

Decision No. 85203

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 common carriers, highway carriers and city 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 No. 2).

And Related Matters.

Case No. 5432
Petition for Modification
No. 855
(Filed May 14, 1975)

Case No. 5433
Petition for Modification
No. 60

Case No. 5438
Petition for Modification
No. 108

Case No. 5439
Petition for Modification
No. 250

Case No. 5440
Petition for Modification
No. 99

Case No. 5441
Petition for Modification
No. 339

Case No. 5603
Petition for Modification
No. 174

Case No. 5604
Petition for Modification
No. 54

Case No. 6008
Petition for Modification
No. 32

Case No. 7857
Petition for Modification
No. 125

Case No. 8808
Petition for Modification
No. 37

(Filed May 14, 1975)

Richard W. Smith, Attorney at Law, and H. Hughes,
for California Trucking Association,
petitioner.

Jess J. Butcher, for California Manufacturers
Association and Thomas J. Hays, for California
Moving & Storage Association; interested
parties.

George Hunt, for the Commission staff.

O P I N I O N

California Trucking Association (CTA) seeks an ex parte order of the Commission prescribing rules and charges for the obtaining of a certified weighmaster's certificate in Minimum Rate Tariffs 1-B, 2, 3-A, 8, 9-B, 10, 11-A, 12, 13, 14-A, 18, and 19. California Manufacturers Association (CMA) opposed ex parte action and requested that a public hearing be scheduled. By letter dated May 19, 1975, the Highway Carriers Association (HCA) requested that Petition 37 in Case No. 8808 (MRT 18) be denied for the reason that weight is not a factor in mobile home transportation. HCA had no objections to ex parte consideration of other petitions.^{1/} Sunkist Growers, Inc. (Sunkist), on June 5, 1975, filed a motion that Petition 108 in Case No. 5438 (MRT 8) be consolidated for hearing with OSH 99 in Case No. 5438. That motion was denied by the presiding examiner during the course of the hearings in OSH 99. The latter proceeding stands submitted for decision by the Commission.

Public hearing was held and the captioned minimum rate proceedings were submitted before Examiner Mallory at San Francisco on October 15, 1975. Evidence in support of the petitions was presented by a transportation analyst employed by CTA. Other parties participated in the proceeding through cross-examination of CTA's witness.

^{1/} No appearance was made by HCA in the hearing on the captioned proceeding.

CTA's proposal in Exhibit 855-1, as modified at the hearing, is to establish the following rule in the minimum rate tariffs mentioned above:

"Whenever a carrier is requested by the shipper, consignee, or debtor to obtain a certified weight from a public scale, or when a carrier must obtain a certified weight for billing purposes or for other legal requirements, and a charge is assessed by the public weighmaster for this service, the carrier shall assess a charge of not less than \$4.90 for each weight certificate obtained and furnished to the debtor or other person requesting a certified weight. In no event shall the charge assessed be less than the actual amount paid by the carrier to the public weighmaster for the weighing service."

Concurrently with the establishment of the above rule, CTA proposes that Item 670 and Note 3 of Item 755 of MRT 2 be canceled.

The witness testified that documentation rules are established in all minimum rate tariffs which require that carriers retain certified weighmaster certificates used as evidence of the weight of a shipment for a period of three years. Other decisions purportedly recognize that carriers incur added costs when certified weighmaster certificates are obtained. MRTs 6-B, 7-A, 15, 17-A, and 20 are not sought to be amended in these proceedings because those tariffs already provide for the pass-through to the debtor of the cost of obtaining a weighmaster's certificate.

Exhibit 855-2 develops the cost of obtaining a weighmaster's certificate. That exhibit shows the charge for the certificate of a certified public weighmaster ranges from \$1.50 to \$5.00 and averages \$2.00. In addition, the exhibit shows direct running costs, vehicle fixed costs, and hourly labor costs for the out-of-line movement to the scales of \$1.96. The total cost of \$3.96 of the certificate and the out-of-line movement is increased for indirect expense of 20 percent and gross revenue expense of 3.13 percent. The total cost

thus developed is \$4.90. The cost factors used are those related to truckload operations under MRT 2 as set forth in Exhibit 833-13 (Case No. 5432, Petition 833).

The witness testified that a charge for weighing is proposed for inclusion in MRT 18 (mobile homes and trailers) only for use with the alternative application of common carrier rates provisions of that tariff, inasmuch as alternatively applied rail rates are based on weight. The minimum rates in that tariff are on a per-vehicle basis. Similarly, a charge for weighing is also proposed for inclusion in MRT 12 (motor vehicles) and MRT 13 (vacuum and pump-type trucks) even though minimum rates therein are stated on a per-vehicle or on an hourly basis.

