 interested party.  
C. W. Phelps, for the Port of Stockton, interested party.  
E. H. Grinstead, for the Port of San Francisco, interested  
 party.  
J. T. Phelps, Grant Malquist and Robert A. Lane, for the  
 staff of the Public Utilities Commission of the State  
 of California.

O P I N I O N

The matters in issue herein relate to the establishment of just, reasonable and nondiscriminatory minimum rates for certain transportation of fresh fruits and vegetables moving by highway carriers in interstate or in foreign commerce between points in California. The transportation service which is involved is excluded from federal rate regulation by Section 203 (b)(6) of the Interstate Commerce Act.<sup>1/</sup> In a related proceeding the Commission has declared its jurisdiction over this service (Decision No. 50156, June 18, 1954, in Case No. 5432). It has held, furthermore, that the service is subject to minimum rates, rules and regulations which are named in Minimum Rate Tariff No. 8 for transportation of fresh fruits and vegetables within California.

Being informed, however, that the movements in interstate or in foreign commerce may have different characteristics than the intrastate movements for which the rates in Minimum Rate Tariff No. 8 were primarily established, the Commission directed by order dated August 31, 1954, that public hearings be held to determine to what extent, if at all, the existing minimum rates should be modified for application to such traffic. Subsequently, by Decision No. 50647, dated October 13, 1954, in this numbered proceeding, the Commission temporarily exempted the traffic from the provisions of Minimum Rate Tariff No. 8 pending investigation and decision on the matters involved. This exemption has since been removed insofar as it applies to movements of potatoes and onions from certain areas

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<sup>1/</sup> The exclusion applies to the transportation of agricultural commodities (among other things) by motor vehicles not used in carrying other property or passengers for compensation.

in and adjacent to the Sacramento River delta region, specific rates having been prescribed for this traffic. In other respects the exemption applies. It will expire December 15, 1956, unless extended, changed or modified by further order of the Commission.

The purpose of the instant phase of this proceeding is to consider rates which members of the Commission's staff have recommended be established as minimum for the traffic. A further purpose is to consider a petition of the California Grape and Tree Fruit League for permanent exemption from the minimum rate provisions for shipments of fresh grapes and deciduous tree fruits moving to ports for export.

Following advance notices to persons and organizations believed to be interested, public hearings on the matters in issue were held before Examiner C. S. Abernathy at San Francisco on October 20 and 21, 1955, and at Los Angeles on November 8, 1955. Evidence concerning the recommendations of the Commission's staff was submitted by a transportation engineer and by a rate expert of the staff. Evidence in support of the petition of the California Grape and Tree Fruit League was submitted by the League's assistant traffic manager, by a carrier which transports substantial quantities of fresh grapes and deciduous fruits to San Francisco Bay ports and Los Angeles area ports, and by a representative of the California Farm Bureau Federation. Sunkist Growers, Inc., California Trucking Associations, Inc., and the Port of Stockton participated in the hearings as interested parties.<sup>2/</sup>

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<sup>2/</sup> On December 19, 1955, the record in these matters was closed. On July 19, 1956, however, submission of the matters was set aside by order of the Commission in Decision No. 53427 in response to petition of the Commission's staff, and certain additional data which had been developed by the staff since the hearings in October and November, 1955, were made a part of the record.

The matters with which this particular phase of Case No. 5438 is concerned are varied and complex. For this reason it appears that preliminary to discussion of the proposals which have been advanced herein, a somewhat comprehensive description of the principal features of the transportation services involved is desirable in order to provide perspective for the proposals.

Highway carrier transportation of fresh fruit and vegetables in interstate or in foreign commerce between points in California may be divided into two main types of movements:

(a) those from packing sheds and processing plants to ports for overseas shipment and (b) those from packing sheds and processing plants to railheads for trans-shipment by rail carriers to interstate or foreign destinations. The movements to ports constitute the greater portion of the transportation performed and the record herein relates principally to those movements. Almost all of the packing sheds and processing plants are located on or near rail facilities and, consequently, there is relatively little need for highway transportation of fruits and vegetables to the railheads. In addition to the foregoing transportation there are movements of fruits and vegetables from fields and groves to packing sheds and processing plants. These movements, however, will be excluded from consideration herein. Like transportation in intrastate commerce is specifically exempted from the provisions of Minimum Rate Tariff No. 8. No evidence was adduced on this record to show that the transportation in interstate or in foreign commerce should be accorded different treatment.

The fruits which are mainly involved herein are grapes, deciduous tree fruits and citrus fruits. The grape shipments

originate, for the most part, in the San Joaquin Valley. About 80 percent of the shipments move to the San Francisco Bay ports, 1 percent to the port of Stockton, and the remainder to ports in the Los Angeles area. The principal origins of the citrus shipments are in the San Joaquin Valley and in southern California. More than 70 percent of the citrus shipments move through the Los Angeles area ports and most of the remainder through San Francisco Bay ports. During the 1953-54 season 447 car-lot equivalents of grapes and 7,863 car-lot equivalents of citrus fruits were shipped to California ports for export.<sup>3/</sup> The record does not show what the corresponding shipments of deciduous tree fruits were. It indicates, however, that the volume of the shipments of deciduous tree fruits was relatively small. These shipments originated primarily in the vicinity of San Jose and in the San Joaquin Valley. Onions and potatoes also move to the ports in substantial volume. Specific minimum rates for the transportation of onions and potatoes from the Sacramento River delta region to San Francisco Bay area ports have heretofore been established and rates for these movements are not in issue herein. No specific showing was made with respect to the other movements of potatoes and onions. They will be considered in conjunction with miscellaneous transportation of fruits and vegetables in interstate or foreign commerce within the state.

