

Decision No. 80837

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 highway 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. 719
(Filed October 24, 1972)

INTERIM OPINION AND ORDER

By the above petition, Cannery League of California seeks an extension of the expiration date of Item 45 of Minimum Rate Tariff 2 from December 31, 1972 to December 31, 1973. Item 45 provides for free return of empty pallets within a defined mileage radius when certain conditions specified in the item are met.

Petitioner declares that the provisions for free return of empty pallets were originally published in 1966 on an experimental basis through joint consideration of shippers and carriers and reflected the rate-making judgment of such parties. Petitioner avers that the initial item bore an expiration date of December 31, 1967 in order to provide and insure that any detrimental effects upon either shippers or carriers would not be continued indefinitely.

Petitioner contends that revisions in the aforementioned provisions were made from time to time as experience was gained in the application and use of the tariff item and generally there were liberalizations by extending the allowable mileage radius and including additional commodities. According to petitioner, experience

with these provisions continues to be gained and discussions have been, and continue to be, held between shippers, receivers, truckers and California Trucking Association. Petitioner alleges that diligent efforts have been made, and continue to be made, to bring all parties into complete agreement on needed changes so that a petition might be filed with the Commission to make permanent tariff provisions reflecting current circumstances that are responsive to the needs of shippers and carriers alike. Petitioner states that, while there is substantial agreement concerning many provisions of the item in question, other influences, including current wage-price freeze policies, have temporarily prevented conclusion of such discussions and finalization of such a proposal.

By letter dated October 27, 1972, California Trucking Association advised that it is opposed to ex parte consideration of the petition and requested that the matter be set for hearing.

A review of the petition (Petition for Modification No. 676 in Case No. 5432) wherein the same petitioner requested the expiration date of Item 45 be extended to December 31, 1972 discloses that the contentions advanced as justification were the same as in the instant petition.

After consideration the Commission finds that:

1. Item 45 of Minimum Rate Tariff 2 is scheduled to expire December 31, 1972.
2. If hearings were held final disposition of this petition would not likely be concluded prior to December 31, 1972.
3. If Item 45 is allowed to expire empty pallets returning free of charge pursuant to the provisions of said item would no longer move free.

Based on the above findings the Commission concludes that the expiration date of Item 45 of Minimum Rate Tariff 2 should be extended to June 30, 1973, subject to further review of such evidence as shall be adduced at a public hearing. A hearing in this proceeding will be scheduled in the future.

Petitioner and other parties interested in this petition are placed on notice that they should be prepared to proceed to hearing on this matter no later than March 1, 1973.

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, 1973, Eleventh Revised Page 15-B 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 fifth day after the effective date of this order, on not less than five days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than January 1, 1973; 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 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.

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

6. A public hearing shall be scheduled in this proceeding for the receipt of evidence.

The effective date of this order shall be
December 20, 1972.

Dated at San Francisco, California, this 12th day
of DECEMBER, 1972.

Vernon L. Sturgeon
President
William J. Symons, Jr.

[Signature]
[Signature]
Commissioners

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

SECTION 1--RULES OF GENERAL APPLICATION (Continued)

ITEM

EMPTY PALLET RETURN

SECTION 1.--Applies only in connection with Items 316, 320, 320-1, 335.5, 338, 345, 350, 390, 654½ and commodities named in Paragraph (c)

(a) When palletized shipments are transported at rates subject to minimum weights of not less than 10,000 pounds, empty pallets may be transported without charge for distances not exceeding 75 constructive miles when returning to the point of origin of an outbound palletized shipment or when transported for a return palletized shipment, subject to the terms and conditions in Notes 1, 2, 3 and 4.

NOTE 1.--Palletized shipments must be loaded onto carrier's equipment by the consignor and/or unloaded by the consignee with power equipment, as described in Item 11, furnished and used without expense to the carrier.

NOTE 2.--Shipper must indicate on shipping instructions that palletized shipments were loaded onto trailers by power-loading equipment operated by personnel furnished by shipper; and/or receivers must show on carrier's delivery receipt that such shipments were removed by power-loading equipment operated by personnel furnished by receiver.

NOTE 3.--Bills of Lading covering the shipment of empty returning pallets shall identify the palletized shipments. Bills of Lading covering returning palletized loads shall identify the shipments of empty pallets.

NOTE 4.--For the purpose of this item, empty pallets shall include pallets, platforms, or skids as described in Item 150370, Sub 1; Item 150380; Item 150390, Sub 4; or Item 150430, Sub 2, of the Governing Classification; six inches or less in height or nested solid (as defined in Rule 110 of the Governing Classification), and of wood, metal or wood and metal construction.

(b) Carrier must assess applicable tariff charges on empty pallets under the conditions stated in Notes 5, 6, 7 and 8.

NOTE 5.--If immediately upon receipt of a palletized shipment consignee fails to provide carrier with up to a like number of empty pallets for return to point of origin of the palletized shipment.

NOTE 6.--When empty pallets are furnished by consignee and forwarded to origin point of a palletized shipment, if consignor immediately on receipt of empty pallets fails to provide carrier with a palletized shipment containing up to a like number of pallets loaded for shipment to consignee at point of origin of the empty pallets.

NOTE 7.--For the transportation of all empty pallets in excess of those permitted by the provisions of Notes 5 and 6.

NOTE 8.--For the transportation of all empty pallets which do not comply with the provisions of this item.

(c) When palletized shipments of Toilet Preparations, NOI (as described in Item 59420 of the Governing Classification), Aluminum Foil, NOI (as described in Item 71720 of the Governing Classification) or commodities described in Item 360 or 732 of this tariff are transported at rates provided in Section 2, and are subject to minimum weights of not less than 10,000 pounds, the empty pallets may be transported under the provisions of paragraphs (a) and (b) above.

SECTION 2.--When shipments of empty pallets not subject to Section 1 hereof are returned or forwarded for a return paying load via the same carrier, the following exception to the Governing Classification will apply, subject to Item 291:

Empty Pallets, as described in Note 4 of Section 1 of this item:

Less Truckload-----50% of Class 55 (1)

(1) Subject to a minimum rate of 44 cents per 100 pounds.

¶ (E) This item expires with June 30, 1973.

¶ Change. Decision No.

80837

EFFECTIVE

Correction

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.