In its closing statement, CMA stated that the language changes in the proposed rule made at the hearing eliminated its objections to the manner in which the rule would apply; however, CMA is in doubt as to the proper level of the charge to be established. The staff had no objection to the proposed tariff items as amended at the hearing.

On October 14, 1975, Sunkist filed its written statement of position concerning Petition 108 in Case No. 5438, in which Sunkist urged that Petition 108 should be considered in conjunction with the Commission's decision in OSH 99, particularly in light of evidence in latter proceedings dealing with agreed weights for citrus.

Discussion

An example of the so-called "pass-through" tariff provisions referred to in the testimony of CTA's witness is contained in Item 420 of MRT 20 (Rock, Sand, and Gravel in Bulk), as follows:

"Method of Determining Weight - Actual weight of the shipment shall be used when furnished by the shipper or when obtained by the carrier at the shipper's direction or expense. In the event actual weights are not available an estimated weight of 2,800 pounds per cubic yard shall be used..."

Those minimum rate tariffs which contain so-called pass-through provisions require that the shipper pay the cost of obtaining a certified weight, but do not require the assessment of extra charges for out-of-line movement nor provide for recovery of the carrier's indirect and gross revenue expenses. The adoption of CTA's proposals would result in one group of minimum tariffs which provide only that the weighing charge be billed to the debtor, and another group of tariffs which would require assessment of charges for obtaining certified weights substantially in excess of the actual cost of the certified weighmaster's certificate. The reasons for this result are not clear on the record. It appears that consistency in tariff provisions urged by CTA requires that until further evidence is adduced concerning the differences in transportation circumstances which would warrant different tariff treatment, all minimum rate tariffs in which weight is a factor in determining minimum rates should contain similar provisions. Therefore, the petitions should be granted only to the extent that the cost of obtaining a certified weight be charged to the shipper.

Sunkist asks that the provisions for obtaining certified weights on citrus moving under MRT 8 be considered in light of evidence adduced in OSH 99 in Case No. 5438. That request is reasonable and should be granted.

The staff pointed out that rules pertaining to obtaining certified weights are proposed to be included in tariffs which do not contain minimum rates on a weight basis. With respect to those tariffs, the proposed rules are unnecessary except when the alternative application of common carrier rates provisions is brought into play. There is no showing that any significant portion of the truck traffic subject to those tariffs moves at alternative rates. In the interest of tariff simplification, MRTs 12, 13, and 18 should not be amended to include the proposed rules.

Findings

1. MRTs 1-B, 2, 3-A, 8, 9-B, 10, 11-A, 12, 13, 14-A, 18, and 19 require that certified weighmaster certificates, if obtained by the carrier, be retained as part of the shipping documents covering the shipment. However, those tariffs do not contain provisions for the obtaining of certified weights.

2. CTA proposes that the aforementioned tariffs be amended to provide rules and charges for obtaining certified weights. The proposed charge includes provision for the cost of obtaining a certified weighmaster's certificate, the carrier's direct cost for the out-of-line movement to and from the scales, and the carrier's indirect (overhead) and gross revenue expenses.

3. The minimum rate tariffs that now contain provisions for obtaining scale weights of shipments require only that the cost of weighing be collected from the debtor.

4. In the absence of evidence justifying different treatment for different tariffs, tariff uniformity concerning obtaining scale weights is desirable.

5. Just, reasonable, and nondiscriminatory provisions to govern the application of the minimum rates in MRTs 1-B, 2, 3-A, 9-B, 10, 11-A, 14-A, and 19 will result from the establishment of the following item in said tariffs:

"Whenever a carrier is requested by the shipper, consignee or debtor to obtain a certified weight from a public scale, or when a carrier must obtain a certified weight for billing purposes or for other legal requirements, and a charge is assessed by the public weighmaster for this service, the carrier shall assess a charge of not less than the actual amount paid by the carrier to the public weighmaster for the weighing service for each weight certificate obtained and furnished to the debtor or other person requesting a certified weight."

6. Common carriers subject to the Public Utilities Act, to the extent they are also subject to the tariffs described in the preceding finding, should be directed to establish and maintain the tariff provisions found reasonable above.

7. It will not be reasonable to establish provisions for obtaining certified weights in MRTs 12, 13, and 18 inasmuch as the minimum rates for highway carriers in those tariffs are based on units of measurement other than weight.

Conclusions

1. MRTs 1-B, 2, 3-A, 9-B, 10, 11-A, 14-A, and 19 should be amended to incorporate the tariff provisions found reasonable above. MRT 2 should be amended by the order which follows, and other tariffs should be amended by separate order to avoid duplication of tariff distribution.

2. Petition 108 in Case No. 5438 should be considered in light of the evidence adduced in OSH 99 which is under submission. Petition 108 will be disposed in conjunction with the decision in OSH 99.

