

6133S

**ORIGINAL**

Decision No. \_\_\_\_\_

## 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. 185)

R. A. Morin, for Fibreboard Paper Products Corpora-  
 tion, petitioner.  
J. C. Kaspar, A. D. Poe and J. X. Quintrall, for  
 California Trucking Associations, protestant.  
George A. Craig, for Western Lumber Manufacturers,  
 Inc.; John H. King, for Georgia Pacific Corp.;  
Frank E. Lawless, for Masonite Corporation;  
H. A. Lincoln, in propria persona; W. R. Schofield,  
 for California Forest Protective Association;  
Jack Wilson, for American Forest Products Corp.;  
 interested parties.  
John R. McKean, for Antoni Transportation Service;  
E. J. Muzio, for Miles Motor Transport System;  
 respondents.  
C. L. Griggs, for the Commission's staff.

O P I N I O N

By this petition Fibreboard Paper Products Corporation requests that the transportation of wood chips be exempted from the minimum rates, rules and regulations provided by Minimum Rate Tariff No. 2. The proposed action would be accomplished by the addition of "wood chips" to the list of exempted commodities as set forth in Items Nos. 40 and 41 series of the tariff in question.

Public hearing of the petition was held before Examiner Carter R. Bishop in San Francisco on September 21, 1960. Evidence in support of the proposal was offered by petitioner through eight witnesses. A representative of California Trucking Associations, protestant, participated in the development of the record by

examination of petitioner's witnesses and by argument made at the close of the hearing.<sup>1</sup>

Wood chips are subject to ratings of fourth class, less than carloads, and Class E, carloads.<sup>2</sup> Since minimum rates for carload movements by rail have not generally been established, the Class E rates, as prescribed in Minimum Rate Tariff No. 2, apply as minimum only to movements via highway carriers. Carload movements of wood chips by rail are subject customarily to commodity rates, which are published to cover specific movements.

The evidence of record, as adduced through the various witnesses, shows the following facts: Petitioner is engaged in the manufacture of wood pulp and paperboard at Antioch, California. The raw materials utilized in the production of wood pulp are pulp logs and wood chips. Logs may be shipped from the forested areas of the State to Antioch for conversion to chips or the wood chips may originate as such in said areas for movement to the Antioch plant. However, the Class E rates are too high in relation to the value of the chips to permit movement thereunder.<sup>3</sup> Such wood chips as are shipped from producing areas to Antioch move via rail from points

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<sup>1</sup> At the hearing, counsel for petitioner objected to examination of the witnesses or other participation by one individual who appeared as an interested party. This objection was made on the grounds that the person in question had failed to disclose a proper interest to the proceeding. Upon failure of said individual to disclose his interest in the matter as required by Rule 46 of the Commission's Rules of Procedure, the examiner ruled that he would be excluded from participation. At the close of the hearing the individual in question moved that the examiner's ruling be referred to the Commission. The examiner's ruling is hereby upheld.

<sup>2</sup> These classification ratings are set forth in Item 57780 of Western Classification No. 77.

<sup>3</sup> In this connection, it is noted that, by the provisions of Item No. 40 series of Minimum Rate Tariff No. 2, the transportation of logs is exempted from the minimum rates.

of origin located on rail and at commodity rates. These latter are lower than the corresponding Class E rates.<sup>4</sup>

The record further shows that the development of so-called portable chippers is making available a new source of supply of wood chips, namely, waste wood. Disposition of this waste wood in the forested areas and at off-rail sawmills has been accomplished in the past largely by burning. With the portable chippers, which can be moved from place to place as needed, the waste wood is converted into wood chips. The waste wood consists of logs which are unsuited for manufacture into lumber and of other waste material, such as mill residue from good logs.

Petitioner has, in recent years, by degrees increased its purchases of wood chips and reduced those of logs. Eventually, it hopes to eliminate pulp logs entirely from its raw material purchases. Petitioner, moreover, proposes to greatly enlarge its wood pulp operations if rates can be established at such levels as will make it economically feasible for highway carriers to transport the wood chips to Antioch from off-rail locations in the lumber producing areas of the State.

