

ORIGINAL

Decision No. 76795

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
Petition for Modification No. 561
(Filed October 31, 1969)

And Related Matters.

Cases Nos.
5435, 5439, 5441, 7783 and 7858
Petitions for Modification Nos.
135, 104, 178, 22 and 64
(Filed October 31, 1969)

Richard W. Smith, A. D. Poe, and H. P. Kollmyer, for
California Trucking Association, petitioner.
J. McSweeney, John Odoxta, Lee Pfister, Harold F.
Culy and A. W. Savage, for various respondents.
Vaughn, Paul & Lyons, by John G. Lyons, R. Canham, by
A. A. Wright, E. R. Chapman, Geoffrey B. Fink,
Earl W. Gerloff, Edward A. Guldaman, Maurice
J. Heverick, R. J. Kreps, Ronald P. McCloskey,
John T. Reed, C. R. Rehbock, Jack M. Sandell,
Robert J. Sullivan, Paul J. Wellnitz, Larry
Zaro and Robert K. Wallace, for various
protestants.
Kenneth C. Delaney, A. T. Eche, Ralph Hubbard, John
C. Jessup, Michael Kallas, N. I. Molaug, Tad
Muraoka, W. J. Newlove, W. Paul Tarter and G. C.
Willis, for various interested parties.
Robert E. Walker, for the Commission staff.

ORDER GRANTING MOTION FOR
PARTIAL DISMISSAL OF PETITIONS

Petitioner, the California Trucking Association, seeks
revision of certain minimum rate tariffs to reflect application of

C. 5432 (Pet. 561) et al. ds

Motor Carriers' Explosives and Dangerous Articles Tariff 13, Cal. P.U.C. 8 of American Trucking Associations, Inc., Agent, and other related matters. Public hearing on this matter was held before Examiner Gagnon at San Francisco on December 2, 1969. A further series of adjourned hearings are scheduled commencing February 24, 1970.

On January 21, 1970, the California Fertilizer Association, protestant, filed a motion for dismissal of that portion of the petitions wherein the California Trucking Association requests that the class rates named in Minimum Rate Tariff No. 2 be made applicable to movements of fertilizers, fungicides and insecticides which are required to be labeled under the rules of the aforesaid Dangerous Articles Tariff. Said commodities are now exempt from the minimum rate provisions of Minimum Rate Tariff No. 2.

Protestant argues that (1) petitioner's exhibits show no justification for removal of existing minimum rate exemptions and (2) the testimony of petitioner's witness shows no justification for the removal of existing minimum rate exemptions. Protestant concludes, therefore, that it should not be burdened with the time and expense of presenting evidence in opposition to that portion of petitioner's sought relief involved herein.

The California Trucking Association's direct evidence in support of its requested relief in Case No. 5432 (Petition for Modification No. 561) et al., has been received in evidence. Upon careful review of such evidence, the motion for dismissal and replies thereto, we find nothing of record that would compel us to remove and/or further restrict the minimum rate exemption provisions presently contained in Items 40 and 41 of Minimum Rate Tariff No. 2 for fertilizers, fungicides and insecticides. The motion for partial dismissal should be granted.

C. 5432 (Pet. 561) et al. ds

IT IS ORDERED that:

1. The motion of California Fertilizer Association, filed January 21, 1970, in Case No. 5432 (Petition for Modification No. 561) et al., is hereby granted.

2. The portion of petitioner's requested relief in Case No. 5432 (Petition for Modification No. 561) et al., pertaining to the removal and/or restriction of the established exemption provisions for fertilizers, fungicides and insecticides set forth in Items 40 and 41 of Minimum Rate Tariff No. 2 is hereby denied.

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

Dated at San Francisco, California, this 17th
day of FEBRUARY, 1970.

William J. Lyons, Jr.
President

Augusta

J. H. Brown

John J. Mc

Thomas L. Liberson
Commissioners