

ORIGINALDecision No. 70254

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. 393
 (Filed August 17, 1965)

In the Matter of the Application of
 California railroads for authority to
 make effective increases in certain
 railroad rates and charges.

Application No. 47882
 (Filed September 28, 1965)

Arlo D. Poe, C. D. Gilbert and H. F. Kollmyer, for California Trucking Association, petitioner in Case No. 5432, Petition No. 393, and interested party in Application No. 47882.
Gary S. Anderson, for Pacific Southcoast Freight Bureau, applicant in Application No. 47882 and interested party in Case No. 5432, Petition No. 393.
A. E. Norrbom, for Traffic Managers Conference of California; V. A. Bordelon, for Los Angeles Chamber of Commerce; and Eugene A. Read, for California Manufacturers Association; protestants.
Larry Borden, for Safeway Stores, Inc.; C. H. Costello and Hugh T. Gordon, for Continental Can Company; David B. Porter, for Canners League of California; Wigle and Larimore, by William M. Larimore, for California Brewers Association; and Gordon Larsen, for American Can Company; interested parties.
H. E. Frank and George H. Morrison, for the Commission staff.

O P I N I O N

Public hearing in these matters was held before Examiner Mallory at San Francisco on November 8, 1965. Application No. 47882 was submitted on that date and Petition No. 393 in Case No. 5432 was submitted subject to the filing of Exhibit No. 2, which has been received.

As filed, Petition No. 393 sought the establishment in Minimum Rate Tariff No. 2 of a truckload minimum weight of 24,000 pounds on commodities rated under classification ratings based on Classes 5 through E in the governing classification,^{1/} exception sheet or tariff, when the minimum weight in connection with said ratings is less than 24,000 pounds. Application No. 47882 sought similar relief in connection with carload minimum weights in Pacific Southcoast Freight Bureau Tariffs Nos. 255 and 294. At the hearing the petition was amended to seek authority to increase the truckload minimum weight to 20,000 pounds when the specified minimum weight is less than 20,000 pounds. Thereupon, request was made to withdraw Application No. 47882 as the railroad class-rate tariffs now contain provisions similar to those sought in the amended petition.

The Commission staff argued that the relief sought has the effect of nullifying the truckload minimum weights for the affected commodities in the governing classification and exception sheet and thus involves a change in classification for these commodities. The staff asserted that the Commission's policy concerning changes in the classification of articles, as set forth in Decision No. 67610, dated July 28, 1964 (63 Cal. P.U.C. 170), is that any change in the classification of articles should be reflected in the governing

^{1/} The term "governing classification" as defined in MRT 2 means National Motor Freight Classification A-8 (Cal.) as governed by National Motor Freight Classification A-8, sometimes hereinafter referred to as NMFC A-8 (Cal.) and NMFC A-8, respectively. In connection with class rates in MRT 2, commodity descriptions, packaging and other provisions are named in NMFC A-8; ratings, truckload minimum weights and rules in connection therewith are set forth in NMFC A-8 (Cal.).

classification rather than in exceptions thereto.^{2/} The staff contended, in view of the dicta set forth in that decision, that the changes sought in the petition should first have been referred to the National Classification Board to determine whether the sought changes should be made in the governing National Motor Freight Classification before requesting establishment in Minimum Rate Tariff No. 2 (MRT 2) as exceptions to said classification. The position of the staff was concurred in by Traffic Managers Conference of California, Los Angeles Chamber of Commerce and California Manufacturers Association (C.M.A.).

Petitioner, California Trucking Association (C.T.A.), argued that the sought provisions were not classification changes, but are rule changes similar to present rules in MRT 2 which provide that the truckload minimum weights for commodities subject to classification ratings of fourth class or higher shall not be less than 20,000 pounds (when the 20,000-pound scale of class rates is applied). C.T.A. argued that the provisions now applicable to higher rated commodities (fourth class or higher) also should be made to apply to lower rated commodities (fifth class or lower). In addition, C.T.A. argued that, as the sought provisions are in effect in rail class-rate tariffs, they should be established as minimum rates for competing carriers.

2/ At page 177, the decision reads as follows:

"In connection with future classification changes, it would be appropriate for shippers and carriers to refer their requests initially to the National Classification Board. The Commission has stated in Decision No. 66268 and in prior proceedings that uniformity of classification provisions applicable in California with those applicable elsewhere is desirable. When, through such classification docket procedures, changes in classification ratings and provisions are made applicable on a national basis, and when it is made to appear that conditions surrounding the affected transportation in California are not different from those generally prevailing elsewhere, this Commission has in the past approved such classification changes to govern the minimum rates."

Evidence in support of the petition was adduced by a transportation rate analyst employed by C.T.A. His testimony and exhibits showed that the preponderance of commodities taking classification or exception ratings of Classes 5 through E are subject to minimum weights of 20,000 pounds or greater. The proposal would affect one item in MRT 2, three items in Exception Ratings Tariff No. 1, and 18 items in National Motor Freight Classification No. A-8 (Cal.).

