

Decision 91-12-008 December 4, 1991

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 livestock and )  
related items statewide as provided )  
in Minimum Rate Tariff 3-A and )  
the revisions or reissues thereof. )

**ORIGINAL**

Case 5433

(Petition for Modification 82,  
filed July 8, 1991)

OPINION

Summary of Decision

This decision authorizes a general rate increase in Minimum Rate Tariff (MRT) 3-A for transportation of livestock and related items. The level of rate increase is based on settlement and stipulation between parties to the proceeding.

Background

The rates in MRT 3-A were last adjusted by Decision (D.) 89-12-026 in recognition of specified changes in certain costs incurred by carriers.

The Commission has since issued D.90-09-052, which instituted a fuel surcharge to the rates in MRT 3-A. The fuel surcharge was instituted because of sudden increases in fuel costs caused by the Gulf War. Subsequently, the Commission amended and extended the fuel surcharge with a series of decisions culminating in D.91-02-037, which extended the surcharge to May 2, 1991. The fuel surcharge was terminated effective May 2, 1991.

Contending that fuel prices have remained above the pre-Gulf War level, the California Trucking Association (CTA) on July 8, 1991 filed Petition for Modification 82 in Case 5433 (Petition 82) requesting an ex parte order authorizing an increase in MRT 3-A rates. CTA, in Petition 82, also claims increases in other categories of costs for carriers of livestock.

On August 8, 1991, the Division of Ratepayer Advocates (DRA) filed a protest to Petition 82 contending that cost data included in the petition were flawed. DRA requested that CTA's request for an ex parte order be denied and that the matter be set for hearings.

In response to DRA's protest, a prehearing conference was held on September 20, 1991 before Administrative Law Judge (ALJ) Garde. DRA and CTA filed appearances in the proceeding.

At the prehearing conference, counsel for DRA stated that CTA and DRA were discussing the disputed issues in Petition 82 and that there was a possibility that they may reach an agreement regarding the level of rate increase for MRT 3-A. However, since there was no certainty regarding an agreement, evidentiary hearings were set for October 29, 1991.

While DRA and CTA were discussing the level of rate increase, the California Cattlemen's Association (CCA), by its October 18, 1991 letter to the ALJ, protested Petition 82. In its letter, CCA claimed that it was not served a copy of Petition 82 and that it was not informed about the petition until September 3, 1991. CCA asked to be recognized as party to the proceeding. CCA also asked for an extension of time to file comments on Petition 82 and for a postponement of the scheduled hearings.

The ALJ forwarded a copy of CCA's letter to CTA and DRA requesting their comments by October 28, 1991.

On October 24, 1991, DRA and CTA reached an agreement regarding the level of rate increase in MRT 3-A. A copy of the proposed settlement was sent to CCA.

After reviewing the proposed settlement, CCA by its October 24, 1991 letter to the ALJ withdrew its request to participate in the proceeding. CCA also informed the ALJ that it will not protest the settlement and stipulation to be filed by DRA and CTA.

Settlement and Stipulation

CTA and DRA filed a Settlement and Stipulation (the Stipulation) with Commission's Docket Office on October 24, 1991. In the Stipulation, DRA withdrew its protest and agreed to an ex parte order in Petition 82.

As to the level of increase in MRT 3-A rates, CTA and DRA agreed to the following:

1. Rates on cattle and hogs for mileages up to 150 shall be increased by 3.4 percent.
2. Rates on cattle and hogs for mileages beyond 150 miles shall be increased by 5.4 percent.
3. Rates on sheep for mileages up to 150 miles shall be increased by 3.0 percent.
4. Rates on sheep for mileages beyond 150 miles shall be increased by 4.0 percent.

A copy of the Stipulation is included in Appendix A to this decision.

Discussion

The terms of the Stipulation are reasonable. The Stipulation is in compliance with Rules 51.1, 51.2, and 51.3 of Commission's Rules of Practice and Procedure. Since the Stipulation is uncontested, we will adopt it without allowing for comments.

