

Decision No. 73753**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**FILED**  
PUBLIC UTILITIES COMMISSION

FEB 27 1968

SAN FRANCISCO OFFICE

**8771**Case No.                     

In the Matter of the Investigation on the Commission's own motion 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.

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

And Related Matters

Cases Nos. 5330, 5433,  
5435, 5436, 5437, 5438,  
5439, 5440, 5441, 5603,  
5604, 7783 and 7857

ORDER INSTITUTING INVESTIGATION  
AND SETTING HEARING

In the interest of establishing a system of reasonable and nondiscriminatory economic regulation of freight movements in California, it has been the practice of this Commission to regulate not only freight moving solely within this State, but also most of the interstate or foreign freight moving within this State which is exempt from federal economic regulation.

FW

On the 23rd day of May, 1967, the United States District Court for the Northern District of California issued its order, subsequently affirmed by the United States Supreme Court, permanently enjoining this Commission from imposing its minimum rate regulation upon federally exempt interstate transportation performed by motor carriers for nonprofit shippers associations wholly within commercial zones. It appears that said decision may affect this Commission's regulation of other federally exempt freight; may affect this Commission's regulation of the movement of freight which is in direct economic competition therewith; and may in fact affect this Commission's economic regulation of all California freight movements.

IT IS THEREFORE ORDERED that an investigation on the Commission's own motion is hereby instituted into the operations, rates, charges, practices and policies of all common carriers, highway carriers, and city carriers and that consolidated hearings be held in the above-captioned proceedings relating to the Commission's economic regulation of the movement of property in interstate or foreign commerce exempted from the provisions of Part II of the Interstate Commerce Act by Sections 203(b)(6), 203(b)(8), and 203(b)(7a) thereof, for which minimum rates and rules are currently set out in the Commission's minimum rate tariffs, and also related to said regulation of the transportation of any and all commodities between and within all points and places within the State of California to determine:

(1) The effects, if any, said decision may have had upon the present or future economic regulation by this Commission of the movement of any and all property in interstate or foreign commerce

exempt under the provisions of Part II of the Interstate Commerce Act by Sections 203(b)(6), 203(b)(8) and 203(b)(7a) thereof for which rates, rules and regulations are currently set out or may in the future be set out in Commission minimum rate tariffs.

(2) The effects, if any, said decision may have upon the present or future economic regulation by this Commission of any and all intrastate freight movements which are or may in the future be in economic competition with federally exempt interstate or foreign commerce.

(3) The effects, if any, said decision may have upon present or future economic regulation of the movement of any and all commodities between and within all points and places within the State of California.

(4) Whether any other orders relating to the economic regulation of the movement of freight should be entered in the lawful exercise of the Commission's jurisdiction.

The Secretary is directed to cause copies of this order to be served upon all common carriers, highway carriers and city carriers regulated by this Commission.

Public hearing in this matter shall be held before such Commissioner or Examiner and at such times and places as may hereafter be designated.

Dated at San Francisco, California, this 27<sup>th</sup> day of FEBRUARY 1968

[Signature]  
President

[Signature]

William J. [Signature]

[Signature]  
Commissioners

C. 5432, et al and C. 8771

WILLIAM M. BENNETT, COMMISSIONER, Dissenting Opinion

I dissent to the instant order.

In somewhat ludicrous manner we are now embarking upon a hearing to determine whether or not there is to be compliance with the mandate of the federal judiciary. It seems almost as simple as it is obvious that the decision of the federal court as rendered should simply be compared to any regulations of this Commission and its applicability thereto determined. Usually this is done through the solicitation of an opinion from Commission counsel. I trust that no precedent is being set here whereby in the future proceedings are held subsequent to judicial decisions to determine the relevance of federal pronouncements to the actions of the Commission. As a minor observation one is struck with the oddity of the proceedings such as this which is in substance going to be no more than a conversation piece dominated by lawyers each venturing an opinion, occasionally self-serving, as to the meaning of a court case.

  
WILLIAM M. BENNETT  
Commissioner

Dated: San Francisco, California  
February 27, 1968