

ORIGINALDecision No. 66416

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. 305)

(See Appendix A for Appearances)

O P I N I O N

Minimum Rate Tariff No. 2 names rates for the transportation of general commodities between all points in California except for local transportation within incorporated cities, within described areas adjacent to certain cities, and between said cities and the adjacent areas. One of these areas includes the cities of Sacramento and North Sacramento, the unincorporated community of West Sacramento, and designated industrial plants and certain other facilities adjacent thereto. The description of said area is set forth in Item No. 30, paragraph (d) of the tariff. By this petition, as amended, Sacramento-Yolo Port District, a political subdivision of the State of California, seeks amendment of the aforesaid Item No. 30, paragraph (d), by the inclusion in the exempt area defined therein of an additional area embracing the Sacramento-Yolo Port facilities, the communities of West Sacramento, Broderick and Bryte,

and certain additional adjacent territory. Granting of the petition, as amended, would have the effect of exempting from the provisions of Minimum Rate Tariff No. 2 all movements within a defined area,^{1/} as well as all movements between points in that area, on the one hand, and, on the other hand, all points and places presently specified in the aforesaid paragraph (d) of Item No. 30.^{2/}

Public hearing of the petition was held before Examiner Bishop in Sacramento and San Francisco on September 4 and 20, 1963, respectively. With the filing, on September 26, 1963, of an amendment to the petition clarifying the relief sought, the matter was taken under submission.

Evidence on behalf of petitioner was adduced through its traffic analyst and through representatives of the Sacramento City/County Chamber of Commerce, the West Sacramento District Chamber of Commerce, a rice growers' association, a rice growers' cooperative, a fruit and vegetable processing company, and two for-hire highway carriers.

The record shows the following facts: The Port of Sacramento was opened for ocean-going traffic in June of this year, the first vessel, inbound, having docked at the port on the 29th of that month. The total cost, to the federal government and the

1/ The metes and bounds of the area in question are set forth in the amendment to the petition herein.

2/ As hereinabove noted, movements between West Sacramento and other points and places specified in paragraph (d) are presently exempt. Since West Sacramento is unincorporated it has no defined boundaries. An associate transportation rate expert from the Commission's staff, testifying at the hearing in this matter, stated that in his opinion the boundaries of West Sacramento, for the purposes of Item No. 30, should be considered as a circle of one-mile radius centered at the community's main post office. He predicated this view on provisions contained in Item No. 100 of Minimum Rate Tariff No. 2 and in Rules 3 and 4 of the Commission's Distance Table No. 4.

Port District, of constructing the port facilities, including such things as the 7-mile port railroad, the wharves, the 1½-million-bushel grain elevator, the turning basin, the barge canal and the 30-mile deep-water channel which connects the port with the Sacramento River in the vicinity of Rio Vista, amounted to \$55,000,000. Related expenditures in substantial amounts were also made by the Division of Highways of the State of California.

The water area at the port amounts to 60 acres; the facilities include five deep-sea berths, two barge berths, two transit sheds, two gantry cranes, the aforementioned grain elevator, and 13.7 acres of paved storage area. The Port District also has 650 acres of land which has been designated for future development. The port railroad connects directly with the tracks of Southern Pacific Company and Sacramento Northern Railway, which do their own switching over the Port line. Port traffic of other railroads serving Sacramento is bridged from and to the Port by the above-mentioned lines.

The City of Sacramento is bounded on the west by the Sacramento River. Just west of that river and adjacent thereto are the communities of Bryte, which is the most northerly, Broderick and West Sacramento and the facilities and real property of the Port District. Thus, the three communities in question and the Port are separated from the City of Sacramento only by the river.

The evidence discloses further that within the community of West Sacramento are several large industries as well as the usual commercial establishments and residential areas. There are some industries at Broderick, while Bryte is primarily residential, although sites are available for future industrial development.

The record indicates, moreover, that the steamer traffic to and from the Port of Sacramento is growing, and through the joint efforts of the Port District and the chambers of commerce, is expected to increase steadily with the passage of time.