Findings of Fact

1. MRT 3-A specifies rates for transportation of livestock and related items by livestock carriers within California.
2. Rates in MRT 3-A were last adjusted in December 1989 by D.89-12-026.
3. As a result of increases in fuel prices caused by the Gulf War, the Commission instituted a fuel surcharge to the rates in MRT 3-A.

4. The fuel surcharge to the rates in MRT 3-A was terminated on May 2, 1991.

5. Claiming increase in various cost categories, including fuel, experienced by carriers of livestock, CTA filed Petition 82 requesting of an ex parte order authorizing an increase in MRT 3-A rates.

6. Contending that the cost data included in Petition 82 were flawed, DRA filed a protest to the petition.

7. DRA requested that CTA's request for an ex parte order be denied and that the matter be set for hearings.

8. Since the filing of DRA's protest, CTA and DRA have agreed upon the level of increases in MRT 3-A rates.

9. On October 24, 1991, DRA and CTA filed the Stipulation in accordance with Rules 51.1, 51.2, and 51.3 of the Commission's Rules of Practice and Procedure.

10. In the Stipulation, DRA withdraws its protest to Petition 82 and agrees to an ex parte order authorizing rate increases in MRT 3-A rates as follows:

- a. Rates on cattle and hogs for mileages up to 150 shall be increased by 3.4 percent.
- b. Rates on cattle and hogs for mileages beyond 150 miles shall be increased by 5.4 percent.
- c. Rates on sheep for mileages up to 150 miles shall be increased by 3.0 percent.
- d. Rates on sheep for mileages beyond 150 miles shall be increased by 4.0 percent.

11. No party has protested the Stipulation.

Conclusions of Law

1. The Stipulation should be adopted and MRT 3-A rates should be increased in accordance with the Stipulation.
2. Since there is an immediate need for rate increase, this order should be made effective today, and the tariff rates authorized should be effective 25 days after today.

ORDER

**IT IS ORDERED that:**

1. Minimum Rate Tariff (MRT) 3-A (Appendix A to Decision (D.) 55587, as amended) is further amended by incorporating, effective 25 days after the effective date of this order, the revised pages included in Appendix B.
2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to D.55587, as amended, are directed to establish in their tariffs the changes necessary to conform with the further 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 made effective not earlier than 25 days after the date of this order, on not less than 5 days' notice to the Commission and to the public.
4. Common carriers, in establishing and maintaining the rates authorized by this order, are authorized to depart from the provisions of Public Utilities Code § 461.5 to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are modified only to the extent necessary to comply with the order; and schedules containing the rates 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, D.55587, as amended, shall remain in full force and effect.

6. The Executive Director shall serve a copy of this decision on every common carrier, or such carriers' authorized tariff publishing agents, performing transportation services subject to MRT 3-A.

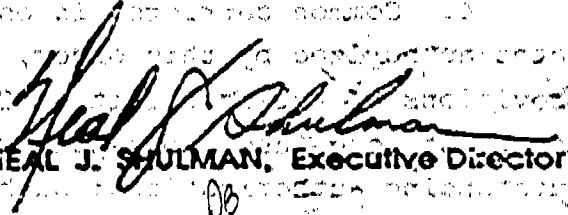
7. The Executive Director shall serve a copy of this decision on each subscriber to MRT 3-A.

This order is effective today.

Dated DEC 04 1991, at San Francisco, California.