3. Except with respect to Petition 108 in Case No. 5438, to the extent the petitions herein are not granted, those petitions should be denied.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D of Decision No. 31606, as amended) is further amended by incorporating therein, to become effective January 3, 1976, Forty-sixth Revised Page 2, Forty-fourth Revised Page 3, Thirty-first Revised Page 19-B, Sixth Revised Page 51-BB, and Fifteenth Revised Page 52-A, 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 to Decision No. 31606, as amended, are hereby directed to comply with the revised tariff rules and definitions established herein.

3. Tariff publications 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 tenth day after the effective date of this order, on not less than ten days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than January 3, 1976; and as to tariff publications which are authorized but not required, the authority shall expire unless exercised within sixty days after the effective date of this order.

4. Common carriers, in establishing and maintaining the amendments authorized hereinabove, are hereby authorized to depart from the provisions of Section 461.5 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 amendments published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.


5. In all other respects Decision No. 31606, as amended, shall remain in full force and effect.

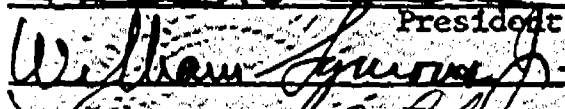
C. 5432, Pet. 855 et al. lmm


6. Except with respect to Petition 108 in Case No. 5438 which will be decided in conjunction with OSH 99 in Case No. 5438, to the extent not granted herein, Petition 855 in Case No. 5432 and other petitions captioned above are denied.

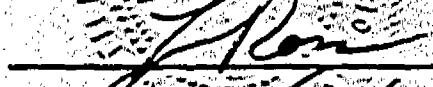
The effective date of this order shall be twenty days after the date hereof.


Dated at San Francisco, California, this 2nd
day of DECEMBER, 1975.



President








Commissioners

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SECTION 1--RULES OF GENERAL APPLICATION (Continued)			ITEM																
<p align="center">CHARGES FOR ACCESSORIAL SERVICES OR DELAYS</p> <p>For accessorial services or delays under conditions specified in Items 140 and 142, charges shall be assessed for each period or fraction thereof, as follows:</p> <table> <tr> <th colspan="2"></th><th align="center" colspan="2"><u>Charges in Cents</u></th></tr> <tr> <th></th><th></th><th align="center"><u>For First 30 Minutes or Fraction</u></th><th align="center"><u>For Each Additional 15 Minutes or Fraction</u></th></tr> <tr> <td>(a)</td><td>For driver, helper or other carrier employee, per man-----</td><td align="center">745</td><td align="center">375</td></tr> <tr> <td>(b)</td><td>For unit of equipment (each motor truck trailer or semitrailer, exclusive of motor tractors)-----</td><td align="center">65</td><td align="center">33</td></tr> </table>					<u>Charges in Cents</u>				<u>For First 30 Minutes or Fraction</u>	<u>For Each Additional 15 Minutes or Fraction</u>	(a)	For driver, helper or other carrier employee, per man-----	745	375	(b)	For unit of equipment (each motor truck trailer or semitrailer, exclusive of motor tractors)-----	65	33	145
		<u>Charges in Cents</u>																	
		<u>For First 30 Minutes or Fraction</u>	<u>For Each Additional 15 Minutes or Fraction</u>																
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(b)	For unit of equipment (each motor truck trailer or semitrailer, exclusive of motor tractors)-----	65	33																
<p align="center">ADVERTISING ON EQUIPMENT</p> <p>For placing or carrying any sign, or signs, or advertising, of Alcoholic Liquors on carrier's equipment engaged in transporting Alcoholic Liquors as described in Item 111450 of the Governing Classification, moving between San Francisco Territory and Los Angeles Territory, an additional charge of \$9.60 per unit per shipment shall be assessed by the carrier.</p>			147																
<p align="center">CHARGES FOR OBTAINING A WEIGHMASTER'S CERTIFICATE</p> <p>Whenever a carrier is requested by the shipper, consignee or debtor to obtain a certified weight from a public scale, or when a carrier must obtain a certified weight for billing purposes or for other legal requirements, and a charge is assessed by the public weighmaster for this service, the carrier shall assess a charge of not less than the actual amount paid by the carrier to the public weighmaster for the weighing service for each weight certificate obtained and furnished to the debtor or other person requesting a certified weight.</p>			*148																
<p>*Addition, New Item, Decision No. 85203</p>																			
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<p align="center">ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.</p>																			
Correction																			

