

ORIGINAL

Decision No. 81450

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, 22, 1971,
December 15, 30, 1971, and
November 24, 1972)

Additional Appearances

(For other appearances see Decision No. 78595)

R. W. Smith, Attorney at Law, for California Trucking Association; Ralph Hubbard, for California Farm Bureau Federation; E. Alan Mills and Charles K. Rivera, for California Grape and Tree Fruit League; Leslie M. Cox and Donald G. Dressler, Attorneys at Law, for Western Growers Association, copetitioners in Fifth Amendment to Petition 80.
Frank Reyher, for Alpha Beta Markets, protestant.
Robert M. Shillito, for California Retailers Association; James G. O'Neill, for Safeway Stores, Inc.; Alan G. Anderson, for Private Truck Owners Bureau of California, Lucky Stores and California Retailers Association; Brundage, Neyhart, Grodin & Beeson, by Edward M. Kovach, Attorney at Law, for Teamster Local Unions 70, 85, 315, 280 and 287; Primo R. Repetto, for Golden Gate Produce Terminal; and Alfred A. Rushton, for Rushton & Co., interested parties.

O P I N I O N

The minimum rates governing the highway transportation of fresh fruits and vegetables, nuts and empty containers between points in California are set forth in Minimum Rate Tariff 8 (MRT 8). These minimum produce rates were last generally revised pursuant to full-scale cost and rate studies by Decision No. 68921 dated April 20, 1965 in Case No. 5438, 64 CPUC 251. By Decision No. 77064 dated

April 14, 1970 the charges resulting under MRT 8 were, with minor exceptions, made subject to interim surcharges of 6 percent on charges computed upon a minimum weight of 20,000 pounds and over, and 8 percent on all other charges. These surcharges were authorized as an offset for labor cost increases experienced by produce carriers as of April 1, 1970 pending public hearings to consider rate scales appropriate to replace the surcharges. Subsequent to Decision No. 77064 the surcharges were adjusted upward periodically.¹ The current surcharge is 20 percent and reflects labor cost increases as of January 1, 1972.

In Decision No. 79902, the Commission makes the following reference to the presentation of the California Trucking Association (CTA) which is also deemed pertinent to this phase of the proceeding:

"Justification for CTA's sought relief is set forth in an affidavit...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

I The surcharges established by Decision No. 77064 were subsequently adjusted as follows:

<u>Decision No.</u>	<u>Petition</u>	<u>Date</u>	<u>Surcharge</u>	<u>Expiration Date</u>
77442	77	6-30-70	8% and 9%	12-31-70
78108	80	12-22-70	8% and 9%	7--1-71
78595	80	4-20-71	14% and 16%	4--1-72
79902	80	4--4-72	20%	none

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 areas....'

"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."

The California Trucking Association, California Farm Bureau Federation, California Grape & Tree Fruit League, and Western Growers Association are copetitioners of the Fifth Amendment to Petition 80. As an antecedent to the contemplated staff produce studies, the copetitioners seek to have the application of the

current MRT 8 rates and charges restricted so as to include the services of a single carrier employee (driver) only. Public hearings relative to the Fifth Amendment of Petition 80 were held before Examiner Gagnon at San Francisco on February 21 and 22, 1973. Petition 80 now stands submitted for decision.

Item 120 of MRT 8 contains provisions for deductions to be made from the otherwise applicable rates when shipments are picked up and/or delivered at carrier's established depot. The item also provides for multiple deliveries within a single designated market area under the rates named in the tariff. Items 130 and 140 of MRT 8 provide:

Item 130, Application of Rates on Shipments
Subject to Minimum Weights of
10,000 Pounds or Less.

Rates in this tariff subject to minimum weights of 10,000 pounds or less include loading into and unloading from the carrier's equipment, subject to Note.

NOTE: When shipment is picked up or delivered to a point not at street level, and no vehicular elevator service or vehicular ramp is provided...an additional charge of 12-1/2 cents per 100 pounds, minimum charge 94 cents per shipment, shall be assessed for the service of handling beyond carrier's equipment.

Item 140, Application of Rates on Shipments
Subject to Minimum Weights in Excess
of 10,000 Pounds.

Rates in this tariff subject to minimum weights in excess of 10,000 pounds include loading into and unloading from carrier's equipment, subject to Note.

