

ORIGINAL

92738 FEB 18 1981

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
Petition for Modification
No. 126
(Filed April 9, 1979)

Ronald C. Peterson, Attorney at Law, for
California-Arizona Citrus League, petitioner.
Allen R. Crown, Attorney at Law, for California
Farm Bureau Federation; and Joel Anderson,
for California Trucking Association; interested
parties.
William Tait, for the Commission staff.

O P I N I O N

Exceptions 1(b) and (c) (The exceptions) of Item 320 of Minimum Rate Tariff 8-A (MRT 8-A) require that the minimum charges for the transportation of shipments containing only fresh oranges, lemons, or grapefruit which are packed in standard cartons from points of production to wholesale or chain store markets be based on the aggregate of specified weights per carton set out in the exceptions (provided weights). Decision No. 85826 dated May 18, 1976 admonished the proponents of provided weights to gather current data regarding the actual weights of cartons of fresh citrus moving in California intrastate commerce to present to the Commission so that the Commission could consider whether provided weights should expire or be continued. The expiration date of June 30, 1978 for provided weights established by that decision was continued by Decision No. 92007 until final decision on this petition.

Petitioner, California-Arizona Citrus League, a nonprofit trade association composed of 95 percent of the citrus packers located in three industry packing districts embracing all the area south of Turlock in California, alleges in its petition that it had completed an up-to-date study of the actual weights of various standard cartons containing fresh citrus in satisfaction of the Commission's admonition in Decision No. 85826. Based on the results of that study it requests the Commission to revise and continue the citrus provided weights as follows:

	<u>Current Provided Weight Per Carton</u>	<u>Proposed Provided Weight Per Carton</u>
Oranges	39.5 lbs.	41.25 lbs.
Lemons	40 lbs.	38.50 lbs.
Grapefruit	35.5 lbs.	36.25 lbs.
Tangerines	None	30.25 lbs.

A hearing was held on the matter before Administrative Law Judge Pilling at San Francisco on June 26 and 27, 1980. The California Farm Bureau Federation and the California Trucking Association appeared as interested parties.

Prior to sale at retail, fresh citrus is marketed on the basis of fruit size and quantity rather than on the basis of weight. Table 3, Section 1380.19 of the California Administrative Code sets forth a description of the cartons which must be used in marketing each type of citrus. Citrus is sized according to the count of fruit in a carton. For example, a buyer of a carton of size 88 Valencia oranges could expect to find 88 Valencia oranges in the carton. Likewise, a buyer of a carton of size 200 lemons could expect to find 200 lemons in the carton. Orange sizes run from size 163 up to size 40 and lemons from size 235 to size 95.

Petitioner testified that it conducted a study of the weights of standard cartons of fresh oranges, lemons, grapefruit, and tangerines on a monthly basis over a two-year period from November 1, 1977 through October 31, 1979 during which time a total of 47,458 individual cartons of citrus were weighed on the California premises of its packer members by the Weighing and Inspection Department of the Railroad Transcontinental Freight Bureau (the Bureau) which petitioner had commissioned to take and record the weights. During the first year of the study 217 packinghouses were visited by the Bureau's enumerators to take the weights and during the second year of the study 200 packinghouses were visited. These figures include some duplication since some packinghouses pack several types of citrus.

The basis of the study was a weight sampling design (Exhibit 6), prepared under the supervision of an independent mathematical statistician, which called for an annual sample size of approximately 29,100 cartons of citrus. The sample was stratified to account for the four primary sources of variability in the weight of citrus, namely, type of citrus, production district, month, and size of fruit. The annual sample was allocated by type of fruit based on the relative volume of domestic shipments of the different types of fruit during a five-year period. The sample was also allocated by month based on the monthly volume of domestic shipments of fresh fruit during a five-year period. Further allocation was made by production district based on the volume of domestic shipments from each district for a five-year period. A final allocation of the sample was by size of fruit. The weight sampling design called for 60 weight observations of a given type of citrus to be made for each visit to a packinghouse.

The Bureau's enumerators, as instructed, sampled only fresh citrus shipments to be moved in California intrastate commerce. (See exception in footnote 1). They sampled the weights at the packing plant's shipping locations and if the sample could not be completed there they moved to the cold storage area and attempted to complete the sample. Weights were made with a certified scale to the nearest one-quarter pound and recorded on forms furnished by petitioner. Selection of the packinghouses that were to be sampled was made by the statistician by random monthly selection taking into account the volume of domestic shipments of fresh citrus from the packinghouse for that month during the preceding year. The packinghouses were not notified of their selection.

Exhibit 7 shows in detail the data obtained from the weight study. The exhibit shows the sampling rate (number of weight samples specified in the weight sampling design versus the actual number of weight samples made) for Navel oranges was 89 percent, for Valencia oranges 74 percent, for lemons 88 percent, for California grapefruit 72 percent, and for tangerines 49 percent. During the two-year study period the following cartons of citrus were weighed:

11,786 Valencia orange cartons totaling	492,437.00 pounds
23,377 Navel orange cartons totaling	970,254.30 pounds
8,333 lemon cartons totaling	323,745.80 pounds
3,431 grapefruit cartons totaling	122,694.50 pounds
531 tangerine cartons totaling	16,110.75 pounds

Eight different sizes of oranges and grapefruit, six different sizes of lemons, and five different sizes of tangerines were weighed. The proposed provided weights were arrived at by first dividing the number of cartons of each type of citrus into

the total weight of the particular type of citrus to obtain an average weight per carton.^{1/} The average weight per carton per type of citrus was then "weighted" to account for the differences in the volumes between the production districts. The "weighted" averages were then reduced or increased to the nearest quarter of a pound.

