

ORIGINAL

Decision 84 11 077

NOV 7 1984

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 trans-)
 portation, in bulk, of agricultural)
 products and related articles state-)
 wide as provided in Minimum Rate)
 Tariff 14-A and the revisions or)
 reissues thereof.)

Case 7857, Pet. 174
(Filed May 29, 1981)

Case 7857, OSH 159
(Filed April 12, 1977)

ORDER MODIFYING DECISIONS (D.) 84-07-095
AND (D.) 82-06-091 AND DENYING REHEARING

An application for rehearing and stay of D.84-07-095 has been filed jointly by San Joaquin Valley Hay Growers Association, Phillips Grain Co., McCorkle Farms, Inc., Houghton Farms, Grisson Trucking, Shifflet Bros, Inc., R.C. Sherwood Grain Co., and California Trucking Association (CTA et al.). We have considered all of the allegations of error and have concluded that no good cause for stay or rehearing is shown. We will, however, make one modification in order to clarify why we believe that continuation of Minimum Rate Tariff (MRT) 14-A would not be likely to result in the benefits claimed for minimum rate tariff regulation.

In addition, we will clarify D.84-07-095 to ensure that it fully reflects our intent that the transportation formerly governed by MRT 14-A is to be free of rate regulation and not subject to other Commission tariffs.

Our Transition Tariffs 1-B, 2, 9-B, and 19 apply to all transportation performed by highway contract carriers or highway

common carriers except for transportation specifically exempted.¹

Prior to its cancellation, MRT 14-A applied to transportation performed by agricultural carriers or highway contract carriers of commodities that were named in the tariff and were transported in bulk or in certain specified containers. The rates of highway common carriers for such transportation were also subject to the minima specified in MRT 14-A.

Thus, with cancellation of MRT 14-A, transportation of the commodities named therein that can lawfully be transported by agricultural carriers became exempt from rate regulation.² However, it is also our intent that transportation requiring authority as a highway contract carrier or highway common carrier and formerly governed by MRT 14-A (for example, processed animal feed in bulk) not become subject to the transition tariffs.

Accordingly, we will amend Appendix A to D.82-06-091 to exempt from the transition tariffs the transportation that was formerly subject to MRT 14-A and that required a highway contract carrier permit or a highway common carrier certificate. Therefore,

IT IS ORDERED that D.84-07-095 is modified as follows:

1. The present Finding of Fact 11 is deleted and replaced with the finding of fact below:

¹ Transportation subject to our minimum rate tariffs is exempt (see Item 40, Transition Tariff 2, and similar provisions in the other tariffs), as is transportation named in Appendix A to D.82-06-091 (List of Commodities and Geographic Areas Exempt from Rate Regulation).

² We have listed the commodities that can lawfully be transported by agricultural carriers in Appendix F to D.89575, as amended by D.89730.

"11. Continuation of MRT 14-A would not be likely to result in the benefits claimed for minimum rate tariff regulation because the Commission's experience shows that MRT 14-A is both difficult to enforce and hard to maintain at a level appropriately reflecting economic conditions, and because fair and compensatory rates for this type of transportation depend more upon local and seasonal factors than on factors which can be determined on a statewide basis."

2. Conclusion of Law 10 is added as follows:

"10. Appendix A of D.82-06-091 should be amended to add to the exempt commodities there listed the transportation that was formerly subject to MRT 14-A and that required a highway contract carrier permit or a highway common carrier certificate."

3. Ordering paragraph 6 is added as follows:

"6. Appendix A of D.82-06-091 is amended by incorporating First Revised Page 3, First Revised Page 4, Original Page 4-A, First Revised Page 6, Second Revised Page 7, First Revised Page 11, First Revised Page 14 and Original Page 14-A, listed in the attachment to this order and made a part hereof." ✓

IT IS FURTHER ORDERED that rehearing of D.84-07-095, as modified, is denied, and the request of CIA et al. for stay thereof is also denied.

IT IS FURTHER ORDERED that the Executive Director shall serve by mail the attached amendment to Appendix A of D.82-06-091 on all highway common carriers and highway contract carriers and on all subscribers to MRT 14-A.

This order is effective today.