NOTE: When the time consumed in performing loading, unloading or accessorial services, or waiting to load or unload when shipper or his agent has specified a particular time exceeds 8 minutes per ton....an additional charge as provided in Item 150 shall be assessed for the time consumed in excess of 8 minutes per ton.²

Copetitioners now seek to restrict the amount of transportation service included in the MRT 8 line-haul rates by the addition of the following rule in Item 120 of the tariff:

"(b) Except as otherwise provided, rates and charges named in this tariff include the service of a single carrier employee (driver) only. If the carrier incurs expenses for helpers or other parties to perform, or assist in performance of accessorial services rendered under this tariff, the actual charges incurred (not to exceed amounts provided by Sections 56801 through 56982, Chapter 8 of the California Agricultural Code) shall be billed to the debtor. Such charges shall be in addition to all other rates and charges accruing under this tariff and in no event shall such charges be less than those provided under Item 150 herein."
(Expires with December 31, 1973.)

² Item 150 of MRT 8 provides accessorial charges for services not included in the line-haul rate. Such charges are in cents per man (driver, helper, or other employee) and/or per unit of equipment for the first 30 minutes plus supplemental charges for each additional 15 minutes or fractions thereof.

Copetitioners' proposed tariff rule stems from two major areas of concern. First, there is some confusion and anxiety over the statutory regulations administered by the Director of Industrial Relations pertaining to charges assessed for unloading shipments of produce and the minimum rates established by the California Public Utilities Commission which include unloading services. The second area of concern pertains to alleged excessive unloading charges assessed at various produce markets.

The minimum rates governing the for-hire transportation of fresh produce were established as part of an overall minimum rate program instituted and administered by this Commission pursuant to the statutory mandates set forth in the Public Utilities Code. Under Sections 3664 of the Code it is unlawful for any highway permit carrier to charge or collect any lesser rate than the minimum rates prescribed by the Commission. Highway common carriers who name produce rates in their lawfully published and filed tariffs must observe the MRT 8 rates as minimum and may not charge or collect rates different than their lawfully published and filed tariff rates.

Under the statutory provisions set forth in Chapter 8, Division 20, Sections 56801 through 56982, of the Agricultural Code, the charges for unloading produce at established markets are subject to the prior approval of the Director of Industrial Relations.³ While the service of helpers (lumpers or swampers) to unload produce shipments is included in the MRT 8 line-haul rates, to what extent the rates reflect the current charges assessed by lumpers or swampers for unloading produce is not determinable at this time. In order to clarify and provide an equitable basis for the application and enforcement of MRT 8 rates and charges by this Commission, concurrently with the related implementation of the statutory authority of the Director of Industrial Relations,

³ Sections of the Agricultural Code pertinent to the issues involved herein are summarized in Appendix A.

over the charges assessed by registered unloaders of produce at established markets, copetitioners urge the adoption of their proposed tariff rule.

The copetitioners contend that their proposal to limit the services included in the MRT 8 line-haul produce rates to that performed by the driver only will accomplish the following desired results:

1. Facilitate the implementation and administration of the current dual statutory authority of the Director of Industrial Relations and the California Public Utilities Commission over the charges assessed by registered unloaders of produce at established markets.
2. Establish a factual basis for subsequent evaluation of the actual payments paid by the carrier for the accessorial services of helpers (lumpers, swampers, or registered unloaders).
3. Provide factual freight bill documentation and carrier responsibility to report actual charges paid for unloading produce; thereby assisting in the elimination of excessive unloading charges generally, and the enforcement of specific charges for unloading produce at defined markets established by the Director of Industrial Relations.
4. Provide shippers with option to select the particular unloading method desired.
5. Develop factual information which is presently not readily available but essential to the bringing forward of pending full-scale MRT 8 cost and rate studies which will be truly reflective of current for-hire transportation conditions and circumstances.

The Commission's Transportation Division staff considers the tariff rule proposed by copetitioners as being generally unworkable. The staff, however, does not take issue with copetitioners' contention that carriers and shippers are experiencing excessive charges for unloading produce shipments, which are required to be paid by cash and for which no factual information is currently available. The staff explained that the loading and unloading phase of

its pending full-scale costs study would be completed in March 1973. Whether this phase of the staff's cost study would offer a solution to the problems raised by copetitioners is unknown since such data were not offered in evidence. The staff had no definitive recommendations relative to the existing jurisdictional difficulties being experienced as between this Commission's minimum rate program and the implementation of the statutory mandates administered by the Director of Industrial Relations.