The rates which apply at present to the shipments of grapes, deciduous tree fruits and citrus fruits are rates which

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<sup>3/</sup> A car-lot equivalent of grapes is 680 chests or 1,100 lugs. Chests have a net weight of approximately 34 pounds and a gross weight of 50 pounds. Lugs have a net weight of 28 pounds and a gross weight of 31 pounds. A car-lot equivalent of oranges is 462 boxes having a gross weight of approximately 85 pounds per box.

have evolved by negotiation between the carriers and shippers. The rates for grapes and deciduous tree fruits are on a per package or a container basis. To some extent they vary according to the length of haul. In other respects they are "flat" rates, the same rates per package applying irrespective of whether the shipments are in truckload or in less-than-truckload quantities. For citrus fruits two bases of rates are applied: If the transportation is by truck, the rates which are assessed are generally on a per-container basis; if the transportation is by rail the rates which are assessed are those which are stated in cents per 100 pounds. In some instances the rates are on a zone or group basis. In other instances they vary with the length of haul.<sup>4/</sup>

By its petition the California Grape and Tree Fruit League in effect seeks to retain the present rates for movements of grapes and deciduous tree fruits. It alleges that subjection of this traffic to the provisions of Minimum Rate Tariff No. 8 would redound to the serious detriment of California agriculture.<sup>5/</sup>

According to testimony of the League's assistant traffic manager, sales of grapes and deciduous tree fruits in foreign markets are on a basis that enables the growers and shippers to offer these fruits at a given price per package irrespective of quantity. Assertedly, it is on this basis that a position in the foreign markets for California produced grapes and deciduous tree

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<sup>4/</sup> The rates which would apply to all of this transportation under present provisions of Minimum Rate Tariff No. 8 are weight and distance rates -- rates which are stated in cents per 100 pounds and which vary with the weight of the shipment and with the length of haul.

<sup>5/</sup> In its petition the California Grape and Tree Fruit League states that its proposals are made on behalf of a membership of 218 growers and shippers who are engaged in the business of producing and marketing more than 85 percent of the fresh deciduous tree fruits, grapes and berries grown in the state.

fruits has been developed. The assistant traffic manager testified that the rates which have applied heretofore for movements of the fruits from the production areas to the ports have been on a per-package basis in conformity with the pricing requirements of the foreign markets. He declared that any change in present arrangements that would result in the substitution of rates which vary with the weights of the shipments would seriously interfere with the free marketing of the fruits; that it would thereby cause diversion to domestic markets of fruits which have been grown principally for foreign markets, and that any such diversion to domestic markets would materially depress the prices that the growers and shippers are able to obtain for their fruits generally. He said that the present rates are satisfactory to the shippers and the carriers alike. For these reasons he urged that the sought minimum rate exemption be granted.

The carrier witness who appeared in support of the petition of the California Grape and Tree Fruit League stated that he has been in the business of transporting fresh fruits and vegetables since 1948. He testified that his hauling includes the movements of grapes and deciduous fruits to ports for export; that during the 1954 season the volume of the export traffic which he handled totaled 205,700 chests of grapes, and 155,000 lugs of grapes and deciduous tree fruits;<sup>6/</sup> that the rates which he assesses for the export movements have been on a per-package basis; that such rates have been reached by negotiation with his shippers; that considerations that entered into the determination of the rates included

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<sup>6/</sup> The volume of grapes handled by this carrier was approximately 60 percent of the total exports of California grapes during the 1954 season.

costs of operations, the length of haul, the number of individual consignments that make up a load, the amount of refrigeration service provided, the size of packages, and competition. He said that determination of rates by negotiation has been satisfactory from his point of view, and that it has enabled him to earn a satisfactory profit.

The director of the Public Utilities Department of the California Farm Bureau Federation urged that the Commission, in reaching its decision on the matters involved herein, give particular consideration to the needs of California agriculture and of the legislative policy with respect thereto. He pointed out that under Section 726 of the Public Utilities Code the Commission is directed to adopt a policy in rate making that will be most favorable to the transportation of agricultural products.<sup>2/</sup> He said that in his opinion the granting of the exemption sought herein by the California Grape and Tree Fruit League would in this instance be in conformity with the legislative requirements.

The Farm Bureau representative declared that it is more difficult to do business in the export markets than in the domestic markets, and that in the export markets it is essential to have a clear-cut price policy so that the purchasers may know precisely what their costs are. He expressed concern lest the Commission,

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<sup>2/</sup> Section 726 of the Public Utilities Act (Part I of the Public Utilities Code) reads in part that "it is the policy of the State in rate-making to be pursued by the Commission to establish such rates as will promote the freedom of movement by carriers of agricultural commodities including livestock at the lowest rates compatible with the maintenance of adequate transportation service."

A similar provision is set forth in Section 3661 of the Highway Carriers' Act (Chapter I, Division 2, of the Public Utilities Code).



through its minimum rate orders, alter the existing price structure insofar as transportation rates are concerned. He asserted that such a change would react adversely against the California agricultural industry and would come at a time when the industry is in a relatively depressed state. He recommended that if the Commission should conclude that minimum rates should be established in lieu of granting the sought exemption, the prescribed rates be established in conformity with those which are now being assessed.

The evidence which was submitted by the rate expert and by the engineer of the Commission's staff was largely in the form of reports on studies which these witnesses had made of the transportation to determine the character of the service, its costs and other factors which would affect the rates therefor. The principal features of the service have been outlined heretofore and further review thereof is not necessary except with regards to certain of the commodities which move in relatively small volume. This transportation will be touched upon subsequently in connection with the recommendations of the rate expert.

