

ORIGINAL

Decision No. 65482

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

And Related Matters.)

Cases Nos. 5330, 5433,
5435, 5436, 5437,
5438, 5439, 5440,
5441, 5603, 5604

SUPPLEMENTAL OPINION AND ORDER

On January 18, 1963, there was sent to various interested parties for their study and comment a report prepared by the Commission's Transportation Division Rate Branch staff. The report recommends that the present definition of the term "Common Carrier Rate" in thirteen of the Commission's minimum rate tariffs¹ be further amended so as to permit, under the alternate provisions of said tariffs, the application of interstate or foreign rates of highway common carriers in lieu of the minimum rates otherwise applicable on certain interstate or foreign traffic moving between points in California.

¹

These tariffs are: Minimum Rate Tariffs Nos. 2, 3-A, 4-A, 5, 6, 7, 8, 9-A, 10, 11-A, 12 and 14; also City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A.

The transmittal letter attached to the staff's report informed the parties that, in the absence of objection or request for public hearing, consideration might be given to the issuance of an ex parte order revising the aforesaid tariffs in accordance with the staff's recommendations.

Written comments have been received from Pacific Motor Trucking Company, California Farm Bureau Federation and the Port of San Diego. The California Farm Bureau Federation endorses the staff's proposal. Neither of the other two parties has opposed it.²

The staff's report and the written replies thereto are received in evidence as exhibits in Case No. 5432 and are received in evidence in the other proceedings by reference.³

The report relates to transportation of property within California which is exempt from rate regulation of the Interstate Commerce Commission under Section 203(b)(6) or Section 203(b)(8) of

² The Port of San Diego initially expressed an objection to the staff's proposal but the objection was subsequently withdrawn.

³ The staff report is identified as Ex Parte Exhibit No. 0-14 in Case No. 5432; the replies thereto, collectively, are identified as Ex Parte Exhibit No. 0-15 in Case No. 5432.

the Interstate Commerce Act.⁴ Transportation between points in California of interstate or foreign commerce so exempt from regulation by the Interstate Commerce Commission is subject to rate regulation by the California Public Utilities Commission.⁵

As explained in the rate staff report, under the provisions of the Commission's minimum rate tariffs, the minimum rates alternate or combine with common carrier rates when a lower aggregate charge for the same transportation would result. This is required by Section 3663 of the Public Utilities Code, which specifies that, in the event the Commission establishes minimum rates for transportation services by highway permit carriers, the rates shall not exceed the current rates of common carriers by land for the transportation of the same kind of property between the same points.

According to the staff's report, the current definition of "Common Carrier Rate" in the minimum rate tariffs provides for the alternation, under most circumstances, of interstate rates subject to the jurisdiction of the California Public Utilities Commission.

⁴ Section 203(b)(6) of the Interstate Commerce Act exempts from rate regulation by the Interstate Commerce Commission the transportation of ordinary livestock, fish (including shell fish), or agricultural and horticultural commodities by motor vehicles, if such motor vehicles are not used in carrying any other property for compensation.

Section 203(b)(8) of the Interstate Commerce Act exempts from rate regulation by the Interstate Commerce Commission the transportation of property by motor carriers in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone.

⁵ See Decision No. 33268 in Case No. 4494, 42 C.R.C. 721; Decision No. 50156 in Case No. 5432, unreported; and Decision No. 53840 in Case No. 5438, 55 Cal.P.U.C. 212.

However, the report points out that it has come to the attention of the Commission's staff that these definitions, although recently amended with respect to such interstate commerce, still do not permit alternation in all circumstances.⁶ In particular, the present definitions do not provide for the alternative use, by highway permit carriers, of highway common carrier rates applicable to interstate traffic exempted from the rate jurisdiction of the Interstate Commerce Commission. The staff's report concludes that this result appears to be inconsistent with the statutory mandate in Section 3663 of the Public Utilities Code and is inconsistent with the treatment accorded by the Commission in its minimum rate tariffs with respect to other interstate or foreign rates.⁷

Upon consideration of the exhibits in these proceedings, the Commission finds that a public hearing is not necessary; and that the tariff modifications proposed by the staff are reasonable. Minimum Rate Tariff No. 2 will be amended accordingly by the order herein. In order to avoid duplication of tariff distribution, the other minimum rate tariffs will be amended by separate orders.

Good cause appearing,

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The definition was recently revised by Decision No. 64071, dated August 7, 1962, in Case No. 5432 and related minimum rate cases.