In staff Exhibit 6 examples of produce shipments were presented in an effort to show that under copetitioners' tariff proposal increases in freight charges, averaging approximately 16 percent, would occur. The staff notes that assessment of such increased charges would amount to a duplication of a portion of the current freight charges, place a disproportionate burden upon less truckload produce traffic, and encourage questionable practices with regard to the use of subhaulers. For these reasons the staff recommends that the proposed tariff rule not be adopted.

The minimum produce rates named in MRT 8 were last generally revised by Decision No. 68921 (1965) 64 CPUC 251. Full-scale staff cost and rate studies were submitted in this former proceeding. The Commission, however, adopted the lower produce rates submitted jointly by a carrier-shipper (C-S) group. The witness for the C-S group indicated that "the staff cost study, to the extent that the C-S group believed it to be adequate and reliable, supplemented by minor C.T.A. cost studies, had formed the cost basis for the C-S proposals. Departure was had from the cost estimates to the extent necessary to give effect to other essential rate-making factors. This was done through the exercise of informed judgment...." Excerpts from the aforementioned staff cost study introduced in evidence in this proceeding indicate that such cost data included a cost factor for loading and unloading by swampers (lumpers). It is this latter cost element which leads the staff to conclude in this proceeding that copetitioners' efforts to exclude loading and

unloading service from the present minimum produce rates would result in a "duplication of a portion of current freight charges..." To what extent, if at all, the rates developed by the C-S group and ultimately established in MRT 8 reflect the present accessorial services performed by lumpers and the charges paid by produce haulers for such services are not determinable.

Copetitioners' witness states that the increase in freight charges which the staff indicates will occur under the proposed tariff rule can be avoided at least half of the time if the produce shipper, in exercising its option, selects the proper method for loading or unloading his shipment. The witness further testified that copetitioners have no objection to restricting its proposed tariff rule so as not to apply to less truckload shipments subject to MRT 8 any-quantity rates. Such a restriction would substantially reduce the potential increases which may occur under copetitioners' tariff proposal. In addition, the witness presented evidence designed to show that since the MRT 8 surcharge was last increased by Decision No. 79902 to offset labor cost increases as of January 1, 1972, such labor costs have further increased about 7 percent as of January 1, 1973. The latter labor cost increases are not reflected in the current level of MRT 8 rates and charges and no further increase in the existing 20 percent surcharge is sought in this proceeding.

The major thrust of copetitioners' appeal for the adoption of its temporary tariff rule is the urgent need for critical information regarding current for-hire produce transportation which must be reflected in pending full-scale cost and rate studies. Without the requested tariff rule copetitioners contend that such critical data will not be forthcoming or available from existing carrier records. Copetitioners submit that adoption of their proposed tariff rule and the evaluation of the additional information generated therefrom is imperative and paramount to any immediate labor cost offset adjustment of MRT 8 rates and charges.

The overall objections raised against the adoption of copetitioners' sought tariff rule would be substantially satisfied if the wording of the rule was clarified and its scope of application restricted as follows:

Item 120, Application of Rates

1. General

(a) ...

(b) The rates and charges named in this tariff include the services of a single carrier employee (driver) only. If the services of helpers or other parties are employed to perform, or assist in the performance of accessorial services rendered under this tariff, the actual charges assessed or incurred therefor (not to exceed the scale of charges established pursuant to Sections 56801 through 56982, Chapter 8 of the California Agricultural Code) shall be billed directly to and collected from the debtor. These charges shall be in addition to all other rates and charges accruing under this tariff and in no event shall such charges,

if assessed or incurred on an hourly basis,
be less than those provided in Item 150
(subject to Notes 1, 2, 3, and 4).

Note 1: The accessorial charges resulting
under Paragraph 1(b) are not ap-
plicable in connection with shipments
subject to any-quantity rates.

Note 2: The accessorial charges resulting
under Paragraph 1(b) are not subject
to the 20 percent surcharge named in
Supplement 34 of the tariff.

Note 3: The accessorial charges provided in
Paragraph 1(b) are in addition to
those named in Items 130 and 140 of
the tariff.