The studies of the engineer were directed primarily toward development of the costs of transporting grapes and citrus fruits to ports for export. Elements of costs applicable to these movements were obtained from the books, operating reports and supplementary records of carriers who are engaged in performing substantial amounts of the service, and from analyses of the performance of the carriers in the actual conduct of the transportation. The engineer stated that in his studies of the costs of transporting grapes he had drawn from the experience of 20 carriers in making approximately 100 trips from the growing areas to the

harbors and that with respect to citrus fruits he had analyzed the experience of 32 carriers in making more than 200 trips to the harbors. The data which he so developed, he said, provided an adequate base for determination of representative costs of the service.

The engineer developed his cost figures on a zone basis to show the cost of transportation from what he considered to be the principal production areas in the state. For grapes he calculated transportation costs from five origin zones located in the San Joaquin Valley in the vicinity of Lodi, Reedley, Exeter, Richgrove and Arvin. For citrus he developed his costs for two zones in the San Joaquin Valley in the vicinity of Lindsay and Orange Cove, and for nine zones located in southern California along the coast from Santa Barbara to the Mexican border, in the Los Angeles Basin area and in the territory east of Los Angeles as far as Redlands. The zone costs for grapes were shown by the engineer for seven weight groups ranging from quantities less than 2000 pounds to quantities of more than 40,000 pounds. For citrus fruits, however, he developed costs for but two weight groups - those for quantities of 39,000 pounds or more and those for lesser quantities. The engineer made a further division in the costs for citrus according to whether the fruit moves in boxes or fibre cartons. He explained that there is a notable variance between the costs of transportation in wooden boxes and in fibre cartons, the costs applicable to cartons exceeding those for boxes by about two cents per 100 pounds.

On the basis of the engineer's cost showing and on other rate considerations, including competition, the rates which cur-

rently apply for the various transportation services, and practices followed in the marketing of the fruits, the rate expert recommended that certain rates which he had developed be adopted to apply as minimum for movements of grapes, deciduous tree fruits and citrus fruits in interstate or in foreign commerce between points within California. In the development of these rates the rate expert followed the costs of the Commission engineer in some instances. In other instances he was guided primarily by the "going" rates for the transportation and by other considerations.

For movements of grapes, deciduous tree fruits and citrus fruits from San Joaquin Valley production areas, the form and level of the "going" rates largely controlled the rate expert's recommendations. He proposed the establishment of "flat" package rates on a zone basis for grape shipments of all weights.<sup>8/</sup> He said that because of the apparent need for package rates in the marketing of grapes in foreign countries, it would not be desirable to establish minimum rates for the interstate and foreign shipments on a materially different basis. He recommended that the proposed rates for grapes apply likewise to shipments of deciduous tree fruits because the "going" rates for these fruits have been maintained on the same level as those for grapes and because

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<sup>8/</sup> In some instances the rate witness based his proposals upon different and larger zones than those used by the engineer in the development of his costs. For shipments out of the San Joaquin Valley area from the northern boundary of Kern County to approximately the boundary between Fresno and Madera Counties, the engineer developed his costs on a three-zone basis for grapes and on a two-zone basis for citrus fruits. The rate witness, however, proposed that the whole area constitute a single rate zone. The treatment of the whole area as a single zone assertedly was done to bring about conformity with present practices.

deciduous tree fruits are also sold in the foreign markets on a per package basis.<sup>9/</sup> For the transportation of citrus fruits from San Joaquin Valley origins to ports in the Los Angeles area the witness recommended the establishment of zone rates slightly higher than the "going" rates but less than the costs of the service as developed by the Commission engineer.<sup>10/</sup> These rates represent a combination of the rates of rail carriers for export shipments via Los Angeles and costs which the engineer had developed for the unloading of truckload shipments of citrus fruits at the ports. The witness recommended that the same rates apply on shipments to the San Francisco area in order to maintain competitive equality between the ports in the Los Angeles area and ports on San Francisco Bay.

For the remaining transportation of citrus fruits involved herein - the movements from southern California production areas to Los Angeles area ports - the rate expert recommended zone rates which correspond substantially to the costs of the service as shown by the Commission engineer and which are higher than the present "going" rates in some instances and lower in others. All of the rate proposals of the rate expert relating to the transportation of citrus fruits - both the transportation from San Joaquin Valley origins and transportation from southern

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<sup>9/</sup> The witness recommended that the rates be published in cents per 100 pounds; however, in recognition of the industry requirements for rates on a package basis, he proposed that the carriers be accorded the privilege of converting the weight rates into package rates if they so desire.

<sup>10/</sup> It appears that in certain instances where the proposed rates from San Joaquin Valley are higher than the "going" rates, the witness had made allowance for certain increased costs which were not reflected in the "going" rates.

California origins - were limited to quantities of 39,000 pounds or more. The witness indicated that, in his opinion, the present rates in Minimum Rate Tariff No. 8 may properly be assessed for transportation of the lesser quantities.

One other aspect of the witness's recommended rates for citrus fruits which has not been mentioned deals with the rates for movements in boxes and in cartons. As was stated hereinabove, separate costs for shipments in boxes and in cartons were developed by the Commission engineer because of what he considered to be significant differences between the costs of transporting citrus fruit in boxes and in fibreboard cartons. It appears, moreover, that recognition to these cost differences is given in the "going" rates by the assessing of higher rates when the shipments are in cartons. The rate witness, however, recommended that only a single scale of rates be established to apply to both types of shipments. He said that the trend in packing citrus fruits is for the use of fibreboard cartons on all export shipments and for that reason a single rate scale in which predominant weight is given to the higher cost of the transportation in cartons would be appropriate.