An alternative to exemption of wood chips from the minimum rates is found in Section 3666 of the Public Utilities Code which provides for the authorization of rates which are less than the established minimum rates when the proposed lower rates are found by the Commission to be reasonable. According to the testimony of several of petitioner's witnesses, the establishment of rates under Section 3666 for the transportation here in issue is not practicable. The reasons given for this view were that a considerable period of time, even involving several months, elapses between filing of an

<sup>4</sup>

According to the record, petitioner receives some purchases of wood chips from off-rail locations, the delivery to Antioch being made in the seller's own vehicles. These chips are purchased F.O.B. Antioch.

application under Section 3666 and the authorization of the rates sought thereunder. On the other hand, it was pointed out, in portable chipper operations the points of origin change frequently, and often on short notice, as the chipper moves from one cutting area to another. The carrier involved does not know sufficiently in advance where the next point of origin will be, in order to secure timely Section 3666 relief to cover the new movement.

The results of a study of the estimated costs of transporting wood chips to Antioch from representative points of origin were introduced by the executive vice president of Seaboard Transportation Company. This contract carrier hauls exclusively for petitioner herein, and has had considerable experience in transporting wood chips for petitioner between points in the State of Washington. It has also performed some such transportation to Antioch from California points, but this arrangement was terminated when the carrier was informed by petitioner that it could no longer pay the Class E rates. According to the cost study, which does not reflect actual movements, Seaboard could perform the nine selected hauls, ranging from 121 to 222 miles in length, at rates varying from 11.8 to 37.5 percent below the applicable Class E rates, and still retain a profit of 10 percent before income taxes, after provision for full costs.

The cost study, the record shows, is based on full, around-the-clock utilization of equipment. The operation, as described by the carrier witness, would be highly efficient, involving the use of specialized equipment.

Apart from the allegation that the Class E rates are too high to permit the free movement of wood chips, certain of petitioner's witnesses pointed out that the sales unit for that commodity is 200 cubic feet, and urged that transportation rates for the chips should be permitted to be stated in terms of volume to conform to

that unit.<sup>5</sup> Because of the large variation in the moisture content of wood chips, these witnesses indicated, rates for this commodity stated on the basis of weight result in inequitable transportation charges.

It appears from the record that petitioner is one of the two largest users of wood chips in the State. Two other concerns also use substantial quantities of wood chips. These latter companies secure the chips as a by-product of their other manufacturing processes. Still another company, located at Samoa, on Humboldt Bay, plans to build a pulp mill as soon as marketing conditions will permit. Its general traffic manager testified in support of petitioner.

Other organizations which, through witnesses called by petitioner, urged the granting of the sought exemption were the California Forest Protective Association and Western Lumber Manufacturers, Inc. The representatives of these organizations emphasized particularly the advantages of conservation and fire prevention which would accrue from increased use of portable chippers. According to their testimony conservation of forest resources would be promoted by the utilization, as wood chips, of some of the enormous quantity of material which is wasted in lumber production. The clearance of right of ways and the disposal of logging slash through conversion of wood chips, in place of burning of the material as now largely practiced, it was stated, would advance the highly important cause of forest fire prevention. Exemption of wood chips from the minimum rates was supported by these witnesses as a step toward

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The minimum class rates are stated in cents per 100 pounds. Item No. 257 of Minimum Rate Tariff No. 2 specifies that carriers shall not assess rates based on a unit of measurement different from that in which the minimum rates are stated.

the inauguration of rates which would stimulate the conversion of waste wood into chips and thus promote the above-stated objectives.<sup>6</sup>

The president of Seaboard Transportation Company also testified in support of the proposal.

The position of California Trucking Associations, Inc., protestant, was stated by its director of research, as follows: It is the policy of the Association to oppose exemptions from the minimum rate orders because of the undesirable consequences which might follow; contrary to the testimony of petitioner's witnesses, the use of less-than-minimum rate authority under Section 3666 procedure is practicable, as evidenced by outstanding authorizations held by carriers transporting wood chips for one of the other large California consumers of that commodity; exemptions from minimum rates make it possible for certain interests to escape their fair share of the transportation burden, with resultant increases in the rates on non-exempt commodities; and that the objective herein sought by petitioner could be accomplished by the establishment, by the Commission, of minimum commodity rates on wood chips, lower than the present Class E rates.

It is clear from the record that the presently applicable Class E rates are too high to permit the free movement of wood chips in truckload quantities. In other words, these rates produce transportation charges which exceed the value of the service to the shipper. As long as no lower rates are available there will be no substantial movement of wood chips from off-rail locations to Antioch and to other consuming points in the State.