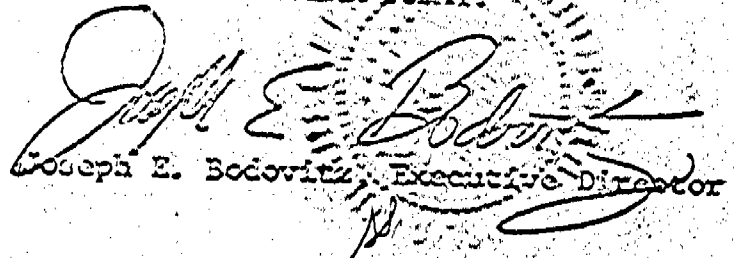
Dated NOV 7 1984, at San Francisco, California.

I abstain.

DONALD VIAL, Commissioner

VICTOR CALVO
FRISCILLA C. GREW
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

ATTACHMENT

(Amends Appendix A of Decision 82-06-091)

Page

First Revised Page 3
First Revised Page 4
Original Page 4-A
First Revised Page 6
Second Revised Page 7
First Revised Page 11
First Revised Page 14
Original Page 14-A

Cancels

Original Page 3
Original Page 4
--
Original Page 6
First Revised Page 7
Original Page 11
Original Page 14
--

SECTION 2--LIST OF COMMODITIES EXEMPT FROM RATE REGULATION

- Accessories, motion picture; Subject to Note 1.
- Accessories and supplies, motion picture; film, motion picture - Except as otherwise noted this exemption applies only within the City and County of San Francisco.
- Adhesive, Adjuvants, Spreaders or Stickers; Subject to Notes 1, 2, 3, and 5.
- Aluminum Scrap
- Aluminum Sulphate; Subject to Notes 1, 2, 3, and 5.
- Animals, live; this exemption applies only within the San Diego Drayage Area as described in Section 5.
- Automobiles, set up, in initial movement from the plant at which the automobiles were manufactured or assembled to the point of destination and the return transportation of such automobiles to the plant in cases where delivery has not been accomplished.
- Baggage; Subject to Note 1.
- *Beans, castor, in bulk or in bins; Subject to Note 11.
- Bodies, Automobile, flattened.
- Buttermilk; Subject to Note 6.
- Carriers (used packages) empty returning or forwarded for return loads; Subject to Notes 1, 3, and 7.
- Cement Clinker; Subject to Notes 1, 2, and 3. This exemption does not apply when the commodity is transported in bulk in dump truck equipment.
- Cheese, Pot, Subject to Notes 1, 2, 3, and 6.
- Compounds, tree or weed killing; Subject to Notes 1, 2, 3, and 5.
- Concrete transported in motor vehicles equipped for mechanical mixing in transit.
- Containers intermodal cargo, viz.; rigid, reusable vans, platforms, or other devices, without wheels; into which property may be loaded for carriage; not less than eighteen feet in length; having corner castings or other hardware which facilitated lifting, stacking, and mounting; furnished or approved by ocean carriers for transportation of property aboard their vessels. This exemption also applies to: (1) the movement of shipper furnished semitrailer chassis when such movement is in connection with the exempt transportation of intermodal cargo containers and (2) movement in connection with the exempt transportation of mechanically refrigerated intermodal cargo containers.
- Cottage cheese; Subject to Notes 1, 2, 3, and 6.
- Cotton
- Cream (Subject to Note 6)
- Cullet (Scrap Glass)
- Directories, telephone; Subject to Note 2.

*Addition, Decision

84 11 077

ISSUED NOV 7 1984

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
 SAN FRANCISCO, CALIFORNIA.

Correction 4

SECTION 2 -- LIST OF COMMODITIES EXEMPT FROM RATE REGULATION (continued)

Directories, telephone, new distributed to subscribers, and old, picked up from subscribers. Note -- applies only within East Bay Drayage Area as described in Section 4 and within the City and County of San Francisco.

Eggs (Subject to Note 6)

*Farina; Subject to Notes 12 and 13.

*Feed, animal or poultry, as described in Note 14; Subject to Notes 11, 12, and 13.

Fertilizers, as described in Note 8; Subject to Notes 1, 2, and 3.

Film, motion picture; Subject to Note 1.

*Fodder, bean, cane, corn or pea, in machine pressed bales; Subject to Note 11.

Fruit, dried, unmanufactured and unprocessed (Subject to Note 10).

Fruit, fresh or green, including dates, fresh, not cold pack nor frozen (when rates are not otherwise provided in Minimum Rate Tariff 8-A).

Fruit, which are placed in a preservative and are destined to a cannery for processing into a preserved or pickled fruit.

Fungicides, agricultural; Subject to Notes 1, 2, and 3.

