

**ORIGINAL**

Decision No. 70756

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 property in Los Angeles and Orange Counties (transportation for which rates are provided in Minimum Rate Tariff No. 5).

Case No. 5435  
Petitions for Modification  
Nos. 65 and 70

- A. D. Poe, W. A. Dillon and J. C. Kaspar, for California Trucking Association, petitioner.
- John Reed and Eugene A. Read, for California Manufacturers Association, protestant.
- James A. Mullen, for Kaiser Steel Corporation, interested party.
- Bill T. Farris and J. M. Jenkins, for the Commission staff.

O P I N I O N

Public hearing was held before Examiner Mallory on February 24, 1966 at Los Angeles, and the matters were submitted on that date.

Minimum Rate Tariff No. 5 contains minimum rates and rules governing the transportation of general commodities within the Los Angeles Drayage Area, as described therein. Item No. 340 thereof provides a description of iron and steel articles for which commodity rates are named in that item and in Item No. 340.5.

Petition No. 65, filed May 21, 1965 and amended June 21, 1965, was further amended at the hearing (Exhibit 1) to seek the

following changes in the commodity descriptions in Item No. 340 of Minimum Rate Tariff No. 5:

Iron and Steel Articles, viz.:

Fencing, including fence posts,  
Wire, including wire rope or strand.

(Underscored items are additions.)

With this amendment, the protest of California Manufacturers Association (CMA) to the granting of Petition No. 65 was withdrawn.

Evidence concerning this proposal was presented by a representative of petitioner. He stated that the petition was filed to remove any question whether the articles sought to be added under the petition are included in the description of articles in Item No. 340; that carriers, shippers and the Commission staff have consistently interpreted and applied the tariff as if the articles to be added were now described in the tariff; and that the amendment proposed would clarify the application of the tariff without resulting in a substantial change.

Petition No. 70, filed December 20, 1965 and amended February 24, 1966, seeks to restrict the application of the commodity rate on iron and steel articles set forth in Item No. 340.5 of Minimum Rate Tariff No. 5 so that such rate will not apply on shipments having a prior or subsequent rail movement.<sup>1</sup> This proposal was protested by CMA.

Evidence with respect to Petition No. 70 was presented by a staff member of petitioner's Transportation Economics Division, by a representative of the traffic department of CMA, and by the

<sup>1</sup> Item No. 340.5 of Minimum Rate Tariff No. 5 contains a commodity rate of 9 cents per 100 pounds, minimum weight 40,000 pounds applicable to iron and steel articles described in Item No. 340 transported between points in Zone 1 of the Los Angeles Drayage Area.

manager of the general traffic department of Kaiser Steel Corporation.

The evidence presented by petitioner's witness is summarized as follows: The commodity rate on iron and steel articles in Item No. 340.5 was established pursuant to an ex parte order of the Commission in Decision No. 67665, dated August 4, 1964, in Case No. 5435, Petition No. 58. The basis for the establishment of this rate, as set forth in the decision, was the need for an additional lower rate based on a higher minimum weight "reflective of current competitive circumstances and equipment carrying capacities for use on intrazone movements." No evidence of the cost of performing transportation under the proposed rate, nor of methods of loading, unloading, or transporting the shipments, was furnished to the Commission in Petition No. 58. After actual operations were conducted by carriers under the rate established by Decision No. 67665, carrier members of CTA informed that organization that the rate in Item No. 340.5 is satisfactory at locations other than rail team tracks, where the consignor and consignee generally load and unload truckload shipments of iron and steel articles; but that carriers were of the opinion that the commodity rate is not compensatory when shipments originate at or are destined to rail team tracks where car loading or car unloading is required to be performed by motor carriers. The petition alleges that such circumstances were not considered in Decision No. 67665 and the rate, therefore, is not proper in such circumstances. No independent study was made by the witness of operations conducted under the commodity rate; representations to the witness by carriers formed the basis of the testimony presented.

Kaiser's representative did not oppose the proposed restriction, but requested, if the proposal is granted, that appropriate language be added to permit the use of the rate in combination with rail rates. Kaiser uses the commodity rate as a factor in combination with alternatively applied rail carload rates to develop through truck rates from its steel mill at Fontana to points within Zone 1 of the drayage area.<sup>2</sup> The witness was uncertain whether the addition of the proposed restriction would preclude this type of rate combination. He stated that truck movements under such combination rates actually are loaded and unloaded by the consignor and consignee, and no car loading or unloading is required to be performed by the carrier.

The CMA witness stated that he had participated in negotiations between CTA and iron and steel firms which led to the filing of the petition seeking the establishment of the commodity rate in Item No. 340.5. He stated the rate initially was to serve as a substitute for alternatively applied rail switching rates, which may not be used under provisions of Minimum Rate Tariff No. 5.

