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Decision No. 60895

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 commodities between and within all points and places in the State of California (including, but not limited to, transportation for which rates are provided in Minimum Rate Tariff No. 2).	Case No. 5432 Petition for Modification No. 187
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 Petition for Modification No. 21

A. D. Poe, J. C. Kaspar and J. X. Quintrall, for California Trucking Associations, Inc., petitioner.
E. J. McSweeney, for Pacific Motor Trucking Company and Pacific Motor Transport Company, respondents.
Miriam E. Wolff, for the State of California; Charles C. Miller and James M. Cooper, for San Francisco Chamber of Commerce; protestants.
Russell Bevans, for Draymen's Association of San Francisco, Inc.; Ralph Hubbard, for California Farm Bureau; W. G. Stone, for Sacramento Yolo Port District; W. M. Cheatham, for Northern California Shippers League; R. A. Morin and Milton A. Walker, for Fibreboard Paper Products Corporation; E. R. Chapman, for Foremost Dairies, Inc.; Jack Clodfelter, for McCormick & Co., Schilling Division; Andrew Robertson, for Wesson Oil; William D. Wagstaffe, for Canners' League of California; Leo V. Cox, for Safeway Stores, Inc.; interested parties.
Grant L. Malquist and Chauncey L. Griggs, for the Commission's staff.

O P I N I O N

By these petitions, filed June 1, 1960, the California Trucking Associations, Inc., seeks certain revisions in the rules in

Minimum Rate Tariffs No. 2 (General Commodities) and No. 8 (Fresh Fruits and Vegetables) concerning the computation of mileages when split pickup shipments or split delivery shipments in San Francisco or Oakland are involved. The revisions are alleged to be necessary to clarify application of the rules.

Public hearing was held before Examiner William E. Turpen at San Francisco on August 16, 1960. During the course of the hearing petitioner amended the petitions by substituting the tariff revisions proposed on pages 6 and 7 of the exhibit introduced by petitioner's director of research for the revisions set forth in the petitions. A representative of Fibreboard Paper Products Corporation offered for consideration a counter proposal. Many of the parties present assisted in developing the record by questioning the witnesses.

As the rules in Minimum Rate Tariff No. 2 and in Minimum Rate Tariff No. 8, which are involved in this proceeding are practically identical, reference hereafter to the tariff will mean reference to either or both of these minimum rate tariffs. Also, as both split delivery shipments and split pickup shipments involve the same problem, we will hereafter refer only to split delivery shipments.

The tariff provides a special situation on the computation of mileages to or from San Francisco or Oakland. It provides that if a point is more than 70 miles[1] from both San Francisco and Oakland, instead of using the mileage to Oakland or to San Francisco, as the case may be, the average of the mileages to San Francisco and Oakland will be used. This average is not used if the point in question is less than 70 miles from either San Francisco or Oakland. The average mileage provision has been in effect for a long time so as to provide an equality of rate treatment to shippers on both sides of the Bay.

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[1] All distances used herein are constructive miles.

By limiting it to cases involving points over 70 miles distant preserves for each city whatever geographic advantage it has on short-haul traffic.

On split delivery shipments, basically the tariff provides that the distance for rate purposes is computed by determining the mileage from the origin to the first point of destination, adding to that the mileage via other points of destination to the final point of destination. The cumulative mileage is then used to determine the rate for the entire shipment.

According to petitioner, various parties have interpreted the tariff provisions differently in applying them to split shipments to and from Bay Area points, and particularly when the same shipment involves split deliveries in both San Francisco and Oakland. The present petition was filed to attempt to remove the present causes of confusion. Petitioner's director of research said that two recent decisions of the Commission have compounded the confusion, as they appear to conflict with each other in applying the tariff rules to compute the applicable mileage when the shipment contains splits in both San Francisco and Oakland.[2]

A careful review of the two above-referred to cases, however, does not show any conflict to exist in the application of the pertinent tariff rules, as entirely different situations are involved in the two cases. Although in both cases the shipments in question included split deliveries in both Oakland and San Francisco, the location of the point of origin brought into play different tariff provisions. In both cases the question is how to compute the mileage from point of origin to San Francisco via Oakland

[2] These decisions are Decision No. 59109, dated October 6, 1959, in Case No. 6203, Commission Investigation of Miles Motor Transport System, and Decision No. 59892, dated April 5, 1960, in Case No. 6342, Commission Investigation of Marino Bros. Trucking Co. Hereinafter these cases will be referred to as the Miles case and the Marino Bros. case, respectively.

