

Decision No. 76633

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the investigation }
for the purpose of considering and }
determining revisions in or reissues }
of Exception Ratings Tariff No. 1. }

Case No. 7858
Petition for Modification No. 66
(Filed December 9, 1969)

And Related Matters.

Cases Nos. 5432,
5435, 5439 and 5441
Petitions for Modification Nos.
567, 139, 108, 181,
respectively
(Filed December 9, 1969)

OPINION AND ORDER

The C. B. Hobbs Corporation seeks a temporary retention of the established truckload exception ratings on (1) Charcoal, coconut shell, nut shell, NOI, or fruit pit, not activated, (charcoal) as described in Item 42450, Sub. 1, 2 and 3 of the National Motor Freight Classification (NMFC) A-10; and (2) Charcoal Briquettes NOI or Charcoal Pellets, (briquettes) as described in Item 42480 of NMFC A-10.

The established truckload exception ratings for charcoal and briquettes are Class 35.3, minimum weight 26,000 pounds and Class 35.3, minimum weight 30,000 pounds, as set forth in Item 1060 of the Commission's Exception Ratings Tariff No. 1 (ERT 1). By Decision No. 76408 in Case No. 5432 (Order Setting Hearing of August 31, 1965) et al., and companion Decision No. 76413 in Case No. 7858 (Order Setting Hearing of October 5, 1965) et al., dated November 12, 1969, the exception ratings involved herein are, among other ratings contained in Section 2-B of ERT 1, to be cancelled, effective January 3, 1970. As of that date, the applicable rating on charcoal and briquettes would be Class 35, minimum weight 26,000 pounds and 30,000 pounds, respectively, as published in Items 42450 and 42480 of NMFC A-10.

The cancellation of certain exception ratings, including those for charcoal and briquettes, named in Section No. 2-B of ERT 1 by Decision No. 76408 et al., reflects a proposal of the California Trucking Association (CTA). In finding this phase of the CTA's rate proposal justified in said decision the Commission stated, in part, as follows:

"Section 2-B of ERT 1 contains truckload ratings which are exceptions to the governing classification (NMFC A-10). Said truckload exception ratings reflect the rail-oriented class ratings named in the Western Classification which initially governed the minimum rates. With the gradual changeover to the National Motor Freight Classification, the rail-oriented truckload ratings were first brought forward to NMFC A-10 (Cal.) and with the subsequent adoption of NMFC A-10 proper, said ratings were restated as exception ratings in Section 2-B of ERT 1, pending final integration of the various minimum class rate structures with the NMFC A-10 class ratings.

"The CTA conducted a survey of known interested shippers and shipper associations in an effort to determine the actual utilization of the temporary truckload exception ratings referred to above. The survey revealed that in most instances the ratings were not moving any traffic. In an effort to advance the final adoption of NMFC A-10 class ratings, the CTA now recommends the cancellation of those truckload exception ratings named in Section 2-B of ERT 1 which the CTA's survey indicates serve no useful purpose. This phase of the trucking association's proposal is justified and will advance the Commission's plans for the final changeover to NMFC A-10 proper, as the governing classification for its various minimum class rates."

The C. B. Hobbs Corporation has two plants manufacturing charcoal and briquettes. One plant is located in Santa Clara County, near Milpitas, and the other plant site is at Elk Grove, California. Petitioner contends that it was not informed of CTA's aforementioned traffic survey nor to the trucking association's proposed cancellation of the exception ratings on charcoal and briquettes until after the issuance of Decision No. 76408 et al. It is alleged that C. B. Hobbs Corporation will sustain substantial financial loss if the exception

ratings involved herein are not retained. Petitioner urges the Commission to reinstate the exception ratings of Class 35.3, minimum 26,000 pounds on charcoal and Class 35.3, minimum 30,000 pounds on briquettes, subject to an expiration date of December 31, 1970. Said expiration date is the same as that published in connection with those exception ratings retained in Section 2-B of ERT 1 by Decision No. 76408 et al., so as to afford interested parties additional time to develop evidence in justification for the establishment of exceptions to NMFC A-10 ratings on other than a temporary basis.

Petitioner assertedly knows of no opposition to its sought relief and requests that the exception ratings involved be reinstated, effective January 3, 1970, by ex parte order. It is clear that if the information now before us relative to the existing exception ratings for charcoal and briquettes had been presented on the record underlying Decision No. 76408 et al., said exception ratings would have been retained subject to the December 31, 1970 expiration date.

The certificate of service shows that the petition was served on carrier and shipper interests, including the California Trucking Association. The matter was also listed on the Commission's Daily Calendar of December 11, 1969. No objections to the granting of the sought ex parte relief have been received.

In the circumstances, the Commission finds that:

1. The established exception ratings on charcoal and briquettes contained in Item 1060 of Exception Ratings Tariff No. 1 should be continued in effect beyond January 3, 1970.

