

Decision No. 85613

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation  
for the purpose of considering 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  
Petition for Modification  
No. 853  
(Filed April 22, 1975)

Richard W. Smith, Attorney at Law, and  
H. W. Hughes, for California Trucking  
Association, petitioner.  
Don B. Shields, for Highway Carriers  
Association; Jess J. Butcher, for  
California Manufacturers Association;  
Steve C. Islander, for McCormick &  
Company - Schilling Plant; and Harvey  
E. Hamilton, for Certain-Teed Products  
Corporation; interested parties.  
Dan Callaghan, for the Commission staff.

O P I N I O N

Item 70, Minimum Rate Tariff 2 (MRT 2) provides:

"Unless otherwise provided, charges shall be computed on actual gross weights, except when estimated weights are authorized such estimated weights shall be used. (See Exceptions 1 and 2)

"EXCEPTION 1.--When palletized shipments subject to minimum weights of 20,000 pounds or more are loaded or unloaded by power equipment, the weight of the pallets (elevating truck pallets or platforms or lift truck skids) shall not be used in determining the weight of the shipment nor the charges thereon. This exception applies only in connection with rates contained in this tariff, and is not applicable to shipments of empty pallets. When rail rates are used

under the provisions of Items 200 through 230 of this tariff, the weight of the pallets shall be included or excluded in accordance with the provisions of the governing rail tariff.

"EXCEPTION 2.--When rail rates are used under the provisions of Items 200 through 230 of this tariff, actual, estimated or agreed weights shall be used to compute charges in accordance with the provisions of the governing rail tariff."

By this petition California Trucking Association (petitioner) seeks to amend Exception 1 of Item 70 by restricting it to apply only when the weight of the pallets and the weight of the merchandise are separately stated by the shipper on the bill of lading at the time of shipment.

Public hearing was held before Examiner Tanner on December 8, 1975 in San Francisco at which time the matter was submitted.

According to petitioner carriers are noting shipments being short paid, due to the fact the debtor is deducting a pallet weight and re-rating the freight bill. The bill of lading shows no indication of a pallet weight at the time of pickup, thereby questioning the propriety of a weight determined by the debtor. Due to the ever-increasing truckload shipments moving on pallets, the great variety of pallet sizes, the various construction materials and designs used for pallets, and the variance in weight due to the moisture content of wooden pallets, disputes concerning pallet weight are an increasing problem and burden to the industry and the public. The situation, at present, allows for cases in which the carrier and the debtor cannot accurately determine transportation charges prior to shipment.

Petitioner was of the opinion that a requirement that the pallet weight be shown on the bill of lading at the time of shipment would be the most realistic solution for this problem.

McCormick and Company, Inc., Schilling Division (Schilling) took the position that a tariff rule requiring added information on

bills of lading would not stop the alleged abuses. It was the view of Schilling that the use of pallets is beneficial to shippers and carriers and that petitioner's proposal would act to discourage the increase of palletized movements.

The present tariff rule clearly implies that pallet weight should be known by the shipper and carrier.

Paragraph 2, Item 255 (Issuance of Documents) requires, among other things:

1. Weight of the shipment (or other factor or unit of measurement upon which the charges are based).
2. Such other information as may be necessary to an accurate determination of the applicable minimum rate and charge.

It is obvious that in order to apply Exception 1 to Item 70 the net weight of the merchandise must be known.

We cannot see how a tariff rule which is implied can cause problems if it is incorporated into the tariff. The record is clear that problems do exist now.

Assembly Bill No. 1352<sup>1/</sup> which became effective January 1, 1976 revised the maximum gross weights permitted on the highways. According to petitioner those provisions of the Vehicle Code which permitted tolerances over the maximum gross weight were repealed by this legislation, which places a greater burden on carriers in determining cargo weights. Petitioner asserted that the instant proposal would assist carriers in complying with the new gross vehicle weight laws.

After consideration we find that petitioner's requested tariff amendment is reasonable and conclude that Petition for Modification No. 853 should be granted.

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<sup>1/</sup> Sections 35550 and 35551, Vehicle Code, Chapter 651, 1975 statutes.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision No. 31606, as amended) is further amended by incorporating therein, to become effective April 24, 1976, Eighteenth Revised Page 16 attached hereto.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision No. 31606, as amended, are directed to amend their tariffs to conform with the adjustments ordered by this decision.

3. Tariff publications required to be made by common carriers as a result of this order 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 and be made effective not later than April 24, 1976.

4. In all other respects Decision No. 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 Los Angeles, California, this 23rd day of MARCH, 1976.

*Robert B. Brown*  
Commissioner

*William L. Sturgeon*  
President  
*William L. Sturgeon*  
*J. R. ...*  
*[Signature]*  
Commissioners

SECTION 1--RULES OF GENERAL APPLICATION (Continued)	ITEM
<p style="text-align: center;">SHIPMENTS TO BE RATED SEPARATELY</p> <p>Each shipment shall be rated separately. Shipments shall not be consolidated nor combined by the carrier. (Shipments may be picked up in multiple lots in accordance with the provisions of Item 85. Component parts of split pickup or split delivery shipments, may be combined under the provisions of Items 160-163, 170-173, 220 and 230. Component parts of multiple service shipments may be combined under provisions of Item 188).</p>	60
<p style="text-align: center;">WEIGHTS--GROSS WEIGHTS AND DUNNAGE (Exception to Sec. 1 and Sec. 3 of Item 995 of the Governing Classification)</p> <p>Unless otherwise provided, charges shall be computed on actual gross weights, except when estimated weights are authorized such estimated weights shall be used. (See Exceptions 1 and 2)</p> <p>EXCEPTION 1.--When palletized shipments subject to minimum weights of 20,000 pounds or more are loaded or unloaded by power equipment, the weight of the pallets (elevating truck pallets or platforms or lift truck skids) shall not be used in determining the weight of the shipment nor the charges thereon. This exception applies only * when the weight of the pallets and the weight of the merchandise is separately stated by the shipper on the bill of lading at time of shipment and only in connection with rates contained in this tariff, and it is not applicable to shipments of empty pallets. When rail rates are used under the provisions of Items 200 through 230 of this tariff, the weight of the pallets shall be included or excluded in accordance with the provisions of the governing rail tariff.</p> <p>EXCEPTION 2.--When rail rates are used under the provisions of Items 200 through 230 of this tariff, actual, estimated or agreed weights shall be used to compute charges in accordance with the provisions of the governing rail tariff.</p>	670
<div>ø Change ) * Addition )      Decision No.      <b>85613</b></div>	
EFFECTIVE	
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA. Correction	