Evidence was further adduced to the effect that the Port of Sacramento and the communities embraced by the proposed addition to Item No. 30 are in fact a part of the industrial and commercial area of Sacramento and should therefore be accorded the same treatment as to rates, for movements within said commercial and industrial areas, as is enjoyed by the other sections thereof. According to petitioner's witnesses, such equality of rate treatment is necessary in order to avoid unjust discriminations against traffic from and to points as to which relief is proposed in the amended petition.

In further support of this position, petitioner's traffic analyst pointed out that, by Supplement No. 10 to Distance Table No. 4, effective April 27, 1963, the Commission ordered that the constructive highway distances (for the determination of minimum distance rates) from and to the Port of Sacramento should be the mileages provided from and to West Sacramento;^{3/} and that in Distance Table No. 5 the Commission has included in "Sacramento Extended Area" all of the area for which minimum rate exemption is herein sought.^{4/}

^{3/} As has been hereinbefore stated, movements between West Sacramento and the other points and places specified in paragraph (d) of the aforesaid Item No. 30 are exempt from the provisions of Minimum Rate Tariff No. 2.

^{4/} Distance Table No. 5 was adopted by the Commission by Decision No. 64802, dated January 15, 1963, as amended by Decision No. 65308, dated May 1, 1963 and Decision No. 66283, dated November 5, 1963, and is to supersede Distance Table No. 4. However, Distance Table No. 5 has not as yet been made applicable in connection with any of the Commission's minimum rate tariffs.

A representative of a sea food processing company urged that the petition be granted. His company, he stated, is a large landowner in the area sought to be included in the Sacramento exemption. Said land is scheduled for industrial development. For this to be realized, he said, it is essential that the area embraced by the petition be permitted to compete on an equitable basis with industrial sites located in the Sacramento exempt area as it is currently defined. Denial of the petition, he believed, would impede the growth and development of the entire port area.

Granting of the petition was opposed by California Trucking Association. In his argument at the close of the hearing, the Association's director of research based the Association's opposition on several grounds. He drew attention to statutory provisions directing the Commission to establish minimum rates. He contrasted this with the situation at Sacramento, in which, through the years the exempt area has been repeatedly enlarged. He pointed out that the requests for exemption had been consistently granted, predicated on a similarity of circumstances. Stating that the Sacramento exempt area is the largest such area in the State, he urged that the time has come for the Commission to review its approach to the problem. In this connection, he made reference to Case No. 6328, an investigation by the Commission into the question of the establishment, for the Sacramento metropolitan area, of drayage tariffs typical of other metropolitan areas of the State. That investigation, the director said, was instituted in 1959, but has not been progressed. The director argued that rather than further enlarge the Sacramento exemption, as herein proposed, the Commission should proceed to establish, in the aforesaid Case No. 6328, appropriate minimum rates

and rules for application within the area embraced currently by the Sacramento exemption.

The director expressed the view, moreover, that the burden of justifying the sought relief had not been met by petitioner. He argued that unjust discrimination against traffic moving between the Port of Sacramento and other places in the Sacramento metropolitan area had not been shown to exist, that the movements of commodities between shipside at the port and industries or other establishments in said metropolitan area are sporadic and where they occur are in such large quantities as the average carrier is not equipped to handle, that such movements are not characteristic of city drayage, and that petitioner failed to introduce any cost evidence which would indicate whether or not the rates and other provisions of Minimum Rate Tariff No. 2 are unreasonable for the movements for which petitioner seeks exemption.

Discussion, Findings and Conclusions

The petition before us is the latest of a long series of requests, made over a period of many years, involving proposed exemptions from minimum rates for specific movements within the Sacramento metropolitan area.^{5/} Minimum rates for transportation of general commodities by city carriers between points within the City of Sacramento have never been established.^{6/} As the Sacramento industrial, commercial and residential area has expanded beyond the city limits of that city, the Commission has exempted from the

^{5/} The most recent prior request of this nature was one in which Graybar Electric Company, Inc., sought inclusion of its plant which is located adjacent to, but outside the City of Sacramento. The proposal was adopted by Decision No. 65907, dated August 20, 1963, in Petition for Modification No. 289 in Case No. 5432.

