

ORIGINALDecision No. 92257 SEP 16 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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|--------------------------------------|---------------------------|
| In the Matter of the Investigation) | |
| for the purpose of considering and) | |
| determining minimum rates for) | Case No. 7857 |
| transportation, in bulk, of) | Petition for Modification |
| agricultural products and related) | No. 172 |
| articles statewide as provided in) | (Filed December 28, 1979; |
| Minimum Rate Tariff 14-A and the) | amended March 21, 1980) |
| revisions or reissues thereof.) | |

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., protestants.
Patrick J. Smith, for TRI-Transport, Inc.;
Robert K. Davidson, for Roy E. Lay
Trucking; and Robert Nickum, for Valley
Farm Transport, Inc.; respondents.
Allen R. Crown, Attorney at Law, for California
Farm Bureau Federation, interested party.
John Lemke and Ray Toohey, for the Commission
staff..

O P I N I O N

By amended petition California Trucking Association (CTA) requests the Commission to order general increases approximating 12 percent in the rates in Minimum Rate Tariff 14-A (MRT 14-A) for the transportation, in bulk, of agricultural products, except cottonseed. Decision No. 91831 effective May 25, 1980, as modified by Decision No. 91843 effective June 3, 1980, granted the herein petition on an interim basis pending hearing on the petition to the

extent of increasing the rates 7 percent. A hearing was held on the matter before Administrative Law Judge Pilling on July 8, 1980 at San Francisco.

The minimum rates and charges of MRT 14-A were last adjusted in a wage offset proceeding by Decision No. 90223 dated April 24, 1979 (Case No. 7857, Petition for Modification No. 167) and in a fuel offset proceeding by Decision No. 91408 effective March 22, 1980. CTA contends that since Decision No. 90223 agricultural carriers have continued to experience cost increases susceptible to precise enumeration in virtually every category of expense.^{1/} Between January 1979 and January 1980 the Producer Price Index of tire cost has risen over 32 points, and the cost of vehicle parts over 19 points. The cost of mechanic's labor has increased on an annual basis by more than 11.9 percent and within the past year the cost of a new 3-axle tractor and a set of grain hopper trailers has risen 12.3 percent. None of these increases are considered or covered in the current level of MRT 14-A rates. At the hearing CTA introduced Exhibits 1 through 4 which detailed, respectively, the alleged increases in social benefit taxes, labor costs, vehicle costs, and vehicle running costs. CTA's Exhibit 5 shows by way of a cost model, based on a cost model for the transportation of cottonseed (staff's Exhibit 8 in Petition for Modification No. 165), a new datum plane for the transportation of grain taking into consideration the alleged increases in costs which have occurred. The cost model shows that there has been an overall increase in costs (without provision for profit) for a haul of five miles of 8.43 percent, declining, as the length of haul increases, to a 7.69 percent increase in costs for

^{1/} The increase in the price of fuel is not included in this proceeding.

a haul of 300 miles. CTA requests that the Commission increase the MRT 14-A rates 8 percent to cover the increased costs plus an additional 4 percent to allow the carriers as represented by a cost/rate relationship of 92 percent. (Exhibit 8 shows that carriers reporting 50 percent or more of their total revenue earned under MRT 14-A averaged a 97.1 percent operating ratio for the year 1979.)

The added 4 percent increase, CTA contends, is necessary to overcome the depressed level of the current rates for the transportation of agricultural products which has been impairing carriers' ability to furnish adequate transportation service.

CTA requests that the proposed 12 percent increase in rates be reflected by amending specific tariff items rather than by the imposition of a surcharge. Exhibit 9 contains CTA's proposed revisions to MRT 14-A. The proposed distance commodity rates are tapered to achieve an overall 12 percent rate increase. The tapering is achieved by increasing the level of rates at a different percentage in each of the mileage brackets as follows:

| <u>Mileage Bracket</u> | <u>Percentage Increase in Rates</u> |
|------------------------|-------------------------------------|
| 0-20 | 9 |
| 21-45 | 10 |
| 46-90 | 11 |
| 91-140 | 12 |
| 141-190 | 13 |
| 191-280 | 14 |
| 281-400 | 15 |
| Over 400 | 16 |

CTA contends this tapering is necessary so that the increase in rates will apply more to those areas and lengths of haul where the current rate structure is most deficient and less to those areas and lengths of haul where the level of rates more closely covers the cost of transportation.

