

ORIGINAL

Decision No. 79476

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 com- )  
modities 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. 668  
(Filed August 24, 1971;  
Amended October 21, 1971)

Jess J. Butcher, for California Manufacturers  
Association, petitioner.

Al Schorno, Joe MacDonald, John McSweeney and  
Hugh D. Brown, for various highway carrier  
respondents.

Richard W. Smith and A. D. Poe, Attorneys at  
Law, H. F. Kollmyer, Wayne R. Tinker, Harvey  
E. Hamilton, Vernon Hampton, Robert A. Kormel,  
W. A. Main, Attorney at Law, G. B. Fink,  
Harold Sumerfield, Edward A. Guldaman, Kenneth C.  
O'Brien, Russell D. Miebe, James K. Towne,  
Edward F. Fetzer, and Charles H. Caterino, for  
various interested parties.

Gary E. Haas, for the Commission staff.

### O P I N I O N

The minimum rates and rules named in Minimum Rate Tariff 2 (MRT 2) govern the intercity highway transportation of property in California. Item 292 of the tariff contains provisions for the application of volume incentive rates which are lower, when certain prescribed tariff conditions are observed, than the rates applicable under the otherwise governing rules of MRT 2. The volume incentive provisions set forth in Item 292 are scheduled to expire with December 31, 1971. By Petition 668, as amended, the California

Manufacturers Association seeks to have the application of Item 292 extended to December 31, 1972. In addition, the petition also proposes the establishment of a new tariff rule in MRT 2 providing for the application of special volume incentive rates which would be lower, under certain specified conditions, than the rates resulting under the current provisions of Item 292 of the tariff.

Public hearing was held before Examiner Gagnon at San Francisco on November 3, 1971. At the hearing the California Trucking Association presented a motion, which it had previously filed with the Commission, requesting an interim order extending the expiration date of Item 292 of MRT 2 to December 31, 1972, pending final disposition of the instant proceeding. The petitioner, on the other hand, withdrew its request for the establishment of a new special volume incentive service rule. The only remaining issue to be resolved in this proceeding concerns the sought further extension of Item 292 of MRT 2.

Although petitioner requests that the December 31, 1971 expiration date of Item 292 be extended for another year, several of its shipper witnesses urged that the volume incentive rate provisions in question be continued on a permanent basis. While other shipper witnesses testified in support of petitioner's sought temporary relief, they raised no objection to the continued publication of the current volume incentive rate provisions on a permanent basis. The Commission's Transportation Division staff also recommends that the application of Item 292 of MRT 2 be continued in effect without being subject to an expiration date. The California Trucking Association supports the temporary extension of the existing volume incentive rate provisions pending completion of full-scale cost and rate studies conducted by the staff and the trucking association.

The current volume incentive rate provisions contained in Item 292 of MRT 2 were initially established some eight years ago on a temporary experimental basis. Since that time the application

of such tariff provisions has been extended on a year-to-year basis. Said extension of expiration dates was authorized in order to afford both shippers and carriers every opportunity to develop empirical knowledge concerning the volume incentive rate provisions in question. Thereafter, it was expected that the parties would come forward with conclusive evidence concerning final disposition of the existing temporary volume incentive rate provisions. To date, no such probative evidence has been forthcoming and none is assured in the immediate future. With respect to the contemplated MRT 2 full-scale cost and rate studies, it may be stated that all provisions of said tariff are equally involved and subject to possible revisions. In the event it is deemed necessary to seek changes in any of the tariff provisions contained in MRT 2, such relief can readily be sought by the mere filing of an appropriate petition. Finally, it may be stated that the successive extension of temporary tariff provisions over a prolonged period of time, such as in the matter involved herein, serves no useful purpose, is misleading as to the real permanent nature of the tariff item involved, and frequently reflects an expensive misuse of the Commission's procedural time and energy.

In the circumstances, the Commission finds that the application of the volume incentive rate provisions, previously found to be just and reasonable, as presently set forth in Item 292 of MRT 2, should be continued in effect without being subject to an expiration date. It is concluded that Petition for Modification No. 668, as amended, and the motion of the California Trucking Association should be granted, except for the retention of an expiration date in connection with the provisions of Item 292 of Minimum Rate Tariff 2.

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 January 1, 1972, Thirteenth Revised Page 29-A, 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, and currently maintain in their tariffs the provisions involved herein, are hereby directed to establish in said tariffs the amendments necessary to conform with the further adjustments ordered herein.

