

ORIGINAL

Decision No. 59087

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
 into the rates, rules and regulations,
 charges, allowances and practices of
 all common carriers, highway carriers
 and city carriers relating to the
 transportation of any and all commodi-
 ties between and within all points
 and places in the State of California
 (including but not limited to, trans-
 portation for which rates are provided
 in Minimum Rate Tariff No. 2).

Case No. 5432
 (Petition for Modification
 No. 151)

Vaughan, Paul & Lyons, by John G. Lyons, for Collier
 Carbon and Chemical Corporation, Petitioner.
J. C. Kaspar, R. D. Toll, J. X. Quintrall and
A. D. Poe, for California Trucking Associations,
 Inc., protestant.
Ralph Hubbard, for California Farm Bureau Federation,
 interested party.
C. L. Griggs, for the Commission staff.

O P I N I O N

Decision No. 56163, dated January 28, 1958, in Case No. 5432 (Petition No. 96), exempted the transportation of walnut shells from the minimum rates in Minimum Rate Tariff No. 2, pursuant to petition filed by Collier Carbon and Chemical Corporation. However, the exemption was established with an expiration date of June 30, 1959, so that studies could be made of actual movements of walnut shells. By Petition No. 151, filed May 15, 1959, Collier Carbon and Chemical Corporation asks that the exemption be made permanent. As the petition could not be heard and disposed of prior to June 30, 1959, the expiration date of the exemption was extended to October 28, 1959 by Decision No. 58618, dated June 16, 1959.

Public hearing of the petition was held before Examiner William E. Turpen at San Francisco on August 31, 1959.

Petitioner operates a plant in Santa Clara County for the manufacture of charcoal briquettes. The record shows that the principal raw material used is peach pits, but that several years ago petitioner experimented with using walnut shells. During the past season, approximately 4,000 tons of walnut shells were used by petitioner.^{1/} A witness for petitioner stated that his company has expanded its plant so as to increase the use of walnut shells in making charcoal briquettes. The witness said that it is impossible for his company to determine how much they can pay for shells, including transportation charges, until they know the quality and condition of the shells that are available, and that new transportation rates are negotiated with the carriers each year.

A field representative of Diamond Walnut Growers, Inc., a nonprofit growers' association, testified that his association produces about 12,000 tons of walnut shells per season, some of which can be used as fuel in the boilers. He said that prior to the exemption from the minimum rates, the remainder had to be disposed of by arbitrarily burning or dumping. He further stated that during the past year his association has been able to sell walnut shells for a variety of uses. The witness said that some of the uses are in the manufacture of plywood, fertilizers, oil well mud, and snow tires. He said that the exemption from the minimum rates had greatly helped the sale of walnut shells.

^{1/} The season during which walnuts are shelled runs approximately from October to March.

Officials of the two trucking concerns that presently haul walnut shells for petitioner testified in support of the continued exemption. Both of them testified that the largest part of their traffic consists of exempt commodities and that the transportation of walnut shells under the present basis of negotiated rates is attractive to them and fits in during what would otherwise be a slack season.

A representative of the California Farm Bureau Federation appeared in support of the petition. He stated that exemption of walnut shells has enabled growers to dispose of an otherwise waste product and as a result has aided the agricultural economy of the State.

The California Trucking Associations, Inc., opposed the granting of the petition. The associations' representative took the position that the Public Utilities Code requires that the Commission establish just and reasonable rates for the transportation of property. In view of this, he argued that if the existing negotiated rates are found to be reasonable they should be established as minimum rates, otherwise the exemption should be canceled.

While it is true that the legislative policy to stabilize transportation rates is clearly expressed in the Public Utilities Code, we are of the opinion that the statute does not require the retention of rates which have been shown to be not in the public interest. The record is clear that under the minimum rates that would be applicable if the exemption were canceled, the cost of transportation of walnut shells would prevent their movement. It further appears that the circumstances presently surrounding this transportation prevent the determination of reasonable minimum rates at this time. Cancellation of the exemption at this time would

greatly impede, if not entirely stop, the marketing of a new commodity, with a resultant loss of revenues to carriers and to marketers and growers of walnuts. On the other hand, continuation of the exemption will probably open new markets and enable an otherwise waste product to be of value and aid the agricultural economy of the State. In the circumstances we are of the opinion, and hereby find, that the sought exemption of walnut shells from the minimum rates named in Minimum Rate Tariff No. 2 has been shown to be justified. The petition will be granted.

O R D E R

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

IT IS ORDERED that Minimum Rate Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended) be and it is hereby further amended by incorporating therein, to become effective October 28, 1959, Twenty-Ninth Revised Page 15, which page is attached hereto and by this reference made a part hereof.

In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 29th day of September, 1959.