Note 4: Paragraph 1(b) does not apply in con-
nection with Item 309 and Section 4 of
the tariff.

Note 5: The provisions of Paragraph 1(b) ex-
pires with July 31, 1974.

Findings and Conclusions

1. The rates named in Minimum Rate Tariff 8 were last generally adjusted by Decision No. 68921 (1965) 64 CPUC 251. The freight charges resulting under the application of such rates are presently subject to a 20 percent surcharge and reflect the for-hire produce carriers' labor costs as of January 1, 1972.

2. The rates established in MRT 8 by Decision No. 68921 reflect the level of rates proposed by a carrier-shipper group which, among other rate-making factors including the application of expert judgment, gave consideration to Commission staff full-scale cost studies of record. While the staff cost data include cost factors for accessorial loading and unloading services performed by lumpers or swampers, to what extent, if at all, such cost elements are included in the present level of MRT 8 rates is not determinative.

3. The rates named in MRT 8 presently include loading and unloading services subject to certain specified limitations.

4. Copetitioners of the Fifth Amendment to Petition 80 now seek to have a temporary tariff rule published in MRT 8 which would provide that the rates named in the tariff include the services of a single carrier employee (driver) only. Whenever helpers are employed, the proposed tariff rule requires that charges for such accessorial services (not to exceed amounts established by the Director of Industrial Relations pursuant to Sections 56801 through 56982, Chapter 8 of the California Agricultural Code) shall be billed to the debtor. In addition, the tariff rule requires that such accessorial charges be not less than those named in Item 150 of MRT 8.

5. The proposed tariff rule will enable produce carriers and shippers to obtain current information, not now available, concerning transportation conditions and circumstances surrounding the loading and unloading of produce shipments. Such information has been shown to be critical to the evidentiary value of contemplated MRT 8 full-scale cost and rate studies.

6. The proposed tariff rule will formulate a basis for future evaluation, coordination and clarification of the existing joint jurisdictional involvement of the Commission and the Director of Industrial Relations relative to charges assessed by registered unloaders at established produce markets.

7. The application of the MRT 8 surcharge of 20 percent to loading and unloading charges resulting under copetitioners' proposed tariff rule has not been shown to be justified.

8. The copetitioners' proposed tariff rule should not be made applicable to less truckload produce shipments subject to MRT 8 any-quantity rates.

9. The labor cost factors underlying the present level of MRT 8 rates have increased approximately 7 percent as of January 1, 1973. Such labor cost increases have not been reflected in the existing minimum rate structure.

10. The increases resulting under copetitioners' tariff rule are either entirely eliminated or substantially reduced when the application of the proposed tariff rule is restricted and modified to the extent not found justified herein and no January 1, 1973 labor cost offset adjustment is made in existing MRT 8 rates.

11. The actual increases and/or reductions resulting under copetitioners' suggested tariff rule, as amended herein, are found to be justified for the temporary period of time required to accomplish the limited objectives of the proposed tariff amendment. The rates resulting under the application of the tariff rule, as amended, will result in just, reasonable, and nondiscriminatory minimum rates for the transportation governed thereby.

12. The increases involved in copetitioners' proposed temporary tariff rule are not susceptible to definitive measurement or evaluation at this time. Adoption of the proposed rule, as modified and restricted herein, is considered to be within the framework of the wage-price stabilization guidelines set forth in Rule 23.1 of the Commission's Rules of Practice and Procedure.

It is concluded that Petition 80, as amended by the Fifth Amendment thereto, should be granted to the extent authorized by the order herein and that Minimum Rate Tariff 8 should be amended accordingly. To the extent not authorized herein Petition 80 in Case No. 5438 should be denied.

O R D E R

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 June 30, 1973, Fifteenth Revised Page 13, 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 resulting in increases 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 June 30, 1973; as to increases which are authorized but not required, the authority herein granted shall expire unless exercised within sixty days after the effective date of this order; and tariff publications resulting in reductions 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.

8. In all other respects, Decision No. 33977, as amended, shall remain in full force and effect.

9. To the extent Petition for Modification No. 80, as amended, is not granted herein, said petition is hereby denied.

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

Dated at San Francisco, California, this 30th day of MAY, 1973.

