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Decision No. 78906

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
Petition No. 622
(Filed January 6, 1971;
Amended May 4, 1971)

AND RELATED MATTERS.

Case No. 5435
Petition No. 171
Case No. 5439
Petition No. 137
Case No. 5441
Petition No. 218

Richard W. Smith and A. D. Poe, Attorneys
at Law, and H. F. Kollmyer, for Cali-
fornia Trucking Association, petitioner.
Milton A. Walker, for Fibreboard Corpora-
tion; William D. Mayer, for Canners
League of California; Eustace O. Pate,
for MJB Company and Western Can Company;
Earl W. Gerloff, for Humble Oil and
Refining Co.; Jess J. Butcher, for Cal-
ifornia Manufacturers Association; and
Robert A. Kornel, for Pacific Gas and
Electric Company, interested parties.
Charles F. Gerughty, for the Commission staff.

O P I N I O N

The minimum class-rate tariffs issued by this Commission contain rules governing the application of rates on mixed shipments. The petitions herein, filed by California Trucking Association (CTA) originally sought cancellation of such rules and the substitution therefor of similar rules set forth in National Motor Freight Classification A-11 (Governing Classification). By amendments to the petitions, filed May 4, 1971, CTA seeks revision of the rules with respect to computation of rates on mixed shipments of commodities subject to different rates, and with respect to mixed intrastate and interstate shipments. CTA also seeks to make applicable Section 3 of Item 640 and Section 6 of Item 645 of the Governing Classification.

Public hearing was held and the matter submitted before Examiner Mallory on May 18, 1971 at San Francisco. Evidence was presented in support of the proposed tariff changes by representatives of CTA and Fibreboard Corporation. No one appeared in opposition to the relief sought.

Petitioner's witness testified as follows: The purpose of the petitions, as originally filed, was to make the minimum rate tariffs in question conform to the provisions of the Governing Classification, in conformance with and in furtherance of the Commission's classification policy enunciated in Re Adoption of National Motor Freight Classification A-10, 68 Cal. P.U.C. 445. CTA received many inquiries and opposition to the original proposal from shippers and carriers. This led to discussions between shippers and carriers for development of the revised proposals set forth in the amended petitions. CTA believes that the revised proposals meet with needs of both shippers and carriers and are satisfactory to both groups.

CTA's witness testified that the principal changes involved in its proposals deal with the method of determining rates on shipments containing commodities subject to different rates. Present tariff rules provide that when two or more commodities are included in the same shipment and separate weights thereof are

furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates used in computing the charges. The current rule further provides that when charges are computed on a higher minimum weight than the quantity actually shipped, any deficiency between actual weight of the shipment and the greater minimum weight shall be computed at the rate applicable to the lowest rated commodity in the shipment. CTA proposes that the following amendment be made:

"When charges are computed on a higher minimum weight than the quantity actually shipped, any deficiency between actual weight of the shipment and the greater minimum weight shall be computed at the rate applicable to the lowest rated commodity or commodities (if more than one commodity is subject to the same rate) in the shipment - provided the actual weight of such commodity or commodities aggregates ten percent (10%) of the actual weight of the shipment or 500 pounds, whichever is lower. If the aggregate actual weight of such lowest rated commodity or commodities does not total the required amount, the deficit weight shall be charged for at the commodity or commodities (if more than one commodity is subject to the same rate) in the shipment having the greatest aggregate actual weight."
(underscore = addition.)

CTA's witness presented Exhibit 622-1, which contains examples of shipments rated under present tariff rules. The examples show lower charges can be obtained when a small amount of low-rated and low-valued commodity is included in a mixed shipment, and deficit weights are subject to rates applicable to such commodity.¹ The

¹ The witness characterized this method of rating as "bag-of-salt" shipments, inasmuch as the inclusion of a bag of salt with a higher rated commodity can lower freight charges when deficit weights are involved.

witness stated that the establishment of a minimum amount of lower-rated freight in the shipment, such as proposed herein, would eliminate alleged abuses resulting from the present rule.

