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ORIGINAL

Decision No. _____

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 fresh or green fruits and vegetables and related items statewide as provided in Minimum Rate Tariff 8-A and the revisions or reissues thereof.

Case No. 5438
OSH 111
(Filed June 22, 1976)

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.

Case No. 5433
OSH 63
(Filed August 31, 1976)

In the Matter of the Investigation for the purpose of considering and determining minimum rates for transportation, in bulk, of agricultural products and related articles statewide as provided in Minimum Rate Tariff 14-A and the revisions or reissues thereof.

Case No. 7857
OSH 146
(Filed August 31, 1976)

(Appearances are shown in Appendix A.)

ORDER DISCONTINUING PROCEEDINGS

Minimum Rate Tariff 8-A (MRT 8-A) contains rates for the transportation of fresh fruits, vegetables, and nuts to wholesale markets; Minimum Rate Tariff 3-A (MRT 3-A) contains rates for the transportation of livestock; and Minimum Rate Tariff 14-A (MRT 14-A) contains rates for the transportation of grain, animal feeds, hay, oil seeds, and related commodities in bulk.

The interstate transportation of commodities for which minimum rates have been established in MRTs 3-A, 8-A, and 14-A is exempt from economic regulation under the provisions of Section 203(b)(6) of the Interstate Commerce Act. Because of such exemption, it appeared that a competitive advantage may lie with interstate shippers when similar commodities are shipped to the same California market from both intrastate and interstate origins. Orders setting hearing in the captioned proceedings were issued for the purpose of receiving evidence from any interested party opposing the exemption of transportation of the aforementioned agricultural products from minimum rate regulation by this Commission.

Nine days of public hearing were held in Los Angeles and San Francisco beginning September 21, 1976 and concluding May 9, 1977, at which evidence was received from shippers, carriers, and trade associations concerning whether an exemption similar to that applicable to interstate and foreign commerce would be appropriate for intrastate transportation of unprocessed and unmanufactured products of agriculture.

None of the parties urged that all economic regulation be lifted, such as requirements that carriers obtain permits to operate.

The position of the parties on the issue of rate regulation was mixed. The proponents of rate exemption of fresh fruits and vegetables presented the strongest case. Their evidence showed that truck rates for transportation from Arizona, Texas, and similar origins to California destinations of citrus fruits, melons, and certain vegetables are less than the minimum rates in MRT 8-A for related lengths of haul within the state. On the other hand, the evidence shows that transportation costs represent only a very small portion of the delivered price of fresh produce, and that the availability and the origin price of the produce influenced purchasing decisions almost to the exclusion of transportation costs.

No strong shipper support was presented endorsing exemption of rates for grain and feed (MRT 14-A). The record shows that there is little competition between food and feed grains grown in California with such commodities produced in other states; therefore, interstate transportation costs rarely influence the marketing of such commodities. A representative of the five principal cotton oil seed processors asked that the exemption on cotton seed be reinstated. That exemption was removed when minimum rates on oil seeds were established approximately ten years ago.

A staff report shows that while exempt interstate rates on livestock are less than minimum rates within California, the interstate movements of livestock are not competitive with livestock transportation within California, because the interstate movements are for substantially longer distances than the comparatively short-haul local movements within this state.

Certain shipper and carrier trade associations, and individual carriers opposed the exemption from minimum rates of commodities now subject to MRTs 8-A, 3-A, and 14-A.

As indicated above there is no consensus that the minimum rates in MRTs 8-A, 3-A, and 14-A should be canceled. The Commission recently has opened a new series of proceedings in the several minimum rate cases looking to broad changes in its regulatory program for highway carriers. Included are Case No. 5433 (OSH 67), Case No. 5438 (OSH 116), and Case No. 7857 (OSH 159).^{1/}

In consideration of all the facts and circumstances, including our ongoing investigations in related proceedings with respect to changes in regulatory policies affecting highway carriers, we conclude that our investigation in the captioned orders setting hearing should be concluded, and that the proceedings should be discontinued.

^{1/} The Order Setting Hearing in those proceedings reads, in part, as follows:

"Decision 87047 dismissed Case 9963, an investigation in that proceeding to determine whether rules should be promulgated under which highway carriers should file tariffs or contracts naming the rates and rules for their transportation services. This decision also provided that orders setting hearing be issued in the various minimum rate proceedings for the purpose of exploring whether the Commission should establish a regulatory program whereby carriers would establish rates and initiate changes in rate levels.

