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ORIGINAL

Decision No. 76777

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, and highway)
carriers, relating to the transpor-)
tation of fresh or green fruit and)
vegetables and related items (com-)
modities for which rates are provided)
in Minimum Rate Tariff No. 8).

Case No. 5438
Petition for Modification
No. 73
(Filed November 6, 1969;
Amended November 26, 1969)

OPINION AND ORDER

By Petition for Modification No. 73, California Trucking Association seeks to amend and increase the surcharges currently published in Supplement 28 of Minimum Rate Tariff No. 8 (MRT 8). The surcharges apply to shipments having point of destination within either the Golden Gate Produce Terminal, located at South San Francisco, or the San Francisco Produce Terminal, located at San Francisco.

The surcharges were established by Decision No. 66124, dated October 1, 1963 (61 Cal. P.U.C. 499), to compensate the motor carriers transporting produce to consignees in the respective terminals for the cost incurred in payment of gate fees assessed by the operators of said produce terminals. In Decision No. 66124, the Commission made the following finding:

- "2. The assessment of gate or entrance fees by the aforesaid Terminal against truck equipment of for-hire carriers transporting produce into the Terminal constitutes an operating cost, provisions for the recovery of which should be made in said minimum rate tariff."

The established surcharges named in Supplement 28 of MRT 8 are summarized below:

TABLE 1

<u>Packages or Pieces Delivered</u>	<u>Golden Gate Produce Terminal</u>	<u>San Francisco Produce Terminal</u>
50 or less	No Charge	No Charge
More than 50 but less than 150	\$1.00	\$1.00
More than 150 but less than 250	2.00	2.00
More than 250	1.00 per axle	1.00 per axle

Effective October 6, 1969, gate fees at the Golden Gate and San Francisco Produce Terminals were increased and changes were made in the package increments relating to such fees. Specific entrance fees were established for bulk items.^{1/} In Exhibit B of the petition the revised gate fees applicable to both produce terminals are shown to be as follows:

TABLE 2

<u>No. of Units (Packages)</u>	<u>Gate Fee</u>
0-149	\$2.00
150-249	5.00
250 or more	8.00
<u>(Bulk Items)</u>	
0-1999 pounds	\$2.00
2000-5999 pounds	5.00
6000 or more pounds	8.00

The upward adjustments in gate fees and the changes in the package increments relating thereto are not reflected in the existing surcharges named in Supplement 28 of MRT 8. Accordingly, petitioner requests that the level of the surcharges named in said

1/ Shipments in bulk are intended to mean shipments not in bags, sacks, packages or other containers, except bins.

tariff be increased and the package increments relating thereto be amended in accordance with Revised Exhibit A of the petition, as amended. The surcharges proposed by the trucking association are at the level of the gate fees shown on Table 2 above. The units of measurement relating thereto, however, are expressed as "Shipments in Packages" and "Shipments in Bulk", in lieu of the number of packages or weight of the bulk items contained in a given truckload of produce which actually determines the applicable gate fee to be assessed at the respective produce terminals.

A survey was conducted by the Commission's Transportation Division staff in order to measure the impact of the proposed increased surcharges as sought by petitioner with the increased gate fees paid by the carriers. The results of the staff study and its recommendations with respect thereto are reported in exhibit form. The proposed exhibit was mailed to interested parties on or about January 8, 1970 and is hereby received in evidence as Exhibit No. 1. Pertinent portions of the staff exhibit are summarized below:

"Interviews were had with the management of the Golden Gate Produce Terminal in South San Francisco and with seven carriers that regularly deliver shipments to the San Francisco and South San Francisco produce terminals. ...