Verano L. Sturges
President
William L. Guyer Jr.
William L. Guyer Jr.
William L. Guyer Jr.
William L. Guyer Jr.
Commissioners

APPENDIX A
Page 1 of 9

Excerpts from Pertinent Provisions of
Chapter 8, Division 20, Section 56801 through
Section 56982 of the California Agricultural Code

Chapter 8
PRODUCE MARKETS

Article 1
DEFINITIONS

- Section 56801. Effect of definitions.
Unless the context otherwise requires,
the definitions in this article govern
the construction of this chapter.
- Section 56802. Association.
"Association" means an association of
produce dealers which is organized to
carry out the responsibilities of pro-
duce dealers which are imposed by this
chapter.
- Section 56804. Commissioner.
"Commissioner," with respect to any matter
which relates to a particular market,
means the deputy labor commissioner who is
in charge of the office of the Labor Com-
missioner which is located nearest to that
market.
- Section 56805. Director.
"Director" means the Director of Industrial
Relations.
- Section 56806. Farm product.
"Farm product" means any fruit, nut, vege-
table, or berry.
- Section 56807. Market.
"Market" means the places of business,
collectively, of produce dealers that
operate in a city, or the vicinity of
a city, and that deal in any farm prod-
uct which is intended, in whole or in
part, for ultimate sale for consump-
tion in a fresh state within the city
and the vicinity of the city. This

APPENDIX A
Page 2 of 9

chapter applies only to markets in which five or more produce dealers operate.

Section 56808. Produce dealer.
"Produce dealer" includes "commission merchant," as defined in Section 56105, and "dealer," as defined in Section 56107. It does not, however, include a "broker," as defined in Section 56103, nor "processor," as defined in Section 55407.

Section 56809. Registered unloader.
"Registered unloader" means a person who unloads any farm product in a market. It does not, however, include any of the following:

- (a) A producer of farm products, or his son, father, or regularly employed employee.
- (b) The operator of any vehicle which is engaged in the transportation of any farm product to market if the operation of such vehicle is subject to the jurisdiction of the Public Utilities Commission and the rate which is charged for such transportation includes the charge for unloading the farm product which is so transported.

Section 56810. Union.
"Union" means the labor union which has been recognized by the National Labor Relations Board, or other governmental agency which has jurisdiction, as the bargaining agency for employees who are employed in a market.

APPENDIX A
Page 3 of 9

Article 2
GENERAL PROVISIONS

Section 56831. Purpose; legislative declaration.
It is the purpose of this chapter to promote the orderly marketing of farm products and the establishment of reasonable charges for unloading such products at markets in this state. It is declared that in some of the markets of this state the charges for unloading farm products have been found to be exorbitant and unreasonable and that this chapter is enacted to remedy such evils and in the interests of the public welfare.

Section 56832. Regulation.
The director may make such regulations as he may deem necessary to carry out this chapter and to effectuate its purpose.

Article 3
EXCEPTIONS

Section 56861. Number of dealers.
This chapter does not apply to any market in which less than five produce dealers operate.

Section 56862. Dealer's employees; driver and helpers.
This chapter does not apply to any produce dealer at whose place of business every farm product which is delivered is unloaded without charge by employees of the produce dealer either with or without the assistance of the operator of the vehicle which transports such product or other persons who accompany the operator on such vehicle. This chapter does not prohibit any employee of a produce dealer from assisting in unloading any farm product without charge if registered unloaders are not available.

APPENDIX A
Page 4 of 9

Article 1

REGISTERED UNLOADERS

- Section 56891. Registration; unloaders; necessity.
Every person who unloads any farm product in a market and who is a registered unloader shall register his name, Federal Social Security number, and address and union affiliation, if any, with the commissioner. The commissioner shall supply each registered unloader with a card of registration. Each registered unloader shall carry such card at all times while employed or seeking employment in unloading any farm product in a market. A person within the definition of the term registered unloader shall not unload any farm product in a market unless he is registered as provided in this chapter.
- Section 56892. Registration; producer, family and employees; unloading by registrees.
Every producer who transports any farm product to a market may register himself, his father, and his sons, and regular full-time employees, with the commissioner. Such registration shall show the name of the producer, the registration number and other means of identification of his own personally owned vehicles, and the relationship of the registrant to the producer.
- This chapter does not prohibit a person so registered from unloading any farm product from a vehicle as to which he is so registered, and no such person is required to employ any other person to unload or assist in unloading such farm product nor to pay for any services which are not requested to be performed. The commissioner shall supply each such registrant with an appropriate card, which the registrant shall carry at all times while engaged in unloading any farm product at a market.