Witnesses for two motor carriers gave testimony in support of the rate increase and the need for tapered rates as proposed by CTA. They stated that even with a flat increase of 8 percent the revenue per mile for the longer hauls is unattractive and they tend to restrict their operation to the shorter hauls. One of the carrier witnesses complained that the inordinately long waiting time to unload at the docks after some of his longer hauls eats up his profit on the haul. He also stated that the level of MRT 14-A rates has a great influence on the level of charges shippers of exempt agricultural commodities will pay for their transportation.

CTA also requests that safflower seed rates found in Item 600 be adjusted to the level of rates for transporting grain, popcorn, seeds, rice, castor beans, and nut hulls found in Item 550, Section 5. The witness for CTA testified that the carriers which transport safflower seed are the same carriers which transport whole grains. He stated that the method of harvesting safflower seed is identical to the method employed for harvesting grains. As with all whole grains, safflower seed is unloaded from a bank-out wagon into spotted grain hopper equipment. The grain hoppers are then transported to typical grain-receiving facilities. Because grain carriers perform the transportation of safflower seed in precisely the same manner as they transport grain crops, they experience virtually no cost differential in the transportation of these commodities. The origins and method of loading are the same, the carriers' units of equipment are identical, the drivers are the same, and the unloading destinations are the same or similar. The witness stated that virtually no measurable distinction exists between the cost of transporting safflower seed and the cost of transporting grain. Hence, the safflower seed rates should be the same as the rates for transporting grain. Bringing the safflower seed rates in line with the grain

rates and applying the average 8 percent rate increase sought herein would result in a 9 percent overall increase in safflower seed rates over their present levels. The witness for the Commission staff stated that the staff had no objection to CTA's safflower seed proposal. The representative of the California Farm Bureau Federation (the Bureau) stated that the Bureau had no objection to CTA's safflower seed proposal provided that any permanent rate increase resulting from this proceeding is limited to 8 percent.

The staff disagreed with some of the data used by CTA in the development of CTA's cost model and introduced a modified cost model as Exhibit 10. The area of disagreement pertained to the development of hourly labor costs, the equipment annual use hours, and the constructive mileage factors. The staff witness who introduced Exhibit 10 stated that such modifications resulted from his review of past staff cost studies as well as his contact with carriers who transport grain. Exhibit 10 allows CTA's use of the applicable union contract hourly base wage rate but denies CTA's use of fringe benefit and pension fund expenses in arriving at the total hourly labor cost. The staff witness stated that few of the agricultural carriers were unionized and most of the carriers paid their drivers a percentage of revenue and paid no fringe benefits or pension fund contributions. The staff's modified cost model increased CTA's figure on average equipment annual use hours from 1,800 hours to 2,100 hours based on the staff's investigation which revealed that grain haulers had a trailer-to-tractor ratio of three to one rather than two to one as contended by CTA because of the carriers' practice of spotting empty trailers at loading points to be available when a load comes their way. The staff's modified cost model used a constructive mileage factor of 1.07 while CTA's cost

model used the factor of 1.04. The factor of 1.07 has been used historically in grain rate matters. Additionally, in arriving at the percentage increase in total costs at 100 percent operating ratio since Decision No. 90223, the staff used the total cost figure as adopted by the Commission in that decision; whereas CTA used a higher total cost figure which the Commission had rejected in that decision. Other than for the above modifications the staff accepted CTA's cost figures. Based on its modifications the staff contends that the increase since Petition for Modification No. 167 is 7.63 percent at five miles descending to 7.20 percent at 300 miles versus CTA's contention that the increase is 8.43 percent at five miles descending to 7.69 percent at 300 miles.

The representative for the Bureau stated he did not feel comfortable with the use of a cost model for all MRT 14-A commodities formulated for the transportation of cottonseed. He objected to any permanent rate increase over 8 percent and contended that any increase over that amount was not shown to be justified. He thought that the high operating ratio of MRT 14-A carriers was due not so much to the increase of underlying transportation costs as it was to other costs experienced by the carriers, such as inordinate waiting time.