PATRICIA M. ECKERT  
 President  
 JOHN B. OHANIAN  
 DANIEL Wm. FESSLER  
 NORMAN D. SHUMWAY  
 Commissioners

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

  
 NEAL J. SHULMAN, Executive Director

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	)	Case 5433	
transportation of livestock and	)	Petition for	
related items statewide as provided	)	Modification 82	
in Minimum Rate Tariff 3-A and the	)	(Filed July 8, 1991)	
revisions or reissues thereof.	)		

**Settlement and Stipulation of the Parties**

This Settlement and Stipulation of California Trucking Association (CTA), and the Division of Ratepayer Advocates of the Public Utilities Commission (DRA), respectfully shows:

1. On July 8, 1991, CTA filed Petition 82 in Case 5433 seeking an adjustment to rates in Minimum Rate Tariff 3-A.
2. On August 8, 1991, DRA protested the ex parte granting of the relief sought in Petition 82.
3. On September 20, 1991, the Commission held a Prehearing Conference at its courtroom in San Francisco. CTA and DRA were the only parties entering appearances.
4. The California Cattlemen's Association (CCA) purported to make an appearance in this case by letter dated October 18, 1991. It has reviewed this agreement and withdraws as a party, leaving CTA and DRA as the only parties in the proceeding.
5. The DRA withdraws its protest and agrees to ex parte granting of the relief sought, as signified by the signature below, subject to the following conditions:
  - a. Rates on cattle and hogs for mileages up to 150 shall be increased by 3.4 percent.

APPENDIX A

- b. Rates on cattle and hogs for mileages beyond 150 miles shall be increased by 5.4 percent.
- c. Rates on sheep for mileages up to 150 miles shall be increased by 3.0 percent.
- d. Rates on sheep for mileages beyond 150 miles shall be increased by 4.0 percent.
- e. Rescind resolution TL 18371.

The parties recognize that livestock carriers' costs have increased in the areas of fuel taxes, truck weight fees, and payroll taxes. Agreement hereto does not indicate future endorsement by the DRA of the vehicle historical cost measurement based on the Producers Price Index. It does, however, recognize the need to use it in this case because of the lack of current observations on the cost of new vehicles.

Executed this 24th day of October at West Sacramento, California.

/s/Luke R. Sherwood  
 LUKE R. SHERWOOD  
 Manager, Regulatory Programs  
 California Trucking Association

/s/Marvalis McGuinness  
 MARYALIS MCGUINNESS  
 Division of Ratepayer  
 Advocates  
 California Public Utilities Commission



CERTIFICATE OF SERVICE

I am a citizen of the United States and am employed in the County of Yolo, State of California. I am over the age of eighteen and not a party to the action within. My business address is 1251 Beacon Boulevard, West Sacramento, California, 95691. On this date I have served the foregoing document by placing a true copy thereof enclosed in a sealed envelope, using an overnight courier service, addressed to:

Maryalis McGuinness  
Division of Ratepayer Advocates  
California Utilities Public Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

In the event that the Commission requests that a copy be sent to any other party, the same will be accomplished forthwith.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at West Sacramento, California on October 24, 1991.

s/s Suzanne C. Foster  
Suzanne C. Foster

(END OF APPENDIX A)

APPENDIX B

LIST OF REVISED PAGES TO MINIMUM RATE TARIFF 3-A

FOURTEENTH	REVISED	PAGE	17-A
TWENTY-FOURTH	REVISED	PAGE	18
ELEVENTH	REVISED	PAGE	18-A
THIRD	REVISED	PAGE	18-C
TWENTY FIRST	REVISED	PAGE	19

(END OF APPENDIX B)

