

**ORIGINAL**Decision No. 57406

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 General  
 Commodities (Commodities for which  
 Rates are Provided in Minimum Rate  
 Tariff No. 2).

Case No. 5432  
 Petition for  
 Modification No. 79

Tom B. Markley and Clifford J. Van Duker, for Roddiscraft, Inc., and 41 other lumbering and logging companies; Philip Wilkins, for Hammond-California Redwood Company and Georgia-Pacific Corporation; Pillsbury, Madison & Sutro, by Noel Dyer, for Simpson Redwood Co.; and Stanley L. Hahn, for Carlotta Lumber Co., Southern Humboldt Lumber Co. and Van Duzen River Lumber Co., protestants.

A. D. Poe, J. C. Kaspar and J. X. Quintrall, for California Trucking Associations, Inc., interested party.  
R. J. Carberry, for the Commission staff.

OPINION ON REHEARING

Decision No. 56077, dated January 14, 1958, in this proceeding, established Minimum Rate Tariff No. 14, establishing minimum rates, rules, and regulations for the transportation of logs within Humboldt and Del Norte Counties.<sup>1/</sup> As a result of a petition for rehearing filed by Roddiscraft, Inc., and 46 other interested parties, the effective date of Decision No. 56077 was automatically stayed pending Commission action on the petition. Thereafter, the effective date of Minimum Rate Tariff No. 14 was suspended by Decision No. 56232, dated February 10, 1958. Rehearing of the matter was granted by the Commission's order dated April 15, 1958.

<sup>1/</sup> For a history of this proceeding leading up to the establishment of Minimum Rate Tariff No. 14, see Decision No. 56077.

The petition for rehearing outlined in detail many alleged defects in the original decision. The allegations contained in that petition may be summarized as follows: (1) that the findings of fact upon which the decision is based are not supported by the evidence of record; (2) that different findings and conclusions are required; (3) that certain necessary findings are not made; and (4) that as a result, the order is unreasonable, uncertain, ambiguous and discriminatory. A similar petition was filed by Hammond-California Redwood Co. and Georgia-Pacific Corporation. A reply to the Roddiscraft petition was filed by the California Trucking Associations, Inc.<sup>2/</sup>

Rehearing was held at Eureka on June 11 and 12, 1958, followed by oral argument at San Francisco on July 31, 1958, all before Commissioner Theodore H. Jenner and Examiner William E. Turpen. The logging and lumber companies which filed the petitions for rehearing, and which, for convenience, will hereinafter be referred to as "protestants", presented evidence at the rehearing in support of their petitions. Counsel for the California Trucking Associations, Inc., limited his participation to cross-examination of the witnesses.

Decision No. 56077 contains a detailed review of the evidence presented in the previous hearings in this matter and the conclusions on the basis of which the minimum rates were established in the suspended Minimum Rate Tariff No. 14. It is not necessary again to review that evidence in this opinion.

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<sup>2/</sup> California Trucking Associations, Inc., had not up to this time appeared in this phase of Case 5432. However, in its reply it stated that it was informed that Northcoast Timber Truckers Association, which filed Petition No. 79, had disbanded, and that a number of the former members of that organization were now members of the California Trucking Associations.

Basically, three main factors were involved in the determination of the minimum rate; viz, (1) a basic rate, (2) a mileage rate, and (3) classification of the roads involved. A basic rate was set forth to cover the costs incurred by the carrier during normal loading and unloading operations. Just and reasonable basic rates of \$2.45 per thousand board feet (Scribner Decimal "C" and Spaulding Log Scales) and \$3.50 per thousand board feet (Humboldt Log Scale) were prescribed in the suspended order. To this basic rate were added the mileage factors determined by multiplying the proper rate per mile by the number of miles of each class road traversed. Mileage rates of 14, 28 and 42 cents per thousand board feet per mile (Scribner Decimal "C" and Spaulding Log Scales), and 20, 40 and 60 cents per thousand board feet per mile (Humboldt Log Scale) for Class "A", "B" and "C" roads, respectively, were prescribed.