Except for the export shipments of grapes, deciduous tree fruits and citrus fruits for which he proposed specific rates and except for the movements of potatoes and onions from the Sacramento River delta area for which specific rates have been established heretofore, the Commission rate witness recommended that the present provisions of Minimum Rate Tariff No. 8 be made applicable otherwise to all movements of fresh fruits and vegetables in interstate or in foreign commerce within California which fall within the exclusions

of Section 203 (b)(6) of the Interstate Commerce Act. He said that with these exceptions the rates, rules and regulations contained in the tariff are well adapted to the transportation.

The recommendations of the rate witness, as they relate to the transportation of citrus fruits, were opposed by the assistant traffic manager of Sunkist Growers, Inc., a cooperative organized for the marketing of citrus fruits, on the grounds that present rate arrangements between shippers and carriers are mutually satisfactory and that the application of minimum rates to this traffic is an unnecessary regulatory step. He asked that in the circumstances export shipments of citrus fruits be permanently exempted from the provisions of Minimum Rate Tariff No. 8. He also asked that should the requested exemption not be allowed, minimum rates not be established at a higher level than the present "going" rates. He said, furthermore, that in order to avoid undue pressure upon highway carriers to apply rail rates for truck transportation in instances where rail rates may be assessed as minimum, rates should not be published which are substantially higher than the rail rates. As a basis for minimum rates the witness generally supported the recommendations of the rate expert concerning citrus fruits.

He urged, however, that the proposed rates be made subject to minimum weights of 36,000 pounds for oranges and lemons and 33,000 pounds for grapefruit. He said that although the minimum of 39,000 pounds which the rate witness recommended reflects the general practice of shipping citrus fruits in quantities of 39,000 to 42,500 pounds, occasions arise, particularly in the trans-Pacific trade, which make smaller shipments necessary. He asserted that

recognition could equitably be given to these smaller shipments by the establishment of the requested minima.

Granting of the minimum rate exemption sought by the California Grape and Tree Fruit League and by Sunkist Growers, Inc., was opposed by the California Trucking Associations, Inc., through the Associations' counsel and through their director of research. The position of the Associations was that granting of the exemptions would be unduly discriminatory against intrastate traffic and would, moreover, lead to rate cutting by carriers with respect to the exempted traffic in order that they might obtain or retain related traffic which is subject to minimum rates.

The Associations' director of research, who submitted testimony and exhibits in the matters involved, concurred with the recommendations of the Commission's staff witness that specific minimum rates be established for truckload movements of grapes and citrus fruits to the ports. He took exception, however, to establishment of the rates on the basis of the zones which the rate witness proposed. He asserted that the view of the majority of the carriers is that minimum rates should be on the mileage basis rather than on a zone basis in order to produce charges which are reasonable for carriers and shippers alike. The director pointed out that various of the zones which the rate witness recommended are quite extensive. The blanketing of large areas within a single zone, he said, results in unreasonable charges for shipments from the peripheral areas of the zones, the rates from the far sides of the zones being unduly low for the transportation performed and unduly high for that from the near sides of the zones. He said

that the latter condition invites the performance of the particular transportation involved by proprietary carriage.

The director of research took exception also to the recommendations of the rate witness which would result in the establishment of minimum rates for citrus fruits on the basis of the rates applicable to carload movements by rail plus unloading costs for equivalent truckloads. He declared that minimum rates should reflect the conditions applicable to transportation by highway carriers. He asserted that the fact that the lower rail rates may be used by highway carriers does not justify the prescription of minimum rates at less than a reasonable level as determined by the cost of the service.

With reference to the transportation of citrus fruits and grapes in lesser quantities than 39,000 and 40,000 pounds, respectively, and with reference to the transportation of all other fruits and vegetables which is involved herein, the research director recommended that the present rates, rules and regulations in Minimum Rate Tariff No. 8 should be made to apply as minimum. He said that it was his opinion, based upon his own investigation of the transportation and upon his discussions on the matter with the carriers in the field, that the establishment of specific rates for these transportation services at a lower level than the rates in Minimum Rate Tariff No. 8 is not warranted by the type and volume of the movements.

The Associations' witness submitted two scales of distance rates - one for the transportation of grapes in minimum quantities of 40,000 pounds and the other for the transportation of citrus fruits in the minimum quantities of 39,000 pounds - which he



proposed be adopted instead of the zone rates recommended by the Commission rate witness. These rates, he testified, were developed on the cost showing of the Commission engineer with certain modifications being made to allow for other rate factors. The witness said that from his review of the engineer's costs and from reviews made by various of the carriers engaged in the transportation, it appears that the engineer's figures are a reliable measure of the costs of the service; that although the engineer's data were constructed to show the costs from designated zones, they provide a pattern of the costs by lengths of haul, and that on this pattern he had developed the proposed mileage rates. He stated that the modifications which he made in the rates for other rate factors are those primarily to reflect certain "going" rates so that the resultant rates would fit both the costs and the "going" rates. He stated, furthermore, that the rate scales as a whole were designed to produce operating results as indicated by an operating ratio of 93 percent.

Discussion and Conclusions

As was indicated at the outset of this opinion, and as the foregoing summary of the record shows, this phase of Case No. 5438 involves two principal issues: (a) To what extent, if any, should Minimum Rate Tariff No. 8 be modified or amended to provide reasonable and nondiscriminatory minimum rates, rules and regulations to govern the transportation of fresh fruits and vegetables moving in interstate or in foreign commerce within California and (b) to what extent, if any, should such transportation of grapes, deciduous tree fruits and citrus fruits be exempted from minimum rate regulation. Since disposition of the latter issue may

affect the action to be taken on the former, consideration will first be given to the matters involved in the petition of the California Grape and Tree Fruit League and the request of Sunkist Growers, Inc., for exemptions from the minimum rates for grapes, deciduous tree fruits and citrus fruits.