CTA's witness testified that the present method of determining rates for deficit weights on mixed shipments provides unreasonably low charges and is a method sometimes used to defeat the minimum rates; on the other hand, the minimum amounts set forth in the proposed rule are sufficient to protect the minimum rates without adversely affecting shippers.

A representative of Fibreboard Corporation testified in support of the amended petition. He stated that, in his view, the present method for determining the rates applicable to deficit weights in mixed shipments of differently rated commodities provides charges which are too low and, therefore, are detrimental to carriers; the pertinent mixed shipment provisions of the Governing Classification provide charges which are too high and, therefore, are unfair to shippers; and that the amended proposal herein is reasonably related to the costs underlying the minimum class rates, and is fair to both shippers and carriers.

In the circumstances, the Commission finds that the proposals contained in the amended petitions herein are reasonable and the resulting minimum rates and charges will be just, reasonable and nondiscriminatory minimum rates and charges for the transportation involved, and, to the extent that the proposals result in increases, such increases are justified. The Commission concludes that the petitions herein should be granted, except Petition No. 171 in Case No. 5435, which should be dismissed, inasmuch as Minimum Rate Tariff 5 has been canceled.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision No. 31606, as amended) is further amended by incorporating therein to become effective August 29, 1971, Sixteenth Revised Page 17 and Fourth

Revised Page 17-A attached hereto and by this reference made a part hereof.

2. Minimum Rate Tariff 1-B (Appendix B of Decision No. 65834, as amended) is hereby further amended by incorporating therein to become effective August 29, 1971, Second Revised Page 23 and First Revised Page 23-A, attached hereto and by this reference made a part hereof.

3. Minimum Rate Tariff 9-B (Appendix A to Decision No. 67766, as amended) is hereby further amended by incorporating therein to become effective August 29, 1971, Second Revised Page 30 and Original Page 30-A, attached hereto and by this reference made a part hereof.

4. Minimum Rate Tariff 19 (Appendix A of Decision No. 41363, as amended) is hereby further amended by incorporating therein to become effective August 29, 1971, Third Revised Page 22 and First Revised Page 22-A, attached hereto and by this reference made a part hereof.

5. Common carriers subject to the Public Utilities Act, to the extent that they are subject to Decisions Nos. 31606, 65834, 67766 and 41363, as amended, are hereby directed to establish in their tariffs the amendments necessary to conform with the further adjustments ordered 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 tenth day after the effective date of this order on not less than ten days' notice to the Commission and to the public; and 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 tenth day after the effective date of this order and may be made effective on not less than ten 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 amendments 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 amendments published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

8. In all other respects Decisions Nos. 31606, 65334, 67766 and 41363, as amended, shall remain in full force and effect.

9. Petition No. 171 in Case No. 5435 is dismissed.

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

Dated at San Francisco, California, this 13th day of JULY, 1971.

William J. ... Chairman
[Signature]
[Signature]
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

