

Decision No. 90968 NOV 6 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation for )  
the purpose of considering and deter- )  
mining 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  
Petition for Modification  
No. 170  
(Filed June 22, 1979)

William R. Haerle, Attorney at Law, for  
California Trucking Association,  
petitioner.

Loughran & Hegarty by Edward J. Hegarty,  
Attorney at Law, for Producers Cotton  
Oil Co., Ranchers Cotton Oil, Kingsburg  
Cotton Oil Co., J. G. Boswell Co., and  
Anderson Clayton & Co.; and William H.  
McNab, for PVO International;  
protestants.

Lee Adler, for California Grain and Feed  
Association; and A. L. Tuma, for  
Agricom International; interested  
parties.

E. C. Cole and John Lemke, for the  
Commission staff.

O P I N I O N

By this petition California Trucking Association (CTA) seeks: (1) vacation of Suspension Supplement 17 of Minimum Rate Tariff 14-A (MRT 14-A) and (2) a general increase in the oilseed (cottonseed, flaxseed, and safflower seed) rates in MRT 14-A of approximately 7.5 percent.

Public hearings were held before Administrative Law Judge Frank J. O'Leary at San Francisco on August 28 and 29, 1979, and the matter was submitted on the latter date.

This decision will address only the request to increase the rates for the transportation of cottonseed. Subsequent to the filing of the petition Suspension Supplement 17 to MRT 14-A was vacated by Decision No. 90584 dated July 17, 1979. At the conclusion of the hearing CTA withdrew its request with respect to increasing the rates of flaxseed and safflower seed.

The cottonseed rates and charges in MRT 14-A are predicated upon comprehensive cost and economic studies introduced into evidence by CTA and the Commission staff in Petition for Modification No. 165. The instant proceeding is the first offset from the costs of record adopted by the Commission in Decision No. 90071 dated March 13, 1979, in Case No. 7857, Petition for Modification No. 165.

CTA, through the testimony of a Supervisor of Rates and Regulatory Affairs, presented exhibits updating the costs adopted in Decision No. 90071. The changes recognized and represented by the exhibits were as follows:

1. An increase in the basic hourly wage of \$0.55 per hour.
2. An increase in the California Workers' Compensation Insurance, resulting in a new manual rate of \$10.78 per \$100 of wages.
3. Increases in both the taxable wages (from \$17,700 to a new level of \$22,900) and rate (from 6.05 percent to 6.13 percent) for FICA contribution.
4. Maintenance and repair cost increases from \$0.135 per mile to \$0.155 per mile.

It was the witness' contention that in Petition for Modification No. 165 the Commission, after considering all the different types of payments to drivers involved in cottonseed transportation, found this portion of the contract to be reasonably reflective of the cottonseed labor cost experience. Accordingly, CTA contends that the portion of the cost development which is predicated upon the Agricultural and Horticultural Agreement should be adjusted in recognition of changes in the contract and that such changes are reasonably reflective of the labor cost experience which carriers can anticipate for the coming cottonseed harvest.

No evidence was presented by CTA that actual wages for drivers had increased or would increase in the present season which commenced approximately October 1, 1979 and will terminate approximately December 31, 1979.

In Petition for Modification No. 165 evidence concerning driver labor costs was presented by CTA and the Commission staff. The nature of the presentations was described in Decision No. 90071 as follows:

"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."

With respect to the above evidence, we commented as follows:

"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."

It was never our intention that increases in the base wage rate set forth in the Agricultural and Horticultural Supplement to the Teamsters Union Master Freight Agreement be the sole justification for an increase in the cottonseed rates. Additional evidence is required that would show that actual drivers' wages have increased in a similar manner. By failing to present evidence to show actual increases in drivers' wages, CTA has failed to sustain its burden of proof that the minimum rates in MRT 14-A for the transportation of cottonseed should be increased.

Protestants here seek elimination of the minimum weight provision of 48,000 pounds applicable to the transportation of cottonseed.

The 48,000-pound minimum weight for the transportation of cottonseed was established pursuant to Decision No. 90071. Subsequent to the issuance of Decision No. 90071, protestants filed a petition for rehearing of that decision. A major portion of the petition for rehearing advanced arguments as to why the 48,000-pound minimum weight should not have been established. The evidence presented in this record is essentially the same as the allegations

contained in the petition for rehearing of Decision No. 90071. By Decision No. 90584 the Commission denied rehearing and stated therein:

"The Commission has considered each and every allegation contained in said petition and related pleadings and is of the opinion that good cause for rehearing of Decision No. 90071 has not been shown, therefore,

"It is hereby ordered that rehearing of Decision No. 90071 is denied."

The request of protestants to eliminate the 48,000-pound minimum weight provision will not be further considered herein.

Findings of Fact

1. There is no evidence to show that wages of drivers employed by carriers transporting cottonseed have increased or will increase in the forthcoming season.

2. The evidence of protestants regarding removal of the 48,000-pound minimum weight provision is essentially the same as advanced in their petition for rehearing of Decision No. 90071.

3. The petition for rehearing of Decision No. 90071 was denied by Decision No. 90584 dated July 17, 1979.

Conclusion of Law

The Commission concludes that Petition for Modification No. 170 in Case No. 7857 should be denied and that the request of protestants concerning elimination of the minimum weight provision for cottonseed should be denied.


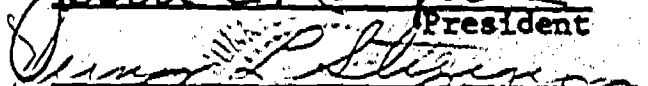
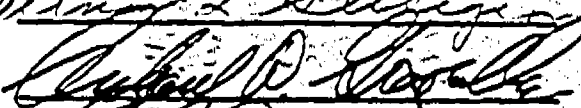
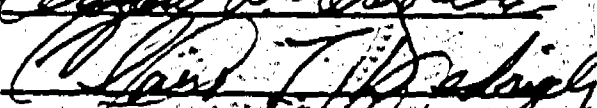
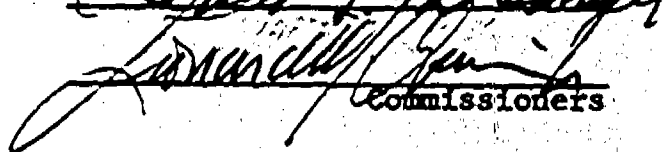
C.7857, Pet. 170 fc

ORDER

IT IS ORDERED that Petition for Modification No. 170  
in Case No. 7857 is denied.

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

Dated NOV 6 1979, at San Francisco, California.

  
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President  
  
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Commissioners