

Decision No. 66615

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) (Petition for Modification No.39)
 carriers and city carriers relating) (Filed May 27, 1963)
 to the transportation of fresh or) (Petition for Modification No.40)
 green fruits and vegetables and) (Filed May 29, 1963)
 related items (commodities for
 which rates are provided in
 Minimum Rate Tariff No. 8).

Calhoun E. Jacobson and Francis P. Pusateri, for
Potato Growers Association of California, Inc.,
 petitioner in Petition No. 39.

E. Alan Mills and Ralph L. Coffing, for California
Grape and Tree Fruit League, petitioner in
 Petition No. 40.

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

Ralph Hubbard, for California Farm Bureau Federation,
M. J. Davis, for California Fruit Exchange, and
Howard E. Meyers, interested parties.

Dale R. Whitehead, for the Commission staff.

O P I N I O N

Minimum Rate Tariff No. 8 names rates for the transporta-
 tion of fresh fruits and vegetables by highway carriers. Item No.
 40 of the tariff provides that the minimum rates will not apply to
 shipments from the point of growth to packing sheds or cold storage
 plants. Except for citrus fruits, carrots, avocados and nuts, this
 exemption applies only when the distance from point of origin to
 destination does not exceed 50 constructive miles. By Petition for
 Modification No. 39, the Potato Growers Association of California,
 Inc. seeks elimination of the 50-mile limitation on the exemption

with respect to shipments of potatoes. By Petition for Modification No. 40, the California Grape and Tree Fruit League seeks similar action with respect to shipments of grapes and deciduous tree fruit.

Public hearing on both petitions was held before Examiner Turpen at Fresno on September 17 and 18, 1963. Both petitioners presented several witnesses in support of their respective petitions. The California Trucking Association presented testimony in opposition to the petitions. Representatives of the California Farm Bureau Federation and of the Commission's staff assisted in developing the record.

Although the two petitions were heard separately, the relief sought in the petitions is the same and the evidence presented was similar and can be discussed as a unit. Both petitioners presented several witnesses representing growers and producers. The testimony of these witnesses was to the effect that the minimum rates are not designed for movements from fields to packing sheds and that the costs used as a basis of the minimum rates did not include costs of this type of transportation. The witnesses also testified that over the past few years production areas have changed and packing facilities have been consolidated due to costs, automation, and other factors, resulting in many instances of packing sheds being located more than 50 miles from the point of growth. The testimony shows that growers have to pay proportionally greater rates for distances over 50 miles, and many growers fail to understand the reasons and feel that this situation results in discrimination against the growers who ship to packing sheds located over 50 miles from the field.

The California Trucking Association opposed both petitions. The Association's director of research testified that the 50-mile

limitation on the exemption was established largely due to the use of an earlier unrestricted exemption to avoid payment of the minimum rates.¹ He said that transportation from the field for short distances is entirely different than that for longer distances, and that removing the distance limitation on the exemption would tend to break down stabilization of the minimum rates. The witness said that a current survey he made of the transportation herein involved showed that conditions had not materially changed from the time the present limitation on the exemption was established.

As pointed out by the witness for the California Trucking Association, the exemption was designed for the benefit of farmers taking their produce to a local packing shed. When transportation for distances of over 50 miles is involved, it ceases to be a matter of local carriage and bears more resemblance to an over-the-road haul. Continued additions to exempt transportation merely increase the opportunities to avoid minimum rates and in the long run tend to break down the minimum rate structure. The Commission finds that petitioners have not shown that the circumstances which prompted establishment of the 50-mile limitation of the exemption have changed to an extent that would warrant eliminating the limitation. However, it is clear that in regard to potatoes, a slight modification of the present provisions would be desirable pending completion of certain staff studies now in process. The record shows that potatoes are grown the year around, but in different seasons in different locations. The cost of establishing packing facilities is such that one plant must be utilized to serve different areas at different times. Accordingly, numerous shipments of potatoes move for distances

¹ See Decision No. 56770, dated May 27, 1958, in Case No. 5438 (Petition for Modification No. 8).

slightly in excess of 50 miles. The Commission, therefore, finds and concludes that the exemption for potatoes should be extended to 75 miles pending completion of the staff studies. We further conclude that the extension of the exemption should expire after one year. We also find that the petition of the Grape and Tree Fruit League should be denied.

Petitioners should note that if there are particular movements conducted under unusually favorable circumstances relief can be sought by application under Section 3666 of the Public Utilities Code for a less-than-minimum rate.

In its petition, the Potato Growers Association, Inc., also requested that the Commission staff make a study of movements from the field to packing sheds. A study of state-wide transportation of fresh fruits and vegetables is now being made by the Commission staff. The study will examine the movements of various commodities, including those involved herein. The staff is directed to pay particular attention to the movements of potatoes and the exemption as extended herein on a temporary basis.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 8 (Appendix "C" to Decision No. 33977, as amended) is hereby further amended by incorporating therein, to become effective February 22, 1964, Twenty-fifth Revised Page 8, 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,

C. 5438 (Pets. 39 and 40) AH

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. 33977, as amended, shall remain in full force and effect.

4. Except to the extent hereinabove granted, Petitions for Modification Nos. 39 and 40, in Case No. 5438, are hereby denied.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 17th day of JANUARY, 1964.

William L. Beaud
President
George L. Trover
Fredrick B. Halbach
Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)
	<p style="text-align: center;">APPLICATION OF TARIFF - COMMODITIES (Concluded) (Items Nos. 40 and 41)</p> <p>NOTE 2.--For the purpose of these items, the following definitions will apply:</p> <p>(a) Packing Shed or Packing Plant:--Facilities maintained for assembling, sorting, grading, shelling, hulling, 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> <p>(e) Winery:--Facilities maintained for the purpose of producing vinous liquors, including wine, champagne and brandy.</p> <p>(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.</p> <p>(g) Field Shelled:--Rough shelled, with or without removal of broken shells, dirt, residue, or foreign material, and not cleaned nor further processed.</p> <p>(h) In Their Natural Form:--Means in the original form at the time of harvest, not further processed for human consumption than topping, trimming, washing, coloring, fumigating, or such processing as does not alter the natural shape or form of the commodity.</p> <p>NOTE 3.--</p> <p>ø(a) Except as otherwise provided in subparagraph (b) hereof and except for the transportation of citrus fruits in field boxes or in bulk, carrots, avocados, or nuts (in the shell or field shelled), exemption does not apply when the distance between the point of origin and point of destination exceeds 50 constructive miles computed in accordance with the provisions of Item No. 110.</p> <p>*(E)(b) Exemption does not apply to the transportation of potatoes when the distance between the point of origin and point of destination exceeds 75 constructive miles computed in accordance with the provisions of Item No. 110.</p> <p>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.</p>

NOTE 5.--Exemption applies for the transportation of nuts (in the shell or field shelled) even though shipment is stopped in transit at an accumulation station when moving from the field or point of growth to a packing plant or shed.

(E) This provision expires with March 1, 1965.

∅ Change)
* Addition) Decision No. 66615

EFFECTIVE FEBRUARY 22, 1964

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.
Correction No. 378