

ORIGINAL

Decision No. 79902

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 highway carriers relating to  
the transportation of fresh or green  
fruits and vegetables and related  
items (commodities for which rates  
are provided in Minimum Rate  
Tariff 8).

Case No. 5438  
Petition for Modification  
No. 80  
(Filed November 10, 1970;  
Amended February 4 and 22,  
1971; also December 15 and  
30, 1971)

THIRD INTERIM OPINION AND ORDER

The minimum rates governing the highway transportation of fresh fruits and vegetables within California are set forth in Minimum Rate Tariff 8 (MRT 8). Supplement 32 of said tariff provides, with certain exceptions, that the freight charges resulting under the tariff shall be subject to surcharges of 14 percent when such charges are predicated upon a minimum weight of 20,000 pounds or more; and 16 percent on all other rates and charges.<sup>1/</sup> In its Fourth Amendment to Petition 80, the California Trucking Association (CTA) requests that the aforementioned surcharges be increased approximately 5 percent to a single surcharge of 20 percent, pending completion of contemplated full-scale cost and rate economic studies by the Commission's Transportation Division staff.

The present MRT 8 surcharges were last adjusted on May 29, 1971 pursuant to Interim Decision No. 78595 in this proceeding. Such surcharges are scheduled to expire with April 1, 1972. The petitioner

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<sup>1/</sup> The surcharges, initially scheduled to expire with December 31, 1970, were extended to July 1, 1971 (Decision No. 78108) and April 1, 1972 (Decision No. 78595) in this proceeding.

states that interested shippers and carriers have continued to meet and discuss revisions necessary to reflect changing circumstances in the transportation of fresh fruits and vegetables. The interested parties are basically those entitled the "carrier-shipper" group by the Commission in Decision No. 68921 (64 Cal. P.U.C. 251). The CTA's present interim proposal was developed following discussions with said group.

The carrier-shipper group concluded that any proposed tariff adjustment should reflect: "due consideration of our national economic stabilization program; minimal disruption of marketing practices during the heavy produce season; and application of rates and charges on an equitable basis pending completion of studies to produce more specific rates". Normal and ordinary procedures of rate adjustment through cost-offset proceedings are deemed inadequate by the CTA. In the circumstances, CTA urges that its proposed increase be granted ex parte.

Justification for CTA's sought relief is set forth in an affidavit prepared by the Director of CTA's Transportation Economics Division and submitted as Exhibit B attached to the Fourth Amendment of Petition 80. The affiant makes reference to Interim Decision No. 78595 in this proceeding relative to the following motion and subsequent Commission ruling thereon:

- "1. The California Farm Bureau Federation moves that Petition 80, as amended, be adjourned to a date to be set and removed from the Commission's calendar.
- "2. The California Farm Bureau Federation desires time to (1) analyze the additional increases sought by petitioner in its amended petition; and (2) to confer with the Commission staff relative to an investigation into the produce carriers' unloading practices in the various produce markets in California. The objective of the investigation would be directed toward the elimination of unloading cost factors from the current MRT 8 individual rates and, in lieu thereof, the publication of tariff provisions containing separate unloading charges, if it be shown that the shipper does, and should, directly or indirectly pay for unloading charges.

- "3. Receipt of further direct evidence and all cross-examination by interested parties be deferred until such time as studies have been completed.
- "4. The California Farm Bureau Federation believes that petitioner has justified...an increase of 6 and 7 percent over the present MRT 8 surcharges...
- "5. The California Farm Bureau Federation recommends an immediate increase in the present MRT 8 interim surcharges of 8 and 9 percent to 14 and 16 percent...
- "The motion...was supported by the California Grape & Tree Fruit League, the Western Growers Association and Safeway Stores, Inc. The California Trucking Association also agreed to the motion if the proceeding was adjourned to a date certain and Commission staff directed to study the problem area...."

In granting the aforementioned motion, the Commission found that its staff should confer with interested parties relative to an investigation into the produce carriers' unloading practices at the various produce markets in California. Responsive to said directive, the staff notified interested parties on September 13, 1971 that the phase of its full-scale studies pertaining to produce carriers' unloading practices at produce terminals would be "started in January, 1972, with an anticipated completion date of December, 1972, and distribution to the parties planned for early 1973." It is also understood that other elements of the staff's full-scale study will be programmed for mid-1972, with completion a year later.

Pending completion of the aforementioned staff studies, the affidavit of the CTA director states the carriers cannot continue to provide necessary services under the existing level of MRT 8 rates and current operating costs. The director notes that the charges resulting under current MRT 3 rates, plus the surcharges established by Decision No. 78595, reflect labor cost levels as of January 1, 1971. As of July 1, 1971 the director explains that the produce carriers were required to increase the basic hourly rates paid their employees, under existing Teamster contracts, by 33 cents per hour.

On January 1, 1972 said labor contracts provide for an additional 25 cents per hour plus a \$1 increase in employer contributions to pension and health and welfare funds. The affidavit also refers to increases in related payroll taxes, including the application of the California sales tax on gasoline as of July 1, 1972. In Schedule IV of the affidavit it is indicated that the January 1, 1971 total hourly labor costs for typical classes of employers transporting commodities subject to MRT 8 have increased approximately 12 percent as of January 1, 1972.

