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ORIGINAL

Decision No. 79332

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. 667
(Filed August 19, 1971;
Amended October 22, 1971)

OPINION AND ORDER

Minimum Rate Tariff 2 (MRT 2) contains minimum class and commodity rates which govern the highway transportation of general commodities within California. Except as otherwise specifically provided in MRT 2, the class rates named in said tariff are subject to the class ratings and rules set forth in the National Motor Freight Classification A-12 (NMFC A-12). Item 318 of MRT 2 contains provisions which are exceptions to those named in the governing classification for the transportation of certain reinforced concrete products as described in Items 32020 and 32690 of NMFC A-12. Said exception ratings are scheduled to expire with December 31, 1971.

Item 318 of MRT 2 was initially scheduled to expire on December 31, 1970, but said expiration date was extended to June 30, 1971, and finally to December 31, 1971, pursuant to Decisions Nos. 78069 and 78817, respectively, in Case No. 5432. The exception ratings for reinforced concrete products were continued in effect in order to provide additional time for shippers and carriers to complete their studies.

The petitioner, Prestressed Concrete Manufacturers Association of California, Inc., states that further discussions have been held with carriers and with a firm of certified public accountants.

which specializes in motor carrier cost analysis. It has been determined that, in order to establish statewide minimum rates on the various categories of commodities included in Item 318 of MRT 2, a cost study of the operations of most, if not all, of the carriers presently transporting these commodities needs to be made. The petitioner explains that the records of such carriers are not available in sufficient depth either to petitioner or to firms specializing in the making of cost studies which could be employed by petitioner to determine accurate costs from which reasonable minimum rates could be projected. Under these circumstances, the petitioner states that discussions between carriers and shippers have not led to a mutually agreeable level of permanent exception ratings to govern the transportation in question.

It is alleged in the petition that the conferences between carriers and petitioner have resulted in the following conclusions to date:

- "(a) It is impractical for petitioner to determine accurate state-wide costs for the transportation of prestressed concrete articles for which ratings are presently set forth in Item 318 of Minimum Rate Tariff No. 2.
- "(b) To allow existing exception ratings to expire would require that all involved commodities would move at Class 35.
- "(c) To apply Class 35 to all commodities would result in the piling and the tile or slab to be required to be moved at a rate in excess of a reasonable rate. This would cause firms with sufficient volume to engage in proprietary transportation in order to bring their costs down to a reasonable level while at the same time firms with a lesser volume would be forced to pay the Class 35 rates, thus damaging them by their inability to compete with the newly established proprietary operations. Such an arrangement is not satisfactory to either petitioner or to the involved carriers.
- "(d) While the level of ratings presently published in Item 318 is not truly satisfactory to either applicant or to the involved carriers, it is preferable to the application of Class 35 to all involved articles."

In the light of the conclusions noted above, petitioner now requests the following Commission action:

"(a) Modification of Item 318 of M.R.T. No. 2 as shown in Exhibit 'A' attached to Petition 667. The changes proposed are to insure that exception ratings will in all cases supplant classification ratings.

"(b) Elimination of the present expiration date of December 31, 1971 and substitution of an expiration date of December 31, 1972.

"(c) That the Commission undertake a study of the cost of transportation of the involved commodities and as a result of such study establish a reasonable level of minimum rates for the transportation thereof throughout the State."

Petitioner urges that the Commission now issue its ex parte order revising the existing provisions of Item 318 of MRT 2 as shown in Exhibit A attached to the petition and extend the expiration date of said tariff item to December 31, 1972. Petition 667 is devoid of any justification for the sought establishment of a level of punitive exception ratings higher than currently provided in Item 318 of MRT 2 and/or the otherwise governing classification. In essence, the petition alleges that while the level of the exception ratings presently published in Item 318 is not truly satisfactory to either applicant or the involved carriers, said exception ratings are preferable, pending requested staff studies, to the otherwise applicable Class 35 named in NMFC A-12.

The petition alleges that joint shipper-carrier efforts have failed to develop mutually agreeable permanent exception ratings to replace the current temporary ratings for prestressed concrete products named in Item 318 of MRT 2. Petitioner seems to be of the opinion that the Commission staff may succeed where the shipper-carrier interests have failed in the development of information necessary to determine appropriate class ratings for prestressed concrete products. The alleged inability of the shippers and carriers involved to come to a mutual agreement over their common problem certainly does not

establish an atmosphere conducive to insuring that a mutually agreeable rate proposal will ensue from any source of study. The petition is also silent as to what consideration, if any, was given to the procedure for effecting classification changes suggested in Decision No. 67610 of July 28, 1964 (63 Cal. P.U.C. 170).

The petition demonstrates a need for further evaluation and study of the transportation characteristics surrounding the movement of prestressed concrete products under the temporary exception ratings named in Item 318 of MRT 2. It is apparent that final disposition of the existing temporary exception rating cannot be accomplished prior to December 31, 1971. The petitioner's sought extension of time has been shown to be in the public interest and should be adopted.

