

ORIGINAL

Decision No. 90071 . MAR 10 1979

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, in bulk, or agri-)
cultural products and related)
articles statewide as provided in)
Minimum Rate Tariff 14-A and the)
revisions or reissues thereof.)

Case No. 7857
Petition for Modification
No. 165
(Filed June 30, 1978;
amended August 1, 1978)

(For appearances see Decision No. 89481.)

FINAL OPINION

California Trucking Association (CTA) seeks, in this proceeding, adjustments in the minimum rates for the transportation of oilseeds (cottonseed, safflower seed, and flaxseed) set forth in Minimum Rate Tariff 14-A (MRT 14-A).

Interim Decision No. 89301 issued August 22, 1978 established a five percent surcharge on safflower seed effective August 24, 1978, prior to the commencement of the harvest season for that commodity. Public hearing in Petition 165 was held on September 12, 13, and 14, 1978 in San Francisco, and the matter was submitted. At the request of CTA, Second Interim Decision No. 89481 dated October 3, 1978 established a five percent surcharge on cottonseed effective October 5, 1978, in order to

partially meet the revenue needs of carriers during the cottonseed harvest which commenced in early October.^{1/}

In Petition 165, CTA pointed out that the last general review of the minimum rates in MRT 14-A had been made pursuant to Decision No. 87800 effective August 30, 1977. That decision limited the sought rate increase on oilseeds to four percent and stated as follows:

"As indicated above, the evidence shows that several of the cost factors experienced by highway carriers engaged in oilseed transportation have increased since the rates for such transportation were last adjusted on a permanent basis, but no evidence has been presented which precisely measures the impact of such increases on total carrier operating costs.

Decision No. 89481 stated as follows:

^{1/} "The evidence in the proceeding shows that the volume movement of cottonseed from cottonseed gins to processing mills as a result of the harvest of cotton will commence the first week of October and extend through December 1978. It is the custom for the mills to contract with carriers to transport the entire production of cottonseed from a gin to the mill during the harvest season. When it became apparent at the close of hearings that the consideration and adjudication of the many issues presented in the proceeding regarding cottonseed and other oilseeds would preclude the issuance of a decision by the Commission prior to the harvest, petitioner CTA moved for an immediate emergency five percent increase in the minimum rates for cottonseed pending final decision of its petition. No party opposed the motion.

"It is the position of the five mills participating in the proceeding, which receive over 90 percent of the movement of cottonseed from gin to mill during the harvest, that it is of utmost importance to them that the minimum rates be established at the beginning of the season when they contract with their carriers and remain unchanged during the season. For that reason, and without prejudice to the position taken by them regarding petitioner's permanent rate proposals, they acquiesce to petitioner's motion for a five percent interim increase in the present minimum rates for the transportation of cottonseed to be applicable through the 1978 season. It was the position of the staff that its studies justify an emergency interim increase of five percent for the transportation of cottonseed. No other parties spoke to the motion."

Absent such data, we cannot find that an increase greater than that initially agreed to by cotton oil producers and established on an interim basis is justified. Therefore, we find that the interim 4 percent increase in rates for oilseeds should be established as the permanent level of minimum rates for the forthcoming season.

"All of the parties to this proceeding recognize that the time is ripe for the preparation of current cost and rate studies for the transportation services involved in this proceeding. Logically, our staff should prepare and present new studies. However, we expect that by the time that a new offset proceeding is necessary, we will have completed our investigations looking to the establishment of rules under which carriers will file tariffs containing the rates for these and all other transportation services. As carriers will initiate their own rates, our staff and the carrier associations will be relieved of the enormous burden of preparing detailed studies to support revisions in the minimum rate structure. If, however, our program does not mature as planned, we will expect that proponents of future adjustments in the minimum rates in MRT 14-A will supply substantially more complete data to support their requests than was presented herein." (Decision No. 87800, mimeograph copy page 8, emphasis added.)