3. Tariff publications required or authorized 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; such tariff publications as are required shall be made effective not later than January 1, 1972; and as to tariff publications which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

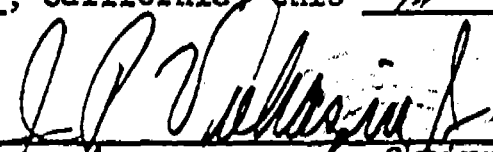
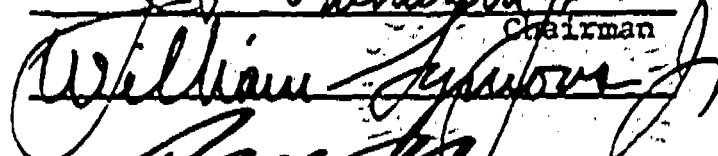
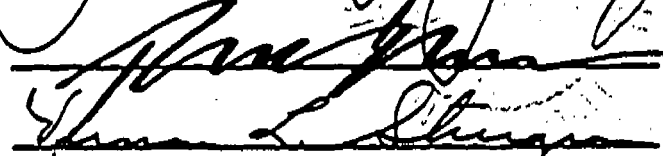

4. Common carriers, in establishing and maintaining the rates authorized hereinabove, are hereby authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such 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.

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. 668, as amended, and the motion of the California Trucking Association are hereby denied.

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

Dated at Los Angeles, California, this 11th  
day of DECEMBER, 1971.

  
Chairman  
  
  
  
Commissioners

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM																
EXCEPTIONS TO GOVERNING CLASSIFICATION AND SECTION 2 OF THE EXCEPTION RATINGS TARIFF																	
<p style="text-align: center;">VOLUME INCENTIVE SERVICE APPLICATION OF RATES (Applies only when reference is made hereto)</p> <p>(a) Rates in this item shall apply only on prepaid shipments when the bill of lading is annotated by shipper certifying that the shipment meets the requirements of this item and requesting volume incentive service. Rates in this item do not apply to:</p> <ol style="list-style-type: none"> <li>Shipments which require temperature control service, split pickup or delivery service, collect on delivery (C.O.D.) or order notify service, or which have origin or destination on steamship docks or oilwell sites; nor</li> <li>Shipments moving on government bill of lading; nor</li> <li>Shipments which are not loaded in their entirety during one calendar day; nor</li> <li>Shipments subject to Items 85, 90, 91 or 365.</li> </ol> <p>(b) The charge for service under the provisions of this item shall be determined and applied as follows:</p> <ol style="list-style-type: none"> <li>Determine the applicable classification truckload rating as provided in the Governing Classification and Sections 2-B and 2-C of the Exception Ratings Tariff for the shipment; and</li> <li>Multiply the actual weight of the shipment (but not less than 45,000 pounds per unit of carrier's equipment used) by the applicable rate provided for the next lower rating as provided in paragraph (b) 4. (See Exception)</li> </ol> <p style="text-align: center;">EXCEPTION.--Rate shall also apply to a shipment weighing less than 45,000 pounds provided the charges are computed on a weight of not less than 45,000 pounds per unit of carrier's equipment.</p> <ol style="list-style-type: none"> <li>In no event shall the charge so determined be less than the charge for 50,000 pounds at the Class 35.4 rate.</li> <li>The applicable next lower rating shall be as follows:</li> </ol> <table border="0" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">When the applicable rating is class:</th><th style="text-align: center;">The next lower rating to be applied shall be class:</th></tr> </thead> <tbody> <tr><td style="text-align: center;">45</td><td style="text-align: center;">40</td></tr> <tr><td style="text-align: center;">40</td><td style="text-align: center;">37½</td></tr> <tr><td style="text-align: center;">37½</td><td style="text-align: center;">35</td></tr> <tr><td style="text-align: center;">35</td><td style="text-align: center;">35.1</td></tr> <tr><td style="text-align: center;">35.1</td><td style="text-align: center;">35.2</td></tr> <tr><td style="text-align: center;">35.2</td><td style="text-align: center;">35.3</td></tr> <tr><td style="text-align: center;">35.3</td><td style="text-align: center;">35.4</td></tr> </tbody> </table> <p>(c) Rates provided in this item do not alternate with other rates and charges in this tariff and rates provided in this item may not be used in combination with any other rates.</p>	When the applicable rating is class:	The next lower rating to be applied shall be class:	45	40	40	37½	37½	35	35	35.1	35.1	35.2	35.2	35.3	35.3	35.4	6 292
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*** o Change ) o Reduction ) ** Expiration date ) Decision No. 79474 eliminated )																	
EFFECTIVE																	
Correction	ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.																