

ORIGINAL

Decision No. 63018

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) (Petition for Modification No.31)
 to the transportation of fresh or)
 green fruits and vegetables and re-)
 lated items (commodities for which)
 rates are provided in Minimum Rate)
 Tariff No. 8).

Case No. 5438

(Petition for Modification No.31)

A. D. Poe, J. C. Kaspar and J. X. Quintrall, for
 California Trucking Associations, Inc., petitioner.
Paul O. Helin, for Calavo Growers of California;
E. Alan Mills, for California Grape & Tree Fruit
 League and Western Growers Association; William A.
 Ryan, for Sunkist Growers, Inc.; Wright E. Toalson,
 for Pure Gold, Inc., protestants.
Ralph Hubbard, for California Farm Bureau Federation;
Clifford E. Campbell, for Cannery League of Cali-
 fornia; Leo V. Cox, for Safeway Stores, Inc.;
W. D. Wall, for Dried Fruit Association,
 interested parties.
Edward E. Tanner, for the Commission staff.

O P I N I O N

Minimum Rate Tariff No. 8 names minimum rates applicable to the transportation of fresh fruits and vegetables. Item No. 40 of the tariff provides among other things, that the rates named in the tariff do not apply when the point of destination of the shipment is a cannery, accumulation station, cold storage plant, pre-cooling plant, or winery. By this petition, filed March 1, 1962, California Trucking Associations, Inc., asks that Item No. 40 be amended by deleting therefrom "cold storage plant" in the above provisions.

Following notice to interested parties, public hearing on the petition was held before Examiner William E. Turpen on May 1, 1962, at San Francisco.

Petitioner's director of research offered an exhibit which modified the proposal as contained in the petition. The modified proposal would retain the exemption on shipments to cold storage plants when transported from the field or point of growth, or when moving to a cold storage plant to be held for interim storage for a subsequent movement to a cannery. He testified that the basic idea of exemptions from the minimum rates was to exempt the initial movement from the point of growth. The witness also said that broad interpretations given to the definition of "cold storage plant" lead to misuse of the exemption in situations where it was not intended.^{1/} The modified proposal, he said, would retain the exemption for movements from the point of growth, and would also protect movements ultimately going to a cannery, which movements are not exempt. The witness cited as an example of misuse of the exemption a situation where a shipper calls his place a cold storage plant because a refrigerator is on the premises.

The traffic manager of Sunkist Growers, Inc., opposed the petition. He stated that conditions existing in the citrus growing industry often require the use of cold storage plants to supplement the capacity of the packing houses, and if the exemption is canceled the growers will be faced with added costs. Several other shippers supported this position.

^{1/} The definition of "Cold Storage Plant" is as follows: Facilities maintained for the storage of commodities under refrigeration.

It is clear that as presently worded the exemption is susceptible to misuse. The changes proposed by petitioner's director of research will eliminate most of this possibility and will still retain the exemption for the initial movements from the point of growth and for shipments ultimately going to canneries. The objection of Sunkist Growers, Inc., appears to be directed to the complete cancellation of the exemption, as was originally proposed in the petition. As modified at the hearing, movements of citrus fruit from the grower to a cold storage plant, when necessary to supplement the capacity of the packing houses, will still be exempt.

Based on the evidence we therefore find that Item No. 40 of Minimum Rate Tariff No. 8 should be amended as proposed in the exhibit entered by petitioner. We also find that any increases in rates published by common carriers made necessary by the change in the exemption are justified.

O R D E R

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

IT IS ORDERED that:

1. Minimum Rate Tariff No. 8 (Appendix C to Decision No. 33977 as amended) be and it is hereby further amended by incorporated therein, to become effective August 25, 1962, Seventeenth Revised Page 8, which revised page is attached hereto and by this reference made a part hereof.
2. Tariff publications required to be made by common carriers as a result of the order herein may be made effective not earlier than the tenth day after the effective date of this order on not less

than ten days' notice to the Commission and to the public and shall be made effective not later than August 25, 1962.