The cost data and evidence developed and presented by CTA in Petition 165 assertedly are in response to the comments and directives set forth in Decision No. 87800. A new cost study covering the transportation of cottonseed was presented by a transportation specialist employed in CTA's Division of Transportation Economics. Based on the cost study, the CTA witness proposed increases in rates on cottonseed averaging about 33.5 percent. The field and other studies conducted by the witness purportedly showed that safflower seed has substantial similar transportation characteristics as grain and rice; therefore, the witness recommended that the safflower seed be added to the list of commodities subject to the bulk grain rates in Section 5 of MRT 14-A. The CTA study also showed that the amount of flaxseed grown in California has

continuously declined for several past growing seasons; therefore, the witness recommended that flaxseed also be added to Section 5. CTA also proposed that free time period for delays be reduced from two hours to one and one-half hours for cottonseed; that rules governing cleanup loads of cottonseed be established; and that a charge of 1½ cents per 100 pounds be established for loading cottonseed (a) by use of a tractor equipped with a blade or scoop furnished by the carrier, and (b) into the unit of the carrier's equipment from bunkers or seedhouses. The loading charges are based on the differential in costs between the loading methods described and loading by use of a conveyor.

The Commission staff presented a cost study in Exhibit 8 which is predicated on the data in petitioner's cost study revised to reduce driver's labor costs from \$10.449 per hour to \$8.414 per hour. The staff adopted the performance factors set forth in petitioner's Exhibit 2, except for hauls of 10 miles or less. The staff increased average speeds for lengths of haul of 5 and 10 miles which, in turn, reduced total costs for those distances. Based on its analyses of the factors surrounding the transportation of oilseeds, including cost data, the staff recommended that a separate scale of rates be established for cottonseed, which would result in a revenue increase for such traffic of about 22.4 percent. The staff also recommended that a separate rate item be established for safflower seed and flaxseed and that such seeds not be made subject to the grain rate items. The latter recommendation is based on the fact that traffic flow data in the Commission's Data Bank indicate that safflower seed is transported in quantities less than the highest minimum weight specified in the grain items.

Evidence also was presented on behalf of the principal cottonseed processors (mills).^{2/} A witness testifying for Ranchers Cotton Oil described the circumstances surrounding cottonseed transportation, and the marketing of cottonseed and its products. Similar data were presented by Producers Cotton Oil Co. A traffic consultant employed by the five mills named in Footnote 2 presented a list of all carriers employed in the 1977-78 season to transport cottonseed for those mills, together with a summary of the tonnage and revenues of each carrier.

Cottonseed Transportation

The evidence shows that the primary movement of cottonseed is from cotton gins to processing plants (mills). That movement occurs during the cotton harvest period, generally beginning the first week in October and continuing through mid December (Exhibit 16). The gins ship and the mills receive cottonseed on a twenty-four hour basis during that period in order to handle the large volume of cottonseed produced during the short harvest season. The

^{2/} The cotton processors (mills) are:

Anderson, Clayton & Co. (Chowchilla)
J. G. Boswell Company (Corcoran)
Kingsburg Cotton Oil (Kingsburg)
Producers Cotton Oil Co. (Fresno)
Ranchers Cotton Oil (Fresno)

transportation charges are paid by the mills. A single carrier serves each gin. A carrier may serve more than one gin. There are 191 cotton gins in the San Joaquin Valley and 14 in the Imperial Valley. Seventy carriers transported cottonseed for the five mills in the 1977-78 season (Exhibit 17).

The storage space for cottonseed at the gin is limited; therefore, cottonseed must be removed before the gin's storage capacity is exceeded. It is the carrier's responsibility to move the cottonseed so that the seed does not exceed the gin's storage capacity. Loading is generally accomplished by gravity flow from a bunker or seed hopper, or by use of a conveyor or auger from a seed pile on a ground level slab (slab loading). Slab loading is the most common method and is also the least costly. The most common types of carriers' equipment are flat-bed trailers equipped with seed boxes or hydraulic trailers which dump from the side. At destination the cottonseed is unloaded by dumping from the trailer or by snovelling or raking the seed from the trailer into pits or along side a conveyor belt.

Cost Data for Cottonseed

CTA developed a new cost study for the transportation of cottonseed in its Exhibit 2. That study develops total costs of transporting cottonseed in bulk in truckload lots for various lengths of haul. The cost study reflects performance data, equipment costs, and other information obtained from 35 carriers (Exhibit 9).

Labor costs included in CTA's Exhibit 2 are based on wages and fringe benefits in the Agricultural and Horticultural Supplement to the Teamsters Union Master Freight Agreement. The record shows that none of the carriers from whom wage information was obtained in the course of the study underlying Exhibit 2 actually pay their employee-drivers on the basis of that agreement or any other union contract. The record indicates that carriers engaged in oilseed

transportation generally pay their employee-drivers on a percentage of revenue basis. The record shows that several of the studied carriers use subhaulers for all or a part of their oilseed transportation. The subhaulers most commonly are paid on a percentage of revenue basis.