The requested exemptions, by their nature, touch upon underlying purposes of this general proceeding and of similar proceedings involving the establishment of minimum rates. Detailed discussion of these purposes is not necessary at this point, since they have been discussed repeatedly in earlier decisions of this Commission. It is sufficient to say that in establishing minimum rates for the transportation of property in California the Commission has proceeded and is proceeding in conformity with legislative policy expressed in the Highway Carriers' Act and elsewhere to stabilize transportation within this State.<sup>11/</sup>

In seeking minimum rate exemption for their products, the California Grape and Tree Fruit League and Sunkist Growers, Inc., presume that the circumstances do not require exercise of the Commission's minimum rate powers, inasmuch as experience has assertedly demonstrated that through the medium of direct negotiation the carriers and shippers have been able to arrive at mutually satisfactory transportation arrangements. We do not agree that these

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<sup>11/</sup> The preamble of the Highway Carriers' Act declares "the use of the public highways for the transportation of property for compensation is a business affected with a public interest and it is hereby declared that the purpose of this Act is to preserve for the public the full benefit and use of public highways consistent with the needs of commerce ...; to secure to people just and reasonable rates for transportation by carriers operating upon such highways; to secure full and unrestricted flow of traffic over such highways which will adequately meet reasonable public demands by providing for the regulation of rates of all transportation agencies ..."

circumstances justify the Commission's refraining from proceeding upon the stabilization program assigned to it by legislative mandate. The establishment of minimum rates does not trespass upon the rights of carriers and shippers to negotiate reasonable rates. The carrier-and-shipper negotiations in this instance would be affected only to the extent that they would result in rates which are unreasonably low. Minimum rates define the lower limits of reasonable rates by designating the minimum levels of rates that are consistent with the preservation of adequate and dependable service by necessary transportation agencies.

In this matter it appears that minimum rates should be established for all of the transportation involved herein, not only for the purposes of carrying forward the program of stabilization but also for the purpose of providing a more reasonable and non-discriminatory rate structure for the transportation of fruits and vegetables which move within California in intrastate, interstate and in foreign commerce as a whole. As the record shows, the segments of the services are interrelated. In the circumstances the maintenance of a reasonable and nondiscriminatory minimum rate structure requires the uniform application of minimum rates to all of the related traffic. The exemptions which are sought by the California Grape and Tree Fruit League and by Sunkist Growers, Inc., should be denied. Minimum rates should be made to apply for grapes, deciduous tree fruits, and citrus fruits as well as for the other agricultural products involved herein to the extent shown justified by the costs and other factors applicable to the transportation.

It is evident from the record in this matter that in the determination of what minimum rates would be appropriate for the

interstate and foreign shipments of fruits and vegetables much weight should be given to the rates which are applying and have applied for this transportation. These rates have been forged by experience into forms which permit the freedom of movement of the traffic, which meet the needs of the shippers, and which are satisfactory to the carriers. Clearly, it would be desirable in the prescription of minimum rates for the traffic to preserve, as much as possible, the forms of the rates which now prevail in order to avoid undue or unnecessary disruption of present trade practices.

Generally speaking, it appears that insofar as the forms of the rates are concerned, the recommendations of the rate expert were prepared with the intent of harmonizing the present bases of charges with rates, rules and regulations which, in the judgment of the witness, would be appropriate minimum rates for the traffic. The forms of his proposals, with certain exceptions hereinafter discussed, appear to give adequate consideration to special characteristics of the transportation involved and in those respects appear acceptable.

Different conclusions, however, apply concerning the levels at which the rate expert recommended that the rates for the traffic be established. As has been indicated hereinbefore, the witness was guided largely in the development of the levels of his recommended rates by the "going" rates. As a consequence it appears that from a minimum rate standpoint his proposals do not give sufficient weight to the element of the costs of the services involved. It appears that in some instances the proposed rates, if adopted, would produce excessive revenues whereas in other instances the revenues would be unduly low.

For example, the rates which the witness recommended be established for citrus fruits moving from producing areas in the San Joaquin Valley to the San Francisco Bay ports and to the Los Angeles area ports admittedly are less than the applicable costs, the rates having been developed on a combination of the rates by rail plus the truck unloading costs. Permitted carriers may, as a matter of statutory right, assess rates of common carriers by land for the transportation of the same kind of property between the same points. This fact, however, is not grounds for a finding that the common carrier rates are reasonable minimum rates per se for transportation by permitted carriers, particularly where no investigation has been made to ascertain the reasonableness of the common carrier rates for permitted carrier transportation. The record, moreover, is not persuasive that in the present instance unloading costs for trucks may appropriately be applied in combination with common carrier rates where the common carrier rates presume a rail movement and where a defined and different charge applies for the unloading of the rail cars.

With respect to transportation of citrus fruits in the southern California area it appears that, over-all, the rates which were recommended by the rate witness are reasonably related to the costs shown to apply to the service. Although on these grounds the proposals may be considered as suitable for the establishment of minimum rates for this transportation, it appears, nevertheless, for reasons advanced by the California Trucking Associations, Inc., in connection with the recommended rate zones that the proposals should not be adopted. As was pointed out by the Associations,

the zones are so large and the differences between the costs of transportation from the various segments of the zones are of such consequence that the application of a single zone rate throughout a zone does not result in charges which are reasonable for the carriers and are reasonable and nondiscriminatory for the shippers. The zone determinations were made to some extent on the "going" practices of the carriers and in other respects on delineations which were selected for convenience in cost calculations. These circumstances are not sufficiently compelling to warrant adoption of a structure of rates which is incompatible with the establishment of just, reasonable and nondiscriminatory rates for the transportation of citrus fruits.

