

Decision No. 75044

**ORIGINAL**

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  
 (Order Setting Hearing  
 in Decision No. 72370  
 dated May 2, 1967)

In the Matter of the Investigation )  
 for the purpose of considering and )  
 determining revisions in or reissues )  
 of Minimum Rate Tariff No. 14-A.

Case No. 7857  
 (Order Setting Hearing  
 in Decision No. 72370  
 dated May 2, 1967)

A. W. Hays, for A. W. Hays Trucking, respondent.  
Frank Loughran, for Anderson Clayton Co., San Joaquin  
 Cotton Oil Company, Kingsbury Cotton Oil Company,  
 J. G. Boswell Company, Producers Cotton Oil  
 Company, Ranchers Cotton Oil Company and Pacific  
 Vegetable Oil Corporation; Carter Sanders, for  
 Producers Cotton Oil Company; James D. Reardon,  
 for Kingsburg Cotton Oil Company of California;  
 and Richard E. Lloyd, for Pacific Vegetable Oil  
 Corporation; protestants.  
Arlo D. Poe, R. C. Broberg, J. C. Kaspar and H. F.  
Kollmyer, for California Trucking Association;  
Ralph Hubbard, for California Farm Bureau  
 Federation and John T. Reed, for California  
 Manufacturers Association; interested parties.  
R. J. Carberry and John R. Laurie, for the  
 Commission staff.

O P I N I O N

This proceeding was initiated by the Commission to receive  
 evidence concerning the initial establishment of minimum rates for  
 transportation of oilseeds by highway permit carriers.<sup>1/</sup>

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<sup>1/</sup> Oilseeds include cottonseed, safflower seed and flaxseed. The  
 transportation of such seeds is now exempt from the application  
 of minimum rates.

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Duly noticed public hearings were held at San Francisco before Examiner Mallory on August 2 and 3, 1967, May 13, 14 and 17, July 1 and 2, and October 14, 1968. The matters were submitted on the latter date. Evidence was presented by a transportation engineer and a transportation rate expert appearing for the Commission's Transportation Division; by a representative of California Trucking Association (CTA); and by a mill manager and a traffic manager employed by protestant cottonseed and safflower oil producers.

The issues in this proceeding have their antecedents in two prior proceedings before the Commission involving safflower seed. In Decision No. 63751 (59 Cal. P.U.C. 682), the Commission found that minimum rates had not been established for the transportation of safflower seed; that no good cause had been shown why the Commission should not establish minimum rates for such transportation if and when it receives sufficient evidence upon which just, reasonable and nondiscriminatory minimum rates can be determined; and that the Commission staff should develop data concerning the transportation of safflower seed when it is able to do so. The staff did undertake to develop such data which were presented in Order Setting Hearing dated August 25, 1964, in Cases Nos. 5432 and 7857. Decision No. 69239 in that proceeding (64 Cal. P.U.C. 411) found that the then existing minimum rates for grain, as proposed to be established, had not been shown to be the just, reasonable and nondiscriminatory minimum rates for safflower seed, and also found that the record in that proceeding did not provide data from which it could be determined what other rates would be just and reasonable minimum rates for safflower seed.<sup>2/</sup>

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<sup>2/</sup> Rehearing of Decision No. 69239 was granted. The proceeding was subsequently discontinued in Decision No. 72538, as the instant proceeding was opened, which broadens the issues to include other oilseeds.

Pursuant to the instant order setting hearing, the Commission's Transportation Division staff initiated new studies involving the transportation of oilseeds, including safflower, cotton and flaxseed. Comprehensive cost and rate studies were prepared and presented into evidence. The contents of these exhibits were subjected to thorough and searching cross-examination by the parties. There is no controversy concerning the merits of the staff studies. Protestants have characterized the staff studies as fairly representing the costs and practices of highway carriers in performing the transportation services involved. Protestants have indicated that the rate proposals of the Commission staff "track the actual rates now being paid and assessed" for oilseeds. It is undisputed on the record that the staff studies provide ample data to serve as a basis for the establishment of just, reasonable and nondiscriminatory minimum rates for the transportation of oilseeds.