MINIMUM RATE TARIFF 3-A

SECTION 2--DISTANCE COMMODITY RATES (Continued) In Cents per 100 Pounds						ITEM
CATTLE, viz.: Bulls, Calves, Cattle, Cows, Dairy Cattle, Heifers, Oxen and Steers.						
HOGS, viz.: Barrows, Boars, Butcher Hogs, Feeder Pigs, Gilts, Hogs, Pigs, Sows, Stags and Swine.						
MILES		RATES				
		Minimum Weight in Pounds				
Over	But Not Over	Any Quantity	10,000	30,000 (See Note 1 Item 275)	(1) 40,000 (See Note 2 Item 275)	
0	3	48	52	26	20	
3	5	51	55	29	23	
5	10	53	57	30	26	
10	15	60	59	32	28	
15	20	66	41	35	30	
20	25	73	43	37	31	
25	30	80	47	41	33	
30	35	84	51	43	34	
35	40	88	55	45	36	
40	45	93	58	47	38	
45	50	97	62	49	41	◇ 270
50	60	107	69	53	44	
60	70	115	75	58	47	
70	80	124	87	62	51	
80	90	138	98	69	58	
90	100	144	105	73	61	
100	110	151	114	78	65	
110	120	157	121	82	69	
120	130	162	128	86	73	
130	140	170	136	92	77	
140	150	176	144	96	82	
150	160	187	154	102	87	
160	170	196	164	110	92	
170	180	203	172	114	98	
180	190	209	179	118	101	
190	200	218	189	125	105	
200	220	234	203	134	113	
220	240	247	218	144	121	
240	260	261	234	156	130	
260	280	274	247	165	136	
280	300	288	264	175	143	
300	325	305	281	188	154	
325	350	324	300	201	165	
350	375	338	319	213	175	
375	400	356	337	229	187	

◇ Increase, Decision 91-12-006

EFFECTIVE December 29, 1991

Correction

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

MINIMUM RATE TARIFF 3-A

SECTION 2--DISTANCE COMMODITY RATES (Continued) In Cents per 100 Pounds						ITEM
<p>CATTLE, viz.: Bulls, Calves, Cattle, Cows, Dairy Cattle, Heifers, Oxen and Steers.</p> <p>HOGS, viz.: Barrows, Boars, Butcher Hogs, Feeder Pigs, Gilts, Hogs, Pigs, Sows, Stags and Swine.</p>						
MILES		RATES				◇ 270 (Con- clud- ed)
		Minimum Weight in Pounds				
Over	But Not Over	Any Quantity	10,000	30,000 (See Note 1 Item 275)	(1) 40,000 (See Note 2 Item 275)	
400	425	371	356	240	196	
425	450	387	373	253	207	
450	475	401	392	267	218	
475	500	417	409	278	230	
500	525	434	429	292	240	
525	550	451	447	305	252	
550	575	466	463	318	262	
575	600	483	482	330	272	
For distances over 600 miles add for each 25 miles or fraction thereof in excess of 600 miles		14	14	12	11	
<p>(1) Rates subject to minimum weight of 40,000 pounds are also subject to the provisions of Item 295 (Livestock Volume Tender Rates).</p> <p>(Continued in Item 275)</p>						
◇ Increase, Decision 91-12-008						
EFFECTIVE December 29, 1991						
Correction		ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.				

MINIMUM RATE TARIFF 3-A

SECTION 2--DISTANCE COMMODITY RATES (Continued) In Cents per 100 Pounds						ITEM
CATTLE, viz.: Bulls, Calves, Cattle, Cows, Dairy Cattle, Oxen and Steers.						
MILES		(1)(2)(3)(4) 44,000 (See Note 3 Item 275)	MILES		(1)(2)(3)(4) 44,000 (See Note 3 Item 275)	◇ 272
Over	But Not Over	Over	But Not Over	Over	But Not Over	
0	3	19	190	200	87	
3	5	20	200	220	96	
5	10	21	220	240	103	
10	15	22	240	260	110	
15	20	24	260	280	116	
20	25	26	280	300	124	
25	30	28	300	325	133	
30	35	30	325	350	142	
35	40	32	350	375	154	
40	45	36	375	400	163	
45	50	38	400	425	173	
50	60	40	425	450	183	
60	70	42	450	475	194	
70	80	47	475	500	202	
80	90	52	500	525	213	
90	100	53	525	550	225	
100	110	56	550	575	234	
110	120	59	575	600	243	
120	130	62	For distances over 600 miles add for each 25 miles of fraction thereof in excess of 600 miles		8	
130	140	63				
140	150	66				
150	160	71				
160	170	76				
170	180	79				
180	190	82				
<p>(1) Rates apply only:                      (a) To the transportation of cattle to packing houses or slaughter houses for slaughter, subject to the varying minimum weights per shipment as set forth in Note 3 of Item 275; and                      (b) When actual weight of the shipment is confirmed by a public weighmaster's certificate.</p> <p>(2) Rates are not subject to the provisions of:                      (a) Item 130 (2), shipments of livestock for which the carrier may, but is not required to, obtain a public weighmaster's certificate;                      (b) Item 140 (2), Determination of weights and charges;                      (c) Item 150, Provided weights per animal;                      (d) Item 190, Mixed shipments;                      and do not apply to the transportation of cattle in mixed shipments with other livestock.</p> <p>(Continued on next page)</p>						
◇ Increase, Decision 91-12-008						
EFFECTIVE December 29, 1991						
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.						
Correction						

