

**ORIGINAL**Decision No. 67308

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 car- )  
 riers 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.  
 329 (Filed March 13, 1964)

Frank Loughren and William Larimore, for  
Stauffer Chemical Company, petitioner.  
C. D. Gilbert, H. F. Kollmyer and A. D.  
Poe, for California Trucking Association,  
 interested party.  
A. F. Burns, for the Commission staff.

O P I N I O N

By this petition, Stauffer Chemical Company seeks the exemption of agricultural ferric sulphate from the minimum rates established for the state-wide transportation of general commodities, as set forth in Minimum Rate Tariff No. 2.

Public hearing in this matter was held before Examiner Mallory at San Francisco on April 27, 1964, and the matter was submitted on that date.

Evidence submitted by petitioner in support of its request is summarized as follows: Agricultural ferric sulphate is a mixture of ferric sulphate, ferrous sulphate, sulphur, silica and water, prepared for ready application by a fertilizer spreader. The article is prepared in pellet form. In this form it is useful only for agricultural purposes.<sup>1</sup> The commodity is included in the

<sup>1</sup> Ferric sulphate manufactured for other commercial uses, such as water treatment, is in the form of a powder.

description of "fertilizing materials", as an agricultural mineral, in Chapter 7, Article 2, Section 1021 of the Agricultural Code of the State of California, and is sold and marketed in California under the provisions of that statute regulating the composition of fertilizing materials. The commodity is manufactured in California only at petitioner's plant at Richmond, and is shipped within California only from said plant. The principal use of the commodity is in connection with the growing of rice. Shipments are generally in truckload quantities; either in bulk in covered hopper-bottom trucking equipment, or in polyethelene bags. When in bags, the package is clearly marked "agricultural ferric sulphate", and bears the manufacturer's name. The preponderant movement is seasonal, in April and May, just prior to the sowing of the rice crop. Agricultural ferric sulphate competes directly with two other commodities manufactured within the State and used for the same purpose, namely, iron sulphur, manufactured by Best Fertilizers Co. at Lathrop, and iron ammonium sulphate, manufactured by Kerley Chemical Corp. at Antioch. Agricultural ferric sulphate also competes with sulphur and gypsum, which commodities are now exempted from rates in Minimum Rate Tariff No. 2.

Petitioner offered evidence to show that the three commodities (agricultural ferric sulphate, iron sulphur and iron ammonium sulphate) are described under the heading "Fertilizer Compound (manufactured Fertilizers), noibn", in the governing classification; and, as such, are now exempted from the rates in Minimum Rate Tariff No. 2. Petitioner requested that the Commission find that agricultural ferric sulphate is now described under tariff provisions exempting fertilizers from the minimum rates; or, if such finding is not appropriate, to specifically exempt the commodity by listing it in Item No. 40 of Minimum Rate Tariff No. 2. The California Trucking Association protested the adding of the commodity

to said Item No. 40, inasmuch as that organization is of the opinion that the commodity is now exempted under current tariff provisions. The Commission staff assisted in the development of the record, but took no position in the proceeding.

The evidence clearly shows, and we so find, that agricultural ferric sulphate is a commodity used solely as a fertilizing material and, as such, competes with other fertilizing materials now exempted from the minimum rates. Item No. 40 of Minimum Rate Tariff No. 2 exempts from the minimum rates set forth therein the transportation of several commodities or types of transportation service, including the transportation of "Fertilizers, as described in Items Nos. 540, 560, and 580 of the Exceptions Rating Tariff". Agricultural ferric sulphate is not specifically described in those items, although Item No. 560 contains a description of "Fertilizer Compounds (manufactured Fertilizers), noiba, in the governing classification". The term "noiba" is defined in the Exceptions Rating Tariff as follows:

"Not otherwise indexed by name in this Exceptions Rating Tariff or in the Governing Classification. The abbreviation 'noiba' means that the description of which it is a part applies on articles included in the same 'N.O.I.' description in the Governing Classification."

The National Motor Freight Classification, which governs Minimum Rate Tariff No. 2, contains a description for "Iron sulphate (ferric sulphate), dry" (Item No. 44800) under the generic heading of "Chemicals Group". In addition, it contains separate commodity descriptions for "Fertilizing Compounds (manufactured Fertilizers), N.O.I., dry" (Items Nos. 68140 and 68145), and for "Chemicals, N.O.I." (Item No. 43940).

According to a sales technologist employed by petitioner, the analysis of the commodity in question is as follows:

Ferric sulphate .....	70%
Ferrous sulphate .....	3%
Sulphur and silica .....	10%
Water .....	17%

The witness testified that the addition of water is necessary to form the commodity into pellets. There is no specific description in either the Classification or Exceptions Rating Tariff for the mixture described by the witness. The mixture prepared for agricultural uses is in pellet form, and in this form has no industrial uses. The use to which an article is put is not generally controlling in determining the applicable classification description. However, the form of the commodity (in this case, pellets) would not permit it to be used for any purpose but for agriculture.

In the circumstances, we find that agricultural ferric sulphate, dry, in pellet form, is properly described under the description "Fertilizing Compounds (manufactured Fertilizers), N.O.I., dry" in the governing classification and, therefore, is exempted from the minimum rates set forth in Minimum Rate Tariff No. 2.

In view of the above finding, the petition will be dismissed.

O R D E R

IT IS ORDERED that Petition for Modification No. 329, filed by Stauffer Chemical Company, is hereby dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 3<sup>rd</sup> day of JUNE, 1964.

William C. Bennett  
President  
George T. Brown  
Fredrick C. Hallock  
Commissibbers