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. The exception applies only when the distance between point of origin and destination does not exceed 35 constructive miles, computed in accordance with the Commission's Distance Table 8. This mileage restriction does not apply for transportation within the East Bay Drayage Area and San Diego Drayage Area as described in Section 5 and the City and County of San Francisco.

Furniture, uncrated, new, of state, county or municipal governments, or transported under an agreement whereby the governments contracted for carrier's services; Subject to Notes 1, 2, and 3.

*Addition, Decision

84 11 077

ISSUED NOV 7 1984

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction 5

SECTION 2 -- LIST OF COMMODITIES EXEMPT FROM RATE REGULATION (Continued)

- *Grain, as described under the heading "Grain Group" (§9000) in the Governing Classification; Subject to Notes 11, 12 and 13.
- *Grain products, as described under the heading "Grain Products Group" (§9300) in the Governing Classification, when such products are not prepared for human consumption; Subject to Notes 11, 12 and 13.
- *Hay, in machine pressed bales; Subject to Note 11.
- 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.
- Nulls, 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 Notes 1, 2, 3, and 4.
- Insecticides, agricultural; Subject to Notes 1, 2, and 3.
- Iron, Scrap
- Jewelry transported from or to wholesale houses in packages weighing 10 pounds or less; Subject to Notes 1, 2, and 3.
- Line, common; Subject to Notes 1, 2, 3, and 5.

*Addition, Decision

S4 11 077

ISSUED NOV 7 1984.

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction 6

SECTION 2 -- LIST OF COMMODITIES EXEMPT FROM RATE REGULATION (continued)

Optical glass, not ground or polished;

Optical goods or instruments, N01;

Sunglasses with other than vision-corrective lenses -

1. On cards or not on cards, mounted on display racks or stands; or not mounted on display racks or stands, but shipped in the same package with racks or stands;
2. On cards or counter cards, not mounted on display racks or stands;
3. Not mounted on display racks or stands, cards or counter cards.

Paper Scrap

Pits, Fruit

Plant Growth Inhibitor, Modifier or Regulator; Subject to Notes 1, 2, 3, and 5.

Plastics, Scrap

Pot cheese; Subject to Notes 1, 2, 3, and 6.

Poultry, live.

Printed Matter, viz.: Advertising Matter, Books, Directories, Magazines, Pamphlets, Periodicals, Rating Books, Registers or Services; when tendered to one carrier at one time in a single lot consisting of identical articles for distribution to not less than eight separate addressees and where the weight of each delivery does not exceed 25 pounds; NOTE: This exemption applies only within the City and County of San Francisco.

*Rice, viz.:

Brewers, cleaned, or paddy (rough);
Subject to Notes 11, 12 and 13.

Scrap viz.:

Aluminum, Glass (Cullet), Iron, Paper, Plastics, Steel, Tires

Sea Shells, crushed, ground powdered or disintegrated; exemption applies only when shipper certifies on the shipping document covering the transportation that the shells are being shipped for use as a fertilizer; Subject to Notes 1, 2, and 3.

*Seeds, viz.:

Cotton, Flax or Sunflower; Subject to Notes 11 and 12.

*Seeds, other than cotton, flax or sunflower, as described under the heading "Seeds" (172750) in the Governing Classification, in bulk, in bins or in containers exceeding 40 cubic feet capacity; Subject to Notes 11 and 12.

*Shavings, wood (used for bedding), in machine pressed bales.

Sheep Camp Outfits - which include wagons, dogs, horses, mules, burros, camp equipment comprising tents, stoves, cooking utensils, cots, bedding, harness and other appurtenances in use at camp, but do not include hay, grain, feed, merchandise, groceries, clothing or trailer coaches.

NOTE: A livestock carrier permit or a seasonal livestock permit is required for the transportation of ordinary livestock including sheep. The exemption for sheep camp outfits accompanying shipments of sheep applies only within the geographic areas described as follows:

*Addition, Decision

84 11 077

ISSUED NOV 7 1984

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction 7

SECTION 2 -- LIST OF COMMODITIES EXEMPT FROM RATE REGULATION (continued)

- (a) Within the exterior boundaries of a city;
- (b) Shipments having both point of origin and destination within Metropolitan Zones 218, 227, 228, 229, 234, 235, and 236; and shipments having both point of origin and destination within Metropolitan Zones 301, 302, 303, 304, 305, 306, 307, and 308;
- (c) Shipments having both point of origin or destination at Corn Fed Cattle Co. Feed Lot, 5440 Southern Avenue, South Gate, on the one hand and point of destination or origin within Metropolitan Zones 218, 227, 228, 229, 234, 235, and 236;
- (d) See Section 5 for description of the geographic areas of Metropolitan Zones 218, 227, 228, 229, 234, 235, and 236; and 301 to 308 inclusive.