MINIMUM RATE TARIFF 3-A

SECTION 2--DISTANCE COMMODITY RATES (Continued)						ITEM
In Cents per 100 Pounds						
SHEEP, viz.: Ewes, Goats, Kids, Lambs, Rams (Bucks), Sheep, Sheep Camp Outfits and Wethers.						
MILES		RATES				
		Minimum Weight in Pounds				
Over	But Not Over	Any Quantity	10,000	30,000 (See Note 1 Item 285)	(1) 40,000 (See Note 2 Item 285)	
0	3	47	41	37	33	
3	5	50	42	39	37	
5	10	53	44	43	39	
10	15	59	48	44	41	
15	20	66	52	47	43	
20	25	71	56	48	45	
25	30	77	59	49	46	
30	35	81	63	52	47	
35	40	88	66	55	49	
40	45	92	70	56	50	
45	50	97	74	59	54	
50	60	104	82	63	58	
60	70	112	92	68	60	
70	80	119	97	71	63	
80	90	133	109	81	70	
90	100	140	117	85	75	
100	110	147	125	92	80	
110	120	151	135	98	85	
120	130	158	142	103	92	
130	140	164	151	107	96	
140	150	169	159	113	100	
150	160	177	167	121	106	
160	170	187	177	127	111	
170	180	194	183	132	115	
180	190	201	191	137	121	
190	200	208	199	142	127	
200	220	224	212	154	135	
220	240	236	229	165	145	
240	260	250	242	177	154	
260	280	261	254	186	163	
280	300	275	268	197	173	
300	325	292	288	210	183	
325	350	308	306	226	196	
350	375	326	322	238	207	
375	400	340	337	253	218	

◇ 280

◇ Increase, Decision D 91-12-008

EFFECTIVE December 29, 1991

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

MINIMUM RATE TARIFF 3-A

SECTION 2--DISTANCE COMMODITY RATES (Continued) In Cents per 100 Pounds						ITEM
SHEEP, viz.: Ewes, Goats, Kids, Lambs, Rams (Bucks), Sheep, Sheep Camp- Outfits and Wethers.						◇ 280 (Con- clud- ed)
MILES		RATES				
		Minimum Weight in Pounds				
Over	But Not Over	Any Quantity	10,000	30,000 (See Note 1 Item 285)	(1) 40,000 (See Note 2 Item 285)	
400	425	359	356	266	231	
425	450	375	371	280	241	
450	475	390	387	293	254	
475	500	405	402	307	264	
500	525	423	421	321	276	
525	550	438	436	334	288	
550	575	456	452	349	300	
575	600	471	467	363	311	
For distances over 600 miles add for each 25 miles or fraction thereof in excess of 600 miles		14	14	11	8	
(1) Rates subject to minimum weights of 40,000 pounds are also subject to the provisions of Item 295 (Livestock Volume Tender Rates).						
(Continued in Item 285)						
◇ Increase, Decision 91-12-008						
EFFECTIVE December 29, 1991						
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.						
Connection						