Although it is thus concluded that the structure of the rates which the Commission witness recommended for citrus fruits is such that his proposals may not be adopted, the record in other respects permits the prescription of minimum rates for these fruits. Conversion of the engineer's costs to a mileage basis in a manner outlined by the witness for the California Trucking Associations, Inc., results in figures which appear reasonably representative of the costs mileage-wise and provides data for the establishment of rates on a distance basis as urged by the Associations' witness. Such rates would not be subject to the infirmities indicated with respect to the proposed zone rates inasmuch as in contrast to transportation under zone rates where the zones are extensive, transportation charges under distance rates are more closely related to the amount of service performed per shipment.

The distance rates which the Associations' witness proposed for citrus fruits appear to be reasonably substantiated in

light of costs and other applicable considerations of record. Some modifications appear necessary where the proposed rates appear to have been influenced substantially by the level of present "going" rates and where as a consequence they are higher than those which should apply as minima. Moreover, in accordance with recommendations of the Commission witness, it appears that a single scale of rates to apply both to shipments of citrus fruits in boxes and in cartons should be established in preference to separate scales of rates as recommended by the Associations. The rates should be made subject to a minimum weight of 39,000 pounds instead of the lower weights requested by Sunskist Growers, Inc., in order to preserve the lowest possible charges for the bulk of the shipments of citrus fruits.

As to citrus shipments of lesser weights, the record is convincing that the circumstances justify a special scale of rates for these shipments, notwithstanding the recommendations of the Commission rate witness and of the witness for the California Trucking Associations, Inc., that the present rates in Minimum Rate Tariff No. 8 be made to apply. The data which were developed by the Commission engineer show that these shipments may be transported at substantially lower costs than those reflected in the rates in Minimum Rate Tariff No. 8 for corresponding quantities. It appears that the lower costs are attributable to the manner in which the shipments move - to the fact that the practices of the shippers are such that in effect the smaller shipments are consolidated into large lots at the time of tender to the carriers. All factors considered, it appears that rates which are approximately three cents per 100 pounds higher than the truckload rates

would be reasonable for the transportation performed. With the foregoing modifications the rates which were proposed by the witness for the California Trucking Associations, Inc., should be adopted as minimum rates.

Similar action should not be taken, however, on the proposal of the Associations' witness that minimum rates for the transportation of grapes and of deciduous fruits be prescribed on a distance basis. For this transportation it appears that rates on a zone basis may be established which reasonably reflect the costs of the service performed and which preserve desired competitive equality between shippers located within the same major producing areas. The zones to be established, however, should be somewhat smaller than those which were recommended by the Commission's rate witness, inasmuch as those zones are so extensive as to result in rates which would be unreasonable for uniform application from separate producing areas within the zones.<sup>12/</sup> It appears that the zones upon which the costs of the Commission engineer were developed conform more closely to the separate producing areas and provide a more suitable basis for establishment of rates for the transportation involved. They will be adopted. Modifications will be made in the rates recommended by the rate witness to give appropriate effect to the costs of service from

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<sup>12/</sup> Comparison of the revenues which would accrue under the rates recommended by the Commission rate witness with the costs of service as developed by the Commission engineer shows that the rates would result in earnings (or losses) on movements to San Francisco Bay ports as indicated by operating ratios ranging from 96.3 percent to 105.7 percent. Similarly, on movements to ports in the Los Angeles area the operating ratios range from 74.9 percent to 120.6 percent.



these zones. With these modifications the rates appear reasonable and will be adopted.<sup>13/</sup>

Except for the rates hereinafter specifically prescribed for the transportation of citrus fruits, grapes and deciduous tree fruits, it appears that the minimum rates which apply to California intrastate shipments of fruits and vegetables should likewise be made applicable to similar shipments moving within California in interstate or in foreign commerce. The record discloses no circumstances which justify continuance of the minimum rate exemptions that apply at present to this traffic. The investigation of the staff witness and his recommendations thereon indicate that the exemptions should be terminated. The California Trucking Association, Inc., likewise urged that the exemptions be terminated. In the circumstances the minimum rate exemptions will be cancelled.

Upon careful consideration of the record in this phase of Case No. 5438, the Commission is of the opinion and finds as a fact (a) that Minimum Rate Tariff No. 8 should be amended to provide rates for the transportation of fresh fruits and vegetables in interstate or in foreign commerce within California which is

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<sup>13/</sup> In accordance with recommendations of the rate witness, the rates will be made to apply to grapes and deciduous tree fruits alike. Although the Commission engineer did not develop data to show costs applicable to transportation of deciduous tree fruits, it appears that the transportation is performed under substantially the same circumstances as those applicable to the transportation of grapes. Evidence adduced by the Commission rate witness shows, moreover, that in the application of the "going" rates the carriers assess the same rates for deciduous tree fruits as for grapes. In view of these considerations it appears that in this initial establishment of minimum rates for the transportation involved herein the rates for grapes may reasonably be applied to deciduous tree fruits also.

exempt from rate regulation by the Interstate Commerce Commission under provisions of Section 203 (b)(6) of the Interstate Commerce Act; (b) that the rates hereinafter prescribed are, and will be, just, reasonable and nondiscriminatory as minimum rates for said transportation; and (c) that Petition No. 11 in this numbered proceeding for minimum rate exemptions for interstate or foreign shipments of grapes and deciduous tree fruits, and the request of Surkist Growers, Inc., for minimum rate exemption for like shipments of citrus fruits should be denied.

O R D E R

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

IT IS HEREBY ORDERED:

1. 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, 1956, the supplement and original pages attached hereto and by this reference made a part hereof, which pages are identified as follows:  

Supplement No. 17 cancels Supplement No. 16  
Original Page 30-B  
Original Page 36-A  
Original Page 36-B  
Original Page 36-C
2. That tariff publications required or authorized to be made by common carriers 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, 1956.
3. That Petition No. 11 in this numbered proceeding filed on September 2, 1955, by the California Grape and Tree Fruit League requesting exemption from the minimum rates in Minimum Rate Tariff No. 8 for grapes

and deciduous tree fruits moving in interstate or in foreign commerce between points in California, and the similar request of Sunkist Growers, Inc., for minimum rate exemption for like transportation of citrus fruits be, and they hereby are, denied.

