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Decision No. 81336

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  
Petition for Modification  
No. 713  
(Filed August 17, 1972,  
amended September 6, 1972)

In the Matter of the Application of )  
PACIFIC SOUTHCOAST FREIGHT BUREAU )  
for authority to make increases in )  
certain railroad rates and charges. )

Application No. 53559  
(Filed September 1, 1972)

ORDER AMENDING DECISION NO. 81185  
AND DENYING REHEARING

Petitions for rehearing of Decision No. 81185, issued March 27, 1973, in Case No. 5432, Petition 713, were timely filed by California Manufacturers Association (CMA) and Highway Carriers Association (ECA) so as to suspend the order in said decision. Petitions for rehearing were also filed by Cannery League of California (Cannery League) and National Small Shipment Conference, Inc. and Drug and Toilet Preparation Traffic Conference (Traffic Conferences). The Commission has reviewed the allegations in these petitions and has determined that proper grounds for amendment to Decision No. 81185 have been shown. Accordingly, Decision No. 81185 is hereby amended so as to incorporate the modifications that are related below.

ESTIMATED ADDITIONAL REVENUE

At page 14 of Decision No. 81185 the Commission stated:

"In the circumstances, adoption of the staff's direct wage offset adjustment of MRT 2 rates, subject to a maximum increase of one cent per 100 pounds in connection with truckload class and commodity rates prescribed for minimum weight brackets of over 20,000 pounds, will be appropriate pending completion of the contemplated full-scale MRT 2 studies."

However, when quantifying the restricted application of the direct wage offset adjustment adopted in Decision No. 81185, the Commission inadvertently neglected to increase the "Average Percentage Increase (Adjusted)" for truckload traffic to account for the higher than 1% increase granted to shipments of 20,000 pounds or less. When consideration is accorded to these truckload shipments the "Truckload Average Percentage Increase (Adjusted)" becomes "1.6" rather than "1.0" as shown on Table 2, and the "Total Averages Percentage Increase (Adjusted)" becomes "2.3", rather than "2.1" as shown on Table 2. "Estimated Additional 1973 Revenue (Adjusted)" should now read "3.5", rather than "2.2", and "Total Estimated Additional 1973 Revenue (Adjusted)" should read "\$11.9", rather than "\$10.6".

The first paragraph on page 15 of Decision No. 81185 refers to figures on Table 2 that have been corrected by this order. These figures must be amended from "2.1 percent" to "2.3 percent", and from "10.6 million dollars" to "11.9 million dollars". Finding 11(e), which presently indicates additional revenues of "\$10,600,000" must be corrected to indicate "\$11,900,000".

The added revenue resulting from the corrections to Table 2 is not sufficient to change the overall average increase of approximately two percent found justified in Finding 7.

#### CARRIERS WILLING TO SERVE AT EXISTING RATES

At page 8 of Decision No. 81185 the Commission discussed the testimony of several carriers who expressed willingness to serve at the existing MRT-2 rates and urged that the petition to increase these rates be denied. In rebuttal, it was shown that these carriers had either experienced a negative operating ratio in the past year,

handled a very low proportion of their business under MRT-2, or were specialized carriers who deal with a very limited portion of the traffic subject to MRT-2. This conflicting evidence does not permit us to find that they have the capacity to serve the MRT-2 shippers, and thus defeat the requested labor offset increase.

Evidence of HCA was discussed at page 10 of Decision No. 81185, wherein it is stated that cross-examination cast doubt on the probative value of HCA's Exhibit 22. We should also have mentioned that the rebuttal testimony of California Trucking Association to Exhibit 22 also served to persuade us that there was an insufficient showing of capacity on the part of MRT-2 carriers to serve under existing rates.

Similarly, the fact that the membership of HCA voted to oppose an increase in MRT-2 amply demonstrates a willingness of carriers to serve under existing rates, but does not provide any evidence of their capacity to serve.

#### RATES FOR CANNED GOODS

Canners League opposed an increase in rates for canned goods, but urged that if such rates are increased it be on the basis of the direct wage offset method. Decision No. 81185 did not deal with the alleged inequity in canned goods rates, but more than satisfied the alternate request that any increase be limited to the direct wage offset method. (Exhibit 12, pp. 22-23.) Table 1 on page 6 of Decision No. 81185 shows that under the direct wage offset method an average percentage increase of 2.9%, producing an estimated increase in revenue of \$14.8 million, would result. The Commission adopted an adjusted direct wage offset method which increased less-truckload rates by 2.9%, but limited truckload rates to a 1.6% increase, as corrected by this Order. The total estimated additional revenue derived from this adjustment is \$11.9 million. It should further be noted that Canners League will be a particular beneficiary of this adjustment, since they are primarily truckload shippers.

