

ORIGINALDecision No. 82403

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 common carriers, highway carriers,)
 and city carriers relating to the)
 transportation of any and all commod-)
 ities between and within all points)
 and places in the State of California)
 (including, but not limited to, trans-)
 portation for which rates are provided)
 in Minimum Rate Tariff No. 2).)

Case No. 5432
 Petitions for Modification
 Nos. 671 and 678

Case No. 5441
 Petition for Modification
 No. 235

Case No. 7858
 Petitions for Modification
 Nos. 106, 107, 108, 109,
 110, 112, 113, 114, 115,
 116, 118, 120, 121, 122,
 123, 124, and 125
 (Order Setting Hearing 131
 dated February 23, 1972)

And Related Matters.

OPINION AND ORDER DENYING
REHEARING AND RECONSIDERATION

Petitioner, California Trucking Association (CTA) has requested that the Commission reconsider and revise its Decision No. 81478, issued June 12, 1973, and that it direct its staff to develop cost and economic information necessary to the final disposition of the temporary exception ratings. In that decision we ordered a further temporary extension of the exception ratings contained in Sections 2-B and 2-C of Exception Ratings Tariff 1 (ERT 1). In providing these extensions for an indefinite period of time the Commission was aware of the staff's ongoing cost and

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rate studies of the existing minimum rate structures set forth in Minimum Rate Tariff 2 (MRT 2). The further temporary extension was linked to the termination of the present cost and rate studies, and it was anticipated in Decision No. 81478 that the Commission would further consider the matter on its own motion at the conclusion of those studies in order to make a final disposition of these issues. As the Commission stated in its earlier decision, it is mindful of the fact that the temporary ratings have existed for a considerable period of time and that it is not desirable to continue them in this indefinite manner. Therefore, upon completion of the staff studies we intend to raise this issue upon our own motion in an effort to make a final determination.

Petitioner contends that the Commission by its Decision No. 81478 has departed from its classification transition program, in that it has shifted the burden of proof with regard to the retention of the exception ratings in Section 2-B from those who wish to retain them to those who oppose their retention. The Commission did not intend such a shift in the burden of proof and none can be made out from the language of that decision. The decision is clear that the proponents of the exception ratings have the burden of demonstrating that they will result in just and reasonable rates and charges. As was stated in Decision No. 74310, establishing the transition program, and restated in Decision No. 81478, "... the adoption of a new classification requires that any exceptions to the original classification either be cancelled or their retention be fully justified ...".^{1/} This statement is wholly consistent with prior Commission decisions in this area^{2/} and it is not our intent to deviate from this rule in this proceeding.

^{1/} Decision No. 81478, supra, mimeo p. 4.

^{2/} Pet. of Bright Star Battery Co., 48 CPUC 647 (1948); Decision No. 44740, 50 CPUC 133 (1950); Decision No. 49967, 53 CPUC 211 (1954); Decision No. 62528, 59 CPUC 93 (1961).

The sole purpose of the discussion in Decision No. 81478 of the movement of traffic under the present exception ratings was to assess the burden to carriers of a further temporary extension of the exception ratings in Section 2-B of ERT 1. We concluded from the fact that there was no evidence presented demonstrating that the carriers could not move the freight under the exception ratings, a further temporary extension would not pose too great a burden on them. In no way should that language be taken as a statement that those parties opposing the extension of the exception ratings in Section 2-B must demonstrate that the exception ratings do not result in just and reasonable rates. When the Commission begins new proceedings on this matter, the burden will be on those who wish to retain the exception ratings to show with sufficient evidence that they result in just and reasonable rates.

We find no good cause to reverse our order in Decision No. 81478 as to the interim relief granted to the petitioners therein, and, in the light of this opinion which clarifies Decision No. 81478, there further appears to be no good cause to grant rehearing or reconsideration of Decision No. 81478.

IT IS ORDERED that rehearing and reconsideration of Decision No. 81478 is hereby denied.

The effective date of this decision is the date hereof.

Dated at San Francisco, California, this 29th day of JANUARY, 1974.

Vernon L. Sturgeon
President
William Lyons, Jr.

[Signature]

[Signature]
Commissioners

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