APPENDIX A
Page 5 of 9

Section 56893. Dealers; duty to provide unloaders and person to receipt for products.
Every produce dealer that operates in a market is responsible for providing that registered unloaders sufficient in number to do the work which is required are available at all times when any farm product is being delivered to his place of business. He is also responsible for having on hand at his place of business at all such times a responsible person to receipt for any farm product which is unloaded at his place of business.

Article 5

ASSOCIATION OF PRODUCE DEALERS

Section 56921. Membership; assessments.
In order to facilitate the carrying out of their responsibilities pursuant to this chapter, the produce dealers that operate in a market may organize an association. A produce dealer shall not be required to become or to be a member of such association, but any such association shall admit to membership any produce dealer that operates in the market. If a produce dealer is admitted to membership in the association, he shall not be subject to any assessment or payment except those which are necessary to carry out his responsibilities pursuant to this chapter.

Section 56922. Services.
An association may do all of the following:

- (a) Obtain a dispatching service from which registered unloaders may be sent to the places where their services are required.
- (b) Act as the bargaining agent to establish with a union the scale of charges for unloading any farm product in the market in accordance with this chapter.
- (c) Provide for watchman service to protect and give a receipt for any farm product which is delivered to a market at times when the market is not otherwise in operation.

APPENDIX A
Page 6 of 9

- Section 56923. Review by director; cost of services; activities of association.
The costs of services of an association to its members for carrying out any of the activities which are provided for or required by this chapter are subject to review by the director. No cost or expenditure for any other purpose shall be payable by any produce dealer except on an entirely voluntary basis.
- The director shall from time to time on his own motion, or at the request of a produce dealer, review the activities of the association to determine if any charge is made against any produce dealer in violation of this chapter.

Article 6

CHARGES FOR UNLOADING PRODUCE

- Section 56951. Establishment of scale of charges.
Each produce dealer that operates within a market shall establish a scale of charges for unloading any farm product which is transported to his place of business and shall post and maintain a legible copy of such scale in a conspicuous place at his place of business where it is readily visible at all times during which any farm product is delivered to such place of business.
- Section 56952. Modification of scale.
Any scale of charges which is established pursuant to this article may be modified from time to time in accordance with the method and procedure which is prescribed for establishing such scale.
- Section 56953. Scale as standard charge.
The scale of charges which is established shall be the standard charge for unloading any farm product in the market.
- Section 56954. Excess charge prohibited.
A person shall not charge or receive any payment for unloading any farm product in excess of the standard charge which is established for the market.

APPENDIX A
Page 7 of 9

Section 56955. Method of establishing scale; approval.
The scale of charges shall be established as follows:

- (a) If all the produce dealers in a market, or a majority of such produce dealers, either individually or through group representation, have an agreement with a union, the scale of charges shall be that which is prescribed in such agreement and approved as provided in this chapter. If an agreement which covers any employees of produce dealers in a market does not cover persons who unload farm products, the agreement shall be modified, or a new agreement made, to cover such persons.
- (b) If there is no such union, the scale of charges shall be fixed by the produce dealers that operate within the market.

In either event, the scale of charges is subject to the approval of the director.

Section 56956. Determination of reasonableness.
Upon the determination of a scale of charges for a market, the scale of charges shall be transmitted to the director. The director shall examine such scale and shall compare it with any available information relative to the charges for similar work which is performed under similar conditions in the city in, or for, which the market is operated. The director may take into consideration any and all factors which are relevant to the determination of the reasonableness of such charges, including any rates of the Public Utilities Commission for the performance of work of a similar nature.

APPENDIX A
Page 8 of 9

Section 56957. Approval of scale; scale as standard charge.

If the director determines that the scale of charges is not unreasonable, he shall approve the scale and thereafter the scale of charges shall be the standard charge for unloading any farm product in the market.

Section 56958. Finding of unreasonableness; notice of hearing.

If the director finds that the scale of charges is unreasonable, he shall fix a time and place for a hearing on the matter.