Protestants offered in evidence some 175 photographs of various roads in all three of the road classifications. These photographs, corroborated by oral testimony of a number of witnesses, show that many portions of the roads which were classified as "C" or "B" possess far better transportation conditions than some of the roads classified as "A", and that conditions of some of the roads classified as "B" are worse than many of those classified as "C". Protestants argued that a proper classification of the roads would be impossible without a detailed field study and the establishment of reasonable classification standards. They stated that it did not appear that adequate consideration had been given to such factors as quality of the roads, grades, width, surface, curvatures, etc. They further stated that no study

was made of the private roads maintained by the loggers, and that although many of the private roads were shown to be of equal quality to some of the Class "A" or "B" roads, they were arbitrarily designated as Class "C".

Closely related to the matter of road classification is the scale of mileage rates. These rates were set up on the basis of the mileage rates applicable over Class "B" and Class "C" roads being 200 and 300 percent, respectively, of the mileage rate applicable over Class "A" roads. Protestants pointed out that the only evidence of record which could have been used as a basis for establishing the mileage rates and the relationship between them was a study introduced by petitioners in the course of the original hearings (Exhibit No. 79-57). A witness for protestants pointed out many inconsistencies in that exhibit, and also stated that according to the record, the basic data, consisting of trip tickets, was shown to contain numerous errors, upon cross-examination of the various witnesses involved.<sup>3/</sup> Protestants' witness further stated that even were the figures on the exhibit in question to be accepted as reliable, the time in transit for loaded trucks would show a rate relationship of 100, 130, and 260 percent respectively between Class "A", "B",

<sup>3/</sup> As an example of the alleged inconsistencies, the first three entries on Exhibit No. 79-57 show three different trips from Weitchpec to Arcata by the same driver on June 15, 17 and 18. The mileages and times on each class road are shown as follows:

<u>Class C Road</u>		<u>Class B Road</u>		<u>Class A Road</u>	
<u>Miles</u>	<u>Time</u>	<u>Miles</u>	<u>Time</u>	<u>Miles</u>	<u>Time</u>
22	140			40	95
22	95	50	187	7	28
23	150			47	150

and "C" roads; and that if both loaded and empty transit times were considered, the relationship would be 100, 113 and 143 percent.

The other cost exhibits entered at the previous hearings (Exhibits Nos. 79-58 and 79-59) were also attacked by protestants. They argued that the cost study allegedly showing mileage costs was not a representative sample and that it did not consider a sufficient number of carriers. The study in question contained one year's costs of four truckers. That study showed repair costs ranging from a low of 14.8 cents per mile to a high of 29.6 cents. Fuel and lubricants showed costs per mile from 9.6 cents to 18.1 cents. Tire expense per mile ranged from 2.6 cents to 12.3 cents.

A number of loggers and lumber mill officials and employees, called as witnesses by protestants, testified to the effect that if the suspended minimum rates were put in effect, they would be faced with sharp increases in the costs of transporting logs to the mills. These witnesses all stated that the competitive nature of the lumber industry would effectively prevent them from passing on such higher costs to their customers. Some of these witnesses stated that in such event, their organizations would be forced to purchase their own logging trucks and engage in proprietary trucking operations. Some of the smaller mill operators stated that they would probably have to suspend operations if the suspended minimum rates became effective.

Protestants pointed out other features of the suspended minimum rate tariff which they felt to be objectionable or indefinite. These include the definition of point of origin, the lack of designation of scale in connection with the minimum charge,

description of the various roads, lack of rules for determining mileage with accuracy, and the optional use of three different scales for determining board footage. They also claimed that establishment of minimum rates applicable only within Humboldt and Del Norte Counties would place the logging companies and lumber mills located in those two counties under a serious competitive disadvantage with logging companies and lumber mills operating in other areas of the State. One of the witnesses stated that sales of lumber are made or lost on differences of as little as 50 cents per thousand board feet.