SECTION 3--COMMODITY RATES (Continued)	ITEM		
ITEM CANCELED, SEE ITEM 148	#670		
<p style="text-align: center;"><u>PROVIDED WEIGHTS</u></p> <p>Provided weights contained in this item shall be used in lieu of actual gross weights in connection with the following transportation of Lumber and Forest Products:</p> <p>1. Shipments rated under the provisions of Items 690 and 700, when the distance from point of origin to point of destination, computed in accordance with the method provided in the Distance Table, does not exceed 50 constructive miles (See Note); and</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 60%; vertical-align: top;"> Lumber, seasoned, viz.: cedar, cottonwood, fir, hemlock, pine, redwood and spruce, per 1,000 feet board measure----- Lumber, dry, machine finished, viz.: flooring, rustic, siding, ceiling, shiplap, per 1,000 feet board measure----- Shakes, sawed or split, 2,500 will be considered the equivalent of 1,000 feet board measure----- Shingles (cedar) dry, per 1,000----- Shingles (cedar) green, per 1,000----- Shingles (pine or redwood), 8,000 will be considered the equivalent of 1,000 feet board measure----- <p style="text-align: center;">NOTE.--For other transportation, the provisions of Item 70 will apply.</p> </td><td style="width: 40%; vertical-align: top; padding-left: 20px;"> Pounds 2500 2200 150 210 Apply the provided weight applicable to the type of lumber used. Apply the provided weight applicable to the type of lumber used. </td></tr> </table>	Lumber, seasoned, viz.: cedar, cottonwood, fir, hemlock, pine, redwood and spruce, per 1,000 feet board measure----- Lumber, dry, machine finished, viz.: flooring, rustic, siding, ceiling, shiplap, per 1,000 feet board measure----- Shakes, sawed or split, 2,500 will be considered the equivalent of 1,000 feet board measure----- Shingles (cedar) dry, per 1,000----- Shingles (cedar) green, per 1,000----- Shingles (pine or redwood), 8,000 will be considered the equivalent of 1,000 feet board measure----- <p style="text-align: center;">NOTE.--For other transportation, the provisions of Item 70 will apply.</p>	Pounds 2500 2200 150 210 Apply the provided weight applicable to the type of lumber used. Apply the provided weight applicable to the type of lumber used.	680
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Change, Decision No. 85203			
EFFECTIVE			
Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.			

SECTION 3--COMMODITY RATES (Continued) In Cents Per 100 Pounds				ITEM
<p>RULES AND REGULATIONS GOVERNING THE APPLICATION OF RATES IN ITEMS 745 AND 746</p> <p>NOTE 1.--The rates do not alternate with the class rates named in Section 2 of this tariff.</p> <p>NOTE 2.--The rates are not subject to Item 85--Shipments Transported in Multiple Lots; Item 142--Delays to Equipment; Items 160-163--Split Pickup; Item 188--Multiple Service Shipment; nor Paragraph 1 or 2 of Item 240--Accessorial Services Not Included in Common Carrier Rates.</p> <p>**</p> <p>NOTE 4.--Rates do not include pumping service when rendered with carrier's equipment. When pumping service is performed by the carrier's equipment, a charge of one cent per 100 pounds will be made. Pumping service means the discharge of sugar from the carrier's equipment by the means of blowers.</p> <p>NOTE 5.--The bill of lading issued for each shipment transported shall show the trailer numbers and identification of the ownership of the trailers used to perform the transportation.</p>				8755
COMMODITY	FROM	TO	RATE	
<p>Tubs, woodenware (planter boxes) nested or not nested, loose or in packages, in truckloads.</p> <p>Minimum Weight 30,000 Pounds. Subject to Note 2.</p> <p>NOTE 1.--Apply Class 45 rate in Items 507 and 508 for the constructive mileage distance from Atwater to Central Los Angeles Metropolitan Zone Group as described in the Distance Table.</p> <p>NOTE 2.--The minimum weight applies to each unit of equipment in which the shipment is transported.</p>	ATWATER	CENTRAL LOS ANGELES METROPOLITAN ZONE GROUP	See Note 1	758
<p>Tankage, In Packages, as described in Item 180650, Governing Classification. Minimum Weight 40,000 Pounds (See Notes 1 through 4)</p> <p>NOTE 1.--The minimum weight applies to each unit of equipment in which the shipment is transported.</p> <p>NOTE 2.--The rates are not subject to the provisions of Item 85--Shipments Transported in Multiple Lots; Items 160-163--Split Pickup; or Item 188--Multiple Service Shipment.</p> <p>NOTE 3.--Shipments must be loaded and unloaded by shipper and receiver at no expense to carrier.</p> <p>NOTE 4.--Shipments must move prepaid by shipper.</p>	<p>MODESTO</p> <p>TURLOCK</p>	<p>LOS ANGELES AREA METROPOLITAN ZONES 235 and 251</p> <p>SAN DIEGO METRO- POLITAN ZONE 301</p> <p>OAKLAND METRO- POLITAN ZONE 111</p> <p>EUREKA</p>	Apply Class 35.4 rates in Items 507 and	759
<p>Change) Decision No. 85203 ** Eliminated)</p>				
EFFECTIVE				
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.				
Correction				