The witness showed that the rating of Class B, minimum weight 12,000 pounds, on empty carriers returning, in Item No. 330 of MRT 2, is, for most distances, only a "paper" rating, in that rates based on other ratings in said item provide lower charges except for short distances. In the circumstances, the witness stated that it would be preferable to cancel the exception rating of Class B, minimum weight 12,000 pounds, and permit other ratings contained in the item to apply.

The witness presented a comparison of charges for selected mileage blocks based upon the present and proposed minimum weights for the affected articles subject to ratings in Exception Ratings Tariff No. 1 and in National Motor Freight Classification No. A-8 (Cal.). These data were also compared with charges for the same distances based on current fifth class rates in MRT 2 and the average truckload weight per shipment for the same mileage blocks used in the C.T.A. cost study presented in a proceeding leading to a general revision of class-rates in MRT 2.^{3/} The witness represented that fifth class is the weighted average truckload rating for all class-rated commodities, and that the shipment weights in the C.T.A. cost study represent the average weights for all class-rated truckload traffic. Assertedly, the amounts by which the compared charges under current ratings and

^{3/} Exhibit No. 323-1 in Case No. 5432, Petition No. 323 (Decision No. 67443, dated June 26, 1964, unreported).

present and proposed minimum weights fall short of the charges based on fifth class rates and average shipment weights represent a revenue deficiency to carriers engaged in transporting said commodities.

The witness also testified that charges based on present minimum weights on the affected commodities produce excessive break-back into charges for smaller shipments based on less than truckload ratings and rates. Several examples were shown.

Cross-examination developed that no study was made by C.T.A. to determine the amount of traffic moving under the affected items, nor did C.T.A. file with the National Classification Board any request that the governing classification be amended to effectuate the changes proposed herein.

The witness stated that the items contained in Exception Ratings Tariff No. 1 (carriers, new; carriers, used; and hops) were never specifically considered by the Commission, but the ratings and minimum weights on these articles were carried forward in Exception Ratings Tariff No. 1 from the railroad exception sheet which formerly governed MRT 2 prior to the promulgation of Exception Ratings Tariff No. 1.^{4/} Assertedly, such ratings and minimum weights were established in the railroad exception sheet prior to its adoption to govern MRT 2.

The witness also stated that the proposals herein are preliminary to a request to the Commission for the adoption of the ratings and related minimum weights in National Motor Freight Classification No. A-8 and that the latter proposal will be the subject of a filing with the Commission in the near future. Therefore, a request to the National Classification Board to amend the California supplement to the governing classification [NMFC A-8 (Cal.)] could not be accomplished in an orderly manner prior to the change over to NMFC A-8.

^{4/} Hops is a commodity not subject to the provisions of MRT 2; therefore, no further consideration of that commodity is necessary herein.

An exhibit presented by the Commission staff showed that the number of classification items affected by the original proposal in the petition herein would have been substantially greater than the number affected under the revised proposal. This witness made no recommendation as to the disposition of the proceeding. ✓

A representative of C.M.A. testified in opposition to the relief sought. He made objection to the procedure followed by petitioner, contending that C.T.A.'s position in prior proceedings was that changes of this kind should be effectuated in the governing classification to maintain uniformity of classification rating provisions in other jurisdictions and to reduce exception ratings. He recommended that the petition be denied and that the matter be referred by petitioner to the National Classification Board.

Discussion, Findings and Conclusions

Exhibit No. 2 (C.T.A.) shows in detail the affected commodity descriptions, ratings and minimum weights in connection therewith contained in NMFC A-8 and in NMFC A-8 (Cal.). This exhibit shows that three of the articles subject to minimum weights of less than 20,000 pounds in NMFC A-8 (Cal.) are subject to minimum weights of 20,000 pounds or more in NMFC A-8. Several of the articles listed in the exhibit are subject to same minimum weights in both publications, but appear to take higher ratings in NMFC A-8 than in NMFC A-8 (Cal.).^{5/} It can be assumed from these facts that if a reclassification of the affected articles were to be made, either of two methods to accomplish the purpose could be used; one method would be to raise the truckload minimum weight, and the other method would be to increase the applicable rating and retain the current truckload minimum weight. Which course of action should be taken depends upon many

^{5/} Except where ratings in both NMFC A-8 and NMFC A-8 (Cal.) are stated as percentage ratings, ratings in the two classifications are not directly comparable. Several of the affected items take percentage ratings in both publications.

factors. Any such reclassification should be based on facts which reveal, among other things, the density, stowability and susceptibility to damage of the particular commodity. Such facts are not available in this record.

The principal objection to petitioner's request is that, insofar as the proposal affects provisions of the governing classification, petitioner used the wrong method to achieve the results of its proposal. To counter this contention, petitioner urged that the proposal was a matter of expediency; it would not be possible to process requests for changes in the governing classification and make them effective prior to the time a request is filed with the Commission to cancel NMFC A-8 (Cal.) and adopt NMFC A-8 in its stead.