A representative of California Trucking Association testified in support of the establishment of minimum rates on oilseeds. His testimony related to actions taken by CTA looking to the establishment of minimum rates on exempt agricultural products and the need of highway carriers for such minimum rates. The witness also presented a rate proposal which would establish minimum rates for oilseeds generally on the level of the current truckload minimum rates applicable to the transportation of grain in bulk, as set forth in Minimum Rate Tariff No. 14-A. Said rates are generally higher than the current rates being assessed by highway permit carriers; and also would provide a higher level of rates and more restrictive provisions than the proposals of the Commission staff.

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The two representatives of protestant oil producers testified that the rate levels proposed by the Commission staff generally would be fair and reasonable for oilseeds in light of the staff studies and other evidence of record, and because said proposals parallel the rates now being assessed. However, they opposed the establishment of minimum rates, principally on the ground that no present need exists for such rates as carriers are now receiving revenues generally the same as they would receive if minimum rates are established on the levels proposed by the staff.

Discussion, Findings and Conclusions

The inadequacies of the records in prior proceedings have been overcome by the voluminous evidence and the well-tested proposals presented in this proceeding. It is clear from such prior proceedings that the Commission intended that minimum rates be established when adequate data was presented to it from which it could be determined that the resulting minimum rates would be just, reasonable and non-discriminatory. Such data is available on this record.

Based on the record in this proceeding, the Commission finds as follows:

1. The Commission staff cost studies introduced in this proceeding adequately represent the costs of reasonably efficient highway carriers in the transportation of safflower seed, cottonseed, and flaxseed in bulk in motor vehicle equipment over the highways in this State.

2. The rate proposals of the Commission staff set forth in Exhibit 3 in this proceeding give due consideration to the costs of all transportation services performed, including length of haul, the value of the commodity transported, the value of the facility reasonably necessary to perform the transportation, and of

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accessorial services performed or to be performed by highway permit carriers. Said rates are, and will be, the lowest lawful rates compatible with the maintenance of adequate transportation service.

3. The rates, charges and rules described above should be adopted as minimum rates for the transportation of safflower seed, cottonseed, and flaxseed, and should be incorporated in Minimum Rate Tariff No. 14-A. Necessary tariff amendments to accomplish the establishment of said minimum rates should be incorporated in Minimum Rate Tariff No. 2.

4. The rates, charges, accessorial charges and rules to govern the transportation of safflower seed, cottonseed and flaxseed, set forth in the amendments to Minimum Rate Tariff No. 14-A attached to the order which follows, are the just, reasonable and non-discriminatory minimum rates for the transportation by motor vehicle over the public highways in this State of safflower seed, cottonseed and flaxseed, and for accessorial services performed in connection therewith.

5. Increases, if any, in the rates of transportation companies that are required as a result of the establishment of said minimum rates are justified.

6. Minimum Rate Tariff No. 14-A, as amended herein, may provide greater minimum rates for shorter hauls included in longer hauls over the same line or route.

7. This record does not show to what extent, if at all, existing carload rates, accessorial charges and rules of common carriers by railroad for the transportation of oilseeds are unreasonable, discriminatory, unjustified by transportation conditions, or otherwise unlawful.

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8. All radial highway common carriers and highway contract carriers should be required to assess, charge and collect, for the transportation and other services, including accessorial services, in the movement of safflower seed, cottonseed and flaxseed, rates, charges and accessorial charges no lower in volume or effect than those set forth in Minimum Rate Tariff No. 14-A, and to observe rules and regulations no lower in volume or effect than those set forth therein.

9. The existing rates, charges, accessorial charges, rules and regulations maintained by common carriers as defined in the Public Utilities Act for transportation of safflower seed, cottonseed and flaxseed over the public highways within the State of California, and for accessorial services incidental thereto, are and will be for the future unreasonable, insufficient and not justified by the actual competitive rates of competing carriers, or by the costs of other means of transportation, insofar as they are lower in volume or effect than those set forth in said Minimum Rate Tariff No. 14-A for performance of the same transportation and the same accessorial services by radial highway common carriers and highway contract carriers.

10. The rates, charges, accessorial charges and rules for the transportation of safflower seed, cottonseed and flaxseed set forth in Minimum Rate Tariff No. 14-A will be just, reasonable and sufficient minimum rates, charges, accessorial charges and rules for the transportation of said commodities by common carriers as defined in the Public Utilities Act, except common carriers by railroad.