^{6/} Minimum rates for like transportation by city carriers within the City of North Sacramento likewise have not been established.

minimum rates in Minimum Rate Tariff No. 2 movements by highway carriers between points in the enlarged area. This has been necessary, in the absence of a minimum rate structure within Sacramento, to afford an equality of competitive opportunity within the commercial and industrial community, where transportation characteristics were substantially uniform.

It is clear from the evidence that the Port of Sacramento, Broderick and Bryte are parts of the Sacramento industrial and commercial area. The Commission long ago recognized that West Sacramento was such a part when it included that community in the Sacramento exemption. It appears further that the characteristics of transportation between the Port, Broderick and Bryte, on the one hand, and the presently exempt area centering in Sacramento, on the other hand, as well as that between points within the proposed added exempt area, are generally the same as the characteristics of transportation within said presently exempt area. If, then, the above-stated policy, which has been adhered to consistently in the past, is to be continued, the amended petition should be granted.^{7/}

The Commission is fully aware of the desirability of proceeding with the investigation in Case No. 6328, with a view to the establishment of appropriate rates, rules and regulations for the transportation of general commodities within a defined metropolitan Sacramento area, and will do so as soon as its commitments will permit. Meanwhile, we are persuaded that in the absence of

^{7/} It is to be noted that this policy has been observed not only at Sacramento, but also at other points in the State where similar circumstances prevail. For example, movements between all points within defined metropolitan areas centering on the cities of Fresno and Stockton are exempt from the provisions of Minimum Rate Tariff No. 2.

minimum rates for application between points and places specified in the aforesaid paragraph (d) of Item No. 30, the proposed additional area should be included within the exemption in question, in recognition of the demonstrated fact that said area is a part of the industrial and commercial area of Sacramento, and as such is entitled to the rate treatment herein sought by petitioner.

Upon consideration, we find:

1. The area defined by metes and bounds in amended paragraph III as set forth in the amendment to the petition herein is a part of the commercial and industrial area of Sacramento.

2. Transportation between points within said defined area, and transportation between said defined area, on the one hand, and points and places embraced by paragraph (d) of Item No. 30 of Minimum Rate Tariff No. 2, on the other hand, is similar to transportation for which minimum rate exemption is now provided in said paragraph (d) of Item No. 30.

3. All such transportation should be accorded like treatment.

The Commission concludes that Petition for Modification No. 305, as amended, should be granted.

O R D E R

IT IS ORDERED that Minimum Rate Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended) is hereby further amended by incorporating therein, to become effective January 4, 1964, Twenty-second Revised Page 13, which page is attached hereto, and by this reference made a part hereof.

In all other respects said 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 7th day of DECEMBER, 1963.

William A. Bernard
President

City & County

Robert W. Page

George L. Dwyer

Frederick B. Holcomb
Commissioners

APPENDIX A

APPEARANCES

Berol, Loughran and Geernaert, by Edward M. Berol; John Craig,
for petitioner.

J. C. Kaspar, A. D. Poe and J. X. Quintrall, for California
Trucking Association, protestant.

Bertram S. Silver and E. L. Forney, for Clark Trucking Service,
Inc.; Bruce C. Kirkpatrick, for Pacific Motor Trucking
Company; Roy A. Senf, Jr., for Senf & Company, respondent
carriers.

H. Richard Maguire, for West Sacramento District Chamber of
Commerce; Charles J. O'Connor, for Sacramento City/County
Chamber of Commerce; J. F. "Sam" Dunne, for Farmers Rice
Growers Cooperative; William D. Wagstaffe, for Alaska
Packers Association; Roy A. Townsend, for Libby, McNeill
& Libby, interested parties.

Robert E. Walker, for the Commission staff.