The certificate of service indicates that a copy of the petition was mailed to the California Trucking Association on August 18, 1971. The petition was also listed on the Commission's Daily Calendar of August 20, 1971. No objection to the granting of the petition has been received.

In the circumstances, the Commission finds that:

1. The petitioner's sought increase in the level of the temporary exception ratings contained in Item 318 of Minimum Rate Tariff 2 has not been shown to be reasonable nor justified.

2. The sought extension of the expiration date of Item 318 of Minimum Rate Tariff 2 will afford the shippers, receivers, carriers and the Commission's staff additional time for further review of the minimum rates governing shipments of prestressed concrete products. Petitioner's request for a one-year extension of the existing expiration date of December 31, 1971, is just and reasonable and should be granted.

The Commission concludes that petitioner's sought extension of expiration date should be granted and Item 318 of Minimum Rate Tariff 2 amended accordingly; whereas Petition 667 should be denied with respect to the remainder of the relief sought therein.

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 January 1, 1972, Twelfth Revised Page 30-3, 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 to Decision No. 31606, as amended, are hereby directed to establish in their tariffs the amendments necessary to conform with the further adjustments ordered herein.

3. 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 ten days 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 ten days 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 page incorporated in this order.

4. 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.

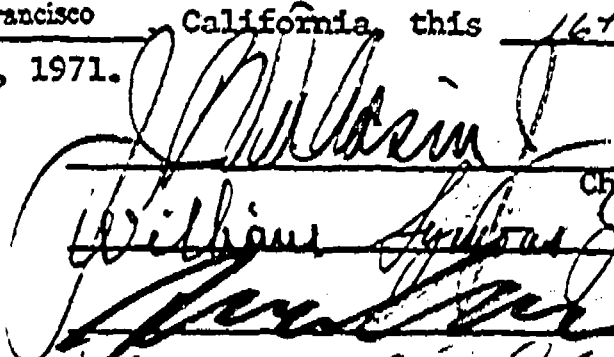
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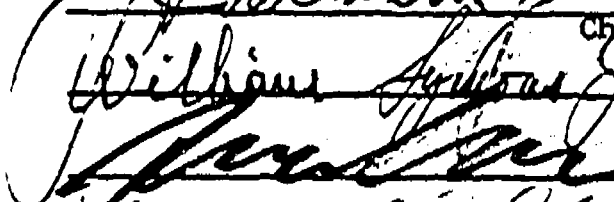
5. In all other respects Decision No. 31606, as amended, shall remain in full force and effect.


6. To the extent not granted herein, Petition for Modification No. 667, as amended, is hereby denied.


The effective date of this order shall be December 20, 1971.


Dated at San Francisco, California, this 16th day of NOVEMBER, 1971.



Chairman








Commissioners

SECTION 1--RULES OF GENERAL APPLICATION (Continued)		ITEM
EXCEPTIONS TO GOVERNING CLASSIFICATION AND EXCEPTION RATINGS TARIFF (Continued) (Numbers within parentheses immediately following commodities shown below refer to such commodities as they are described in the corresponding item numbers of the Governing Classification.)	§(1) CLASS RATING	
	Column 1	Column 2
Beams, Channels, Columns, Girders or Joists, reinforced concrete (32020)-	35	374
Piling, cement or concrete (32020)-----	35.4	35.3
Tile or Slab, building or roofing, reinforced concrete (32690)		
With corkboard, fibreboard or plasterboard insulation-----	35.3	35.2
With glass insertions-----	35.3	35.2
Without glass insertions or corkboard, fibreboard or plasterboard insulation-----	35.4	35.3
Minimum weight 45,000 pounds		
Column 1 ratings do not apply to permit shipments as defined in Item 11.		
Column 2 ratings apply to permit shipments as defined in Item 11.		
(1) Subject to Notes 1 through 4.		
NOTE 1.--Applies only when all provisions of the following Notes are met. Otherwise, apply provisions of the Governing Classification.		
NOTE 2.--Applies only in connection with prepaid shipments released to one-half actual value or 50 cents per pound, per article, whichever is less. Shipper must enter the following statement on the bill of lading or shipping document as follows: "The agreed or declared value of the property is hereby specifically stated by the shipper to be one-half of actual value or 50¢ per pound, per article, whichever is less."		
If shipper fails or declines to declare such value in writing, the provisions of this item will not apply.		
NOTE 3.--Applies only in connection with shipments loaded by consignor and unloaded by consignee with power equipment, as described in Item 11, furnished and used without expense to the carrier.		
NOTE 4.--If more than one vehicle or combination of vehicles constituting a single unit of carrier's equipment is used for the transportation of a single shipment, each such vehicle or combination of vehicles shall be subject to the highest minimum weight applicable to any rate used in computing charges.		
§(E) 318		
§(E) Expires with December 31, 1972.		
§ Change, Decision No. 79332		
EFFECTIVE JANUARY 1, 1972		
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA		
Correction		