The staff is opposed to granting a permanent increase in excess of the 7 percent authorized by Decision No. 91831. It points out the additional 4 percent sought by CTA derives from the assertion that the depressed level of the current rates for the transportation of agricultural products is impairing the carriers' ability to furnish adequate transportation service. It contends that many of the carriers whose expense and income figures were used to determine an average operating ratio do not derive all of their revenue from

transportation involving MRT 14-A and that the expenses involved in non-MRT 14-A transportation should not have been included in compiling the average operating ratio. The staff is also opposed to tapering the rates depending on the length of haul and points out that the proposed taper is inverse to the percentage increases in costs as found by both the staff and CTA.

Findings of Fact

1. The minimum rates and charges in MRT 14-A were last permanently increased in a wage offset proceeding by Decision No. 90223 dated April 24, 1979 and in a fuel cost offset proceeding by Decision No. 91408 effective March 22, 1980.
2. Since Decision No. 90223 agricultural carriers have continued to experience cost increases in virtually every category of expense (increased fuel cost not considered). These increases are not reflected in the current level of MRT 14-A minimum rates and charges.
3. To reflect these cost increases CTA requests that the present MRT 14-A rates and charges, except those pertaining to cottonseed, be increased in an amount equal to approximately 12 percent over the MRT 14-A rates and charges in effect immediately prior to Decision No. 91408.
4. CTA presented a cost model and underlying data which purportedly shows that estimated carrier costs (without provision for profit) have increased 8.43 percent for a haul of five miles decreasing to a cost increase of 7.69 percent for a haul of 300 miles.
5. The staff presented a modified cost model which showed that carrier costs (without provision for profit) have increased only 7.63 percent for a haul of five miles decreasing to an increase of 7.20 percent for a haul of 300 miles.

6. The staff, in constructing its modified cost model, accepted and used most of the cost figures used in CTA's cost model but modified CTA's total hourly labor costs, equipment annual use hours, and the constructive mileage factor as set forth in Findings of Fact 7, 8, 9, and 10.

7. The staff's modified cost model excluded amounts for fringe benefits and pension fund contributions from the hourly labor cost as MRT 14-A carriers are largely nonunionized and pay their drivers on a percentage-of-revenue basis.

8. The staff's modified cost model increased from 1,800 hours to 2,100 hours, the equipment annual use hours as grain haulers have a trailer-to-tractor ratio of three-to-one rather than a two-to-one ratio as contended by CTA.

9. The staff's modified cost model used a constructive mileage factor of 1.07 in place of CTA's use of a 1.04 factor as the factor of 1.07 has been used historically in grain rate matters.

10. The staff's modified cost model used as the subtrahend, in arriving at the total hourly cost increase at the total hourly cost as found by the Commission in Decision No. 90223 in lieu of CTA's use as the subtrahend the total hourly cost advanced by CTA in Decision No. 90223.

11. The staff's modifications as set out in Findings of Fact 7, 8, 9, and 10 are reasonable and correctly reflect actual transportation conditions.

12. Carriers' operating costs have increased approximately 7 percent.

13. The evidence does not show that a 7 percent increase in rates instead of a 12 percent increase as requested by CTA will impair MRT 14-A carriers' ability to furnish adequate transportation service.

14. No justification was shown for the institution of tapered rate scales.

15. No measurable distinction exists between the cost of transporting safflower seed and the cost of transporting grain.

16. The staff estimates that a 7 percent increase in rates for grain and related commodities along with increasing the level of safflower seed rates to that of grain rates will increase the involved carriers' annual gross revenue by \$3.9 million. ✓

17. The increases in rates and charges authorized by this decision are justified and are reasonable.

18. Because the safflower hauling season is in full swing the effective date of this order should be made the date hereof.

Conclusions of Law

1. The interim increase in MRT 14-A rates ordered by Decision No. 91831 should be made permanent.

2. The minimum rates for the transportation of safflower seed should be increased to the level of the minimum rates for the transportation of grain.