3. Common carriers in establishing the minimum rates, charges, rules and regulations authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long-and-short-haul departures now maintained under outstanding authorizations; that such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and that schedules containing the minimum rates, charges, rules and regulations published under this authority shall make reference to the prior orders authorizing long-and-short-haul departures and to this order.

4. In all other respects said Decision No. 33977, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 10th day of JULY, 1962.

George G. Traver
President

Robert S. Mitchell

S. J. Fox

Frederic B. Holtzclaff

Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES</p> <p>Rates in this tariff apply to transportation of the following commodities (See Exception):</p> <p>Fruits, fresh or green (not cold pack nor frozen); Vegetables, fresh or green (not cold pack nor frozen), including mushrooms, fresh; Containers, empty, second-hand, returning from an out-bound paying load, of commodities for which rates are provided herein or forwarded for a return paying load, of commodities for which rates are provided in this tariff, subject to Note 1.</p> <p>NOTE 1.-Highway carriers must determine before accepting shipment that said containers were moved filled and are being returned by the same carrier or carriers to consignor of the filled containers; or that containers shipped for return paying load will, when filled, move by the same carrier or carriers to the consignor of the original empty containers.</p> <p>EXCEPTION.-Rates in this tariff do not apply to transportation of:</p> <p>§(a) Fresh or green fruits, fresh or green vegetables, or mushrooms, as described herein, when the point of destination of the shipment is a cannery, accumulation station, ** precooling plant, or winery; nor to the empty containers used or shipped out for use in connection with such transportation, subject to Note 2.</p> <p>§40 *(aa) Fresh or green fruits, fresh or green vegetables, or mushrooms, as described herein, moving to a cold storage plant to be held for interim storage for a subsequent movement to a cannery, subject to Notes 2 and 4.</p> <p>§(b) Fresh or green fruits, fresh or green vegetables or mushrooms, as described herein, when transported from the field or point of growth to a packing plant, *cold storage plant, or a packing shed; nor to empty containers used or shipped out for use in connection with such transportation, subject to Notes 2 and 3.</p> <p>(c) Citrus fruits when the point of destination of the shipment is within the Los Angeles Drayage Area, as described in Minimum Rate Tariff No. 5; nor to the empty containers used or shipped out for use in connection with such transportation.</p> <p>(d) Sugar beets when the point of destination of the shipment is a beet sugar factory or a railroad loading dump.</p> <p>(e) Property of the United States, or property transported under an agreement whereby the United States contracted for the carrier's services.</p> <p>NOTE 2.-For the purpose of this item, the following definitions will apply:</p> <p>(a) Packing Shed or Packing Plant:-Facilities maintained for assembling, sorting, grading, or packing the commodity for shipment.</p> <p>(b) Precooling Plant:-Facilities maintained for the purpose of precooling commodities for shipment under refrigeration.</p> <p>(c) Cold Storage Plant:-Facilities maintained for the storage of commodities under refrigeration.</p> <p>(d) Cannery:-Facilities maintained for the processing of commodities at which the commodities are canned, preserved, dried, frozen, pickled, brined, or otherwise processed into manufactured products.</p>

(e) Winery:-Facilities maintained for the purpose of producing vinous liquors, including wine, champagne and brandy.

(f) Accumulation Station:-Yards or open areas maintained for the receiving of unprocessed commodities from the field, and accumulation and consolidation of such commodities for shipment to a cannery, winery, cold storage plant or precooling plant.

NOTE 3.-Except for the transportation of citrus fruits in field boxes or in bulk, carrots or avocados, exemption does not apply when the distance between point of origin and point of destination exceeds 50 constructive miles computed in accordance with the provisions of Item No. 110.

*NOTE 4.-Exemption applies only when shipper certifies on the shipping document covering the transportation that the ultimate destination of the shipment is a cannery.

SHIPMENTS TO BE RATED SEPARATELY

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Each shipment shall be rated separately. Shipments shall not be consolidated nor combined by the carrier. Component parts of split pickup or split delivery shipments, as defined in Item No. 11, may be combined under the provisions of Items Nos. 170 and 180.

∅ Change)
* Addition) Decision No. 63918
** Deletion)

EFFECTIVE AUGUST 25, 1962

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 278