

ORIGINAL

Decision No. 86984

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
Petitions for Modification
Nos. 871, 884, 945

Case No. 5439
Petitions for Modification
Nos. 260, 270, 301

Case No. 5441
Petitions for Modification
Nos. 348, 356, 383

Case No. 7783
Petitions for Modification
Nos. 126, 151

And Related Matters.

SUPPLEMENTAL INTERIM OPINION AND ORDER

By letter of January 18, 1977 the California Trucking Association requested dismissal without prejudice of its Petition 871 in Case No. 5432, et al. The request was renewed orally at a hearing held January 25, 1977. No one protests the request. We find the request to be reasonable and conclude that it should be granted.

The effective date of this order will be the date hereof because there is no reason to delay granting the request.

The outstanding interim decisions in these matters will be made permanent.

On dismissing, we reiterate our desire to establish a rate competitive transportation system in California, and we point specifically to our discussions and admonitions in Decisions Nos. 85349 and 85755 and summarized in Decision No. 86057 as follows:

"Petitions for offset increases in the minimum rates here in issue will not be entertained in the future unless it can be shown (as was recited in Decision No. 85349) that:

- "(1) Carriage at the minimum rates then in effect is demonstrated by petitioners to constitute predatory pricing within the meaning of state and federal antitrust laws;
- "(2) The rates proposed represent true minimum rates and allow scope for legitimate competition;
- "(3) Rates for different classes and commodities reflect relevant cost differences; and
- "(4) Different rates are provided for alternative kinds of service which have different costs.

"We will give expeditious attention to applications for increased rates filed by common carriers. Such applications may, if conditions warrant, be accompanied by concurrent filings in the appropriate minimum rate proceedings. We have granted minimum rate increases in this case even though the standards set out above have not been met. We recognize that some time is required to adjust to any changed standard of ratemaking—although the change in this instance is the reaffirmation of the original purpose of minimum rates. We reiterate, however, that this historic purpose will be adhered to with increasing vigor in future minimum rate cases. In any subsequent filing, the degree of proof presented here would not be accepted in lieu of the evidence described above.

"We urge all parties to cooperate with our staff
in this ongoing transition to the rate-competitive
transportation system contemplated by California
law."

Petition 945 in Case No. 5432, Petition 301 in Case
No. 5439, Petition 383 in Case No. 5441, and Petition 151 in Case
No. 7783 should be consolidated with Case No. 5432, Petition 884.

IT IS ORDERED that:

1. The following decisions are made final:
Decision No. 85349 dated January 13, 1976
Decision No. 85755 dated April 27, 1976
Decisions Nos. 86507, 86508, 86509, and
86510 dated October 13, 1976
2. Petition 871 in Case No. 5432, Petition 260 in Case
No. 5439, Petition 348 in Case No. 5441, and Petition 126 in
Case No. 7783 are dismissed.

C.5432, Pet. 871 et al. ddb

3. Petitions 884 and 945 in Case No. 5432, Petitions 270 and 301 in Case No. 5439, Petitions 356 and 383 in Case No. 5441, and Petition 151 in Case No. 7783 are consolidated.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of FEBRUARY, 1977.

I dissent since my request to put this order over 2 weeks was declined
William Swanson, Jr.

Commissioner

Robert Bakunich

President
Richard Ross

Richard D. Gravelle

Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.