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

ORIGINAL

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 )  
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. 269)  
(Filed August 10, 1962)

Dooley & Dooley, by David M. Dooley, for Jeffrey Milling Co., Paul Harrison Co., Superior Dryers, Inc., Yuba Almond Hull Dryer, Inc., and Calfa Dehydrating Co., petitioners.

R. D. Toll, J. X. Quintrall and Arlo D. Poe, for California Trucking Associations, Inc., protestant.

Ralph Hubbard, for California Farm Bureau Federation; Bill Chessman, for Matthews-Silvius Traffic Service, interested parties.

Edward E. Tanner, for the Commission staff.

O P I N I O N

This petition was heard and submitted before Examiner Thompson at San Francisco on January 31, 1963.

Petitioners request the amendment of Minimum Rate Tariff No. 2 so as to include almond hulls in the list of commodities exempt from the provisions of that tariff. California Trucking Associations, Inc., opposes this request. The representative of the California Trucking Association stated that his organization is opposed to rate exemptions as a matter of policy as each additional

exemption, though not of material significance of itself, contributes to the erosion of the minimum rate structure. No direct evidence was presented by this organization.

Petitioners are engaged in the processing and marketing of animal feeds. They maintain milling and feed producing plants at Winters, Fresno, Chico and Yuba City where almond hulls are cleaned and shredded to produce a supplementary feed for cattle. The almond producing regions in California are in the areas about those plants; however, some almonds are grown in the Santa Maria Valley.

The almond harvest occurs during the period August 15 to November 1 each year. The almonds are knocked from the trees periodically during the harvest season, the number of intervening days depending upon weather conditions. The harvest for the day is collected and taken to a nearby point, usually at a central location on the farm, for hulling. Some of the smaller growers do not have hulling machines and they take the almonds either to a neighboring grower or to a commercial plant which does have facilities for hulling almonds. The machinery separates the hulls, together with leaves, twigs and other debris collected at the harvest, from the almonds. In some instances the almonds are also shelled at the same time and in those cases the shells are added to the hulls and other refuse. Almond hulls have a very high sugar content and moisture content so that they ferment rapidly. The waste attracts insects, creates a nauseous odor and is highly susceptible to spontaneous combustion. According to the testimony, almond hull fires are extremely difficult to extinguish. The waste, therefore, presents serious sanitary, fire, and disposal problems to the growers.

The processing of almond hulls for cattle feed is relatively new. The usual practice of the processors in acquiring almond hulls is to promise the growers in the vicinity of the plant that they will have the almond hull waste removed from the place of hulling without delay and that they will pay the grower a fair price for the amount of refuse that is usable for cattle feed. The amount paid to the grower at the end of the season depends upon the amount of waste received, the moisture content (which varies from 20 to 70 percent by weight), the amount of debris with the hulls, and depending upon the amount, if any, that has reached a stage of fermentation which makes it unusable for processing. The testimony further indicates that the remuneration to the grower also depends upon the transportation cost and the condition of the market for the cattle feed.

The processors engage for-hire carriers to transport the hulls from the place of hulling to the plant. The carriers are usually neighboring farmers who operate what is commonly called a "bobtail truck". One processor testified that he usually has about seven carriers performing this transportation and all of them are growers of apricots who perform this service because the apricot orchards require very little work during the almond harvest season.

The amount of almond hulls that can be tendered by a grower at one time is small. The nature of the commodity prevents storage until a large lot can be accumulated. While the capacities of the vehicles used by the carriers do not exceed ten tons, it is necessary for the carriers to make pickups at two or more hulling places in order to obtain a full load. The distances from the points of origin to the plants seldom exceed 50 miles; the average length of haul is approximately 10 miles.

The record does not disclose the arrangements every one of the petitioners make with their respective carriers; however, the evidence indicates that the usual practice is to assign certain growers to each trucker based upon the capacity of the carrier's equipment and its ability to maneuver at the points of origin. The truckers, being farmers in the area, have knowledge of when the growers are hulling almonds. They make pickups without direction from the petitioners or the growers. The only occasion for the grower to call petitioners is when the carrier may be late in picking up the hulls. As previously stated, it is the usual practice for the carrier to fill out a load at two or more points of origin. The carrier selects the origin points from which pickups will be made to comprise a load, not the petitioners or the growers.

Under the provisions of Minimum Rate Tariff No. 2, the loads delivered to petitioners would not be subject to the split-pickup privileges and each shipment from the individual growers would have to be rated separately. The average shipment is around 4,000 pounds. The classification rating of almond hulls in less-than-carload lots is Fourth Class. The minimum rate for the transportation of 4,000 pounds for a distance of 10 miles is 63 cents per 100 pounds. The rates for distances from 1 mile to 50 miles range from 61 cents per 100 pounds to 77 cents per 100 pounds.

We find that:

1. The applicable minimum rates are not reasonable for this transportation.
2. The transportation circumstances and conditions surrounding this transportation vary to such an extent as to make unrealistic any estimates of the cost per mile of performing the service.

3. At the time the transportation is performed the value of the commodity cannot be determined.

4. The disposal of the residual waste by-product of the hulling process of almonds is a serious sanitary and fire problem which is best resolved in the public interest by the manner described herein.

5. Interference with the disposal of this product by the establishment of rules and regulations necessary to the application and enforcement of minimum rates which will in any way restrict the manner in which carriers are presently performing the service would be contrary to the public interest.