Shell Marl, crushed, ground or powdered, Subject to Note 15.

Shells, walnut.

Steel, Scrap.

*Straw, in machine pressed bales; Subject to Note 11.

Sulphur; Subject to Notes 1, 2, and 3.

Tires, Scrap.

Trailer Coaches and Campers, including integral parts and contents when the trailer coaches and campers are property of the United States, state, county or municipal governments or they are transported under an agreement whereby the government has contracted for carrier's service.

*Transportation by highway common carriers of commodities which may be lawfully transported by agricultural carriers; Subject to Paragraph 4 of Section 1; Subject to Note 4.

United States mail transported for the United States Postal Service under contract.

Vegetables, dried, unmanufactured, viz.: Beans (except Mesquite) lentils, onions, peas, (except cow peas), pepper pods.

Vegetables, fresh or green, including mushrooms, fresh, not cold pack nor frozen (when rates are not otherwise provided in Minimum Rate Tariff 8-A).

Vegetables, which are placed in a preservative and are destined to a cannery for processing into a preserved or pickled vegetable.

Vehicles, Disabled, when transported by towing.

Voting Booths, Ballot Boxes, Election Tents and Election Supplies, when transported from or to polling places.

Wood residue, not suitable for use other than as fuel, destined to the Fibreboard facility at Antioch.

Commodities of abnormal size or weight which because of such size or weight require the use of and are transported on low bed trailers; LOW BED TRAILER means trailing equipment, other than van-type, having its principal load carrying bed or platform not more than 42 inches above ground or street level, Subject to Notes 1, 2, and 3.

#Change } Decision 84 11 077
*Addition }

ISSUED NOV 7 1984

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction 8

SECTION 4 -- EXPLANATORY NOTES

NOTES:

1. Exemption does not apply within the East Bay Drayage Area as described in Section 5.
2. Exemption does not apply within the San Diego Drayage Area as described in Section 5.
3. Exemption does not apply within the City and County of San Francisco.
4. Exemption does not apply to transportation for which rates are provided in Minimum Rate Tariffs 3-A, 4-B, 7-A, 17-A or 20.
5. Exemption applies only when the commodity moves in mixed shipments with other commodities named in Note 8, does not exceed 30 percent of the weight of the entire shipment.
6. (a) Except as provided in paragraph (b), exemption applies only in connection with straight or mixed shipments of commodities making reference hereto and only when shipped in quantities of not less than 20,000 pounds.
(b) The provisions of paragraph (a) of this note do not apply in connection with:
 - (1) The transportation of eggs moving in straight shipments from point of production.
 - (2) Shipments moving in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles or in milk shipping cans from point of production.
7. This exemption applies to only used empty carriers which are returning from an outbound paying load of traffic for which rates are not provided in any minimum rate tariff, or which are being forwarded for a return paying load of traffic for which rates are not provided in any minimum rate tariff; Subject to Notes 1 and 3.

Empty carrier (used packages):

Bags, in bundles, bales or boxes,
 Barrels, loose,
 Blocks or Braces (wooden), viz: Cable Reel
 Bottles, in boxes or crates or in barrels, boxes or
 crates with or without covers
 Boxes, fibreboard, KD or folded flat with or without inside fillers,
 Boxes, wooden,
 Cans, tin, loose in packages,
 Carboys, in boxes, with or without neck protection,
 Carriers, bakery goods, wheeled,
 Carriers, MORM, subject to package requirements
 as specified in the CC.
 Cases, egg, with or without fillers,
 Casks, loose,
 Chests, fruit, loose,
 Containers, rubber bulk commodity shipping, collapsed, loose or in packages,
 Coops, loose.

