

The petitions were listed on the Commission's Daily Calendar of May 24, 1976. California Trucking Association (CTA) by letter dated September 8, 1976, requested public hearing in these petitions and that these matters be consolidated with Petitions 871, 884 and 900, et al. in Case 5432. CTA stated that the Commission has been requested in said proceedings to review its minimum rate tariffs in areas relevant to the relief sought in the instant petitions. The petitions cited by CTA are broad in scope whereas the instant petitions are very narrow in scope as the proposed rates are restricted to traffic which has had a prior, or will have a subsequent, movement by rail common carrier in trailer-on-flatcar service. The proposed rates are also limited to the area covered by applicant's highway common carrier certificate. The revenue volume of the involved intrastate movement is infinitesimal (.0013 of one percent of the total yearly gross revenue of the carrier). Since applicant is operating profitably in interstate commerce between railhead locations in California and other points in California in connection with the aforementioned trailer-on-flatcar service, the same transportation, when performed by applicant in intrastate commerce, may reasonably be expected to be profitable under the proposed rates.

In the circumstances, the Commission finds that petitioner's proposal is reasonable to the extent hereinafter indicated. Petitioner's certificated authority does not cover the transportation of property within the San Diego Drayage Area and Petition 276 in Case 5439 should therefore be dismissed. A public hearing is not necessary. The Commission concludes that the petitions should be granted as set forth in the ensuing order and the effective date of the order should be the date hereof because there is an immediate need for this relief.

IT IS ORDERED that:

1. LDS Truck Lines is authorized to deviate from the minimum rates in Minimum Rate Tariffs 1-B, 2 and 19 by publishing a tariff amendment providing for the application of its interstate rates for

the transportation of property between points in California to its intrastate transportation between the same points, as specifically proposed in the petitions.

2. The authority granted herein shall expire one year after the effective date of this order unless sooner cancelled, modified or extended by further order of the Commission.

3. Petition for Modification 276 in Case 5439 is dismissed without prejudice.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 21st day of September, 1976.

*I will file a written
dissent.*

William S. Moore Jr.

President

Veron L. Sturgeon

Robert Van

Robert Bateman

Commissioners

*I dissent only as
to the effective date, I believe it should
be 120 days hereafter, giving opportunity for
a stay of execution L. Sturgeon*

Commissioner D. W. Holmes, being
necessarily absent, did not participate
in the disposition of this proceeding.

C.5432, Pet. #894
C.5439, Pet. #276
C.5441, Pet. #361

COMMISSIONER WILLIAM SYMONS, JR., Dissenting

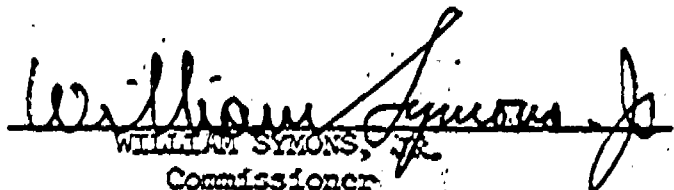
On the surface this order appears only to equalize interstate and intrastate rates for traffic which has had a prior, or will have a subsequent, movement by rail common carrier in tractor-on-flatbed (piggyback) service. The majority emphasizes the supposed narrowness of its decision as follows:

1. "The proposed rates are ... limited to the area covered by applicant's highway common carrier certificate." (page 2)
2. "The revenue volume of the involved intrastate movement is infinitesimal (.0013 of one percent of the total yearly gross revenue of the carrier)." (page 2)

However, the majority ignores the fact that all permitted and common carriers with authority to operate in the area covered by applicant's highway common carrier certificate will be able to assess the rate authorized by this decision, by virtue of the provisions of Section 3663 of the Public Utilities Code.

Moreover, the Commission in issuing this ex parte decision does so over the protest of the California Trucking Association, which has requested public hearing. Not content with denying a public hearing to a responsible protestant, the Commission again makes its decision effective immediately, denying to interested parties the opportunity to suspend the decision of the Commission pursuant to Section 1733(a) of the Public Utilities Code. While this device is not illegal, its frequent use without explanation or justification is an odious practice, bringing discredit to the Commission and denying due process of law to the practitioners before this Commission.

San Francisco, California
September 21, 1976


WILLIAM SYMONS, JR.
Commissioner