IT IS HEREBY FURTHER ORDERED that 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 San Francisco, California,  
this 1st day of OCTOBER, 1956.

[Signature]  
President  
Justin J. Green  
Paul J. Antares  
[Signature]  
[Signature]  
Commissioners

SUPPLEMENT NO. 17  
(Cancels Supplement No. 16)

(Supplements 12 and 17 Contain All Changes)

To

MINIMUM RATE TARIFF NO. 8

Naming

MINIMUM RATES, RULES AND REGULATIONS

For The

TRANSPORTATION OF FRESH FRUITS, FRESH VEGETABLES  
AND EMPTY CONTAINERS OVER THE PUBLIC HIGHWAYS  
BETWEEN POINTS IN THE STATE OF CALIFORNIA  
AS DESCRIBED HEREIN

By

CITY CARRIERS  
RADIAL HIGHWAY COMMON CARRIERS  
AND  
HIGHWAY CONTRACT CARRIERS

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\*TEMPORARY COMMODITY EXEMPTION CANCELED

See rates in Items Nos. 306 and 360.

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\* Change, Decision No. 53840

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EFFECTIVE NOVEMBER 1, 1956

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Issued by the  
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
State Building, Civic Center  
San Francisco, California

Item No.	SECTION NO. 2-DISTANCE COMMODITY RATES (In Cents per 100 Pounds)							
	CITRUS FRUITS, subject to Note 1.							
MILES		Minimum Weight		MILES		Minimum Weight		
Over	But Not Over	Any Quantity	39,000 Pounds	Over	But Not Over	Any Quantity	39,000 Pounds	
	0	3	15	12	190	200	40	37
	3	5	15½	12½	200	220	42	39
	5	10	16	13	220	240	44	41
	10	15	16½	13½	240	260	46	43
	15	20	17	14	260	280	48	45
	20	25	18	15	280	300	50	47
	25	30	19	16	300	325	53	50
	30	35	20	17	325	350	56	53
	35	40	20½	17½	350	375	58	55
	40	45	21½	18½	375	400	61	58
	45	50	22	19	400	425	63	60
#306	50	60	23	20	425	450	66	63
	60	70	24½	21½	450	475	68	65
	70	80	25½	22½	475	500	71	68
	80	90	27	24	500	525	73	70
	90	100	28½	25½	525	550	76	73
	100	110	29½	26½	550	575	78	75
	110	120	30½	27½	575	600	81	78
	120	130	32	29	600	625	83	80
	130	140	33	30	625	650	85	82
	140	150	34	31	650	675	88	85
	150	160	35½	32½	675	700	90	87
	160	170	36½	33½	For distances over 700 miles add for each 25 miles or fraction thereof			2½
	170	180	37½	34½				2½
	180	190	38½	35½				2½
NOTE 1.-Applies for the transportation of citrus fruits, moving to steamship docks, piers, wharves and railheads, when such movements are in interstate or in foreign commerce and are exempt from rate regulation by the Interstate Commerce Commission under the provisions of Section 203(b)(6) of the Interstate Commerce Act.								
# Addition, Decision No. 53840								
EFFECTIVE NOVEMBER 1, 1956								
Issued by the Public Utilities Commission of the State of California, San Francisco, California.								
Correction No. 131								

Item No.	SECTION NO. 2-POINT TO POINT COMMODITY RATES (In Cents Per 100 Pounds)					
	TO	FROM: (See Note 4)				
	Docks, Piers and Wharves at:	Lodi Zone	Reedley Zone	Exeter Zone	Richgrove Zone	Arvin Zone
	San Francisco, Alameda, Oakland, Richmond	31	46	50	54	58
	Los Angeles Harbor (San Pedro, Wilmington, Terminal Island) and Long Beach	63	51	47	43	39
	Stockton	20	37	41	45	50
#360	<p>NOTE 1.-Applies for the transportation of grapes and deciduous tree fruits, moving to steamship docks, piers, or wharves, when such movements are in interstate or in foreign commerce and are exempt from rate regulation by the Interstate Commerce Commission under the provisions of Section 203(b)(6) of the Interstate Commerce Act.</p> <p>NOTE 2.-Carriers may quote and assess charges upon a different unit of measurement than that provided herein, provided:</p> <p>(1) The freight charges assessed are not less than those which would have been assessed had the rates herein been applied; and</p> <p>(2) That the carrier's shipping documents contain all the information necessary to compute the freight charges on the basis of the unit of measurement provided herein.</p> <p>NOTE 3.-Rates named in this item do not alternate with rates provided in other items or sections of this tariff.</p> <p>NOTE 4.-For description of origin zones see Items Nos. 365 and 366.</p>					

