

ORIGINAL

Decision No. 82501

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).

And Related Matters.

Case No. 5432
Petition for Modification No. 758
(Filed June 20, 1973)
Petition for Modification No. 764
(Filed August 23, 1973)

Cases Nos.
5330, 5433, 5436, 5437, 5438,
5439, 5440, 5441, 5603, 5604,
6008, 7783, 7857, and 7858

Petitions Nos.
69, 44, 143, 249, 89, 184, 82,
271, 126, 35, 22, 75, 80, and
156, respectively.
(Filed June 20, 1973)

Petitions Nos.
73, 45, 148, 251, 90, 188, 84,
275, 131, 36, 23, 80, 84, and
161, respectively.
(Filed August 23, 1973)

Richard W. Smith and A. D. Poe, Attorneys at Law,
and H. Hughes, for California Trucking Association,
petitioner in Case No. 5432 (Petition 758) et al.
Jess J. Butcher, for California Manufacturers
Association, petitioner in Case No. 5432
(Petition 764) et al.
James Orear, for California Hawaiian Sugar Co.;
William D. Mayer, for Cannery League of California;
Calhoun E. Jacobson, for Traffic Managers
Conference of California; C. Ralph Eighmy and
E. O. Blackman, for California Dump Truck Owners
Association; Thomas W. Anderson, for General
Portland, Inc., California Division; William Mitze,
for Riverside Cement Co.; and Fred R. Covington,
for Kaiser Cement & Gypsum Corp.; interested
parties.
Frank M. Nyulassy, for the Commission staff.

O P I N I O N

By Decision No. 81070 dated February 21, 1973 in Case No. 5432 (Petition 707) et al., the term "Carrier's Equipment" was amended in or added to the "Definition of Technical Terms" provided in the several minimum rate tariffs of the Commission. The decision noted that the California Trucking Association (CTA) "at some future date... plans to propose other tariff changes for uniformity. Among these would be changes in terminology...to correspond with any revised equipment definitions that may be adopted." The CTA's proposals in Case No. 5432 (Petition 758) et al. are made in response to its previously announced plans in Decision No. 81070.

The petitions of the California Manufacturers Association (CMA) in Case No. 5432 (Petition 764) et al. seek alternative relief to that sought by CTA with respect to the latter's proposed modification of the definition of carrier's equipment insofar as it pertains to accessorial services or delay provisions such as set forth in Items 140, 141, 142, and 145 of Minimum Rate Tariff 2.

The petitions of CTA and CMA were consolidated and subsequently heard and submitted on a common record before Examiner Gagnon on November 19, 1973 at San Francisco. The Commission staff opposes the adoption of the proposed tariff changes at this time due to the tariff publishing costs involved.

The CTA stresses that the only objectives of its rate proposals are to achieve tariff uniformity, simplification, and clarification. No increases in rates, rules, and charges are sought or otherwise intended. The objectives of CMA's alternate rate proposal, as explained by the director of its Transportation and Distribution Department, are substantially the same as those presented by CTA's witness.

The thrust of the Commission's Transportation Division staff opposition to the proposed tariff amendments is that the sought end results do not justify the means. Based on the premise that no substantive tariff revisions other than tariff uniformity, simplification, and clarification are involved, the staff recommends that the proposed tariff changes not be adopted at this time. The staff notes that CTA's tariff proposals involve every minimum rate tariff except Directory 1. Approximately 235 tariff items, published on 205 tariff pages throughout the various minimum tariffs, would be revised under the CTA's proposal. The staff estimates the approximate tariff publishing costs for printing, mailing, and labor to be about \$100,000.

If the Commission finds that CTA's proposed tariff changes should be adopted, the staff urges that petitioner first be required to present its proposal in tariff form for each minimum rate tariff involved. Secondly, the staff recommends that such tariff changes, if adopted, not be ordered to be made at one time but instead permit such tariff amendments to be published at some future date when they can be consolidated with other more substantive tariff revisions.