INTERSTATE HIGHWAY 5

Interstate Highway 5 in the San Joaquin Valley has been opened since the Distance Table used in determining constructive mileage for ratemaking purposes was last adjusted. Cannery League presented evidence that this new route shortens the truck mileage and time for traffic moving between northern and southern California. They asked that this change be considered in this proceeding. At the present time there is an existing proceeding to specifically consider revisions in the Distance Table, Case No. 7024, OSH 31. The effect of the opening of Interstate Highway 5 properly belongs in that proceeding.

FINDINGS

The findings in Decision No. 81185 should be amended in the following manner:

1. Finding 11(e) should read:

"(e) The dollar amount of additional revenues which the rate increase is expected to provide the carriers collectively is about \$11,900,000."

2. Finding 11(g) should read:

"(g) Pursuant to reasonable opportunity for participation by all interested parties at a public hearing in this matter, participating highway carriers and the Highway Carriers Association expressed a willingness to provide transportation service at their existing level of rates but failed to demonstrate the capacity to perform the kind and quantity of statewide transportation service governed by the provisions of Minimum Rate Tariff 2."

In addition, two new findings should be incorporated:

"13. It is not appropriate to alter the presently existing rate structure in this offset proceeding, as proposed by Cannery League, other than to account for the increase in wages. If the contemplated revision of MRT-2 currently under study by the staff is delayed, the individual rates on particular items may be considered in a subsequent offset proceeding."

"14. The effect of the opening of Interstate Highway 5 on the cost of transportation between northern and southern California will be considered in Case No. 7024."

IT IS ORDERED that Decision No. 81185 is amended to comport with this decision, and all parts of said decision that are inconsistent with this decision are hereby revoked. Revised tariff pages will be published in a separate order issued this day. In all other respects Decision No. 81185 shall remain in full force and effect, and all matters raised in the petitions for rehearing of CMA, Cannery League, FCA, and Traffic Conferences not specifically mentioned in this Order are denied.

The effective date of Decision No. 81185, as herein amended, shall be the date hereof.

Dated at San Francisco, California, this 15th day of MAY, 1973.

William L. Sturgeon  
President

William J. Lyons Jr.

Thomas A. ...

Commissioners

*I dissent*

*J. P. ... Jr., Commissioner*

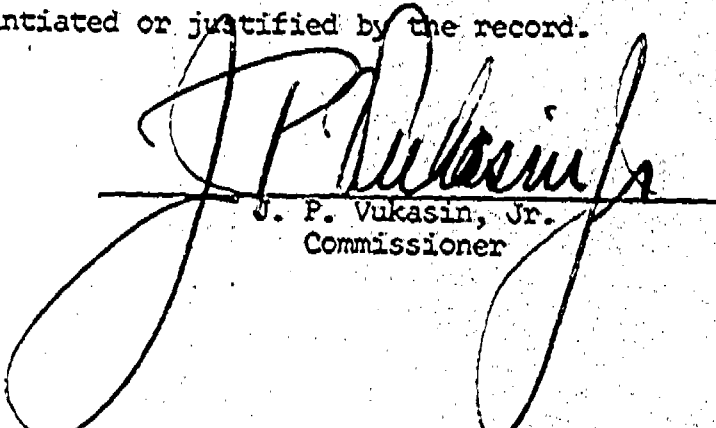
COMMISSIONER J. P. VUKASIN, JR., Dissenting.

I dissent from the foregoing Order Amending Decision No. 81185 And Denying Rehearing. This order, which amends, modifies, and adds to the text of the original decision, was presented to the Commission for the first time at its Commission Decision Conference, after the commencement of that Conference. This circumvention of the usual Commission procedure for processing proposed orders and opinions resulted in a denial of adequate opportunity to read and review the contents of the proposed decision. I cannot in good conscience sign an order which I have not been afforded an opportunity to read, much less an adequate opportunity to study and evaluate.

Even though this order attempts to remedy some of the defects set forth in my dissent to Decision No. 81185, it fails to remedy other deficiencies of that order as set forth in my dissenting opinion. While the Commission has made specific and substantial modifications to Decision No. 81185, it must be remembered that the ultimate result is an increase in both truckload and less-than-truckload traffic transported pursuant to Minimum Rate Tariff No. 2. This increase is not substantiated or justified by the record.

San Francisco, California

May 1, 1973



J. P. Vukasin, Jr.  
Commissioner