

Decision No. 90348

MAY 22 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga- )  
tion for the purpose of consid- )  
ering and determining minimum )  
rates for transportation of )  
petroleum and petroleum products )  
in bulk, in tank truck equipment )  
statewide as provided in Minimum )  
Rate Tariff 6-B and the revi- )  
sions or reissues thereof. )

Case No. 5436  
Petition for Modification  
No. 277  
(Filed December 6, 1978)

OPINION AND ORDER

Minimum Rate Tariff 6-B (MRT 6-B) names rates and rules for the statewide transportation of petroleum and petroleum products in bulk, in tank truck equipment, by petroleum contract carriers. By this petition, California Trucking Association requests that Items 80 and 90 be amended in order to clarify the provisions regarding alternative application of common carrier rates and minimum weights applicable thereto.

Petitioner states that a reading of Item 80, both Notes 1 and 3, clearly indicates that the intent of Note 1 is to allow a rail carload weight to apply when a rail carload rate is utilized and the minimum weights specified in Item 190 are greater than the carload minimum weights. It has come to petitioner's attention, however, that the present language has been manipulated to allow the applicable rail carload rate to be reduced to the minimum weights set forth in Item 190. Such an interpretation abuses the item and contravenes the Commission's own policy, set forth in Decision 79937, which determined that it would be improper to establish rules in the minimum rate tariff which, in the guise of complying with the mandate of Section 3663 of the Public Utilities Code, would allow highway carriers to charge rates below the lower of the actual rail common carrier rate or specific minimum rate.

Thus under the interpretation provided, a petroleum carrier could publish a rail competitive rate in its own tariff, but on the basis on Note 1 of Item 80, he could reduce the minimum shipment weight to a level below the minimum shipment weight specified in the rail rate item. The result would be the assessment of lower shipment charges than is applicable in either MRT 6-B or the alternatively applied rail tariffs.

In order to ensure the proper application of these notes, petitioner proposes to amend Notes 1 and 2 of Items 80 and 90, respectively. Petitioner believes that the proposed changes are needed for the purpose of tariff simplification and clarification and that benefits resulting therefrom are in the interests of shippers and carriers alike.

The petition was listed on the Commission's Daily Calendar of December 7, 1978. No objection to the granting of the petition has been received.

In the circumstances, the Commission finds that petitioner's proposal is reasonable and the resulting minimum rates and charges will be just, reasonable and nondiscriminatory minimum rates and charges for the transportation involved. A public hearing is not necessary. The Commission concludes that the petition should be granted to the extent set forth in the ensuing order.

IT IS ORDERED that:

1. Minimum Rate Tariff 6-B (Appendix A to Decision 82350, as amended) is further amended by incorporating therein, to become effective thirty-nine days after the date hereof, Second Revised Page 10 and Second Revised Page 11, attached hereto and by this reference made a part hereof.

2. Common carriers subject to the Public Utilities Act, to the extent that they are subject also to Decision 82350, as amended, are directed to establish in their tariffs the amendments necessary to conform with the further adjustment ordered by this decision.

3. Tariff publications required to be made by common carriers as a result of this order may be made effective not earlier than thirty-nine days after the date hereof and may be made effective on not less than five days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff pages incorporated in this order.

4. Common carriers, in establishing and maintaining the amendments authorized by this order, are authorized to depart from the provisions of Section 461.5 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 amendments 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 82350, 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 6-B.

7. The Executive Director shall serve a copy of the tariff amendment on each subscriber to Minimum Rate Tariff 6-B.

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

Dated at San Francisco, California, this 22<sup>nd</sup> day of MAY, 1979.