The Commission concludes that:

1. The rates, charges and rules for the transportation of safflower seed, cottonseed and flaxseed set forth in Minimum Rate

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Tariff No. 14-A should be established as minimum rates and rules to be observed by all common carriers as defined in the Public Utilities Act, except common carriers by railroad, and all highway permit carriers as defined in Section 3515 of the Public Utilities Code, for the transportation of said commodities by motor vehicle over the public highways, and for accessorial services performed in connection therewith.

2. All of said carriers should be ordered to cease and desist from quoting, maintaining or assessing rates or rules which result in charges lower in volume or effect than the charges applicable under said minimum rates.

3. Common carriers and transportation companies should be authorized to charge less for longer than for shorter distances to the extent necessary to charge the minimum rates and to observe the rules set forth in Minimum Rate Tariff No. 14-A for the transportation of oilseeds.

4. Minimum Rate Tariff No. 14-A should be amended by the order which follows, and Minimum Rate Tariff No. 2 should be amended by separate order to avoid duplication in the distribution of tariff pages.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff No. 14-A (Appendix A to Decision No. 67397, as amended) is hereby further amended by incorporating therein, to become effective January 11, 1969, the revised pages attached hereto and listed in Appendix A, also attached hereto, which pages and appendix are made a part hereof.

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2. The rates, charges and rules set forth in the revisions to Minimum Rate Tariff No. 14-A, which are designated Appendix A of the order herein are established and approved, effective January 11, 1969, as the just, reasonable and non-discriminatory minimum rates and charges to be assessed, charged and collected and rules to be observed by any and all common carriers as defined in the Public Utilities Act except common carriers by railroad, and all highway permit carriers as defined in Section 3515 of the Public Utilities Code, for the transportation by motor vehicle over the public highways of the State of safflower seed, cottonseed and flaxseed, and for the performance of other services, including accessorial services rendered incident thereto, for which rates, charges and rules are provided in said Minimum Rate Tariff No. 14-A.

3. All radial highway common carriers and highway contract carriers shall, on January 11, 1969, cease and desist and thereafter abstain from assessing or collecting rates or charges on safflower seed, cottonseed and flaxseed lower in volume or effect than those set forth in Minimum Rate Tariff No. 14-A for transportation and other services incidental thereto for which rates have been provided in said minimum rate tariff.

4. All common carriers as defined in the Public Utilities Act, except common carriers by railroad, maintaining rates, charges, accessorial charges and rules for the transportation by motor vehicle over public highways of the State of safflower seed, cottonseed and flaxseed lower in volume or effect than the rates, charges and rules prescribed in Minimum Rate Tariff No. 14-A shall cancel said rates, charges and rules and establish in their stead rates, charges and rules no lower in volume or effect than set forth in Minimum Rate Tariff No. 14-A.



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5. All common carriers referred to and described in the preceding ordering paragraph shall, on or before January 11, 1969, cease and desist and thereafter abstain from publishing or maintaining in their tariffs, rates, charges, or rules on safflower seed, cottonseed and flaxseed lower in volume or effect than those prescribed in Minimum Rate Tariff No. 14-A.

6. Tariff publications required to be made by common carriers as a result of the order herein shall be filed not earlier than the effective date of the order and 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 public and shall be made effective not later than January 11, 1969.

7. Common carriers, in establishing and maintaining the minimum rates established herein, are authorized to depart from the long- and short-haul provisions of Section 460 of the Public Utilities Code to the extent necessary to publish and maintain the minimum rates established herein. Schedules published under this authority shall make reference to this order.

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8. In all other respects, Decision No. 67397, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 3<sup>rd</sup> day of DECEMBER, 1968.