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In Decision No. 64452 dated October 23, 1962, in Case No. 5432, Pet. No. 190, the Commission concluded that the interstate and foreign rates of a highway common carrier could be applied to transportation by a highway permit carrier pursuant to Item No. 200 of Minimum Rate Tariff No. 2 and Section 3663 of the Public Utilities Code.

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended), is hereby further amended by incorporating therein, to become effective July 20, 1963, Eighteenth Revised Page 11 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 page incorporated in this order.

3. In all other respects the aforesaid 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 28th day of May, 1963.

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

Robert E. Mitchell
President
Acting President

Frederick B. Holboff

William W. Brundage

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

Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION
	<p style="text-align: center;">DEFINITION OF TECHNICAL TERMS (Items Nos. 10 and 11)</p> <p>(a) CARRIER means a radial highway common carrier or a highway contract carrier as defined in the Highway Carriers' Act, or a household goods carrier as defined in the Household Goods Carriers Act.</p> <p>(b) CARRIER'S EQUIPMENT means any motor truck or other self-propelled highway vehicle, trailer, semi-trailer, or any combination of such highway vehicles operated as a single unit.</p> <p>§ (c) COMMON CARRIER RATE means any intrastate rate or rates of any common carrier or common carriers, as defined in the Public Utilities Act, lawfully on file with the Commission and in effect at time of shipment; any interstate or foreign rate or rates of any common carrier railroad or railroads applying between points in California by an interstate or foreign route, lawfully in effect at time of shipment; also any interstate or foreign rate or rates of any common carrier or common carriers, as defined in the Public Utilities Act, applying between points in California and in effect at time of shipment and covering transportation exempt from rate regulation of the Interstate Commerce Commission under Section 203(b)(6) or Section 203(b)(8) of Part III of the Interstate Commerce Act.</p> <p>§10 (ca) CONSIGNOR means the person, firm or corporation shown on the shipping document as the shipper of the property received by the carrier for transportation.</p> <p>(cb) DISTANCE TABLE means Distance Table No. 4, amendments thereto or reissues thereof.</p> <p>(cc) ESCORT SERVICE means the furnishing of pilot cars or vehicles by a carrier as may be required by any governmental agency to accompany a shipment for highway safety.</p> <p>(d) ESTABLISHED DEPOT means a freight terminal owned or leased and maintained by a carrier for the receipt and delivery of shipments.</p> <p>(e) EXCEPTION SHEET means Pacific Southcoast Freight Bureau Exception Sheet No. 1-S, Cal.P.U.C. No. 193 of J. P. Haynes, Agent, and supplements thereto or reissues thereof when the provisions of such supplements or reissues have been approved by the Commission.</p> <p>(ea) INDEPENDENT-CONTRACTOR SUBHAULER means any carrier who renders service for a principal carrier, for a specified recompense, for a specified result, under the control of the principal as to the result of the work only and not as to the means by which such result is accomplished.</p> <p>(eb) MULTIPLE LOT SHIPMENT means a shipment transported in accordance with the provisions of Item No. 85 or 86.</p> <p>(ec) PALLETIZED SHIPMENT means a shipment tendered to and transported by the carrier on pallets (elevating-truck pallets or platforms or lift-truck skids, with or without standing sides or ends, but without tops).</p>

(od) PERMIT SHIPMENT means a shipment which because of its width, length, height, weight or size requires special authority from a governmental agency regulating the use of highways, roads or streets for the transportation of such shipment in whole or in part.

(oe) PICKUP AND DELIVERY CHARGE means the full charge applicable without the deduction authorized by Item No. 110.

(f) POINT OF DESTINATION means the precise location at which property is tendered for physical delivery into the custody of the consignee or his agent. All points within a single industrial plant or receiving area of one consignee shall be considered as one point of destination. An industrial plant or receiving area of one consignee shall include only contiguous property which shall not be deemed separate if intersected only by public street or thoroughfare.

(g) POINT OF ORIGIN means the precise location at which property is physically delivered by the consignor or his agent into the custody of the carrier for transportation. All points within a single industrial plant or shipping area of one consignor shall be considered as one point of origin. An industrial plant or shipping area of one consignor shall include only contiguous property which shall not be deemed separate if intersected only by public street or thoroughfare.

(Continued in Item No. 11)

Change, Decision No. 65482

EFFECTIVE JULY 20, 1963

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 1323