(for the purposes here any splits at other intermediate points may be disregarded). In the Miles case the point of origin was more than 70 miles from both Oakland and San Francisco so the mileage factor from point of origin to Oakland was determined by using the average mileage to San Francisco and to Oakland. To this factor was added the mileage from Oakland to San Francisco to arrive at the through mileage used to determine the proper rate applicable to the shipment. In the Marino Bros. case the same procedure is followed, except that as the point of origin is less than 70 miles from Oakland, the San Francisco-Oakland average is not applicable and the straight mileage from point of origin to Oakland plus the mileage from Oakland to San Francisco provides the through distance. At this point another tariff provision enters the picture in the Marino Bros. case that is not involved in the Miles case. Item No. 110, paragraph 2(c) of Minimum Rate Tariff No. 8 provides, in effect, that in those cases where the average mileage cannot be used because the point is less than 70 miles from San Francisco or Oakland, but when that point is intermediate to a point that does require the use of average mileage, and such average mileage from the more distant point is less than that computed from the intermediate point in question, such lesser mileage shall be used.[3] In this instance, it was found that the point of origin of the shipments in the Marino Bros. case came within the scope of this provision and, accordingly, the average mileage could be used, in lieu of the otherwise computed through distance. It is thus apparent that the tariff provisions were properly used in both the Miles case and the Marino Bros. case and that there was no conflict between the conclusions in the two cases.

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[3] Item No. 100 of Minimum Rate Tariff No. 2 contains similar provisions.

As filed, the petitions involved here proposed that the tariff items naming the rules for the computations of distances be revised to provide that the provision for using the San Francisco-Oakland average mileage would not apply in connection with all split pickup and split delivery shipments. At the hearing, petitioner amended its proposals to provide that the provision for using average miles would not apply on split shipments only when the shipment involves splits in both the Oakland and the San Francisco pickup and delivery zones. The witness for petitioner testified that under the proposal first made in the petition split delivery shipments moving to points in the Bay Area would be rated in the same manner as similar shipments throughout the rest of the State. However, he said, this proposal would partially eliminate the present parity in rates between San Francisco and Oakland. The amended proposal, according to the witness, would retain the parity between the two sides of the Bay and would clarify the application of the tariff rules.

Fibreboard Paper Products Corporation offered for consideration an alternate proposal which would amend the tariff provisions so that, in effect, when there are split deliveries in both San Francisco and Oakland the average mileage, without the addition of the San Francisco to Oakland mileage increment, would apply. Petitioner's director of research opposed this alternate proposal. He explained that by using the average mileage on shipments destined just to San Francisco or Oakland the carrier will be paid for less miles than actually traveled in the case of one of the cities and paid for more miles than actually traveled in the case of the other city, but that over a period of time the carrier would probably have an equal number of shipments to both cities so that the lesser and greater miles would compensate for

each other. However, he said, if just the average mileage is used when there are splits in both cities the carrier would each time be paid for less miles than traveled.

It appears that the tariff revisions proposed by petitioner, as amended at the hearing, will clarify the present provisions and will provide a fair and equitable method of determining distances to be used in computing the applicable rates on split pickup and split delivery shipments. The State of California on behalf of the San Francisco Port Authority, and the San Francisco Chamber of Commerce, opposed the tariff provision as proposed initially herein by petitioner on the ground that the change would remove a necessary parity of rates between San Francisco and Oakland. However, petitioner's proposal, as amended at the hearing, will retain this parity. We therefore find and conclude that the tariff revisions as proposed by petitioner, as amended, in the rules relating to computation of distances governing transportation subject to Minimum Rate Tariff No. 2 and to Minimum Rate Tariff No. 8, are justified and will result in just, reasonable and nondiscriminatory rules governing the aforesaid transportation. The order herein will provide for the amendment of Minimum Rate Tariff No. 2. In order to avoid duplication of tariff distribution, Minimum Rate Tariff No. 8 will be amended by a separate order.

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:

1. That Minimum Rate Tariff No. 2 (Appendix D of Decision No. 31606, as amended) be and it is hereby further amended by incorporating therein, to become effective December 3, 1960, Nineteenth

Revised Page 18 which revised page is attached hereto and by this reference made a part hereof.

