

Decision No. 85585**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga-)
 tion for the purpose of consid-)
 ering and determining minimum)
 rates for transportation of any)
 and all commodities statewide)
 including, but not limited to)
 those rates which are provided)
 in Minimum Rate Tariff 2 and the)
 revisions or reissues thereof.)

Case No. 5432

And Related Matters)

Case No. 5439

Case No. 5441

SUPPLEMENTAL OPINION AND ORDER

On September 12, 1975, there was sent to interested parties for comments or suggestions, a report prepared by the Commission's Transportation Division Freight Economics Branch staff, proposing that the transportation of flattened automobile bodies be exempted from the application of the minimum rates in Minimum Rate Tariffs 2, 1-B, 9-B and 19.

According to the report, the staff found that there is no specific classification for flattened automobile bodies, and for rating purposes, the specific commodity must be classified by analogy.¹ It has been determined to be most closely analogous to Iron or Steel Scrap, NOI, not copper clad, as set forth in Item . 106610 of the Governing Classification and subject to a truckload rating of Class 35, minimum weight 50,000 pounds. The transportation characteristics of flattened automobile bodies and Iron or Steel Scrap, NOI, are not the same. Flattened automobile bodies are transported on flatbeds without sides and iron or steel scrap is transported in steel decked flatbed equipment with side boards

¹See Item 421 of National Motor Freight Classification NMF 100 & Cal P.U.C. 13 (Governing Classification).

or dump truck equipment. The tare weights of the former and latter types of equipment are respectively 28,000 pounds and 38,000 to 40,000 pounds. Loading of flattened automobile bodies by forklift requires less time than the loading of iron or steel scrap.

The present rates are not responsive to the transportation of flattened automobile bodies as evidenced by the fact that five carriers have, since January 9, 1974, requested rate relief for this transportation. In all decisions pertaining to this transportation, the Commission has found that there were favorable circumstances² attendant to this traffic not generally prevalent in the usual or ordinary transportation services performed by highway carriers under the provisions of Minimum Rate Tariff 2.

Written comments were received from California Trucking Association, Department of California Highway Patrol, Fresno Iron & Metal Co., Inc., Vincent Ganduglia Trucking, Schnitzer Steel Products of California, Inc., William C. Scott, State Solid Waste Management Board, Gordon W. Tamplin and Tow Car Association, Inc. All of the above parties except Gordon W. Tamplin and California Trucking Association support the staff's proposal.

Gordon W. Tamplin did not request hearing in this matter. He stated that he felt that the commodity should not be exempt from rate regulation but that fair and just rates should be established for this transportation and such rates should be enforced through the shipper and not the carrier.

California Trucking Association (CTA) opposes the staff's proposal and requests a hearing in this matter. CTA alleges that the proposal is inconsistent with the Commission's statutory responsibilities and cites Section 3662 of the Public Utilities Code which provides that the Commission "...shall...establish just, reasonable and nondiscriminatory minimum rates."

² Shipments tendered to the involved carriers were respectively loaded and unloaded with power equipment expeditiously by the shipper and consignee without expense to said carriers. The carriers were only required to tie-down and secure the loads and transport the property from origin to destination. (See Decisions 82964, 33619, 84420, 84493 and 84596).

This Commission has historically exempted commodities from minimum rates when it was of the opinion that the applicable minimum rates and rules were not appropriate or practicable of application to the transportation of the commodity involved. (See Decisions 50530, 51134, 58732 and 65974.) Contrary to CTA's allegation, the exemption of unusual commodities from minimum rates does not violate existing law and legislative policy. (See Decision 80134, rehearing denied by Decision 80596, Writ of Review denied.)

The issue that this Commission must determine is whether the transportation of flattened automobile bodies is such that "the rules and regulations upon which minimum rates were predicated were not intended and are not appropriate for this type of service." (See Decision 65794.) The Commission is convinced that the transportation of flattened automobile bodies falls within that category. As cited in the staff report, there is no specific classification for flattened automobile bodies. They are classified by analogy as Iron or Steel Scrap, NOI, not copper clad. The analogy between flattened automobile bodies and iron or steel scrap is unreasonable. The public interest does not require the continuance of minimum rates for the transportation of flattened automobile bodies. The present less-than-minimum rates granted to the various carriers are not suitable for publication as minimum rates. The request for hearing by CTA will, therefore, be denied.

The staff report and replies thereto are respectively received in evidence as Ex Parte Exhibits 027 and 028 and in Case 5432.