The representative of the California Trucking Associations, Inc., argued that Section 3662 of the Public Utilities Code requires that the Commission establish minimum rates.<sup>4/</sup> In view of this, he argued, if the Commission finds the presently suspended minimum rates improper in any respect, the necessary changes should be made and minimum rates established. The Associations' representative also pointed out that Decision No. 56077 stated that where unusually favorable circumstances (such as an excellent private road maintained by a logger) surround a particular haul, the carriers and shippers may obtain authorization from the Commission under the provisions of Section 3666 of the Public Utilities Code to contract for the transportation of logs at rates lower than the minimum rates. In answer to this

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<sup>4/</sup> The pertinent part of Section 3662 reads as follows:

"The commission shall, upon complaint or upon its own initiative without complaint, establish or approve just, reasonable and non-discriminatory maximum or minimum or maximum and minimum rates to be charged by any highway permit carrier for the transportation of property and for accessorial service performed by it."

point, protestants stated that by the time such authority could be sought and acted upon by the Commission, the particular movements involved would probably have been completed, and, that accordingly, such authorizations would be of no value.

The legislative policy to stabilize transportation rates is clearly expressed in Section 3662 and in other provisions of the Public Utilities Code (Decision No. 46062, 51 Cal. P.U.C. 41; Decision No. 44510, 49 Cal. P.U.C. 789). It must also be recognized, however, that the establishment of minimum rates pursuant to the legislative policy cannot be accomplished without sufficient evidence on the basis of which just, reasonable and nondiscriminatory rates can be established. Upon the record now before the Commission, it cannot be concluded that the minimum rates prescribed by Decision No. 56077, supra, would have been just, reasonable and nondiscriminatory. Indeed, the course of the instant proceeding and of the prior proceedings relating to rates for the transportation of logs leads to the conclusion that there has never as yet been adduced in any proceeding before this Commission the data necessary for establishing reasonable minimum rates for logs on a suitable and workable basis. (For discussion, see Decision No. 56077, supra; also Decision No. 51307, dated April 12, 1955, in Case No. 5432, unreported.) Upon consideration of all of the facts and circumstances of record in this proceeding, the Commission is of the opinion and hereby finds that Minimum Rate Tariff No. 14, now suspended, should be canceled.

The Commission is conscious of the possibility that there may be a definite need for some type of rate regulation in

the transportation of logs in this State. It is apparent that in order to assure the stability of the log transportation industry, careful and thorough study should be made into the need for minimum rates, and the form of rates necessary. Such study should include a thorough investigation of the possible adverse effect which such minimum rates would have on the economy of particular counties, and on the logging companies and lumber mills operating within those counties, if minimum rates were not established concurrently in all logging areas of the State of California.

It also appears that a serious question exists whether, under existing provisions of law, the Commission has all of the authority necessary to fix minimum rates for the transportation of logs under such type of proceedings and with such timeliness as will provide the flexibility of rate changes necessitated by those operating conditions which are peculiar to the logging industry. Any study of the need for minimum rates for log transportation should therefore be predicated on a careful analysis of existing law with particular reference to the type of Commission action needed to classify logging roads for rate-making purposes in a manner which would not be adverse to the affected parties or the public interest. It is the Commission's opinion that if such a study reveals the need for further legislative action, the enactment of the necessary legislation should precede any affirmative action by the Commission to fix minimum rates for the transportation of logs in this State.

The protestants in this proceeding have stated their willingness to cooperate in obtaining the data necessary to



establish just and reasonable minimum rates. The California Trucking Associations, Inc., appears to be the only organization which can be said to now represent the log truckers involved in this proceeding. The Commission will, through appropriate administrative action, direct its Transportation Division to investigate again the feasibility of developing a suitable and workable basis for establishment of minimum rates for the transportation of logs in the State of California. As stated above, consideration should be particularly directed to the question of the establishment of minimum rates in all logging areas of this State, rather than only in the two counties involved in the instant proceeding. When the staff or any interested party is ready to proceed further, the matter can again be brought before the Commission. Until that time, no useful purpose will be served by keeping Petition No. 79 open on the Commission's docket. The petition, therefore, will be denied.

ORDER ON REHEARING

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

IT IS ORDERED:

(1) That Decision No. 56077, dated January 14, 1958, in this proceeding, be and it is hereby revoked.

(2) That Minimum Rate Tariff No. 14, incorporated in said Decision No. 56077 as Appendix "A" attached thereto be and it is hereby canceled.

(3) That Petition for Modification No. 79 in Case No. 5432 be and it is hereby denied.

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

Dated at San Francisco, California, this 29<sup>th</sup> day of September, 1958.

S. Leo Fox  
President  
W. L. Mitchell  
Paul W. ...  
...  
Thomas ...  
Commissioners