John E. Bryan  
President  
Richard W. Goble  
Commissioners

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

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;"><b>ACCESSORIAL CHARGES NOT TO BE OFFSET BY TRANSPORTATION CHARGES</b></p> <p>Accessorial charges set forth in this tariff for accessorial services not included in the rate for actual transportation shall be assessed and collected when such services are performed, regardless of the level of the transportation rate assessed. Such accessorial charges may not be waived on the basis that a higher-than-minimum transportation rate serves as an offset.</p>	50
<p style="text-align: center;"><b>ALLOWANCE FOR DELIVERY AFTER HOURS</b></p> <p>Subject to the provisions of Note 1, shipments of commodities contained in Rate Group H will be subject to rates of 90% of the mileage rates otherwise applicable for transportation when such shipments are ordered before 4:00 p.m. and are loaded, transported and delivered to bulk storage facilities all within the following periods of time:</p> <p>(a) Between 4:00 p.m. and 2:00 a.m. Monday through Friday.</p> <p>(b) Between 4:00 p.m. Friday and 2:00 a.m. the following Monday.</p> <p>NOTE 1.--The provisions of this rule are applicable only on shipments consigned to points of destinations located within 100 constructive miles of the point of origin or of the Group Basing Point whichever is applicable.</p>	70
<p style="text-align: center;"><b>ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</b></p> <p>Rates of common carriers by land may be applied in lieu of the rates provided in this tariff, when such common carrier rates produce a lower aggregate charge for the same transportation than results from the application of the rates herein provided. (See Notes 1, 2, 3, 4 and 5)</p> <p>NOTE 1.--When the common carrier rate used is subject to a minimum weight less than the minimum weight determined in accordance with the provisions of Item 190, the lesser minimum weight may be observed. *When the common carrier rate used is subject to a minimum weight greater than the minimum weight determined in accordance with the provisions of Item 190, charges shall be assessed upon the basis of the greater minimum weight.</p> <p>NOTE 2.--When the common carrier rate used is based upon a weight per gallon different than that provided in Item 30, such different weight shall be observed.</p> <p>NOTE 3.--In applying the provisions of this item, a rate no lower than the common carrier rate and a weight no lower than the actual weight or published minimum weight (whichever is the higher) applicable in connection with the common carrier rate shall be used.</p> <p>NOTE 4.--When a rail carload rate is subject to varying minimum weights, dependent upon the size of the car ordered or used, the lowest minimum weight obtainable under such minimum weight provisions may be used in applying the basis provided in this item. When the rail carload rate is subject to a specified minimum weight, subject to the condition that if the car is loaded to full visible or weight carrying capacity, actual weight will apply, or to actual weight but not less than a lesser carload minimum weight, the actual weight will apply subject to the lesser carload minimum weight, if any.</p> <p>NOTE 5.--When rail switching charges are applicable in connection with line-haul movements by rail and the gross weight of the shipment exceeds the applicable carload minimum weight, only one rail switching charge shall be assessed.</p>	80
<p>                 * Change )                  * Addition )                  Δ Change, neither increase ) Decision No. <b>90348</b>                  nor reduction )             </p>	
EFFECTIVE <b>7/1/79</b>	
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.	

Correction

SECTION 1--RULES (Continued)	ITEM
<p style="text-align: center;"><b>ALTERNATIVE APPLICATION OF COMBINATIONS WITH COMMON CARRIER RATES</b></p> <p>When lower aggregate charges result, rates provided in this tariff may be used in combination with rates of common carriers by land for the same transportation as follows:</p> <p>(a) When point of origin is located beyond railhead or carrier's terminal and point of destination is located at railhead or carrier's terminal add to the common carrier rate applying from any (1) team track, (2) carrier's terminal or (3) private railhead which is owned or leased by the party who contracts with the carrier for the performance of the transportation service, to point of destination the rate provided in this tariff, applicable to the weight of the entire shipment, for the distance from point of origin to any such team track, carrier's terminal or private railhead, from which the common carrier rate used applies. (See Notes 1, 2, 3 and 4)</p> <p>(b) When point of origin is located at railhead or carrier's terminal and point of destination is located beyond railhead or carrier's terminal, add to the common carrier rate applying from point of origin to any (1) team track, (2) carrier's terminal or (3) private railhead which is owned or leased by the party who contracts with the carrier for the performance of the transportation service, the rate provided in this tariff, applicable to the weight of the entire shipment, for the distance from any such team track, carrier's terminal or private railhead to which the common carrier rate used applies to point of destination. (See Notes 1, 2, 3 and 4)</p> <p>(c) When both point of origin and point of destination are located beyond railhead or carrier's terminal, add to the common carrier rate applying between any railhead or carrier's terminal the rate provided in this tariff, applicable to the weight of the entire shipment, for the distance from point of origin to any (1) team track, (2) carrier's terminal or (3) private railhead which is owned or leased by the party who contracts with the carrier for the performance of the transportation service, from which the common carrier rate used applies, plus the rate provided in this tariff, applicable to the weight of the entire shipment, for the distance from any (1) team track, (2) carrier's terminal or (3) private railhead which is owned or leased by the party who contracts with the carrier for the performance of the transportation service, to which the common carrier rate used applies to point of destination. (See Notes 1, 2, 3 and 4)</p> <p>NOTE 1.--If the route from point of origin to railhead, or from railhead to point of destination, is within the corporate limits of a single incorporated city, the rates provided in this tariff for transportation for distances of 5 miles or less, or rates established by the Commission for transportation within that city, whichever is the lower, shall apply from point of origin to railhead or from railhead to point of destination as the case may be.</p> <p>NOTE 2.--When the common carrier rate used is subject to a minimum weight <i>less</i> than the minimum weight determined in accordance with the provisions of Item 190, the <i>lesser</i> minimum weight may be observed in connection with such common carrier rate. *When the common carrier rate used is subject to a minimum weight greater than the minimum weight determined in accordance with the provisions of Item 190, charges shall be assessed upon the basis of the greater minimum weight.</p> <p>NOTE 3.--When the common carrier rate used is based upon a weight per gallon different than that provided in Item 30, such different weight shall be observed in connection with such common carrier rate.</p> <p>NOTE 4.--In applying the provisions of this item, a rate no lower than the common carrier rate and a weight no lower than the actual weight or published minimum weight (whichever is the higher) applicable in connection with the common carrier rate shall be used.</p>	<p>890</p>
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Correction