2. That tariff publications required to be made by common carriers as a result of the order herein may be filed not earlier than the effective date hereof, to become effective on not less than five days' notice to the Commission and to the public, and that such tariff publications shall be made effective not later than December 3, 1960; and that tariff publications which are authorized but not required to be made by common carriers as a result of the order herein may be filed not earlier than the effective date of this order, and may be made effective on not less than five days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff pages incorporated in this order.

3. That in the exercise of the authority hereinabove granted, common carriers are authorized to depart from the provisions of Section 460 of the Public Utilities Code and of Article XII, Section 21 of the Constitution of the State of California, to the extent necessary to publish the rates established herein.

4. That 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 18th day of October, 1960.

President

Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
*100-K Cancels 100-J	COMPUTATION OF DISTANCES Distances to be used in connection with distance rates named herein shall be the shortest resulting mileage via any public highway route, computed in accordance with the method provided in the Distance Table, subject to the following exceptions: 1. Distances from or to points located within zones described in Items Nos. 260-1 through 260-10 shall be computed from or to the mileage basing points designated in connection with such descriptions. The provisions of this exception will not apply in computing mileages between points located within a single zone. 2. From points of origin or to points of destination more than 70 miles distant from both the San Francisco and the Oakland Pickup and Delivery Zones (computed in accordance with the method hereinabove provided), distances from points of origin or to points of destination located within the San Francisco Pickup and Delivery Zone or located within the Oakland Pickup and Delivery Zone shall be the average of the distances from or to the San Francisco Pickup and Delivery Zone and the Oakland Pickup and Delivery Zone (computed in accordance with the method hereinabove provided). In the event such average distance is less than the distance computed from or to an intermediate point via the shortest constructive route, such lesser mileage shall apply from or to such intermediate point. (See Note.) 3. For transportation under rates resulting from ratings in Item No. 377.5 from points in groups described in Item No. 724, distances shall be computed as follows: (a) For transportation from a point of origin within a group to a point of destination outside of the same group, the applicable distance shall be the distance between the basing point of the group and the point of destination. (b) For transportation between points within the same group, the applicable distance shall be the distance between the basing point of the group and the point of destination, except that such distance shall not be less than the distance between the point of origin and the basing point.(See Exception) EXCEPTION: When the distance between point of origin and point of destination is less than the distance between point of origin and the basing point, the applicable distance shall be the distance between point of origin and point of destination.

4. When a permit shipment moves via a circuitous route because of conditions imposed by a governmental agency, distances shall be computed along the shortest legal route available to the carrier under the conditions of the permit.

*NOTE - The provisions of this paragraph will not apply in connection with split pickup or split delivery shipments having one or more components in Oakland pickup and delivery zone, and one or more components in the San Francisco pickup and delivery zone.

110-K
Cancels
110-J

APPLICATION OF RATES - DEDUCTIONS

(a) Rates provided in this tariff are for the transportation of shipments, as defined in Item No. 11(k), (l) and (m) from point of origin to point of destination, subject to Items Nos. 120, 140, 142 and 143.

(b) Subject to Notes 1, 2, 3 and 4 hereof, when point of origin or point of destination is carrier's established depot, rates shall be 5 cents per 100 pounds (or 5 cents per shipment when shipment weighs less than 100 pounds) less than those specifically named herein. When both point of origin and point of destination are carrier's established depots, rates shall be 10 cents per 100 pounds (or 10 cents per shipment when shipment weighs less than 100 pounds) less than those named herein. In no case shall the net transportation rate be less than 15 cents per 100 pounds when applying the provisions of this paragraph.

NOTE 1.-No deduction from rates specifically named herein shall be made under this rule from rates based upon a minimum weight of 10,000 pounds or more, nor from small shipment charges provided by Item No. 149, nor from minimum charges provided by Item No. 150.

NOTE 2.-No deduction from rates specifically named herein shall be made under this rule on shipments transported for persons, companies or corporations upon whose premises depots from or to which transportation is performed are located.

NOTE 3.-When the commodity upon which charges are to be computed is rated as a percentage or multiple of classes 1, 2, 3 or 4, deductions under this rule shall be made from the resulting rate.

NOTE 4.-Deductions under this rule on split pickup or split delivery shipments shall be made only on the weight of the component parts having point of origin or point of destination, or both (as the case may be), at the carrier's established depots.

* Change, Decision No. 60895

EFFECTIVE DECEMBER 3, 1960

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

Correction No. 1083