2. Petitioner's sought continuance of the exception ratings on charcoal and briquettes named in Item 1060 of Exception Ratings Tariff No. 1 should be made subject to expire with December 31, 1970.

3. The temporary deferral of the ultimate disposition of the exception ratings involved herein will afford petitioner adequate opportunity to further evaluate and develop its position relative to the final disposition of the exception ratings retained herein on a temporary basis.

4. The minimum rates resulting from the application of the exception ratings to be authorized herein on a temporary basis, are, and for the future will be, the just, reasonable and nondiscriminatory minimum rates and charges for the transportation of property by highway carriers subject to the provisions of Minimum Rate Tariffs Nos. 1-B, 2, 5, 9-B and 19, respectively.

We conclude that petitioner's sought relief should be granted to the extent authorized by the order herein. A public hearing is not necessary.

IT IS ORDERED that:

1. Exception Ratings Tariff No. 1 (Appendix A to Decision No. 66195, as amended) is further amended by incorporating therein, to become effective January 3, 1970, Third Revised Page 27-E attached hereto and by this reference made a part hereof.

2. Tariff publications authorized to be made as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier than the fourth day after the effective date of this order, and may be made effective on not less than four days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff page incorporated in this order.

3. Common carriers, in establishing and maintaining the ratings 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 ratings 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 said Decision No. 66195, as amended, shall remain in full force and effect.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 30th
day of DECEMBER, 1964.

William J. ...
President
...
...
...
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

EXCEPTION RATINGS TARIFF 1

SECTION 2-B--TRUCKLOAD CLASSES (RATINGS) AND MINIMUM WEIGHTS WHICH ARE EXCEPTIONS TO THE GC						ITEM
(1) ARTICLES as described in the following items of the Governing Classification, viz.:						
ITEM	TL RATING	TL MINIMUM WEIGHT	ITEM	TL RATING	TL MINIMUM WEIGHT	
4620			41320			
Sub 3	(35	30,000	Sub 2	35.1	36,000	
	(35.1	45,000	41950	35.2	40,000	
14320	35.2	40,000	42120	35.2	40,000	
14950	35.4	40,000	42130	35.2	50,000	
14990	35.2	40,000	42140	35.2	36,000	
15270	35.3	40,000	42160			
28840			Sub 1	35.2	30,000	
Sub 2	35.1	26,000	Sub 2	35.2	30,000	
29800			42180	35.2	50,000	
Sub 3	35.1	30,000	*42450			
32080			Sub 1	35.3	26,000	
Sub 1	35.4	40,000	Sub 2	35.3	26,000	
Sub 2	35.4	40,000	Sub 3	35.3	26,000	
32100			*42480	35.3	30,000	
Sub 1	35.4	40,000	42910			
Sub 3	35.4	40,000	Sub 1	35.2	40,000	
32130	35.4	40,000	Sub 2	35.2	40,000	
32150	35.1	40,000	43090			
32220	35.2	40,000	Sub 2	35.2	40,000	
32240	35.4	40,000	43330	35.2	40,000	
32280			43420	35.2	40,000	
Sub 1	35.2	40,000	43430	35.3	40,000	
Sub 2	35.2	40,000	44493			
Sub 3	35.2	40,000	Sub 1	35.1	36,000	
32330	35.4	40,000	44780			
32480	35.4	40,000	Sub 1	35.2	40,000	
32600			Sub 2	35.2	40,000	
Sub 3	35.1	36,000	45130	35.2	40,000	
32640	35.2	36,000	45620	35.1	50,000	
32670	35.4	36,000	45920	35.2	40,000	
32710	35.2	40,000	46410			
33640	35.3	40,000	Sub 2	35.2	40,000	
33680			48050	35.3	56,000	
Sub 1	35.2	36,000	48115	35.4	40,000	
Sub 2	35.2	36,000	48120	35.3	50,000	
33700			48140	35.4	40,000	
Sub 1	35.4	40,000	48150	35.4	40,000	
Sub 2	35.4	40,000	48160	35.4	40,000	
34040	35.2	40,000	48170	35.2	40,000	
35240	35.2	40,000	48200	35.2	40,000	
35480	35.2	40,000	48210	35.2	40,000	
37270	35.1	36,000	48250	35.2	36,000	
37780	35.1	24,000	48270	35.3	50,000	
38040	35.1	30,000	48310	35.2	60,000	
41160			48340	35.3	60,000	
Sub 3	35.2	36,000	48350	35.1	50,000	
			48360	35.3	50,000	

δ*(E)
1030

*(E) Expires with December 31, 1970.
 (1) Various exception ratings canceled; certain exception ratings shown in this item transferred from Items 1040 through 1070 inclusive.

δ Change)
 * Addition) Decision No. **76633**
 ◇ Increase)

EFFECTIVE

Correction 205

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
 SAN FRANCISCO, CALIFORNIA