"In the circumstances, it appears that hearings in the above proceeding should be conducted for the purpose indicated above in connection with Minimum Rate Tariffs 3-A, 8-A, and 14-A; such hearings may be held separately on various problem areas or matters to be considered. Past, ongoing or future proceedings, or portions thereof, may be consolidated with or incorporated by reference in this proceeding pursuant to the direction of the presiding officer of the Commission."

C.5438 OSH 111 et al. kw

IT IS ORDERED that the proceedings in OSH 111 in Case No. 5438, OSH 63 in Case No. 5433, and OSH 146 in Case No. 7857 are hereby discontinued and those matters are closed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 30th day of AUGUST, 1977.

President
William J. Green
Reginald L. Stutzman
Charles W. Howell

Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

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LIST OF APPEARANCES

Respondents: Victor Nuckles, for Roy E. Lay Trucking; Morris Proctor, for Corcoran Motor Transport, Inc.; Don L. Hays, for A. W. Hays Trucking, Inc.; Handler, Baker and Greene, by Daniel W. Baker, Attorney at Law, for System 99; George Raymond, for Basic Materials Transport; Harold F. Culy, for Bayview Trucking, Inc.; Graham & James, by Jerry J. Suich and David J. Marchant, Jr., Attorneys at Law, for Sharp Farms Trucking, Inc., Traynham Ranches, Inc., Salvador Lopez, Vernon House, and William Oliver; Lee Pfister, for Willig Freight Lines; Wayne Varozza, Lowell E. Christie, and Joseph MacDonald for California Motor Express; John McSweeney, for Delta Lines, Inc.; Masami Yokoyama, for Yokoyama Bros.; James M. Hasegawa, for himself; J. A. Ushijima, for J. A. Ushijima Trucking; Dave Sahagian, for Tom Lawrence Trucking, Inc.; Henry Y. Yukihiro, for Y. Yukihiro Trucking and Local Produce Truckers Association; E. F. Nelson, for Certified Freight Lines; Kiichi Namba, for Namba Bros. Trucking; R. H. Wiley, for R. H. Wiley Trucking; Robert W. Moore, for Traynham Ranch Trucking; and Mike Conrotto, for Mike Conrotto Trucking Company.

Interested Parties: Leroy Kawai, for Local Produce Truckers Association of Los Angeles; Albert Brundage and Robert Jessinger, Attorneys at Law, for Western Conference of Teamsters; Joseph H. Ciraulo, for Teamsters Local 856; Thomas J. Hale, for California Grape and Tree Fruit League; R. W. Smith and Paul Biancardi, Attorneys at Law, J. C. Kaspar, and H. Hughes, for California Trucking Association; William D. Mayer, for Cannery League of California; Tuttle and Taylor, by Ronald C. Peterson, Attorney at Law, for Sunkist Growers, Inc., Blue Anchor, Inc., and Bud Antle, Inc.; Howard E. Meyers, for Freight Advisory Service; Asa Button and Ronald C. Vandeberg, for Spreckels Sugar Division; L. K. Hoffman, for State of California, Department of General Services; Ralph J. Staunton, for County of Los Angeles; Jess J. Butcher, for California Manufacturers Association; Ralph O. Hubbard and Richard E. Dobson, Attorney at Law, for California Farm Bureau Federation; Jeffrey Lee Guttero and Leslie Cox, for Western Growers Association; Silver, Rosen, Fischer & Stecher, by John Paul Fischer, Attorney at Law, for Lucky Stores, Inc.; Frank Revher, for The Alpha Beta Company; Lee Adler, for California Grain and Feed Association; James R. Foote, for Associated Independent Owner Operators, Inc.; M. J. Nicolaus and R. G. Moon for Western Motor Tariff Bureau; Thomas J. Hays, for California Moving & Storage Association; William H. Benson and Manuel R. Ocampo, for Teamsters Local 630; Don B. Shields, for Highway Carriers Association; Wigle and Larimore, Traffic Consultants, by Donald A. Clegg, for Anderson Clayton & Co., J. G. Boswell, Co., Kingsburg Cotton Oil, Producers Cotton Oil, and Ranchers Cotton Oil;

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Daniel Quan, for Safeway Stores, Inc.; Charles H. Cortella, for California Cattle Feeders Association; and Robert F. Shafer, for Duracell Products Company.

Commission Staff: Peter Arth Jr., James T. Quinn, James D. Squeri, and Thomas F. Grant, Attorneys at Law.