

66782

ORIGINAL

Decision No. _____

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

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 fresh or green fruits and vegetables)
 and related items (commodities for)
 which rates are provided in Minimum)
 Rate Tariff No. 8).

Case No. 5438
 (Petition for
 Modification No. 43
 (Filed October 31, 1963))

C. D. Gilbert, Arlo D. Poe and James X.
Quintrall, for California Trucking
 Association, petitioner.
Ralph Hubbard, for California Farm Bureau
 Federation, and R. H. Hackley, for Safeway
 Stores, Inc., interested parties.
Edward E. Tanner, for the Commission staff.

O P I N I O N

In Petition for Modification No. 43 in Case No. 5438,
 California Trucking Association seeks amendment of Item No. 100 -
 MIXED SHIPMENTS of Minimum Rate Tariff No. 8, to provide that
 this rule will not apply to mixed shipments containing commodities
 subject to Minimum Rate Tariff No. 8 and commodities subject to
 Minimum Rate Tariff No. 2. The petition alleges that the mixed

shipment rule in Minimum Rate Tariff No. 2 (Item No. 90-K) states that the provisions of that rule do not apply to mixed shipments of commodities subject to Minimum Rate Tariff No. 2 and commodities subject to Minimum Rate Tariff No. 8. The petition alleges that Item No. 100-B of Minimum Rate Tariff No. 8 does not contain a similar restriction, thus causing confusion and uncertainty on the part of shippers and of carriers who are tendered mixed loads of commodities rateable under the two tariffs.

Public hearing in this matter was held before Examiner Mallory at San Francisco on January 3, 1964, and the matter was submitted on that date. Evidence was submitted by the Commission staff. Petitioner's counsel concurred in the staff proposal. No one opposed the staff proposal.

An associate transportation rate expert testified that he had made an analysis of petitioner's proposal, including a review of prior Commission decisions. He stated that it appeared that it was the intent of the Commission to permit mixing in a single shipment of commodities subject to the two tariffs. As a basis for this conclusion, he referred to the language set forth in Decision No. 34231, dated May 27, 1941, in Case No. 4246 (unreported), which decision established the provisions of Item No. 90 of Minimum Rate Tariff No. 2 pertinent to the subject matter of this proceeding. The language in question is as follows:

"Minimum rates for the transportation of fresh fruits and vegetables between points in southern California and from southern California to San Francisco Bay points have been established by Decision No. 33977 of March 11, 1941, in Case No. 4293 in re Rates of Common and Highway Carriers for the transportation of Agricultural Products. Item No. 100 of Highway Carriers'

Tariff No. 8 in which those rates have been promulgated, provides a basis for assessing charges on mixed shipments comprised of property to which the rates in that tariff are applicable and other property. In view of the application of the mixed shipment provisions of that tariff to commodities ratable under Highway Carriers' Tariff No. 2, the latter will be amended to provide that charges on such mixed shipments shall be determined in accordance with the provisions of the former."

The staff witness recommended that in order to eliminate any possibility of conflict between the two tariffs that Item No. 90 of Minimum Rate Tariff No. 2 be amended to provide that the mixed shipment provisions of Item No. 100 of Minimum Rate Tariff No. 8 govern mixed shipments of commodities subject to the two tariffs. Petitioner's counsel concurred in this recommendation, stating that the staff proposal will eliminate the confusion referred to in its petition and would provide relief in a manner satisfactory to the petitioner.

In the circumstances we find that the staff proposal in this proceeding is reasonable and will clarify the application of the Commission's Minimum Rate Tariffs Nos. 2 and 8, and that the resulting rates and charges will be just, reasonable and nondiscriminatory minimum rates and charges for the transportation subject to such tariffs. We conclude that Minimum Rate Tariff No. 2 should be amended as set forth in the tariff page appended to this order.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended) is hereby further amended by incorporating

Item
No.SECTION NO. 1 - RULES AND REGULATIONS OF
GENERAL APPLICATION (Continued)MIXED SHIPMENTS
(Items Nos. 90 and 90-1)

(1) 1. Commodities for which rates are provided in this tariff:

(a) When two or more commodities for which different ratings are provided, are shipped as a mixed shipment, without actual weights being furnished or obtained for the portions shipped under the separate ratings, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest classed or rated commodity contained in such mixed shipment, subject to Item No. 80.

(b) When two or more commodities are included in the same shipment and separate weights thereof are furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates used in computing the charges, subject to Item No. 80. In the event a lower charge results by considering such commodities as if they were divided into two or more separate shipments such lower charge shall apply.

(c) If lower charges result under specific mixture provisions named in individual items of the Governing Classification or Exception Ratings Tariff than under the provisions of paragraphs (a) and (b) hereof, such basis shall be used in determining the applicable minimum transportation charge.

(1) Paragraph 1 hereof will not apply to mixed shipments which are subject to the provisions of Item No. 365 of this tariff.

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2. Commodities for which rates are provided herein, moving in mixed shipments containing commodities for which rates are provided in other effective tariffs of the Commission, or in mixed shipments containing commodities upon which no minimum rates or charges have been established by this Commission:

(a) When one or more commodities for which rates are not provided in this tariff are included in a shipment of one or more commodities for which rates are herein provided, the rate or rates applicable to the entire shipment may be determined as though all of the commodities were ratable under the provisions of this tariff; or, the charges on the traffic subject to the rates named in this tariff may be computed at the separated rates applicable to such traffic based upon the combined weight of the entire mixed shipment, but in no event shall the total charges for the entire mixed shipment be less than the charges for the weight of the commodities for which rates

are provided in this tariff when computed as a separate shipment; or one or more of the commodities for which rates are not provided in this tariff may be transported at the rates otherwise applicable. In the event the last described basis is used, the minimum charges provided in Item No. 150 of this tariff shall apply to the entire shipment. The minimum weight shall be the highest provided for any of the rates named in this tariff used in computing charges, subject to Item No. 80. The rate applicable to the deficiency weight, if any, shall be the rate applicable to the lowest rated commodity which is included in the mixed shipment and which is subject to the rates named in this tariff (See Notes 1, 2, 3, 4 and 5).

Note 1.-The provisions of this rule will not apply to mixed shipments containing petroleum or petroleum products in bulk in tank trucks, tank trailers or tank semi-trailers for which rates are provided in the tariff designated Minimum Rate Tariff No. 6.

Note 2.-The provisions of this rule will not apply to mixed shipments containing used property, viz: household goods, personal effects and office and store fixtures and equipment, for which rates are provided in the tariff designated Minimum Rate Tariff No. 4-B.

Note 3.-The provisions of paragraph 2 of this item will not apply to mixed shipments containing commodities (including empty containers) for which rates are provided in Minimum Rate Tariff No. 8. For applicable mixed shipment provisions see Item No. 100 of Minimum Rate Tariff No. 8.

Note 4.-The provisions of this rule will not apply to mixed shipments containing uncrated new furniture for which rates are provided in Minimum Rate Tariff No. 11-A. All commodities in such mixed shipments may be rated under the provisions of Minimum Rate Tariff No. 11-A, or the commodities for which rates are provided herein may be rated under the provisions of this tariff as separate shipments.

Note 5.-The provisions of this rule will not apply to mixed shipments containing motor vehicles and other commodities moving in truckaway service for which rates are provided in Minimum Rate Tariff No. 12.

(Continued in Item No. 90-1)

Change, Decision No. 66782

EFFECTIVE MARCH 21, 1964

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

Correction No. 1431