6. This record does not provide data which will permit the establishment of just, reasonable and nondiscriminatory minimum rates for this transportation nor does it indicate a basis upon which reasonable minimum rates can be established.

7. The transportation of almond hulls, including shells and other waste from the hulling and shelling of almonds, should be exempt from the provisions of Minimum Rate Tariff No. 2.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended) is further amended by incorporating therein to become effective May 25, 1963, Forty-fourth Revised Page 14 which revised page is attached hereto and by this reference made a part hereof.

2. Tariff publications authorized 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, and may be made effective on not less than ten 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. In all other respects, Decision No. 31606, 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 2nd day of APRIL 1, 1963.

George T. Hoover  
President

Robert L. ...  
Robert L. ...

Frederick B. Hellhoff

William W. Berenda  
Commissioners

Item  
No.SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL  
APPLICATION (Continued)APPLICATION OF TARIFF-COMMODITIES  
(Items Nos. 40 and 41)

Rates in this tariff apply for the transportation of all commodities, except as follows:

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| <p>Accessories, motion picture,<br/>Automobiles, set up,<br/>Automobile parts, accessories<br/>and related articles in<br/>secondary movement by Truck-<br/>away Service when subject to<br/>the rates, rules and regula-<br/>tions set forth in Minimum<br/>Rate Tariff No. 12,<br/>Baggage,<br/>Butter, dairy (subject to Note 8),<br/>Buttermilk, liquid (Subject to<br/>Note 2),<br/>Carriers (used packages), as de-<br/>scribed in Item No. 300 of the<br/>Exception Sheet, empty returning<br/>or forwarded for return loads<br/>(Subject to Note 1),<br/>Cement, hydraulic, masonry, natural<br/>or Portland--also lime, common<br/>(including magnesium lime, hy-<br/>drated or hydraulic lime, quick<br/>or slaked), cement flue dust,<br/>and/or limestone, powdered,<br/>shipped in mixed shipments with<br/>cement--when transported in<br/>shipments of 40,000 pounds or<br/>more, or when transported in<br/>shipments of lesser weights<br/>subject to the rates, rules and<br/>regulations, including the mini-<br/>mum charge computed on a minimum<br/>weight of 40,000 pounds, which<br/>are set forth in Minimum Rate<br/>Tariff No. 10,<br/>Cement Clinker,<br/>Cheese (including cottage cheese<br/>and pot cheese) (Subject to<br/>Note 8),<br/>Chips, wood, in bulk (Subject to<br/>Note 13),<br/>Commodities transported under the<br/>vehicle unit rates, rules and<br/>regulations of Minimum Rate<br/>Tariff No. 5, applicable within<br/>Los Angeles and Orange Counties,<br/>Commodities of abnormal size or<br/>weight which because of such<br/>size or weight require the use<br/>of and are transported on low<br/>bed trailers,<br/>Commodities when transported in<br/>dump trucks, for which rates<br/>are provided in Minimum Rate<br/>Tariff No. 7,</p> | <p>Directories, telephone,<br/>Eggs (other than shelled, desiccated<br/>or frozen),<br/>Fertilizers, as described in Items<br/>Nos. 535, 540 and 550 of the<br/>Exception Sheet,<br/>Film, motion picture,<br/>Fruit, dried, unmanufactured and<br/>unprocessed (Subject to Note 4),<br/>Fruit, fresh or green (not cold<br/>pack nor frozen),<br/>Fungicides, agricultural,<br/>Furniture, household appliances and<br/>other home furnishings which have<br/>been sold at retail by a retail<br/>merchant, transported from retail<br/>stores or retail store warehouses,<br/>or transported from retail custo-<br/>mers to retail stores or retail<br/>store warehouses (Subject to<br/>Note 3),<br/>Furniture, uncrated, new, as des-<br/>cribed in and for which rates are<br/>provided in Minimum Rate Tariff<br/>No. 11-A, and furniture, uncrated,<br/>new, of state, county or municipal<br/>governments, or transported under<br/>an agreement whereby the govern-<br/>ments contracted for the carrier's<br/>services,<br/>Hay, Fodder and Straw, in machine<br/>pressed bales, for which rates are<br/>provided in Minimum Rate Tariff<br/>No. 14,<br/>Hops,<br/>House Trailers, set up,<br/>*Hulls, almond, including shells and<br/>other waste from the hulling and<br/>shelling of almonds, not processed<br/>for use as animal or poultry feed,<br/>Ice Cream Mix, unflavored,<br/>Insecticides, agricultural,<br/>Jewelry transported from or to<br/>wholesale houses in packages<br/>weighing 10 pounds or less,<br/>Liquids, compressed gases, commo-<br/>dities in semi-plastic form and com-<br/>modities in suspension in liquids<br/>in bulk, in tank trucks, tank<br/>trailers, tank semi-trailers or a<br/>combination of such highway<br/>vehicles,<br/>Livestock,<br/>Logs (wood),<br/>Margarine (Subject to Note 8),</p> |
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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),

Milk, liquid (Subject to Note 2),  
Newspapers; newspaper supplements, sections or inserts; (not scrap or waste),

Nuts, in the shell,

Nuts, field shelled (rough shelled, with or without removal of broken shells, dirt, residue, or foreign material, and not cleaned nor further processed),

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  
\* Addition

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EFFECTIVE MAY 25, 1963

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

Correction No. 1312