"The carriers assess surcharges on individual shipments, or component parts of split delivery shipments having point of destination within the aforementioned produce terminals. The staff examined carriers' records covering approximately 500 individual produce shipments having destination at either the San Francisco Produce Terminal or the Golden Gate Produce Terminal and which were hauled during the period from October 6, 1969 through November 30, 1969. As a result of this examination of carrier billing records, it is evident that in many instances the surcharges which would be assessed pursuant to petitioner's proposal would substantially exceed the gate fees collected by the terminals from the carriers. This is due to the fact that the gate fees are assessed against each produce load as a whole, whereas the surcharge method of billing applies to the individual shipments comprising such produce load. ...

"The staff study revealed that the total gate fees paid by the carriers under the increased fees, which became effective on October 6, 1969, amounted to \$588.00. The proposed surcharges under Petition No. 73 would amount to \$1,276.00 as applied to the shipments examined by the staff. The total surcharges resulting under the staff recommendations would amount to \$775.50 which more closely approximates the \$588.00 of fees actually paid."

It is the staff recommendation that the portion of petitioner's surcharge proposal dealing with shipments in packages be revised as follows:

TABLE 3

<u>Packages or Pieces Delivered</u>	<u>Surcharge</u>
25 or less	\$.50
More than 25 but not more than 100	1.00
More than 100 but not more than 149	2.00
More than 149 but not more than 249	5.00
More than 249	8.00

Upon review of the staff proposal, the California Trucking Association has advised that "...Although we cannot agree with the staff allegations, ... we would accept their alternative suggestions in the interest of speedy disposition." The trucking association submits that a need for expedited action by the Commission is indicated since the increased gate fees have been in effect for some time and most contractual agreements with shippers preclude carriers from assessing charges higher than named in MRT 8.

The certificate of service shows that a copy of the original and amended petition was served on various interested shippers. The petition was also listed on the Commission's Daily Calendar of November 10 and 28, 1969. No objections to the granting of the sought ex parte relief, as amended, have been received.

In the circumstances, the Commission finds that:

1. The assessment of gate or entrance fees by the Golden Gate Produce Terminal and the San Francisco Produce Terminal against truck equipment of for-hire carriers transporting produce into said terminals constitutes an operating cost, provisions for the recovery of which should be made in Minimum Rate Tariff No. 8.

2. The established surcharges contained in Supplement 28 of Minimum Rate Tariff No. 8 are intended to return to the motor carrier the cost incurred in payment of gate or entrance fees at the produce terminals involved herein.

3. The present surcharges named in Supplement 28 of Minimum Rate Tariff No. 8 do not reflect the increases in the gate fees nor the changes in the package increments relating thereto which became effective October 6, 1969, at the Golden Gate and San Francisco Produce Terminals.

4. The surcharges resulting under petitioner's proposal would, in many instances, substantially exceed the gate fees actually collected by the produce terminals from the carriers.

5. The surcharges resulting under petitioner's proposal, as modified in staff Exhibit No. 1, will more closely approximate the gate fees actually collected by the produce terminals.

6. Petitioner's surcharge proposal, modified to reflect the alternative suggestions contained in the Commission's staff Exhibit No. 1, has been shown to be justified; and the resulting increased surcharges established in the order which follows are the just, reasonable and nondiscriminatory minimum surcharges for the transportation governed thereby.

7. To the extent that the provisions of Minimum Rate Tariff No. 8 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 adjusted, are, and will be, reasonable minimum rate provisions for said common carriers. To the extent that the existing rates and charges of said common carriers for the transportation involved are less in volume or effect than the minimum rate and charges herein designated as reasonable for said carriers, to the same extent the rates and charges of said carriers are hereby found to be, now and 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.

8. To the extent that Petition for Modification No. 73, as amended, has not been shown to be justified herein it should be denied.

We conclude that Petition for Modification No. 73, as amended and further modified by the Commission staff's alternative rate proposal, should be granted and Minimum Rate Tariff No. 8 amended accordingly by the order herein. A public hearing is not necessary.

In view of the fact that the increase in gate or entrance fees paid by the motor carriers at the Golden Gate and San Francisco Produce Terminals has been in effect for several months, common carriers will be authorized to establish the increased surcharges on not less than five days' notice to the Commission and to the public and the order herein shall be made effective on the date hereof.