The Director for CTA's Transportation Economics Division avers that the sought increase will not return to the carriers revenues sufficient to offset fully the increased wage and allied payroll costs experienced by the carriers as of January 1, 1972. The carrier-shipper group has assertedly fully considered other conditions affecting their particular industry in the immediate future. It is their desire that only a minimum increase in MRT 8 rates and charges, necessary to provide the required service and remain within the guidelines of current national economic stabilization policies, be authorized in this proceeding. The CTA director contends that all increases in costs involved herein have, or will, become effective under present economic stabilization regulations of the Federal Government. He further states that the offsetting rate increases proposed in this phase of the proceeding have been developed from, and satisfy, the Federal Government's Price Commission guidelines.

Petitioner's affiant also avers that of equal significance to the relief sought herein is the timing of increases or changes in tariff structure to produce the least distortion to the marketing and distribution patterns during the heavy agricultural season. Petitioner's request to make the proposed increase effective February 1, 1972 will assertedly produce such result.

The California Farm Bureau Federation has informed the Commission that the relief sought in the Fourth Amendment to

Petition 80 was the result of discussions held between shippers and carriers of commodities subject to MRT 8. The parties participating in the discussions were those referred to as the "carrier-shipper" group in Decision No. 68921. It is understood that said carrier-shipper group supports the granting of the relief sought herein by ex parte order, effective February 1, 1972.

The certificate of service shows that the Fourth Amendment to Petition 80 was served upon all the parties of original service including representatives of produce growers, dealers and traffic services. Said amendment was also listed on the Commission's Daily Calendar of January 3, 1972. No protests have been received relative to the further interim ex parte relief sought herein.

In the circumstances, the Commission finds that:

1. Supplement 32 to Minimum Rate Tariff 8 provides, with certain exceptions, for freight charges, computed in accordance with the rates and rules named in said tariff, to be increased by the application of the following interim surcharges:

- (a) By fourteen percent (14%) on all charges computed upon rates which are subject to minimum weights of 20,000 pounds, and greater; and
- (b) By sixteen percent (16%) on all other rates and charges.

2. The surcharges contained in Supplement 32 of Minimum Rate Tariff 8 were established by Interim Decision No. 78595 in this proceeding and reflect labor cost levels as of January 1, 1971.

3. Since the present level of surcharges was established in Supplement 32 of Minimum Rate Tariff 8, the underlying wage costs and allied payroll expenses of the produce carriers have increased by approximately 12 percent as of January 1, 1972.

4. Petitioner, together with supporting produce shippers, recommends that the current surcharges named in Supplement 32 of Minimum Rate Tariff 8 be increased by the minimum amount necessary to continue the required transportation service; said increase being within the guidelines of the Federal Government's current national economic stabilization program.

5. The sought increase of approximately 5 percent in the existing surcharges involved herein, while sufficient to assure continuation of the required service, will not return to the produce carriers revenues sufficient to offset fully the increases in labor costs experienced by such carriers as of January 1, 1972. The Commission's staff estimates that the sought 5 percent increase in tariff surcharges will yield approximately \$1,490,000 per year.

6. The establishment of the proposed surcharge of 20 percent, in lieu of the current surcharges of 14 and 16 percent referred to in Finding 1 hereof, will not contribute to inflationary expectations, is consistent with the guidelines of the Federal Government's economic stabilization program, within the lower zone of reasonableness, and is justified by transportation conditions.

The Commission concludes that the interim relief sought in the Fourth Amendment to Petition 80 should be granted and Minimum Rate Tariff 8 should be amended by the publication of an appropriate surcharge supplement. Said tariff publication should be made effective on the earliest feasible date in order to be uniformly applied during the forthcoming harvest season of California produce. It is also concluded that, since full-scale staff studies have now been definitely scheduled, the relief sought herein should be granted without reference to an expiration date.

INTERIM ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff 8 (Appendix C of Decision No. 33977, as amended) is hereby further amended by incorporating therein, to become effective April 22, 1972, Supplement 34, 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 increases 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 8 are authorized to increase such rates by the same amounts authorized for Minimum Rate Tariff 8 rates herein.

4. Common carriers maintaining rates on the same level as Minimum Rate Tariff 8 rates for the transportation of commodities and/or for transportation not subject to Minimum Rate Tariff 8 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff 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 8 are authorized to increase said rates by the same amounts authorized for Minimum Rate Tariff 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 April 22, 1972; 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.

C. 5438, Pet. 80 jmd\*

8. Final disposition of Petition 80, as amended, in Case No. 5438, shall be deferred pending completion of the coordinated studies contemplated herein or as otherwise ordered by the Commission. ✓

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 14th day of APRIL, 1972.

*J. B. Miller, Jr., Chairman*  
*I dissent*

*William J. Symons* Chairman  
*Vernon L. Sturgeon*  
*Commissioners*



## SUPPLEMENT 34

(CANCELS SUPPLEMENT 33)

(Supplements 29 and 34 Contain 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)

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EFFECTIVE

APPLICATION OF SURCHARGES

Except as otherwise provided, compute the amount of charges in accordance with the rates and rules in this tariff and increase the amount so computed by twenty (20) percent (See Exception).

EXCEPTION.--The surcharges herein shall not apply to deductions from rates or to Collect on Delivery (C.O.D.) services, nor to surcharges applicable to deliveries at Golden Gate Produce Terminal and to San Francisco Produce Terminal as set forth in Supplement 29.

THE END

◊ Increase, Decision No.

79902