Clement T. ...
President
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| Item No. | SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued) | | |
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| | <p style="text-align: center;">APPLICATION OF TARIFF-COMMODITIES (Concluded)</p> <p style="text-align: center;">(Items Nos. 40 and 41)</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 50%;"> <p>Sea Shells, crushed, ground, powdered or disintegrated (Subject to Note 5),</p> <p>Seeds, cotton,</p> <p>Seeds, field, as described in Note 6,</p> <p>Shell Marl, crushed, ground, or powdered,</p> <p>* Shells, walnut,</p> <p>Shipments weighing 100 pounds or less when delivered from retail stores or retail warehouses where the property has been sold at retail by a retail merchant, or when returned to the original retail store shipper via the carrier which handled the outbound movement (Subject to Note 3),</p> <p>Shipments weighing 10 pounds or less when transported by carriers which operate no vehicles exceeding a licensed weight of 4,000 pounds. (Subject to Note 12.),</p> <p>Sulphur,</p> <p>United States mail transported for the Post Office Department under contract,</p> </td> <td style="vertical-align: top; width: 50%;"> <p>Used Property, viz.: household goods, personal effects, furniture, musical instruments, radios, and office and store fixtures and equipment, as described in and for which rates are provided in Minimum Rate Tariff No. 4-A, and used property as described therein of state, county or municipal governments, or transported under an agreement whereby the governments contracted for the carrier's services,</p> <p>Vegetables, fresh or green (not cold pack nor frozen),</p> <p>Vegetables, dried, viz.:</p> <p>Beans (except Mesquite),</p> <p>Lentils,</p> <p>Onions,</p> <p>Peas (except Cow Peas),</p> <p>Pepper Pods,</p> <p>Voting Booths, Ballot Boxes, Election Tents and Election Supplies, when transported from or to polling places.</p> </td> </tr> </table> <p>*41-Z Cancels 41-Y</p> <p>NOTE 1.-Includes only used empty carriers which are returning from an outbound paying load of traffic for which rates are not provided in this tariff, or which are being forwarded for a return paying load of traffic for which rates are not provided in this tariff (Subject to Rule No. 180 of the Exception Sheet).</p> <p>NOTE 2.-Exemption applies only when commodities flagged subject to this note are shipped in milk shipping cans, in bottles in cases or crates, or in bulk in tanks.</p> <p>NOTE 3.-Exemption applies only when the distance between point of origin and destination does not exceed 35 miles, computed in accordance with the provisions of Item No. 100.</p> <p>NOTE 4.-Exemption applies only as to dried fruit in the natural state and which has not been cleaned, washed, stemmed or otherwise prepared or partially prepared for human consumption.</p> <p>NOTE 5.-Exemption does not apply to sea shells as described in Item No. 652$\frac{1}{2}$.</p> <p>NOTE 6.-Exemption applies only to field seeds, viz.:</p> | <p>Sea Shells, crushed, ground, powdered or disintegrated (Subject to Note 5),</p> <p>Seeds, cotton,</p> <p>Seeds, field, as described in Note 6,</p> <p>Shell Marl, crushed, ground, or powdered,</p> <p>* Shells, walnut,</p> <p>Shipments weighing 100 pounds or less when delivered from retail stores or retail warehouses where the property has been sold at retail by a retail merchant, or when returned to the original retail store shipper via the carrier which handled the outbound movement (Subject to Note 3),</p> <p>Shipments weighing 10 pounds or less when transported by carriers which operate no vehicles exceeding a licensed weight of 4,000 pounds. (Subject to Note 12.),</p> <p>Sulphur,</p> <p>United States mail transported for the Post Office Department under contract,</p> | <p>Used Property, viz.: household goods, personal effects, furniture, musical instruments, radios, and office and store fixtures and equipment, as described in and for which rates are provided in Minimum Rate Tariff No. 4-A, and used property as described therein of state, county or municipal governments, or transported under an agreement whereby the governments contracted for the carrier's services,</p> <p>Vegetables, fresh or green (not cold pack nor frozen),</p> <p>Vegetables, dried, viz.:</p> <p>Beans (except Mesquite),</p> <p>Lentils,</p> <p>Onions,</p> <p>Peas (except Cow Peas),</p> <p>Pepper Pods,</p> <p>Voting Booths, Ballot Boxes, Election Tents and Election Supplies, when transported from or to polling places.</p> |
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Adzuki,
 Alfalfa,
 Bahia grass,
 Bean, field, horse, lima,
 mat or mung,
 Beet, field or sugar,
 Bentgrass,
 Bermuda grass,
 Bluegrass,
 Bluestem,
 Brone, bunch or
 smooth,
 Carpet grass,
 Chick pea (garbanzo),
 Clover (except sweet
 clover),
 Creeping bent,
 Dallis grass,
 Dog's-tail, crested,
 Dolichos,

Fenugreek,
 Fescue grass,
 Foxtail, meadow,
 Guar,
 Guinea grass,
 Harding grass,
 Kudzu,
 Lespedeza,
 Lupine,
 Medic, black,
 Molasses grass,
 Mustard (except
 wild mustard),
 Napier grass,
 Oatgrass, tall,
 Orchard grass,
 Pea, Austrian win-
 ter, Canadian
 field, Tangier or
 wedge,

Popcorn,
 Proso,
 Redtop,
 Reed canary grass,
 Rescue grass,
 Rhodes grass,
 Ryegrass,
 Safflower,
 Sainfoin,
 Sand dropseed,
 Sesbania,
 Soybean,
 Sudan grass,
 Sweet vernalgrass,
 Timothy,
 Velvet bean,
 Velvet bent,
 Velvet grass,
 Wheatgrass, crested
 or slender.

NOTE 8.-Exemption will not apply to transportation for which rates are provided in Items Nos. 315 and 605.

NOTE 11.-Exemption applies only to transportation between points within a radius of 25 miles of the intersection of 1st and Main Streets, Los Angeles, said mileage to be computed in accordance with the provisions of Item No. 100.

NOTE 12.-Exemption applies only to transportation between points located within the Los Angeles Basin Territory as described in Item No. 270.

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* Change
 ** Expiration date eliminated)

Decision No. 5908?

EFFECTIVE OCTOBER 28, 1959

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

Correction No. 956