The Commission staff prepared Exhibit 8 which revises the cost data in Exhibit 2 to adjust labor costs and to increase the average vehicle speed for short hauls. The staff contacted the 35 carriers used in the CTA study. The staff determined that 61.5 percent of the carriers handling cottonseed paid their drivers on a percentage of revenue basis. Using a factor of 25 percent of gross revenues as a basis for wages, the staff developed equivalent total hourly wage costs for various lengths of haul, which ranged from \$4.191 for a 25-mile haul to \$9.210 for a 150-mile haul. Petitioner, in its Exhibit 2, used \$7.11 per hour as the base hourly wage and increased that amount for related contract fringe benefits and statutory fringe benefits to reach a total hourly wage cost of \$10.4439. The staff selected the same base hourly wage cost of \$7.11 as reflective of actual wages being paid, and increased the base figure for statutory fringe benefits to achieve a total hourly wage cost of \$8.414.

Petitioner revised the vehicle speeds for 5- and 10-mile hauls in its cost study in Exhibit 2 to closely approximate the revisions proposed in the staff's Exhibit 8.

Petitioner, in Exhibit 3, developed a cost differential in cents per 100 pounds for tractor loading and bunker loading as compared with conveyor loading costs set forth in exhibit 2. According to the study in Exhibit 3, the cost differentials are about $1\frac{1}{2}$ cents per 100 pounds.

Evidence was presented on behalf of the mills to show, among other things, that the loading times and unloading times developed in Exhibit 2 are too high, and that cost of the tractor used in Exhibit 3 to develop a tractor-loading differential was too high, and that free times for loading and unloading should not be changed.

Rate Proposals

CTA rate proposals are contained in Exhibit 5. CTA proposed a commodity rate scale for cottonseed in Item 600 of MRT 14-A which reflects the cost data in its Exhibits 2 and 3. The rates are based on a minimum weight of 48,000 pounds per shipment. CTA proposes a $1\frac{1}{2}$ -cent additive for bunker and for tractor loading. The proposed cottonseed rates result in an average increase of about 28 percent over the interim scale adopted in Decision No. 89481 (supra). CTA also proposed that the free time for loading and unloading cottonseed be reduced. CTA proposed that safflower seed and flaxseed be removed from Item 600 and that those commodities be made subject to the grain rates in Item 500 series, on the basis that safflower seed and flaxseed transportation is very similar to grain, rice, and other commodities subject to grain rates.

The Commission staff rate proposals are contained in Exhibits 10 and 11. The staff proposed a scale of rates for cottonseed that is based on the cost data in Exhibit 6. The rates also are subject to a minimum weight of 48,000 pounds, and a $1\frac{1}{2}$ -cent differential is proposed for bunker and tractor loading. The staff's proposal in Exhibit 10 results in an approximate 17 percent increase over the interim rates on cottonseed established by Decision No. 89481.

The Commission staff recommended no change in the free-time provisions for loading and unloading.

The staff proposes that the existing levels of rates established in Item 600 by Decision No. 89301 be retained for safflower seed and flaxseed. These rates are subject to a minimum weight of 48,000 pounds.

The five mills oppose any change in existing oilseed rates other than the interim rate increases granted by Decisions Nos. 89301 and 89481.

The California Farm Bureau supports the staff recommendation concerning safflower seed. It opposes CTA's proposal that safflower seed be added to grain rates because those rates are subject to a minimum weight of 52,000 pounds which is in excess of the amount of safflower seed that can be loaded in a typical bulk trailer unit of carrier's equipment. ✓

Discussion

CTA has complied with the directive of the Commission that current cost data should be presented to support any proposed increase in the level of cottonseed rates. The field studies of CTA cover operations of 35 carriers. The field study, in general, is representative of carrier operations in the transportation of cottonseed. However, cross-examination of the CTA witness presenting the cost study and the testimony of other witnesses indicates two areas in which CTA's cost study does not accurately portray such carrier operations, namely drivers' wage costs and loading and unloading times. The record shows that carriers transporting cottonseed do not pay their drivers' wages on the level used in the CTA cost study. The wage costs set forth in the staff's study are as close an approximation as can be made of the average wages actually incurred by carriers under the percentage-of-revenue method actually used. We find that the level of carrier wage costs in the staff's study in Exhibit 8 is reasonable and should be adopted.