Notice of such hearing shall be mailed to each produce dealer that operates in the market and to the officials of the union, if a union is involved. The director may also notify any or all producers of any farm product which is delivered to the market.

Section 56959. Hearing; evidence; adjustment of scale.

At the hearing the director shall consider any relevant matters that may be presented and, at or after the conclusion of such hearing, he shall so adjust the scale or any item of the scale so that the scale is not unreasonably higher than the prevailing rate for similar work which is performed under similar conditions in the city or its vicinity.

APPENDIX A
Page 9 of 9

Article 7
PENALTIES

- Section 56981. Offense.
The violation of any provision of this chapter by any person is a misdemeanor.
- Section 56982. Grounds for license revocation.
The violation of any provision of this chapter by a produce dealer is grounds for the revocation of his license, and the violation of any provision of this chapter by an association is grounds for the revocation of the license of each produce dealer that participates in such violation.

SOURCE: Exhibit 2, Fifth Amendment to
Petition 80 in Case No. 5438.

SECTION 1--RULES OF GENERAL APPLICATION (CONTINUED)

ITEM

APPLICATION OF RATES

1. GENERAL

(a) Rates provided in this tariff are for the transportation of shipments, as defined in Item 11 from point of origin to point of destination, subject to Items 130, 140 and 150.

* (E) (b) The rates and charges named in this tariff include the services of a single carrier employee (driver) only. If the services of helpers or other parties are employed to perform, or assist in the performance of accessorial services rendered under this tariff, the actual charges assessed or incurred therefor (not to exceed the scale of charges established pursuant to Sections 56801 through 56982, Chapter 8 of the California Agricultural Code) shall be billed directly to and collected from the debtor. These charges shall be in addition to all other rates and charges accruing under this tariff and in no event shall such charges, if assessed or incurred on an hourly basis, be less than those provided in Item 150 (Subject to Notes 1, 2, 3, and 4).

NOTE 1--The accessorial charges resulting under Paragraph 1(b) are not applicable in connection with shipments subject to Any-Quantity rates.

NOTE 2--The accessorial charges resulting under Paragraph 1(b) are not subject to the 20 percent surcharge named in Supplement 34 of the tariff.

NOTE 3--The accessorial charges provided in Paragraph 1(b) are in addition to those named in Items 130 and 140 of the tariff.

NOTE 4--Paragraph 1(b) does not apply in connection with Item 309 and Section 4 of the tariff.

2. DEDUCTIONS

Except as provided in Notes 1, 2, 3 and 4 hereof, when point of origin or point of destination is carrier's established depot, the pickup and delivery rates specifically named in this tariff shall be subject to the following deductions:

When shipment moves under rates subject to minimum weights of:

Deductions, in cents per 100 lbs.
except as shown:
Columns

	(1)	(2)	(3)
Less than 2,000 pounds-----	20	5	25
2,000 but less than 4,000 pounds-----	10	5	15
4,000 but less than 10,000 pounds-----	5	5	10

In cents per shipment when shipment weighs less than 100 pounds.

Column (1)--Applies on shipments originating at carrier's established depot.

Column (2)--Applies on shipments destined to carrier's established depot.

Column (3)--Applies on shipments originating at and destined to carrier's established depots.

NOTE 1--No deduction shall be made under this rule from rates based upon a minimum weight of 10,000 pounds or more, or from minimum charges provided by Item 160.

NOTE 2--No deduction shall be made under this rule on shipments transported for persons, companies or corporations upon whose premises depots from or to which the transportation is performed are located.

NOTE 3--Deductions made under this rule on split pickup or split delivery shipments shall be made only on the weight of the component parts having point of origin or point of destination, or both (as the case may be), at the carrier's established depots, subject to Note 2.

NOTE 4--In no case shall the net transportation rate be less than 14 cents per 100 pounds, or less than the pickup and delivery rate, whichever is lower.

3. DELIVERIES WITHIN A SINGLE MARKET AREA

For the purpose of applying the rates in this tariff, multiple deliveries, not exceeding six in number, will be permitted within a single market area as defined in Item 290 and shall be deemed to be made to one consignee at one point of destination provided charges are paid by a single consignor or a single consignee.

(E) Expires with July 1, 1974.

Change
Increase
Reduction
Addition

Decision No. 81450

EFFECTIVE

Correction

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