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">APPLICATION OF TARIFF - TERRITORIAL (Items Nos. 30 and 31)</p> <p>Subject to Note 1 of Item No. 31 the rates in this tariff apply for transportation of shipments between all points within the State of California, except:</p> <p>(a) Shipments having point of origin in Alameda, Albany, Berkeley, Emeryville, Oakland or Piedmont, and point of destination in another of those cities;</p> <p>(b) Shipments having both point of origin and point of destination within the San Diego Drayage Area as described in Minimum Rate Tariff No. 9-A;</p> <p>(c) Shipments having both point of origin and point of destination within the Los Angeles Drayage Area, as described in Minimum Rate Tariff No. 5;</p> <p>630 (d) Shipments (1) between Sacramento and North Sacramento; (2) between said cities on the one hand and the adjacent plants of the Lumbermen's Supply, Inc., Essex Lumber Company, Campbell Soup Company, McKesson & Robbins, Inc., Howard Terminal Warehouse, Royal Packing Company, Procter & Gamble Manufacturing Company, Fort Sutter Warehouse Co., Libby, McNeill & Libby, Boone Warehouses, Inc., and Graybar Electric Company, Inc., on the other hand; (3) between said cities and plants on the one hand and the Sacramento Air Depot, the Sacramento Municipal Airport and the Sacramento Signal Depot on the other hand; (4) between the Sacramento Air Depot, the Sacramento Municipal Airport and the Sacramento Signal Depot; *6 (5) between points and places within the area described as follows:</p> <p style="padding-left: 40px;">Beginning at the junction of the Sacramento River Barge Canal and the Sacramento River, westerly along the Sacramento River Barge Canal to Jefferson Boulevard, southwesterly along Jefferson Boulevard to Arlington Road, northerly along Arlington Road to Thorpe Road, westerly along Thorpe Road and its meanderings, thence along the westerly prolongation of Thorpe Road to the east levee of the Yolo Bypass, northerly along the east levee of the Yolo Bypass to the right of way of the Southern Pacific Company, northeasterly along the right of way of the Southern Pacific Company to Harbor Boulevard, northerly along Harbor Boulevard to Riverbank Road, thence northerly along an imaginary line to the Sacramento River, easterly and southerly along the Sacramento River to its junction with the Sacramento River Barge Canal, the point of beginning (includes Port of Sacramento and the communities of West Sacramento, Broderick and Bryte); and</p> <p>(6) between any of the communities, plants, or other locations identified in paragraph (d) hereof;</p> <p>(e) Shipments between Marysville and Yuba City and between said cities on the one hand and the adjacent plant of the Harter Packing Company on the other hand;</p> <p>(f) Shipments between the Sonora freight depot of the Sierra Railroad Company and Sonora;</p>

(g) Shipments having both point of origin and point of destination within the metropolitan Fresno area embraced by the following boundaries (includes both sides of streets, boulevards, roads, avenues or highways named):

Beginning at the intersection of Hayes Avenue and Shaw Avenue, easterly along Shaw Avenue to U.S. Highway 99, northwesterly along U.S. Highway 99 to the San Joaquin River, easterly along the San Joaquin River to Friant Road, southerly along Friant Road to Alluvial Avenue, easterly along Alluvial Avenue to Fresno Avenue, southerly along Fresno Avenue to Herndon Avenue, easterly along Herndon Avenue to Chestnut Avenue, southerly along Chestnut Avenue to Shaw Avenue, easterly along Shaw Avenue to Fowler Avenue, southerly along Fowler Avenue to Jensen Avenue, westerly along Jensen Avenue to Willow Avenue, southerly along Willow Avenue to Central Avenue, westerly along Central Avenue to U.S. Highway 99, northwesterly along U.S. Highway 99 to North Avenue, westerly along North Avenue to Marks Avenue, northerly along Marks Avenue to Jensen Avenue, westerly along Jensen Avenue to Cornelia Avenue, northerly along Cornelia Avenue to Kearney Avenue, westerly along Kearney Avenue to Hayes Avenue, northerly along Hayes Avenue to point of beginning.

(Continued in Item No. 31)

∕ Change)
* Addition) Decision No. 66416
∩ Reduction)

EFFECTIVE JANUARY 4, 1964

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

Correction No. 1417