# Addition, Decision No. 53840

EFFECTIVE NOVEMBER 1, 1956

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

Correction No. 182

Item No.	SECTION NO. 2-POINT TO POINT COMMODITY RATES (In Cents per 100 Pounds)
	<p style="text-align: center;">DESCRIPTIONS OF ORIGIN ZONES (Items Nos. 365 and 366)</p> <p>(a) Arvin Zone includes that area embraced by the following boundary: Beginning at the intersection of U.S. Highway 99 and McKittrick Road in Kern County; thence westerly along McKittrick Road to Wible Road; northerly along Wible Road to Bakersfield City limits; thence northerly along Oak Street to 24th Street; easterly along 24th Street to Union Avenue; northerly along Union Avenue to Kentucky Street; southeasterly along Kentucky Street to Mt. Vernon Avenue; southerly along Mt. Vernon Avenue to U.S. Highway 466; southeasterly along U.S. Highway 466 to Bear Mountain Boulevard; southwesterly and westerly along Bear Mountain Boulevard to Towerline Drive; southerly along Towerline Drive to Sycamore Road; westerly along Sycamore Road to Edison Drive; northerly along Edison Drive to Bear Mountain Boulevard; westerly along Bear Mountain Boulevard and extension thereof to McKittrick Road; thence continuing westerly along McKittrick Road to point of beginning.</p> <p>(b) Exeter Zone includes that area embraced by the following boundary: Beginning at the intersection of U.S. Highway 99 and Harlan Avenue in Tulare County; thence easterly along Harlan Avenue to Road 100; southerly along Road 100 to 12th Avenue North; easterly along 12th Avenue North to Dinuba Boulevard; northerly along Dinuba Boulevard to Dodge Avenue; easterly and southeasterly along Dodge Avenue to Avenue 376; easterly along Avenue 376 to Road 204; southerly along Road 204 to Diagonal 212 East; southeasterly along Diagonal 212 East to Valencia Boulevard; southerly along Valencia Boulevard to Naranjo Boulevard; easterly on Naranjo Boulevard to Road 228; southerly on Road 228 to Woodlake Lemon Cove Highway; easterly and southerly along Woodlake Lemon Cove Highway to State Highway 198; southerly and westerly along State Highway 198 to Road 210; southerly along Road 210 to Avenue 282; westerly along Avenue 282 to Spruce Avenue; southerly along Spruce Avenue to Avenue 268; easterly along Avenue 268 to Road 216; southerly along Road 216 to Avenue 256; easterly along Avenue 256 to Diagonal 227; southeasterly along Diagonal 227 to Avenue 248; westerly along Avenue 248 to Road 224; southerly along Road 224 to Avenue 238; easterly along Avenue 238 to Road 228; southerly along Road 228 to First Avenue; easterly along First Avenue to "D" Avenue; southerly along "D" Avenue to Frazier Valley Highway; easterly along Frazier Valley Highway to Lewis Hill Road; southerly and southeasterly along Lewis Hill Road to Grevilla Street; southerly along Grevilla Street to city limits of Porterville; following the city limits of Porterville easterly, southerly, and westerly to Road 252; southerly along Road 252 to Avenue 140; easterly along Avenue 140 to Road 260; southerly along Road 260 to Macomber Avenue; westerly along Macomber Avenue to U.S. Highway 99; northwesterly on U.S. Highway 99 to point of beginning.</p> <p>(c) Lodi Zone includes the area within the boundary of a circle of twenty mile radius, the center of which is located at the intersection of U.S. Highway 99 and State Highway 12 running easterly from U.S. Highway 99 in the vicinity of Lodi.</p> <p style="text-align: center;">(Continued in Item No. 366)</p>
#365	
#	Addition, Decision No. 53840
	EFFECTIVE NOVEMBER 1, 1956
Correction No. 183	Issued by the Public Utilities Commission of the State of California, San Francisco, California.

Item No.	SECTION NO. 2-POINT TO POINT COMMODITY RATES (In Cents per 100 Pounds)
#366	<p style="text-align: center;">DESCRIPTIONS OF ORIGIN ZONES(Concluded) (Items Nos. 365 and 366)</p> <p>(d) Reedley Zone includes that area embraced by the following boundary: Beginning at the intersection of U.S. Highway 99 with Nebraska Avenue in Fresno County; thence westerly along Nebraska Avenue to Cornelia Street; northerly along Cornelia Street to Herndon Avenue; easterly along Herndon Avenue to the Friant Kern Canal; easterly and southerly along the line of the canal to Kings Canyon Road; easterly along Kings Canyon Road to Hills Valley Road; southerly along Hills Valley Road to Junction with Marlar Avenue in Tulare County; continuing southerly along Marlar Avenue to Lincoln Avenue; easterly along Lincoln Avenue to Palm Avenue; southerly along Palm Avenue to South Avenue; easterly along South Avenue to Road 136; southerly along Road 136 and extension thereof to Floral Avenue; easterly along Floral Avenue to Junction with Johnson Drive; continue easterly along Johnson Drive to Niggerhead Creek Drive; southwestly along Niggerhead Creek Drive to the Friant Kern Canal; southerly and easterly along the line of the canal to Dodge Avenue; westerly along Dodge Avenue to Dinuba Boulevard; southerly along Dinuba Boulevard to 12th Avenue North; westerly along 12th Avenue North to Road 100; northerly on Road 100 to Harlan Avenue; westerly along Harlan Avenue to U.S. Highway 99; northwestly along U.S. Highway 99 to point of beginning.</p> <p>(e) Richgrove Zone includes that area embraced by the following boundary: Beginning at the intersection of U.S. Highway 99 and Macomber Avenue in Tulare County; thence easterly along Macomber Avenue to Road 264; southerly along Road 264 to Avenue 80; westerly along Avenue 80 to Road 256; southerly along Road 256 to Avenue 56; westerly along Avenue 56 to Road 240; southerly along Road 240 to Avenue 12; westerly along Avenue 12 to Ducor Bakersfield Road; southerly along Ducor Bakersfield Road to Famoso-Woody Road in Kern County; westerly along Famoso-Woody Road to U.S. Highway 99; northwestly along U.S. Highway 99 to point of beginning.</p>
#	Addition, Decision No. 53840
	EFFECTIVE NOVEMBER 1, 1956
Correction No. 184	Issued by the Public Utilities Commission of the State of California, San Francisco, California.