William Symons Jr.  
President  
Stella M. Bennett  
Augusta  
Paul P. Morrison  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A TO DECISION NO. 75044

List of Revised Pages to  
Minimum Rate Tariff No. 14-A  
Authorized by Said Decision

Second Revised Page 5-A

Fifth Revised Page 31

Fifth Revised Page 32

Original Page 33

Original Page 34

(END OF APPENDIX A LIST)

SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)	Item No.
<p style="text-align: center;">APPLICATION OF TARIFF--COMMODITIES</p> <p>Rates in this tariff apply for the transportation of the following commodities:</p> <ul style="list-style-type: none"> <li>(a) Hay, Fodder (bean, cane, corn or pea), Straw, in machine pressed bales;</li> <li>(b) Grain, Rice and related commodities named in Items Nos. 500, 515, 520, 525 and 530, in bulk, or in bins;</li> <li>(c) Seeds, as described in Item No. 500, in bulk, or in bins, or in containers with a capacity exceeding 40 cubic feet;</li> <li>*(d) Seed, cotton, flax and safflower.</li> </ul> <p>EXCEPTIONS:</p> <p>This tariff is not applicable to:</p> <ul style="list-style-type: none"> <li>(a) Transportation of property of the United States or property transported under an agreement whereby the United States contracted for the carrier's services.</li> <li>(b) Disaster Supplies, i.e., those commodities which are allocated to provide relief during a state of extreme emergency or state of disaster; and those commodities which are transported for a civil defense or disaster organization established and functioning in accordance with the California Disaster Act to ultimate point of storage or use prior to or during a state of disaster or state of extreme emergency.</li> <li>∅(c) Seeds, other than cotton, flax or safflower, as described in Item No. 500, when shipped from point of growth to an accumulation station or point of initial processing, or from an accumulation station to point of initial processing; in bulk, or in containers with a capacity exceeding 40 cubic feet.</li> </ul> <p>**</p> <ul style="list-style-type: none"> <li>(e) Property which is exempt from regulation by the Interstate Commerce Commission under Sections 203 (b) (6) and 203 (b) (8) of the Interstate Commerce Act.</li> </ul>	<p style="text-align: center;">40</p>

∅ Change )  
\* Addition ) Decision No. 75044  
\*\* Eliminated )

EFFECTIVE JANUARY 11, 1969

Issued by the Public Utilities Commission of the State of California,  
San Francisco, California.  
Correction No. 62

-5-A-

SECTION NO. 5 - DISTANCE COMMODITY RATES	Item No.						
<p style="text-align: center;">COMMODITY DESCRIPTIONS</p> <p>Grain, Rice and Related Commodities, in bulk or in bins, viz.:</p> <p>Grain, dried, threshed;            Corn or Maize (except popcorn);            Popcorn, not popped;            Sorghum Grains, threshed, or in heads unthreshed;            Rice;            Screenings, grain, corn, maize, sorghum grains or rice, unground;            Beans, castor;            (1) Pomace, not fit for human consumption.            (2) Seeds, other than cotton, flax or safflower, as described under that heading in National Motor Freight Classification A-8 (or revisions thereof), in bulk, or in bins, or in containers with a capacity exceeding 40 cubic feet.</p> <p>(1) Does not include movements to the field for agricultural purposes.            (2) Unless otherwise exempt under the provisions of Item No. 40.</p>	<p>500</p>						
<p style="text-align: center;">APPLICATION OF RATES IN ITEM NO. 550 MAKING SPECIFIC REFERENCE HERETO</p> <p>Rates referring to this item are subject to varying minimum weights per shipment, dependent upon the number of units of carrier's equipment used, as shown below, regardless of the weight loaded in each unit of equipment. In no event shall the minimum weight per shipment be less than 48,000 pounds, or actual weight, whichever is greater.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Number of Units of Equipment Used</th> <th style="text-align: right; border-bottom: 1px solid black;">Minimum Weight (In Pounds)</th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">1 -----</td> <td style="text-align: right;">48,000</td> </tr> <tr> <td style="text-align: left;">2 or more -----</td> <td style="text-align: right;">96,000</td> </tr> </tbody> </table>	Number of Units of Equipment Used	Minimum Weight (In Pounds)	1 -----	48,000	2 or more -----	96,000	<p>510</p>
Number of Units of Equipment Used	Minimum Weight (In Pounds)						
1 -----	48,000						
2 or more -----	96,000						

APPLICATION OF RATES IN ITEM NO. 550 MAKING  
SPECIFIC REFERENCE HERETO

- 1 Rates referring to this item apply only on straight shipments of whole grain and rice, as described in List No. 1 of Item No. 515 and List No. 8 of Item No. 530.
- 2 Rates referring to this item are subject to varying minimum weights per shipment, dependent upon the number of units of carrier's equipment used, as shown below, regardless of the weight loaded in each unit of equipment. In no event shall the minimum weight per shipment be less than 52,000 pounds, or actual weight, whichever is greater.