It appears, moreover, that because of the frequent change in the prospective shipping points due to the mobility of the portable

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The representative of Western Lumber Manufacturers, Inc. indicated, on cross-examination, that the desires of that organization would be met if there were free and economical movement of wood chips, whether by minimum rate exemption or by the adjustment of rates through other means.

chippers, and because of the time usually involved in the preparation and processing of less-than-minimum rate applications, and for other reasons, the procedure provided in Section 3666 of the Public Utilities Code for obtaining such rates does not provide a generally practicable solution to the problem of obtaining suitable rates for the movement of wood chips.<sup>7</sup>

A preferable solution, and one which would be in harmony with the legislative policy of rate stabilization, would be the establishment of minimum rates at reasonable levels consistent with the current cost of performing the service. The present record does not provide a suitable basis for determining such rate levels. It is believed, however, that evidence necessary to such determination would be made available if the Commission staff were assigned to make cost and rate studies relating to the transportation. The staff will be so assigned. Meanwhile, the Commission finds and concludes that the transportation of wood chips, in bulk,<sup>8</sup> should be made exempt from the present minimum rates pending the receipt of evidence upon which reasonable minimum rates for such transportation may be established. The following order will provide exemption for a period of one year, which period may be modified later as required.

O R D E R

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

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According to the Commission's records, only two such authorizations for the movement of wood chips at less than minimum rates are outstanding at the present time.

<sup>8</sup>

In his testimony, petitioner's traffic department witness suggested that the petition be modified to refer only to wood chips, in bulk, since the evidence relates, and petitioner's concern is limited, to movement of that commodity in bulk.





Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p data-bbox="667 440 1169 504">APPLICATION OF TARIFF-COMMODITIES (Items Nos. 40 and 41)</p> <p data-bbox="332 529 1334 593">Rates in this tariff apply for the transportation of all commodities, except the following:</p> <div data-bbox="332 624 850 2277"> <p>Accessories, motion picture, Automobiles, set up, Automobile parts, accessories, and related articles in secondary movement by Truckaway Service when subject to the rates, rules and regulations set forth in Minimum Rate Tariff No. 12, Baggage, Butter, dairy (Subject to Note 6), Buttermilk, liquid (Subject to Note 2), Carriers (used packages, as described in Item No. 300 of Exception Sheet, empty returning or forwarded for return loads (Subject to Note 1), Cement, hydraulic, masonry, natural or Portland--also lime, common (including magnesium lime, hydrated or hydraulic lime, quick or slaked), cement flue dust, and/or limestone, powdered, shipped in mixed shipments with cement--when transported in shipments of 40,000 pounds or more, or when transported in shipments of lesser weights subject to the rates, rules and regulations, including the minimum charge computed on a minimum weight of 40,000 pounds, which are set forth in Minimum Rate Tariff No. 10, Cement Clinker, Cheese (including cottage cheese and pot cheese)(Subject to Note 8), #40 Chips: wood, in bulk (Subject to Note 13), Commodities transported under the vehicle unit rates, rules and regulations of Minimum Rate Tariff No. 5, applicable within Los Angeles and Orange Counties, Commodities of abnormal size or weight which because of such size or weight require the use of and are transported on low-bed trailers, Commodities when transported in dump trucks, for which rates are provided in Minimum Rate Tariff No. 7,</p> </div> <div data-bbox="877 624 1462 2277"> <p>Directories, telephone, Eggs (other than shelled, desiccated or frozen), Fertilizers, as described in Items Nos. 535, 540 and 550 of the Exception Sheet, Film, motion picture, Fruit, dried, unmanufactured and unprocessed (Subject to Note 4), Fruit, fresh or green (not cold pack nor frozen), Fungicides, agricultural, Furniture, household appliances and other home furnishings which have been sold at retail by a retail merchant, transported from retail stores or retail store warehouses, or transported from retail customers to retail stores or retail store warehouses (Subject to Note 3), Furniture, uncrated, new, as described in and for which rates are provided in Minimum Rate Tariff No. 11-A, and furniture, uncrated, new, of state, county or municipal governments, or transported under an agreement whereby the governments contracted for the carrier's services, Hops, House Trailers, set up, Ice Cream Mix, unflavored, Insecticides, agricultural, Jewelry transported from or to wholesale houses in packages weighing 10 pounds or less, Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles, Livestock, Logs (wood) Margarine (Subject to Note 8), Milk, liquid (Subject to Note 2), Newspapers; newspaper supplements, sections or inserts; (not scrap or waste)</p> </div>

Commodities which consist of or contain materials essential to National Defense and which have been donated to and are transported for the United States Government, governmental agencies, or nonprofit organizations acting for or in behalf of said government in the collection, assembly or transportation of said commodities in connection with the recovery of said essential materials from the commodities transported,