#Change, Decision

84 11 077

ISSUED NOV 7 1984

Correction 9

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

SECTION 4--EXPLANATORY NOTES (Continued)

9. (concluded)

Sodium Sulphite
Styrene
Trichloroethylene
Vinyl Acetate
Zinc Sulphate
Cleaning Compound
Anti-Freeze Compound
Foundry Core Compound
Water Purifying Compound
Egg Whites

Water
Methylene Chloride
Alcohol Solvents
Alcohol Isopropanol
Ethylene Glycol
Butyl Acetate
Methyl Isobutyl Ketone

10. Exemption applies only as to dried fruit in the natural state and which has not been cleaned, washed, stemmed or otherwise prepared or partially prepared for human consumption.
- *11. This exemption applies to agricultural commodities included in Appendix F (Commodities Requiring an Agricultural Permit for Transportation) of Decision 89575 (84 Cal. P.U.C. 466), as amended by Decision 89730 (1 CPUC2d 53), only when such commodities have been processed. Transportation of such commodities when unprocessed is outside the scope of this publication (See Paragraph 2 of Section 1).
- *12. Exemption also applies to the following commodities when shipped in mixed shipments with commodities subject to this Note:
- Molasses, when not exceeding 10% of total weight of shipment;
 - Litter, poultry (161360), when not exceeding 20% of total weight of shipment.
- *13. Exemption applies to commodities subject to this Note only when transported in bulk or in bins.

*Addition. Decision

84 11 077

ISSUED NOV 7 1984

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

Correction 9

SECTION 4--EXPLANATORY NOTES (concluded)

- *14. Feed, animal or poultry, subject to Notes 11, 12, and 13, viz. (Numbers within parentheses immediately following commodities shown below refer to such commodities as they are described in the corresponding item numbers of the Governing Classification, except as to packing requirements and form in which the commodity is shipped.):

Alfalfa, chopped and pressed into cubes or pellets, air-dry or otherwise dried;

Feed, as described in Items 66700 through 67480 and 67520 through 67882 ("Feed Group") of the Governing Classification, other than liquid, not frozen;

Grit, processed from rock, subject to Note 4.

Grit, processed from shell;

Hulls, cottonseed (34410);

Hulls, sunflower seed (179980);

Hulls, NOI, whole or ground;

Hulls or Shells; cocoa bean, ground or not ground;

Limestone, crushed or ground, feed grade, subject to Note 4;

Meal, feather;

Mineral Mixtures containing Calcium Carbonate, Cuprous, Epsom

Salts, Crude Salt (feed grade), Sulphate of Soda, Glauber's

Salts, Sulphur or Potassium Iodide, with or without not in

excess of 10% by weight of other unnamed ingredients, subject

to Note 16;

Nut hulls or shells, NOI (175460);

Pomace;

Urea (47220).

- *15. When shipment is in packages or in containers not exceeding 40 cubic feet capacity, exemption applies only when shipper certifies on the shipping document covering the transportation that the shell marl is being shipped for use as a fertilizer; Subject to Notes 1, 2, and 3.

- *16. In connection with Mineral Mixtures containing Crude Salt (feed grade), shipper must enter the following notation on the bill of lading or shipping document:

"Crude Salt (feed grade) to be used
only for animal feed."

If the shipper fails or declines to make such notation in writing, the exemption will not apply.

*Addition, Declaion

84 11 077

ISSUED NOV 7 1984

Correction 11

ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
SAN FRANCISCO, CALIFORNIA.

ORIGINAL

Decision 84 11 077

NOV 7 1984

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 trans-)
portation, in bulk, of agricultural)
products and related articles state-)
wide as provided in Minimum Rate)
Tariff 14-A and the revisions or)
reissues thereof.)

Case 7857, Pet. 174
(Filed May 29, 1981)

Case 7857, OSH 159
(Filed April 12, 1977)

ORDER MODIFYING DECISION (D.) 84-07-095
AND DENYING REHEARING

An application for rehearing and stay of D.84-07-095 has been filed jointly by San Joaquin Valley Hay Growers Association, Phillips Grain Co., McCorkle Farms, Inc., Houghton Farms, Grisson Trucking, Shifflet Bros, Inc., R.C. Sherwood Grain Co., and California Trucking Association (CTA et al.). We have considered all of the allegations of error and have concluded that no good cause for stay or rehearing is shown. We will, however, make one modification in order to clarify why we believe that continuation of Minimum Rate Tariff (MRT) 14-A would not be likely to result in the benefits claimed for minimum rate tariff regulation.

In addition, we will clarify D.84-07-095 to ensure that it fully reflects our intent that the transportation formerly governed by MRT/14-A is to be free of rate regulation and not subject to other Commission tariffs.

Our Transition Tariffs 1-B, 2, 9-B, and 19 apply to all transportation performed by highway contract carriers or highway