The CMA witness described the manner in which rail cars originating or terminating at rail team tracks are handled, the rail facilities available at such locations for loading and unloading rail cars, and the use of such loading and unloading equipment by employees of highway carriers. This testimony showed that rail carriers generally provide cranes at team tracks for use of the public to load or unload cars; that such cranes must be operated by personnel other than railroad employees; and that

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<sup>2</sup> Such rate combinations are authorized under the provisions of Item No. 210 of Minimum Rate Tariff No. 2.

labor in addition to that ordinarily furnished by a highway carrier to load or unload shipments at locations other than at rail team tracks is necessary to load and unload rail cars of most iron and steel articles.

The CMA witness stated that the primary concern of his organization is with the continued use of the commodity rate in Item No. 340.5 as an arbitrary to be added to a rail rate to construct through rates to or from points in Zone 1 of the drayage tariff. However, the witness urged that the petition be denied in its entirety, contending that separate loading and unloading charges should be established, if proved necessary.

#### Discussion, Findings and Conclusions

It is clear that the tariff amendments proposed in Petition No. 65 are intended merely to clarify Item No. 340 in accordance with current usage and that the articles to be added are closely related to the articles now described in Item No. 340. The Commission finds that the proposed amendment contained in Exhibit 1 in Petition No. 65 will result in just, reasonable, and nondiscriminatory minimum rates and that no increases in rates will result from its adoption. The Commission concludes that the petition, as amended, should be granted.

The evidence shows that services in addition to those ordinarily performed are required of highway carriers when shipments of iron and steel articles originate at or are destined to rail team tracks, where such shipments must be loaded into or unloaded from rail cars; but that such additional costs are not involved when the commodity rate in Item No. 340.5 is used as an arbitrary or factor in combination with alternatively applied rail rates to construct through rates from or to points outside the Los Angeles Drayage Area.

No basis exists on this record for the establishment of separate charges for the additional services involved when the origin or destination is a rail track, as suggested by the CMA witness.

We find that the restriction proposed in Petition No. 70, as amended, is justified. Petition No. 70, as amended, should be granted to the extent provided in the order which follows.

If, as requested by CMA and Kaiser, the truck rate of 9 cents is made to apply as an arbitrary to be used in combination with railroad rates, the result would appear to be contrary to Sections 3662-3666 and related provisions of the Public Utilities Code. CMA and Kaiser, in effect, ask that we establish an alternative rate for a through truck movement lower than the lowest level of rates which could apply if the shipment were actually transported by railroad to a team track, and there transferred to a truck for final delivery. Railroads, in such circumstances, would not be in a position to compete because of the lower through truck rate constructed by using the rail rate as a factor. Such rate promulgation would prejudice railroads to the advantage of truck carriers. In the circumstances, the requested provision cannot be established under statutory provisions relating to the fixing of minimum rates for highway permit carriers, for we cannot make a finding on this record that the combination rates will result in just, reasonable and nondiscriminatory rate provisions. Essential to such a finding is that the rate for the through movement exceeds the carrier costs of providing the service. No showing which would support such a finding was made herein.

We find that the revisions of Minimum Rate Tariff No. 5 set forth in the order which follows will result in just, reasonable

and nondiscriminatory minimum rates; that to the extent the provisions of Minimum Rate Tariff No. 5 have been found heretofore to constitute reasonable minimum rates and rules for common carriers as defined in the Public Utilities Act, said provisions, as hereinafter revised, are, and will be, reasonable minimum rate provisions for said common carriers; and that to the extent the existing rates and charges of said common carriers for the transportation involved are less in volume or effect than the minimum rates and charges herein designated as reasonable for said carriers, to that same extent the rates and charges of said common carriers are, now and for the future, unreasonable, insufficient, and not justified by actual rates of competing carriers or by the costs of other means of transportation.

In connection with the establishment of tariff provisions in conformity with the order herein, petitioner asks that common carriers be relieved from the so-called, long- and short-haul prohibitions of Article XII, Section 21, of the Constitution of the State of California and of Section 460 of the Public Utilities Code. Where common carriers have been heretofore authorized to depart from the long- and short-haul prohibitions, their outstanding authorities will be modified to the extent necessary to carry out the effect of the order herein.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 5 (Appendix A of Decision No. 32504, as amended) is further amended by incorporating therein, to become effective July 2, 1966, Thirteenth Revised Page 5, Twenty-third Revised Page 29 and First Revised Page 29-A, which pages are attached hereto and by this reference made a part hereof.

2. 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 July 2, 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.

3. 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.

4. In all other respects Decision No. 32504, 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 24<sup>th</sup> day of MAY, 1966.

Fredrick B. Holburn  
President  
George T. Grover  
Commissioner

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.