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

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">MIXED SHIPMENTS (Items 90 and 91)</p> <p style="text-align: center;">§(Exception to Section 2 of Item 640 and Sections 1, 2, 3 and 4 of Item 645 of the Governing Classification)</p> <ol style="list-style-type: none"> 1. The provisions of this item apply only in connection with the transportation of commodities for which rates are provided in this tariff. (See Exception) 2. When two or more commodities, for which different rates are provided, are shipped as a mixed shipment without actual weights being furnished or obtained for the portion shipped under the separate rates, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest rated commodity contained in such mixed shipment (see Paragraph 4 of this item for exception). 3. When two or more commodities are included in the same shipment and separate weights thereof are furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates used in computing the charges. In the event a lower charge results by considering such commodities as if they were divided into two or more separate shipments, such lower charge shall apply. §4. When charges are computed on a higher minimum weight than the quantity actually shipped, any deficiency between actual weight of the shipment and the greater minimum weight shall be computed at the rate applicable to the lowest rated commodity *or commodities (if more than one commodity is subject to the same rate) in the shipment provided the actual weight of such commodity or commodities aggregates ten percent (10%) of the actual weight of the shipment or 500 pounds, whichever is lower. If the aggregate actual weight of such lowest rated commodity or commodities does not total the required amount, the deficit weight shall be charged for at the rate applicable to the commodity or commodities (if more than one commodity is subject to the same rate) in the shipment having the greatest aggregate actual weight. 5. If lower charges result by applying specific mixture provisions of the Governing Classification or Exception Ratings Tariff than under other provisions of this item, such basis shall be used in determining the applicable charges. <p style="text-align: center;">(Continued in Item 91)</p>	<p>§90</p>
<p> § Change) * Addition) Decision No. 78906 ◊ Increase) </p>	
EFFECTIVE	
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">MIXED SHIPMENTS (Concluded) (Items 90 and 91)</p> <p>§EXCEPTION.--Commodities for which rates are named in this tariff may move in mixed shipments with commodities on which interstate rates are applicable, subject to the following provisions:</p> <p>§(a) All intrastate and interstate points of origin and destination must be located wholly within the geographical limits of the State of California. Intrastate portions of such shipments may not be combined with interstate portions moving on through interstate rates to points outside the State of California.</p> <p>§(b) The provisions of this exception shall apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one bill of lading on which are shown separately (1) for the intrastate portion and each component part thereof, and (2) for the interstate portion and each component part thereof, the name of each shipper and consignee, each point of origin and each point of destination, and the quantity, kind and weight of the property transported. The weight of the entire shipment shall also be shown.</p> <p>§(c) Charges on commodities for which rates are named in this tariff will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed (intrastate and interstate) shipment. The minimum weight shall be the highest provided for any of the intrastate rates used in computing the charges.</p> <p>§(d) The term "interstate" as used in this exception means interstate or foreign.</p>	<p>§91</p>
<p>§ Change, Decision No. 78906</p>	
<p>EFFECTIVE</p>	
<p>Correction</p>	<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">SHIPMENTS TO BE RATED SEPARATELY</p> <p>Rates named herein apply to single shipments of property. Two or more single shipments shall not be combined and billed as one shipment, but must be carried as separate shipments, and at rates not less than the established minimum rates for each shipment.</p> <p>When shipments are delivered to or received from other carriers, each bill of lading or freight bill shall be considered as a separate shipment and charges assessed accordingly.</p>	300
<p style="text-align: center;">MIXED SHIPMENTS (Items 320 and 320.5)</p> <p style="text-align: center;">(Exception to Section 2 of Item 640 and Sections 1, 2, 3, and 4 of Item 645 of the Governing Classification)</p> <ol style="list-style-type: none"> 1. The provisions of this item apply only in connection with the transportation of commodities for which rates are provided in this tariff. (See Exception). 2. When two or more commodities, for which different rates are provided, are shipped as a mixed shipment without actual weights being furnished or obtained for the portions shipped under the separate rates, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest rated commodity contained in such mixed shipment (see Paragraph 4 of Item 320.5 for exception). 3. When two or more commodities are included in the same shipment and separate weights thereof are furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates in computing the charges. In the event a lower charge results by considering such commodities as if they were divided into two or more separate shipments, such lower charge shall apply. <p style="text-align: center;">(Continued in Item 320.5)</p>	6320