<u>Number of Units of Equipment Used</u>	<u>Minimum Weight (In Pounds)</u>	512
1 -----	52,000	
2 or more -----	104,000	

- 3 Rates referring to this item do not alternate with other rates and charges in this tariff and shall not be used in combination with any other rates.

∅ Change, Decision No. **75044**

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San Francisco, California.  
Correction No. 63

SECTION NO. 5 - DISTANCE COMMODITY RATES (Concluded) (In Cents Per 100 Pounds)							Item No.
Grain, Rice, Seeds and Related Commodities, as described in Items Nos. 500, 515, 520, 525 and 530, in bulk or in bins or in containers otherwise specified.							
MILES		RATES (See Note)					
But Not		MINIMUM WEIGHT IN POUNDS					
Over	Over	(1) 10,000	20,000	30,000	40,000	(2)48,000	(5)52,000
0	3	12-1/2	10	7-3/4	6	6	6
3	5	13-1/2	11-1/2	8-1/4	6-3/4	6-1/2	6-1/2
5	10	14-1/2	12-1/2	8-3/4	7-1/4	7	7
10	15	15-1/2	13-1/2	9-1/4	7-3/4	7-1/2	7-1/2
15	20	18	14-1/2	10-1/2	8-1/4	8	8
20	25	20	15-1/2	11-1/2	9-1/4	9	9
25	30	21	16-1/2	12-1/2	10-1/2	10	10
30	35	23	18	13-1/2	11-1/2	11	11
35	40	24	19	14-1/2	12-1/2	12	12
40	45	26	20	15-1/2	13-1/2	13	12-1/2
45	50	28	21-1/2	16-1/2	14-1/2	14	13
50	60	31	23	18-1/2	16-1/2	15	14
60	70	33	24	19-1/2	17-1/2	16	15
70	80	35	25	20-1/2	18-1/2	17	16
80	90	37	27	21-1/2	19-1/2	18	17
90	100	40	28	24	20-1/2	19-1/2	18
100	110	42	30	26	23	21	19
110	120	45	31	27	24	22	20
120	130	47	32	28	25	23	21
130	140	50	34	30	27	25	22
140	150	53	36	31	28	26	23
150	160	55	38	32	29	27	24
160	170	57	39	34	31	28	25
170	180	59	40	35	32	29	26
180	190	61	42	36	34	30	27
190	200	65	44	39	36	32	29
200	220	68	47	42	38	34	31
220	240	71	49	44	40	36	33
240	260	75	52	46	42	38	35
260	280	78	55	47	44	40	37
280	300	82	58	53	48	45	40
300	325	85	60	55	50	46	43
325	350	88	62	58	52	48	46
350	375	91	66	60	54	50	49
375	400	95	68	62	56	52	52
400	425	98	71	64	58	54	54
425	450	102	74	67	60	56	56
450	475	105	78	70	62	58	58
475	500	108	80	72	64	60	60
500	—	(3)	(3)	(4)	(4)	(4)	(6)

550



NOTE.—On all Field Pickup Shipments, as defined in Item No. 180, add the charges provided therein to the rate otherwise applicable.

- (1) Rates for shipments weighing less than 10,000 pounds are provided in Minimum Rate Tariff No. 2.
- (2) Rates in this column are subject to the provisions of Item No. 510.
- (3) Add to the rate for 500 miles 3 cents per 100 pounds for each 25 miles or fraction thereof.
- (4) Add to the rate for 500 miles  $2\frac{1}{2}$  cents per 100 pounds for each 25 miles or fraction thereof.
- (5) Rates in this column are subject to the provisions of Item No. 512.
- (6) Add to the rate for 500 miles 2 cents per 100 pounds for each 25 miles or fraction thereof.

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\*\* End of Tariff Eliminated. Decision No. **75044**

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San Francisco, California.  
Correction No. 64

\*SECTION NO. 6

DISTANCE COMMODITY RATES

SEED, VIZ: COTTON, FLAX AND SAFFLOWER

Rates in this section are not subject to the following rules of this tariff:

110	151
120	160
130	161
140	170
141	180
150	190

\* Addition, Decision No. **75044**

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Correction No. 65