

Decision No. 81075**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 2). )

Case No. 5432, OSH 700

ORDER MODIFYING DECISION NO. 80625  
AND DENYING REHEARING

By its Decision No. 80625 in Case No. 5432, OSH 700, dated October 17, 1972, the Commission denied certain motions made by Frank A. Riehle, Jr. (Riehle). On October 30, 1972, Riehle filed his petition for rehearing, and alleged, among other things, that the Commission's denial of his motion to expand the scope of the proceeding was a violation of the Sherman Anti-Trust Act and the Clayton Act.

The scope of the proceeding was intended by the Commission to be limited to the setting of commodity rates applicable to the transportation of salt (sodium chloride) in bulk from points in Los Angeles County to points within a radius of 110 miles thereof. These commodity rates would be established at the same level as the hourly rates currently in effect. The current hourly rates were established by several decisions of the Commission granting deviations, pursuant to Public Utilities Code, section 3666, from the class rates in MRT 2.

Riehle has cited several sections<sup>1/</sup> of federal anti-trust acts which he claims this proceeding violates. His claim is unsupported

1/ Sherman Act, sections 1, 3 and 4; Clayton Act, section 3.

by other than the mere recitation of these section numbers. The language of these sections appears to have no relevance whatever to a rate making proceeding based on reasonable classifications. In addition, no provision of the Cartwright Act, Business & Professions Code, section 16700 et seq., appears to be violated by this proceeding.

Riehle's problem seems to lie in his geographical location, which is farther from purchasers of bulk salt than his competitors. The Commission is under no obligation to equalize opportunity among competing salt producers regardless of location and regardless of the transportation circumstances to which such producers are subject. The Commission is required to set rates based upon rational classifications. There is evidence of record in this proceeding which supports the Commission's decision to limit the establishment of commodity rates to the area of Southern California to which they are intended to apply.

IT IS ORDERED that (1) Decision No. 80625 is modified to include the following finding of fact and conclusions of law:

(a) Riehle has an inherent competitive disadvantage in marketing salt in the metropolitan Los Angeles area because of his geographic location.

(b) Order Setting Hearing No. 700 in Case No. 5432 does not violate the terms of the Sherman Anti-Trust Act, 15 U.S.C.A. section 1 et seq.

(c) Order Setting Hearing No. 700, in Case No. 5432 does not violate the terms of the Clayton Act, 15 U.S.C.A. section 12 et seq.

(d) Order Setting Hearing No. 700, in Case No. 5432 does not violate the terms of the Cartwright Act, Business & Professions Code, section 16700 et seq.

(2) The petition of Frank A. Riehle, Jr., doing business as Pacific Salt and Chemical Company, for rehearing of Decision No.

80625 is denied.

Dated at San Francisco, California, this 2<sup>nd</sup> day  
of FEBRUARY, 1973.

Vernon L. Stringer  
President

William Symons Jr.  
William

Paul M.  
Commissioners