Upon consideration of the evidence in this proceeding, the Commission finds that the staff's proposal is reasonable and justified. A public hearing is not necessary. The Commission concludes that Minimum Rate Tariff 2 should be amended accordingly by the order herein. The other tariffs will be amended by separate

orders and the involved tariff revisions will be consolidated with other tariff amendments required by Decision 85584 to avoid dual adjustments in common tariff pages and the added printing and distribution expenses.

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D of Decision 31606, as amended) is further amended by incorporating therein, to become effective April 17, 1976, Sixty-second Revised Page 14, 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 31606, as amended, are hereby authorized to establish in their tariffs the revisions necessary to conform with the further adjustment ordered herein.
3. Tariff publications 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 if filed not later than sixty days after the effective date of the minimum rate tariff page incorporated in 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.

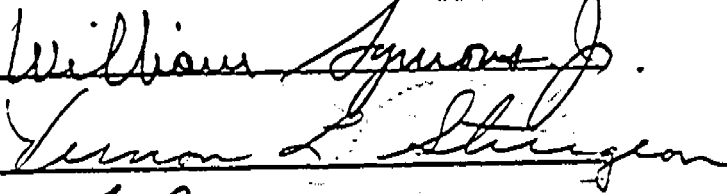
7. In all other respects Decision 31606, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 12th day of March, 1976.



President



Commissioner



Commissioner



Commissioners

MINIMUM RATE TARIFF 2

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">APPLICATION OF TARIFF--COMMODITIES (Continued) (Items 40, 41 and 42)</p> <p>Except as otherwise specifically provided in this tariff, rates named herein apply for the transportation of all commodities except as provided in Paragraphs 1, 2 or 3 below:</p> <p>1. Rates in this tariff will not apply to the transportation of commodities when subject to the rates provided in the following minimum rate tariffs (or successive issues thereof):</p> <ul style="list-style-type: none"> 3-A - Livestock 4-B - Used household goods, personal effects and office, store and institution furniture, fixtures and equipment 6-B - Petroleum and petroleum products, as described, when transported in bulk in tank trucks, tank trailers or tank semitrailers 7-A - Property, as described, when transported in dump truck equipment 8 - Fresh fruits, fresh vegetables and specified empty containers 10 - Cement and other specified commodities 11-A - Uncrated new furniture 12 - Motor vehicles, as described in secondary movement by truckaway service 13 - Commodities transported by vacuum-type and pump-type tank vehicles 14-A - Specified agricultural commodities, in bulk 15 - Yearly, monthly, weekly and hourly vehicle unit rates 17-A - Property, as described when transported in dump truck equipment - Southern California 18 - Trailer coaches and campers 20 - Rock, sand and gravel in dump truck equipment - Northern California <p>2. Rates in this tariff will not apply to shipments consisting of the following commodities:</p> <ul style="list-style-type: none"> Accessories, motion picture Automobiles, set up (when rates are not otherwise provided in Minimum Rate Tariff 12) Baggage Bodies, automobile, flattened Buttermilk, liquid (subject to Note 1) Carriers (used packages), as described in Items 320 and 321 of the Exception Ratings Tariff, empty returning or forwarded for return loads (subject to Note 2) Cement Clinker Concrete transported in motor vehicles equipped for mechanical mixing in transit Cottage Cheese (subject to Note 1) Cotton Cream (subject to Note 1) Directories, telephone Eggs, other than shelled, desiccated or frozen (subject to Note 3) Fertilizers, as described in Items 540, 560 and 580 of the Exception Ratings Tariff Film, motion picture Fruit, dried, unmanufactured and unprocessed (subject to Note 3) Fruit, fresh or green, including dates, fresh, not cold pack nor frozen (when rates are not otherwise provided in Minimum Rate Tariff 8) Fruit, which are placed in a preservative and are destined to a cannery for processing into a preserved or pickled fruit Fungicides, agricultural Furniture, household appliances and other home furnishings which have been sold at retail by a retail merchant, transported from retail stores or retail store warehouses, or transported from retail customers to retail stores or retail store warehouses (subject to Note 4) Furniture, uncrated, new, of state, county or municipal governments, or transported under an agreement whereby the governments contracted for the carrier's services Hops Houses which have been disengaged from their foundations, or sections thereof and integral parts or contents when the contents are transported within the houses Hulls, almond, including shells and other waste from the hulling and shelling of almonds, not processed for use as animal or poultry feed Ice Cream Mix, unflavored (subject to Note 1) Insecticides, agricultural Jewelry transported from or to wholesale houses in packages weighing 10 pounds or less <p style="text-align: center;">(Continued in Item 41)</p>	40
<div style="display: flex; justify-content: space-between;"> Ø Change) * Addition) </div>	Decision No. 85585
EFFECTIVE	
<div style="display: flex; justify-content: space-between;"> Correction ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA. </div>	