

ORIGINALDecision No. 73033

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. 15).

Case No. 7783
 Petition for Modification
 No. 8

Filed April 24, 1967

Vaughan, Paul & Lyons by John G. Lyons,
 and Jack L. Dawson, for Central Ware-
house & Drayage Co., Inc.; Gibraltar
Warehouses; Haslett Co.; San Francisco
Warehouse Company; and Thompson Bros.,
Inc., petitioners.

Walter Dennison, for Western Transporta-
tion Company; and George E. Sloat,
 for Walkup's Merchant Express, respond-
 ents.

John T. Reed, for California Manufac-
turers Association; Hatch Morrison,
 for Western Traffic Conference; and
E. F. Westberg, for California Retail-
ers Association, protestants.

Richard W. Smith, H. F. Kollmyer and
A. D. Poe, for California Trucking
Association; James Quintrall, for Los
Angeles Warehousemen's Association;
Russell Bevans, for Drayman's Associa-
tion of San Francisco; and Joseph D.
Cunliffe, for United States Borax &
Chemical Corp., interested parties.

Arthur F. Burns, for the Commission staff.

O P I N I O N

By this petition, petitioners seek to have Minimum Rate
 Tariff No. 15 (MRT 15)¹ amended by adding thereto the following
 rule:

¹ MRT 15 contains yearly, monthly and weekly vehicle unit rates.

"(1) Rates in this tariff do not apply to transportation service performed for a group or association of shippers or for warehousemen or shippers' agents, in connection with consolidated shipments permitted under the third paragraph of Section 220 of the Public Utilities Code."

Public hearing was held before Examiner Turpen, at San Francisco, on July 28, 1967.

The record shows that petitioners operate as highway carriers as well as public utility warehousemen. As warehousemen they consolidate the shipments of their storers and tender the consolidated shipment either to themselves as a carrier, or to an outside carrier for transportation as quantity shipments. Petitioners pay the transportation charges and prorate the charges to their storers based on the rates named in Minimum Rate Tariff No. 2 (MRT 2).

The witness for petitioners testified that it had come to his attention that a contract warehouseman was performing such a consolidation service for its storers but using a carrier for the transportation under the weekly vehicle unit rates named in MRT 15, and charging its storers a uniform flat rate per 100 pounds, regardless of commodity. The witness said that the total collected from the storers might amount to more or less than that paid to the carrier. He said that petitioners feel that the rates named in MRT 15 were never intended for this type of consolidated shipments and in effect nullified the application of minimum rates to this type of shipments. Accordingly, petitioners decided to propose the sought exclusion.

Section 220 of the Public Utilities Code defines "freight forwarder", and excludes warehousemen when consolidating customers' shipments. This is discussed in detail in Union Terminal Warehouse

(Decision No. 71257, in Case No. 8269, dated September 6, 1966), wherein the Commission found that in such situations the warehouseman is actually the shipper.

It was developed on the record, that if the proposed exclusion is adopted, the contract warehouseman could still assess its storers a flat rate even though it pays the carrier charges based on rates in MRT 2.

The vehicle unit rates were first published in MRT 2 and the various drayage tariffs as alternatives to the other rates named in those tariffs, and later transferred into a new tariff, designated as MRT 15. The vehicle unit rates may be used by any shipper who has sufficient volume to warrant their use in lieu of otherwise applicable minimum rates. The Commission has found them to be reasonable minimum rates. A warehouseman who consolidates shipments for his storers is no different from any other single shipper able to ship in volume.

The Commission finds that:

1. Warehousemen consolidating and shipping for their storers are no different than other volume shippers.
2. To deny such warehousemen the same choice of rates open to other volume shippers would result in discrimination.
3. The proposed rule has not been shown to be reasonable.

We conclude that the petition should be denied.

O R D E R

IT IS ORDERED that Petition for Modification No. 8, in Case No. 7783, is denied.

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

Dated at San Francisco, California, this 15th day of SEPTEMBER, 1967.

John E. Mitchell
President

William A. Dennis

Augusta

William J. Jensen

Sheel P. Moussey
Commissioners