Commodities which have been sold at retail by a retail merchant, and transported from a retail store or retail store warehouse to residences of retail customers, or transported from residences of retail customers to retail stores or retail store warehouses, and such transportation is performed in vehicles in the exclusive use of the retailer and providing no shipment exceeds 2,000 pounds in weight. Further, that the merchandise is for the use or consumption of retail customers and is not for use in the furtherance of an industrial or commercial enterprise; and provided that the retailer shall certify on the shipping document for each delivery that the merchandise was sold at retail to a retail customer,

Concrete transported in motor vehicles equipped for mechanical mixing in transit,

Cotton,

Cream (Subject to Note 2),

Nuts, edible, in the shell,

Optical goods transported from or to wholesale houses in packages weighing 10 pounds or less,

Pits, fruit,

Poultry, live or dressed,

Property of the United States, or property transported under an agreement whereby the United States contracted for the carrier's services,

Property shipped to or from producers of motion pictures or television shows when transported subject to the rates, rules and regulations provided by Decision No. 33226, in Cases Nos. 4246 and 4434, as amended,

Property transported to a United States Post Office for mailing and United States mail transported from a post office to the addressee thereof (Subject to Note 11).

(Continued in Item No. 41)

\* Change )  
 o Reduction )  
 # Addition )

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6133S

EFFECTIVE MARCH 4, 1961

Issued by the Public Utilities Commission of the State of California;  
 Correction No. 1117 San Francisco, California.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)		
	<p data-bbox="617 435 1121 499">APPLICATION OF TARIFF-COMMODITIES (Concluded)</p> <p data-bbox="667 529 997 568">(Items Nos. 40 and 41)</p> <table border="0"> <tr> <td data-bbox="386 593 849 1467"> <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 car- riers which operate no vehi- cles exceeding a licensed weight of 4,000 pounds. (Sub- ject to Note 12.),</p> <p>Sulphur,</p> <p>United States mail transported for the Post Office Depart- ment under contract,</p> </td><td data-bbox="865 593 1440 1396"> <p>Used Property, viz.: household goods, personal effects, furniture, musical instruments, radios, and office and store fixtures and equipment, as des- cribed 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 trans- ported 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.: Beans (except Mesquite), Lentils, Onions, Peas (except Cow Peas), 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 data-bbox="221 1332 287 1358">41</p> <p data-bbox="386 1467 1394 1633">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 data-bbox="386 1658 1394 1760">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 data-bbox="386 1786 1328 1888">NOTE 3.-Exemption applies only when the distance between point of origin and destination does not exceed 35 miles, com- puted in accordance with the provisions of Item No. 100.</p> <p data-bbox="386 1913 1394 2015">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 data-bbox="386 2040 1344 2104">NOTE 5.-Exemption does not apply to sea shells as described in Item No. 653.</p> <p data-bbox="444 2130 1245 2168">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 car- riers which operate no vehi- cles exceeding a licensed weight of 4,000 pounds. (Sub- ject to Note 12.),</p> <p>Sulphur,</p> <p>United States mail transported for the Post Office Depart- ment under contract,</p>	<p>Used Property, viz.: household goods, personal effects, furniture, musical instruments, radios, and office and store fixtures and equipment, as des- cribed 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 trans- ported 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.: Beans (except Mesquite), Lentils, Onions, Peas (except Cow Peas), Pepper Pods,</p> <p>Voting Booths, Ballot Boxes, Election Tents and Election Supplies, when transported from or to polling places.</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 car- riers which operate no vehi- cles exceeding a licensed weight of 4,000 pounds. (Sub- ject to Note 12.),</p> <p>Sulphur,</p> <p>United States mail transported for the Post Office Depart- ment under contract,</p>	<p>Used Property, viz.: household goods, personal effects, furniture, musical instruments, radios, and office and store fixtures and equipment, as des- cribed 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 trans- ported 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.: Beans (except Mesquite), Lentils, Onions, Peas (except Cow Peas), Pepper Pods,</p> <p>Voting Booths, Ballot Boxes, Election Tents and Election Supplies, when transported from or to polling places.</p>		

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,  
 Doliches,

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,  
 Sainfein,  
 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.

# NOTE 13.-Exemption expires with March 4, 1962.

\*   Change    )  
 #   Addition ) Decision No.   6133S

EFFECTIVE MARCH 4, 1961

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

Correction No. 1116