The truckload minimum weights contained in the governing classification are of long standing. Relatively few commodities would be affected by the proposed change. Truckload ratings and minimum weights in NMFC A-8 (Cal.) and in NMFC A-8 are different. It appears that the reasonableness of the ratings of the affected commodities, as well as the truckload minimum weights applicable, should be considered in determining the reasonableness of petitioner's proposal. It also appears that, because the provisions are of long standing and a request to change classifications is imminent, it would not be inappropriate to consider the reasonableness of such ratings and minimum weights at the time the request for a change of classification is made to the Commission. The Commission finds that the proposed revision of Minimum Rate Tariff No. 2, insofar as it affects ratings and truckload minimum weights in the governing classification, has not been shown to be justified.

It is clear that the Class B rating, minimum weight 12,000 pounds, in Item No. 330 of Minimum Rate Tariff No. 2 has application only to short distances, and where applicable provides excessive breakback into other rates. In the circumstances, this rating should be canceled.

Provisions of the governing classification are removed with respect to articles described in and subject to Exception Ratings Tariff No. 1. The items in Exception Ratings Tariff No. 1 affected by the petition contain ratings on old, used barrels. The articles are also described in Item No. 330 of Minimum Rate Tariff No. 2. After cancellation of the rating of Class B, minimum weight 12,000 pounds in Item No. 330, the remaining truckload rating will be Class E, minimum weight 30,000 pounds. To provide a truckload rating and minimum weight on old, used barrels reasonably related to the truckload rating on empty carriers, the minimum weight on old, used barrels should be raised to 20,000 pounds.

The Commission finds that the tariff changes authorized in the following order are justified and will result in just, reasonable and nondiscriminatory minimum rates for transportation to which they apply.

The Commission concludes that, except to the extent granted herein, Petition No. 393 in Case No. 5432 should be denied and that Application No. 47882 should be dismissed.

In order to avoid duplication of tariff distribution, Minimum Rate Tariff No. 2 will be amended by the order which follows, and Exception Ratings Tariff No. 1 will be amended by separate order. Long- and short-haul relief is justified and should be authorized to common carriers.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 2 (Appendix D to Decision No. 31606, as amended) is hereby further amended by incorporating therein, to become effective February 19, 1966, Ninth Revised

Page 37-B, attached hereto and by this reference made a part hereof. ✓

2. The tariff provisions established in ordering paragraph 1 hereof may also be established by common carriers in connection with transportation of commodities for which minimum rates have not been established.

3. Tariff publications required or 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, on not less than ten days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than February 19, 1966; and as to tariff publications which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date hereof.

4. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

5. In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

6. Except to the extent granted herein, Petition No. 393 in Case No. 5432 is hereby denied.

7. Application No. 47882 is hereby dismissed.

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

Dated at San Francisco, California, this
18th day of JANUARY, 1966.

Frederick H. Hildreth
President
Robert E. Hutchings
George H. Hoover
Augustus
William G. Bennett
Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	
	EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued)	Class Rating
6330	<p>Carriers (used packages), second-hand, empty, as described in and subject to the provisions of Items Nos. 320 and 321 of the Exception Ratings Tariff, and</p> <p>Containers, aluminum bulk commodity shipping, nested, subject to Note 1 of Item No. 321 of the Exception Ratings Tariff.</p>	
	<p>Less truckload ----- Truckload: **)) Minimum Weight 30,000 pounds -----</p>	<p>(1)(2)½ of 4 ◇** (1)(3)E</p>
	<p>Carriers, malt beverage, viz.: Barrels, half barrels, casks, drums, hogsheads, kegs, puncheons, tierces, bottles, bottle carriers, pallets, subject to the provisions of Items Nos. 320 and 321 of the Exception Ratings Tariff.</p> <p>Less truckload -----</p> <p>Truckload: Minimum Weight 20,000 pounds -----</p>	<p>Governing Classification Ratings apply D</p>
	<p>Freight Carts, hand, metal, knocked down flat, wheels on or off, subject to Note 1 of Item No. 321 of the Exception Ratings Tariff.</p> <p>Less truckload -----</p> <p>(1) Does not apply to Carriers, malt beverage. (2) Subject to minimum rate of 30 cents per hundred pounds or actual 4th class rate whichever is lower. On continuous through movements on which charges are obtained by use of combinations of separately established rates, the minimum rate stated above shall apply, not in connection with the separately established factors, but to the total of the combined rate applicable to the through continuous movement. (3) Not to exceed less-truckload rate.</p>	<p>(2)½ of 4</p>

∅ Change
◇ Increase
** Class B rating and minimum
weight 12,000 pounds eliminated

} Decision No. 70254
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EFFECTIVE FEBRUARY 19, 1966

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

Correction No. 1683