<p>Change, Decision No. 78906</p>	
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SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">MIXED SHIPMENTS (Concluded) (Items 320 and 320.5)</p> <p>4. When charges are computed on a higher minimum weight than the quantity actually shipped, any deficiency between actual weight of the shipment and the greater minimum weight shall be computed at the rate applicable to the lowest rated commodity or commodities (if more than one commodity is subject to the same rate) in the shipment provided the actual weight of such commodity or commodities aggregates ten percent (10%) of the actual weight of the shipment or 500 pounds, whichever is lower. If the aggregate actual weight of such lowest rated commodity or commodities does not total the required amount, the deficit weight shall be charged for at the rate applicable to the commodity or commodities (if more than one commodity is subject to the same rate) in the shipment having the greatest aggregate actual weight.</p> <p>5. If lower charges result by applying specific mixture provisions of the Governing Classification or Exception Ratings Tariff than under other provisions of this item, such basis shall be used in determining the applicable charges.</p> <p>EXCEPTION.--Commodities for which rates are named in this tariff may move in mixed shipments with commodities on which interstate rates are applicable, subject to the following provisions:</p> <p>(a) All intrastate and interstate points of origin and destination must be located wholly within the geographical limits of the State of California. Intra-state portions of such shipments may not be combined with interstate portions moving on through interstate rates to points outside the State of California.</p> <p>(b) The provisions of this exception shall apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one bill of lading on which are shown separately (1) for the intrastate portion and each component part thereof, and (2) for the interstate portion and each component part thereof, the name of each shipper and consignee, each point of origin and point of destination, and the quantity, kind and weight of the property transported. The weight of the entire shipment shall also be shown.</p> <p>(c) Charges on commodities for which rates are named in this tariff will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed (intrastate and interstate) shipment. The minimum weight shall be the highest provided for any of the intrastate rates used in computing the charges.</p> <p>(d) The term "interstate" as used in this exception means interstate or foreign.</p>	<p>320.5</p>
<p> § Change) * Addition) Decision No. 78906 o Increase) </p>	
EFFECTIVE	
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">MIXED SHIPMENTS *(Items 220 and 221)</p> <p style="text-align: center;">(Exception to Section 2 of Item 640 and Sections 1, 2, 3 and 4 of Item 645 of the Governing Classification)</p> <ol style="list-style-type: none"> 1. The provisions of this item apply only in connection with the transportation of commodities for which rates are provided in this tariff. (See Exception) 2. When two or more commodities, for which different rates are provided, are shipped as a mixed shipment without actual weights being furnished or obtained for the portions shipped under the separate rates, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest rated commodity contained in such mixed shipment (see Paragraph 4 of this item for exception). 3. When two or more commodities are included in the same shipment and separate weights thereof are furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates used in computing the charges. In the event a lower charge results by considering such commodities as if they were divided into two or more separate shipments, such lower charge shall apply. 4. When charges are computed on a higher minimum weight than the quantity actually shipped, any deficiency between actual weight of the shipment and the greater minimum weight shall be computed at the rate applicable to the lowest rated commodity *or commodities (if more than one commodity is subject to the same rate) in the shipment provided the actual weight of such commodity or commodities aggregates ten percent (10%) of the actual weight of the shipment or 500 pounds, whichever is lower. If the aggregate actual weight of such lowest rated commodity or commodities does not total the required amount, the deficit weight shall be charged for at the rate applicable to the commodity or commodities (if more than one commodity is subject to the same rate) in the shipment having the greatest aggregate actual weight. 5. If lower charges result by applying specific mixture provisions of the Governing Classification or Exception Ratings Tariff than under other provisions of this item, such basis shall be used in determining the applicable charges. <p style="text-align: center;">(Continued in Item 221)</p>	<p>220</p>
<p>(1) Certain tariff provisions shown on this page transferred to Original Page 30-A.</p>	
<p>o Change) * Addition) Decision No. o Increase)</p>	<p>78906</p>
<p>EFFECTIVE</p>	
