

Decision No. 60993**ORIGINAL**

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. 190)

Miriam E. Wolff, for the State of California (Port of San Francisco); petitioner.
James M. Cooper and Charles C. Miller, for San Francisco Chamber of Commerce; supporting petitioner.
A. D. Poe, J. C. Kaspar and J. X. Quintrall, for California Trucking Associations, Inc., Lloyd S. MacDonald, for Port of Oakland, L. P. Mayeskie, for Oakland Chamber of Commerce, Richard D. Stokes, for Edward Terminal, G. V. Cooley, for Encinal Terminals; protestants.
W. D. Wall, Jr., for Dried Fruit Assn. of California, Ralph Hubbard, for California Farm Bureau Federation; interested parties.
Robert E. Walker and R. J. Carberry; for the Commission staff.

O P I N I O N

By Decision No. 60129, dated May 17, 1960, in Case No. 5432 (Order Setting Hearing dated June 4, 1958) the rating and rates named in Minimum Rate Tariff No. 2 applicable to the transportation of dried fruit were revised. Among the revisions was the establishment of a new exception rating on dried fruit for shipments of 42,000 pounds or more of Class "C". These shipments previously were rated as fifth class. This revision resulted in reductions in the rate from San Jose to Oakland from 20½ cents to 13½ cents per 100

pounds, and from San Jose to San Francisco from 20½ cents to 19½ cents per 100 pounds.^{1/}

By this petition, filed July 1, 1960, the San Francisco Port Authority seeks establishment in Minimum Rate Tariff No. 2 of a commodity rate on dried fruit between the San Jose area, on the one hand, and San Francisco and Oakland, on the other hand, of 18½ cents per 100 pounds, subject to a minimum weight of 42,000 pounds. In effect, the proposal is to reduce the rate between the San Jose area and San Francisco so that it is equal to the rate between the San Jose area and Oakland.

Public hearing was held before Examiner William E. Turpen on September 14, 1960, at San Francisco. Testimony on behalf of petitioner was given by a shipper, by a carrier and by two officials of the Port of San Francisco. Representatives of the California Trucking Associations, Inc., and of the Commission's staff assisted in developing the record.

Petitioner's position is that the rates on dried fruit from the San Jose area to Oakland and San Francisco have always been equal until the changes established by Decision No. 60129, that the costs of transportation are the same to the two ports, that the rates to the two ports should be the same, and that the Port of San Francisco will suffer a loss of business if the rate to San Francisco is higher than the rate to Oakland.

A shipper of prunes from the San Jose area testified in behalf of petitioner. He said that about 40 to 45 percent of his tonnage moves to the Bay Area ports either for export or domestic shipment, and that he would be inclined to ship to the port enjoying the lower rate. On cross-examination it was developed that the

^{1/} Hereinafter reference to San Jose area will also include Santa Clara and Campbell.

shipper's choice of port is dependent on the location of the vessel involved, and that more shipments move to the Oakland Port than to the San Francisco Port.

The president of a highway carrier engaged in the transportation here in question testified that although it takes less time to drive to the Oakland Port than to the San Francisco Port, except during the rush hours, more delays are experienced at the Oakland Port. Consequently, he alleged, the costs of transportation to either port are about the same.

The traffic manager and the associate traffic manager of the Port of San Francisco described the facilities of the Port of San Francisco. One of these witnesses testified that about 8,000 tons of dried fruit per year move through the Port of San Francisco, but he was unable to state how much of this came from the San Jose area.

Counsel for petitioner pointed out that in the proceeding leading up to Decision No. 60129, a Commission staff witness had recommended establishment of the commodity rate herein sought. Petitioner claims that the evidence in that proceeding did not warrant removing the parity of rates between San Francisco and Oakland which had been of long standing.

Counsel for protestant, California Trucking Associations, Inc., argued that the present rates were found to be reasonable for the distances involved, and that the difference in mileages to Oakland and San Francisco from San Jose is too great in view of the short distance involved to justify equality of the rates.^{2/} He

^{2/} The constructive mileages from San Jose to Oakland and San Francisco are 44.5 miles and 51.0 miles, respectively.

further claimed that no substantial evidence had been presented on cost, as the statement of an official of one carrier that the costs are about the same was not supported by probative evidence and thus was not sufficient.

In 1951, Distance Table No. 4 was adopted by the Commission. Changes in mileages made at that time had the effect of increasing the rates between San Jose and San Francisco. Pursuant to several petitions, hearings were held and Decision No. 46434, dated November 30, 1951 (51 Cal. P.U.C. 241), was issued establishing special point-to-point class rates between the San Jose area, on the one hand, and San Francisco and Oakland, on the other hand. The decision pointed out that higher rates between San Francisco and San Jose than between Oakland and San Jose on most class rate traffic have been in effect over a period of many years, but that the 5th class rates had been equal. The equality of the 5th class rates was then reestablished. Many commodities in truckload lots are subject to the 5th class rating. Also, the rate equality that was discussed in Decision No. 46434 pertained to shipments from San Jose to all points in the San Francisco and Oakland pickup and delivery zones. This arrangement still is in effect.

Decision No. 60129 did nothing to disturb the equality of the 5th class rates. Based on studies presented therein that decision found that dried fruit should take the lower Class C rates. As petitioner pointed out, a witness in that proceeding recommended establishment of special commodity rates on dried fruit from San Jose to Oakland and San Francisco. However, we found in the decision that such an exception to the distance rates had not been justified. Petitioner here was a party to that proceeding but did not seek a rehearing of Decision No. 60129.

In this proceeding, petitioner has not shown that special conditions exist which would justify reducing the rate on dried fruit from the San Jose area to San Francisco to the same level as the rate to Oakland. We therefore find and conclude that no further change in the minimum rates for the transportation of dried fruit should be made at this time. The petition will be denied.

At the close of the hearing protestant California Trucking Associations, Inc., requested an adjourned hearing to enable it to prepare and present studies relating to the costs of transporting dried fruit from the San Jose area to San Francisco and Oakland to show that the present rate to San Francisco is proper. The examiner denied this request. In view of the conclusions reached herein it is apparent that such studies are not necessary. The examiner's ruling is upheld.

ORDER

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

IT IS ORDERED that Petition for Modification No. 190 in Case No. 5432 be and it is hereby denied.

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

Dated at Los Angeles, California, this 1st day of November, 1960.

W. W. ...
President
...
...
Theodore James
Commissioners