While the actions of both petitioners to assist the Commission in its continuing effort to upgrade both the quality and applicability of the established minimum rate tariffs are to be commended, the general position and alternative course of action recommended by the staff in this particular instance are persuasive. The staff should be directed to further evaluate the tariff proposals submitted in this proceeding by both the CTA and CMA. In those instances where the staff, or other interested parties for that matter, determine that a particular tariff change presented in this proceeding has sufficient merit to warrant its consolidation with other more substantive contemplated tariff proposals, such consolidated matters should then be presented to the Commission for its consideration. This course of action would defer consideration of CTA's and CMA's sought tariff revisions in this proceeding while at the same time permit the disposition of the several petitions now before the Commission without prejudice to any like future sought tariff changes deemed appropriate in the circumstances.

The Commission finds that:

1. The CTA seeks to have the several minimum rate tariffs of the Commission revised so that the definitions of carrier's equipment in said tariffs are applied uniformly.
2. The objectives of the tariff changes proposed by the CTA are tariff uniformity, simplification, and clarification. No increase in rates, rules, or charges is proposed or otherwise intended.
3. The CMA's proposed modification of the definition for carrier's equipment, insofar as it pertains to charges of accessorial services or delay provisions provided in the several minimum rate tariffs, is recommended as an alternative to the like tariff changes proposed by the CTA. No increase in rates, rules, or charges is sought or otherwise intended by CMA.

4. The Commission's Transportation Division staff is opposed to the adoption of the tariff proposals. It contends that the cost of tariff publication for the limited objectives of such tariff proposals is prohibitive. The staff recommends that, if the Commission finds adoption of any or all of the tariff changes is desirable, it first direct that the tariff proposals be prepared in tariff form. Secondly, the staff urges that any tariff change adopted in this proceeding not be ordered to be published at once but rather permit such tariff changes to be made at some future time when they can be consolidated with other more substantive tariff revisions found justified in the various outstanding minimum rate orders of the Commission.

5. The cost of publishing the tariff changes proposed by CTA and CMA at this time are, as noted by the staff, prohibitive. The staff's recommended course of action in this proceeding has been shown to be justified to the following extent:

- a. The staff should be directed to evaluate on its own behalf the tariff changes proposed in this proceeding.
- b. Where the staff (or other interested party) has determined that any tariff change presented in this proceeding has sufficient merit to warrant its consolidation with other more substantive contemplated tariff proposals, such consolidated tariff matter may then be presented to the Commission for its consideration.

6. In view of the course of action found justified in Finding 5, further consideration of the tariff changes proposed herein by CTA and CMA should be deferred, and the several petitions involved in this proceeding dismissed without prejudice to any related future pleading deemed appropriate in the circumstances.

The Commission concludes that the tariff changes proposed by the California Trucking Association and the California Manufacturers Association in Case No. 5432 (Petition 758) et al. and Case No. 5432 (Petition 764) et al., respectively, should be dismissed without prejudice.

O R D E R

IT IS ORDERED that:

1. Petitions for Modification Nos. 758, 69, 44, 143, 249, 89, 184, 82, 271, 126, 35, 22, 75, 80, and 156 in Cases Nos. 5432, 5330, 5433, 5436, 5437, 5438, 5439, 5440, 5441, 5603, 5604, 6008, 7783, 7857, and 7858, respectively, are dismissed without prejudice.

2. Petitions for Modification Nos. 764, 73, 45, 148, 251, 90, 188, 84, 275, 131, 36, 23, 80, 84, and 161 in Cases Nos. 5432, 5330, 5433, 5436, 5437, 5438, 5439, 5440, 5441, 5603, 5604, 6008, 7783, 7857, and 7858, respectively, are dismissed without prejudice.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 20th day of FEBRUARY, 1974.

Thomas R. Sturgeon
President
William Higgins, Jr.
J. M. ...
[Signature]
Commissioners