<p>Correction</p>	<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;">MIXED SHIPMENTS (Concluded) (Items 220 and 221)</p> <p>EXCEPTION.--Commodities for which rates are named in this tariff may move in mixed shipments with commodities on which interstate rates are applicable, subject to the following provisions:</p> <p>(a) All intrastate and interstate points of origin and destination must be located wholly within the geographical limits of the State of California. Intrastate portions of such shipments may not be combined with interstate portions moving on through interstate rates to points outside the State of California.</p> <p>(b) The provisions of this exception shall apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one shipping document on which are shown separately (1) for the intrastate portion and each component part hereof, and (2) for the interstate portion and each component part thereof, the name of each shipper and consignee, each point of origin and point of destination, and the quantity, kind and weight of the property transported. The weight of the entire shipment shall also be shown.</p> <p>(c) Charges on commodities for which rates are named in this tariff will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed (intrastate and interstate) shipment. The minimum weight shall be the highest provided for any of the intrastate rates used in computing the charges.</p> <p>(d) The term "interstate" as used in this exception means interstate or foreign.</p>	*221
<p>(1) Tariff provisions transferred from First Revised Page 30.</p> <p> ⚡ Change) * Addition) Decision No. 78906 </p>	
EFFECTIVE	
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SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">MIXED SHIPMENTS (Items 210 and 211)</p> <p style="text-align: center;">⊘(Exception to Section 2 of Item 640 and Sections 1, 2, 3 and 4 of Item 645 of the Governing Classification)</p> <ol style="list-style-type: none"> 1. The provisions of this item apply only in connection with the transportation of commodities for which rates are provided in this tariff. (See Exception) 2. When two or more commodities, for which different rates are provided, are shipped as a mixed shipment without actual weights being furnished or obtained for the portions shipped under the separate rates, charges for the entire shipment will be computed at the class or commodity rate applicable to the highest rated commodity contained in such mixed shipment (See Paragraph 4 of this item for exception). 3. When two or more commodities are included in the same shipment and separate weights thereof are furnished or obtained, charges will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed shipment. The minimum weight shall be the highest provided for any of the rates used in computing the charges. In the event a lower charge results by considering such commodities as if they were divided into two or more separate shipments, such lower charge shall apply. ⊘4. When charges are computed on a higher minimum weight than the quantity actually shipped, any deficiency between actual weight of the shipment and the greater minimum weight shall be computed at the rate applicable to the lowest rated commodity *or commodities (if more than one commodity is subject to the same rate) in the shipment provided the actual weight of such commodity or commodities aggregates ten percent (10%) of the actual weight of the shipment or 500 pounds, whichever is lower. If the aggregate actual weight of such lowest rated commodity or commodities does not total the required amount, the deficit weight shall be charged for at the rate applicable to the commodity or commodities (if more than one commodity is subject to the same rate) in the shipment having the greatest aggregate actual weight. 5. If lower charges result by applying specific mixture provisions of the Governing Classification or Exception Ratings Tariff than under other provisions of this item, such basis shall be used in determining the applicable charges. <p style="text-align: center;">(Continued in Item 211)</p>	<p>⊘210</p>
<p>⊘ Change) * Addition) Decision No. 78906 ⊘ Increase)</p>	
EFFECTIVE	
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SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">MIXED SHIPMENTS (Concluded) (Items 210 and 211)</p> <p>§EXCEPTION.--Commodities for which rates are named in this tariff, may move in mixed shipments with commodities on which interstate rates are applicable subject to the following provisions:</p> <p>§(a) All intrastate and interstate points of origin and destination must be located wholly within the geographical limits of the State of California. Intrastate portions of such shipments may not be combined with interstate portions moving on through interstate rates to points outside the State of California.</p> <p>§(b) The provisions of this exception shall apply only when both the intrastate and interstate portions move under a single contract of carriage embodied in one bill of lading on which are shown separately (1) for the intrastate portion and each component part thereof, and (2) for the interstate portion and each component part thereof, the name of each shipper and consignee, each point of origin and point of destination, and the quantity, kind and weight of the property transported. The weight of the entire shipment shall also be shown.</p> <p>§(c) Charges on commodities for which rates are named in this tariff will be computed at the separate rates applicable to such commodities in straight shipments of the combined weight of the mixed (intrastate and interstate) shipment. The minimum weight shall be the highest provided for any of the intrastate rates used in computing the charges.</p> <p>§(d) The term "interstate" as used in this exception means interstate or foreign.</p>	6211
<p>§ Change, Decision No. 78906</p>	
<p>EFFECTIVE</p>	
<p>Correction</p>	<p>ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>