The second area in which CTA's cost study may be overstated is in connection with loading and unloading times. The cross-examination of CTA's witness and the testimony of individual mill operators indicate that delay time is seldom incurred in the loading process as it is entirely within the control of the carrier contracting to perform the service. Similarly, lesser unloading times, on the average, are incurred than used in Exhibits 2 and 8. Based on all of the evidence, we find that loading time should be based on .875 hours, rather than 1.03 hours set forth in Exhibits 2 and 8; and that unloading time should be based on 1.225 hours rather than 1.33 hours set forth in Exhibits 2 and 8.

We also have analyzed the evidence concerning the cost and rate differentials for trailer and bunker loading. We find that the cost differentials developed in Exhibit 3 are reasonable and a rate differential of $1\frac{1}{2}$ cents per 100 pounds also is reasonable and should be adopted.

At our direction the staff has developed a revised cost study incorporating the loading and unloading times and wage costs found reasonable above. Based on such costs, the staff has prepared a revised rate schedule for cottonseed. The revised cost study and rate schedules are received in evidence as Exhibits 18 and 19, respectively. Copies of these exhibits will be furnished to parties of record with this order. The rate levels in exhibit 19 are approximately 16 percent above the interim rates for cottonseed.

We will adopt the staff proposal with respect to safflower seed and flaxseed as that proposal gives recognition to the truckload weights that can be achieved with the types of equipment used to transport safflower seed.

As the carrier cost data underlying the request herein were based on expenses incurred in 1977, the President's Guidelines for Wage and Price Increases should not be made applicable to the requested increase.

Findings

1. Based on the preliminary findings set forth in the discussion portion of the preceding opinion, the lowest reasonable costs for the movement of cottonseed in bulk are those set forth in Exhibit 18.

2. The establishment of minimum rates and accessorial charges for cottonseed in bulk which reflect the cost data found reasonable, as more specifically set forth in Exhibits 3 and 19, will result in just, reasonable, and nondiscriminatory minimum rates and will reflect the ratemaking policy for agricultural commodities set forth in Section 3661 of the Public Utilities Code and the ratemaking considerations set forth in Section 3662 of that code.

3. The staff proposal in Exhibit 10 with respect to safflower seed and flaxseed will result in just, reasonable, and non-discriminatory minimum rates for the transportation of those commodities. The five percent surcharge authorized by Decision No. 89301 should be incorporated into the rates.

4. The increases resulting from the establishment of the minimum rates found reasonable above are justified.

5. To the extent that the provisions of MRT 14-A have been found heretofore to constitute reasonable minimum rates and rules for common carriers as defined in the Public Utilities Code, said provisions, as hereinafter adjusted, are, and will be, reasonable minimum rate provisions for said common carriers. To the extent that the existing rates and charges of said common carriers for the transportation involved are less in volume or effect than the minimum rates and charges herein designated as reasonable for such carriers, to that same extent the rates and charges of said carriers are hereby found to be, now and for the future, unreasonable, insufficient, and not justified by the actual rates of competing carriers of the costs or other means of transportation. ✓

6. Where common carriers have been heretofore authorized to depart from the so-called long- and short-haul provisions of former Article XII, Section 21 of the Constitution, and Section 460 of the Public Utilities Code, such outstanding authorities should be modified, as requested by petitioner, to depart from Section 461.5 of the Public Utilities Code.

7. The carrier cost data underlying the request for rate increases herein were based on expenses incurred in 1977.

8. The estimated annual increase in carriers' revenue from the rate increases granted herein is approximately \$640,000.

Conclusions

1. In this proceeding the President's Guidelines for Wage and Price Increases should not be made applicable to the requested increases in rates.

2. Petition 165 in Case No. 7857 should be granted to the extent provided in the order which follows.

3. Minimum Rate Tariff 14-A should be amended to incorporate the rates and accessorial charges found reasonable herein.

FINAL ORDER

IT IS ORDERED that:

1. Minimum Rate Tariff 14-A (Appendix A to Decision No. 67397, as amended) is further amended by incorporating therein, to become effective twenty-five days after the effective date hereof, Supplement 16, Tenth Revised Page 2, Eleventh Revised Page 34, and Original Page 35 attached hereto and by this reference made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent they are subject to Decision No. 67397, as amended, are directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered herein.

3. Tariff publications required or authorized 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 may be made effective no not earlier than the twenty-fifth day after the effective date of this order, on not less than five days' notice to the Commission and to the public; such tariff publications as are required shall be made effective not later than twenty-five days after the effective date hereof, and as to tariff publications which are authorized but not required, the authority shall expire unless exercised within sixty days after the effective date of this order.