INDEX OF COMMODITIES (Concluded)

COMMODITY	Item Number	COMMODITY	Item Number
Peas, dry	341	Shoes, iron or steel, as described	340
Pepper Sauce	341	Shortening, vegetable oil	341
Pig Iron	340	Spaghetti, except canned	341
Piling, iron or steel	340	Stout	341
Pipe, iron or steel	340	Substitutes, Lard	341
Plates, iron or steel	340	Sugar	390
Popcorn	341		
Porter	341	Tapioca	341
* Posts, fence, iron or steel	340	Tea	341
Potato Chips	341	Tees, iron or steel	340
Powder, baking or yeast	341	Ties, bale, iron or steel	340
Pulpboard	385	Tinplate	340
		Trusses, iron or steel	340
Railings, bridge, iron or steel	340	Tubing, pier, iron or steel	340
Rails, iron or steel	340	Turnbuckles, iron or steel	340
Refuse, citrus fruit, as described	340	Triglycerides of Fat-forming Acids	341
Rice	341	Vermicelli, except canned	341
Rivets, iron or steel	340	Washers, iron or steel	340
Rods, iron or steel	340	Weights, iron or steel, as described	340
Roofing, Building, or Paving Material, as described in Item No. 840 of the Exception Ratings Tariff	342	Wine, domestic	342
		Wire, iron or steel	340
Sago	341	Yeast	341
Salad Dressing	341	Zees, iron or steel	340
Salads as described	341		
Salt, common	341		
Sauces, Table	341		
Sheets, iron or steel, as described	340		

\* Addition, Decision No. 70756

EFFECTIVE JULY 2, 1966

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

Correction No. 454

Item No.	SECTION NO. 4 - COMMODITY RATES (Continued) In Cents per 100 Pounds					
340	FREIGHT, viz.:					
	Cement, Portland, building (See Item No. 40), Flour or Corn Meal, edible, Grain and other articles as described in Items Nos. 360 and 361 of the Exception Ratings Tariff, Iron and Steel Articles, viz.:			Iron and Steel, structural, fabricated or unfabricated, consisting of: (Continued)		
	Bands,			Braces,		
	Bars, plain, corrugated, twisted or bent,			Caps, post,		
	Billets,			Channels,		
	Bolts,			Columns,		
	Castings, rough,			Frames, circular,		
	Fencing, *(including fence posts),			Girders,		
	Fittings, pipe			Guides, elevator,		
	Forging, rough,			Hangers, joist,		
Hoops,			Ladder assemblies, tank or tower,			
Ingots,			Piling,			
Nails,			Plates,			
Nuts,			Plates, fish,			
Pig Iron,			Pulleys, tank or reservoir,			
Pipe,			Railings, bridge,			
Rivets,			Rails,			
Rods,			Shoes, riveted or cast,			
Sheets, black, galvanized, corrugated or plain,			Tees,			
Ties, bale,			Trusses,			
Tinplate,			Tubing, pier,			
Washers,			Turnbuckles,			
Wire, *(including wire rope or strand),			Weights (not including sash weights),			
Iron and Steel, structural, fabricated or unfabricated, consisting of:			Zees,			
Angles,			Junk, viz.:			
Bars, truss,			Paper, waste, and Rags, in machine pressed bales; Sacks, old, worn-out;			
Bases, post,			Tires (rubber), old, worn-out; Tubes (rubber), pneumatic, old, worn-out;			
Beams,			Metal, scrap, having value for re- melting purposes only.			
			Paper, newsprint,			
			Refuse, citrus fruit, not fit for human consumption.			
Minimum Weight in Pounds						
10,000			20,000			
Rate Basis			Rate Basis			
A	B	C	A	B	C	
17	20	30	14	14½	18	
} Change * Addition		Decision No. 70756				
EFFECTIVE JULY 2, 1966						
Issued by the Public Utilities Commission of the State of California, San Francisco, California.						
Correction No. 455						

Item No.	SECTION NO. 4--COMMODITY RATES (Continued) In Cents Per 100 Pounds
<p>Ø340.5</p>	<p>Ø FREIGHT, viz: (Subject to Notes 2, 3 and 4) Iron and Steel Articles (see Note 1),  Iron and Steel, structural, fabricated or unfabricated (see Note 1).   <div style="text-align: right;"><u>Rate Basis A</u></div> <p>Minimum Weight 40,000 pounds <span style="float: right;">9</span></p> <p>NOTE 1.--As described under such heading in Item No. 340.</p> <p>ØNOTE 2.--This item is not applicable to Permit Shipments.</p> <p>*ØNOTE 3.--The provisions of this item will not apply on shipments having a prior or subsequent rail movement.</p> <p>(1)NOTE 4.--When the elapsed time between commencement and completion of loading or unloading of the shipment exceeds eight minutes per ton, an additional charge for delay time in excess of eight minutes per ton shall be assessed at the rate provided in Item No. 110.</p> </p>
	<p>(1) Formerly designated by (1) reference.</p> <p>Ø Change        ) * Addition     ) Decision No. 70756 Ø Increase     )</p>
<p>EFFECTIVE JULY 2, 1966</p>	
<p>Issued by the Public Utilities Commission of the State of California San Francisco, California Correction No. 456</p>	