IT IS ORDERED that:

1. Minimum Rate Tariff No. 8 (Appendix C of Decision No. 33977, as amended) is hereby further amended by incorporating therein, to become effective March 14, 1970, Supplement No. 29 attached hereto and by this reference made a part hereof.
2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision No. 33977, as amended, are hereby directed to establish in their tariffs the increase necessary to conform with the further adjustments ordered herein.
3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in Minimum Rate Tariff No. 8 are authorized to increase such rates by the same amounts authorized for Minimum Rate Tariff No. 8 rates herein.
4. Common carriers maintaining rates on the same level as Minimum Rate Tariff No. 8 rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff No. 8 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff No. 8 rates herein.
5. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff No. 8 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff No. 8 rates herein.
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 this order and may be made effective not earlier than the fifth day after the effective date of this order on not less

than five days' notice to the Commission and to the public and such tariff publications shall be made effective not later than March 14, 1970; and the tariff publications which are authorized but not required to be made by common carriers as a result of the order herein may be made effective not earlier than the fifth day after the effective date of this order, and may be made effective on not less than five 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 pages incorporated in this order.

7. 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.

8. To the extent not granted herein Petition for Modification No. 73, as amended, is denied.

9. In all other respects said Decision No. 33977, 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 10th day of FEBRUARY, 1970.

William J. Lyons
President

[Signature]

[Signature]
Vernon L. Sturgeon
Commissioners

SPECIAL INCREASE SUPPLEMENT

SUPPLEMENT 29

(CANCELS SUPPLEMENT NO. 28)

(Supplement 29 Contains All Changes)

TO

MINIMUM RATE TARIFF 8

NAMING

MINIMUM RATES AND RULES

FOR THE

TRANSPORTATION OF FRESH FRUITS,

FRESH VEGETABLES AND EMPTY

CONTAINERS OVER THE PUBLIC HIGHWAYS

BETWEEN POINTS IN THE STATE OF

CALIFORNIA AS DESCRIBED HEREIN

BY

RADIAL HIGHWAY COMMON CARRIERS

AND

HIGHWAY CONTRACT CARRIERS

APPLICATION OF SURCHARGES
(See Page 2 of This Supplement)

Decision No.

76777

EFFECTIVE

Issued by the
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
State Building, Civic Center
San Francisco, California 94102

APPLICATION OF SURCHARGES

The surcharges herein provided shall be in addition to all other rates, charges or surcharges provided by this tariff.

The surcharges provided herein apply only to shipments, or component parts of split delivery shipments, having point of destination within the GOLDEN GATE PRODUCE TERMINAL located at South San Francisco or the SAN FRANCISCO PRODUCE TERMINAL located at San Francisco (see Item 290 for descriptions).

Compute the amount of charges in accordance with the provisions of this tariff and increase the amount so computed by the following amounts:

<u>Packages or Pieces Delivered</u>	<u>Surcharge (See Note 1)</u>
25 or less-----	\$.50
More than 25 but not more than 100-----	1.00
More than 100 but not more than 149-----	2.00
More than 149 but not more than 249-----	5.00
More than 249-----	8.00

<u>*Shipments in Bulk (See Note 2)</u>	<u>Surcharge</u>
Less than 2,000 pounds-----	\$2.00
2,000 to 5,999 pounds inclusive-----	5.00
6,000 pounds or more-----	8.00

NOTE 1.--In the case of a shipment transported in multiple lots under the provisions of Item 185, the surcharge herein provided shall be determined by applying the table above separately to each single vehicle or train of vehicles transporting the shipment.

NOTE 2.--The term "shipment in bulk" as used in this supplement means shipments not in bags, sacks, packages, or other containers, except bins.

THE END

◊ Change)
 * Addition) Decision No. **76777**
 ◊ Increase)