3. Except to the extent granted herein, Petition for Modification No. 172 should be denied.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 14-A (MRT 14-A) (Appendix A to Decision No. 67397, as amended) is further amended by incorporating therein to become effective September 20, 1980, Twelfth Revised Page 34, 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 No. 67397, as amended, are directed to establish in their tariffs the increases necessary to conform with the further adjustments ordered by this decision.

3. Common carriers maintaining rates on a level other than the minimum rates for transportation for which rates are prescribed in MRT 14-A are authorized to increase such rates by the same amounts authorized by this decision for MRT 14-A rates.

4. Common carriers maintaining rates on the same level as MRT 14-A rates for the transportation of commodities and/or for transportation not subject to MRT 2 are authorized to increase such rates by the same amounts authorized by this decision for MRT 14-A rates.

5. Common carriers maintaining rates at levels other than the minimum rates for the transportation of commodities and/or for transportation not subject to MRT-14 are authorized to increase such rates by the same amounts authorized by this decision for MRT 14-A rates.

6. Any provisions currently maintained in common carrier tariffs which are more restrictive than, or which produce charges greater than, those contained in MRT 14-A are authorized to be maintained in connection with the increased rates and charges directed to be established by Ordering Paragraph 2 hereof.

7. Common carrier tariff publications required by this order shall be filed not earlier than the effective date of this order and shall be made effective September 20, 1980. Tariff publications authorized but not required shall be made effective not earlier than September 20, 1980. The authority for authorized increases shall expire unless exercised within sixty days after the effective date of this order. All tariff publications must give four days' notice to the Commission and the public.

8. Common carriers, in establishing and maintaining the rates 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 rates published under this authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

9. The interim increase granted pursuant to Decision No. 91831 is made permanent.

10. In all other respects, Decision No. 67397, as amended, shall remain in full force and effect.

The effective date of this order is the date hereof.

Dated SEP 16 1980, at San Francisco, California.

John E. Bryan
President
James L. Stinson
Richard D. Howell
Charles J. DeSjia
Samuel W. Jones
Commissioners

MINIMUM RATE TARIFF 14-A

| SECTION 6--DISTANCE COMMODITY RATES (Continued) (In Cents Per 100 Pounds) | | | | | | ITEM |
|--|--------------|-------|-------|--------------|-------|------|
| SEEDS, viz.: Flax or Safflower. | | | | | | |
| MILES | | RATES | MILES | | RATES | |
| Over | But Not Over | | Over | But Not Over | | |
| 0 | 3 | 11 | 130 | 140 | 37 | ø600 |
| 3 | 5 | 11½ | 140 | 150 | 38 | |
| 5 | 10 | 12½ | 150 | 160 | 40 | |
| 10 | 15 | 13½ | 160 | 170 | 42 | |
| 15 | 20 | 14 | 170 | 180 | 43 | |
| 20 | 25 | 15 | 180 | 190 | 45 | |
| 25 | 30 | 17½ | 190 | 200 | 47 | |
| 30 | 35 | 19½ | 200 | 220 | 51 | |
| 35 | 40 | 20½ | 220 | 240 | 54 | |
| 40 | 45 | 21 | 240 | 260 | 57 | |
| 45 | 50 | 22 | 260 | 280 | 59 | |
| 50 | 60 | 25 | 280 | 300 | 63 | |
| 60 | 70 | 26 | 300 | 325 | 68 | |
| 70 | 80 | 28 | 325 | 350 | 73 | |
| 80 | 90 | 29 | 350 | 375 | 77 | |
| 90 | 100 | 30 | 375 | 400 | 81 | |
| 100 | 110 | 31 | 400 | 425 | 86 | |
| 110 | 120 | 33 | 425 | 450 | 90 | |
| 120 | 130 | 35 | 450 | --- | (1) | |

(1) Add to rate for distances over 450 miles .43 cents per 100 pounds for each 25 miles or fraction thereof.

(1) Provisions applicable to cottonseed formerly shown on this page, transferred to Item 605, Original Page 35.

⚡ Change)
 ◊ Increase) Decision No. **92257**
 ⚡ Reduction)

EFFECTIVE 9/20/80

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

Correction