4. Common carriers, in establishing and maintaining the rates authorized by this order, are authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this 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 Decision No. 67397, 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 Minimum Rate Tariff 14-A.

7. The Executive Director shall serve a copy of each of the tariff amendments on each subscriber to Minimum Rate Tariff 14-A.

8. Copies of Exhibits 18 and 19 shall be served on parties of record in Petition 165.

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

Dated at San Francisco, California, this 13th day of MARCH 4, 1979.

John E. Boyer
President
Gregory L. Sturgeon
Richard D. Hinkle
Clair D. Davis
Samuel E. Finner
Commissioners

SUPPLEMENT 16
(Cancels Supplement 15)
(Supplements 8 and 16 Contain All Changes)

TO
MINIMUM RATE TARIFF 14-A

NAMING
MINIMUM RATES AND RULES
FOR THE
TRANSPORTATION, IN BULK, OF
AGRICULTURAL COMMODITIES AND
RELATED ARTICLES
NAMED HEREIN
OVER THE PUBLIC HIGHWAYS WITHIN THE
STATE OF CALIFORNIA

BY
RADIAL HIGHWAY COMMON CARRIERS
AND
HIGHWAY CONTRACT CARRIERS
AND
AGRICULTURAL CARRIERS

Decision No.

90071

EFFECTIVE

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

MINIMUM RATE TARIFF 14-A

SECTION 6--DISTANCE COMMODITY RATES (Continued) (In Cents Per 100 Pounds)						ITEM
øSEEDS, viz.: ** Flax or Safflower.						
MILES		**øRATES	MILES		**øRATES	
Over	But Not Over		Over	But Not Over		
0	3	9½	130	140	34	ø600
3	5	10½	140	150	35	
5	10	11½	150	160	36	
10	15	12	160	170	38	
15	20	12½	170	180	39	
20	25	13½	180	190	42	
25	30	15	190	200	44	
30	35	17½	200	220	48	
35	40	18½	220	240	50	
40	45	19	240	260	54	
45	50	19½	260	280	56	
50	60	21½	280	300	60	
60	70	22½	300	325	64	
70	80	24	325	350	70	
80	90	25½	350	375	75	
90	100	27	375	400	78	
100	110	28	400	425	82	
110	120	29½	425	450	86	
120	130	33	450	---	(1)	
(1) Add to rate for distances over 450 miles, 4 cents per 100 pounds for each 25 miles or fraction thereof.						
ø(2) **						
(1) Provisions applicable to cottonseed formerly shown on this page, transferred to Item 605, Original Page 35.						
ø Change) ø Increase) Decision No. 90071 ** Eliminated)						
EFFECTIVE						
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.						
Correction						

SECTION 6--DISTANCE COMMODITY RATES (Concluded) (In Cents Per 100 Pounds)						ITEM
SEEDS, viz.: Cotton						
<u>MILES</u>		(2) (3) (4) RATES	<u>MILES</u>		(2) (3) (4) RATES	
Over	But Not Over		Over	But Not Over		
0	5	10	140	150	44	(A) *0 605
5	10	11	150	160	46	
10	15	11½	160	170	49	
15	20	12½	170	180	51	
20	25	13½	180	190	53	
25	30	15	190	200	55	
30	35	16	200	220	59	
35	40	17½	220	240	63	
40	45	19	240	260	67	
45	50	20	260	280	71	
50	60	22	280	300	75	
60	70	24	300	325	81	
70	80	27	325	350	87	
80	90	29½	350	375	93	
90	100	32	375	400	99	
100	110	34	400	425	105	
110	120	37	425	450	111	
120	130	39	450	---	(1)	
130	140	41				

(1) Add to the rate for distances over 450 miles, 6 cents per 100 pounds for each 25 miles or fraction thereof.

(2) When cottonseed is loaded by the use of a tractor equipped with a blade or scoop, and such tractor is furnished by the carrier, add to the rate 0½ cents per 100 pounds.

* (3) When the cottonseed is loaded into the unit of carrier's equipment from bunkers or seed houses, add to the rate ½ cents per 100 pounds.

* (4) Rates are subject to a minimum weight of 48,000 pounds per load. Load means a quantity of freight transported at one time in a single unit of carrier's equipment.

(A) Portion of this Item was transferred from Tenth Revised Page 34.

* Addition)
o Increase) Decision No. **90071**
o No change)

END OF TARIFF

EFFECTIVE

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

Correction