During the crop seasons 1972-73 through 1976-77 the annual average shipments of cartons of citrus to points in the United States from the three packing districts were as follows:

Valencia oranges	19,976,000
Navel oranges	33,689,000
Grapefruit	3,489,000
Lemons	12,203,000
Tangerines	1,239,000

At present, there are no provided weights for tangerines set out in the exceptions. Petitioner requests that tangerines be accorded provided weights as proposed, as tangerines are marketed exactly like oranges, grapefruit, and lemons.

The interested parties and the Commission staff did not object to the continuation of minimum provided weights for citrus as long as the provided weights properly reflect the overall average weights of the commodities shipped. The California Farm Bureau Federation is of the opinion that the provided weight system has worked very well and has resulted in a tremendous saving in time and fuel expense for all concerned. California Trucking Association initially questioned petitioner's sample design and weight study but later withdrew from any comment on it. None of the parties objected to the change in the provided weights as proposed by petitioner.

^{1/} Of the 3,431 grapefruit cartons weighed, only 2,763 cartons weighing 98,824 pounds were packaged in California-approved cartons. The remaining cartons were packed in Arizona-approved cartons which differ slightly in dimensions from California-approved cartons and were not included in arriving at the mean weight per carton.

Findings of Fact

1. MRT 8-A sets forth rates, accessorial charges, and rules for the transportation of fresh fruits and vegetables and nuts from points of production to wholesale markets within California by for-hire carriers.

2. Exceptions 1(b) and (c) of Item 330 of MRT 8-A require that minimum charges for the transportation of shipments containing only fresh oranges, lemons, or grapefruit which are packed in standard cartons be based on the aggregate of provided weights.

3. Decision No. 85826 dated May 18, 1976 admonished the proponents of provided weights to gather current data on the actual weights of cartons of citrus moving in California intrastate commerce for presentation to the Commission to determine whether provided weights should expire or be continued.

4. To gather current data petitioner conducted a monthly study of the weights of standard cartons of fresh oranges, lemons, grapefruit, and tangerines, preparatory to their movement in California intrastate commerce, on a monthly basis over a two-year period from November 1, 1977 through October 31, 1979.

5. During the study enumerators from the Bureau separately weighed and recorded the weights of 47,458 cartons of citrus.

6. The basis of the study was a weight sampling design prepared under the supervision of an independent statistician that called for 60 weight observations of a given type of citrus to be made for each visit to a packinghouse.

7. The sample was stratified to account for the four primary sources of variability in the weight of citrus, namely, type of citrus, production district, month, and size of fruit.

8. The annual sample was allocated as follows:

- a. By type of fruit based on the relative volume of domestic shipments of the different types of fruit during a five-year period.

- b. By month based on the monthly volume of domestic shipments of fresh fruit during a five-year period.
- c. By production district based on the volume of domestic shipments from each district for a five-year period.
- d. By size of fruit.

9. During the course of the study weights were taken with certified weight scales principally at the packing plant's shipping location. Selection of the packing houses was made by the statistician by random monthly selection taking into account the historical volume of domestic shipments of fresh citrus from the packinghouses for the month during the preceding year.

10. The packinghouses were not notified of their selection.

11. The sampling rate for Navel oranges was 89 percent, for Valencia oranges 74 percent, for lemons 88 percent, for California grapefruit 72 percent, and for tangerines 49 percent.

12. During the study period weights were taken of 11,786 cartons of Valencia orange cartons with a total weight of 492,437 pounds, 23,377 cartons of Navel oranges with a total weight of 970,254.30 pounds, 8,333 cartons of lemons with a total weight of 323,745.80 pounds, 3,431 cartons of grapefruit with a total weight of 122,694.50 pounds, and 531 cartons of tangerines with a total weight of 16,110.75 pounds.

13. The cartons of oranges and grapefruit weighed were of eight different sizes, those of lemons six different sizes, and those of tangerines five different sizes.

14. The "weighted" average weight for each carton by type of citrus was found to be in accordance with the provided weights proposed by petitioner.

15. The sampling design and weight study produced statistically reliable average weights of standard cartons of fresh citrus.

16. Tangerines are marketed in the same manner as oranges, grapefruit, and lemons.

17. The provided weights proposed by petitioner and authorized by this decision are just and reasonable; and the present provided weights, insofar as they differ from those prescribed by this decision, are for the future unjust and unreasonable.

18. The order herein complies with the guidelines set forth in the Commission's energy efficiency plan.

Conclusions of Law

1. The expiration date of the exceptions should be canceled.
2. A provided weight for tangerines should be included in the exceptions.
3. The provided weights should be continued and revised as set out in the following order.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 8-A (MRT 8-A) (Appendix B to Decision No. 85826, as amended) is further amended by incorporating therein, to become effective thirty-nine days after the date hereof, Fourth Revised Page 31 and Fourth Revised Page 32, 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. 85826, as amended, are directed to establish in their tariffs the increased provided weights necessary to conform with the further adjustments ordered by this decision.
3. Common carriers maintaining provided weights on a level other than those for which weights are provided in MRT 8-A are authorized to increase such weights by the same amounts authorized by this decision for MRT 8-A provided weights.
4. Common carriers maintaining provided weights on the same level as those in MRT 8-A are authorized to increase such weights by the same amounts authorized by this decision for MRT 8-A provided weights.

5. Any provisions currently maintained in common carrier tariffs which are more restrictive than, or which produce charges greater than, those contained in MRT 8-A are authorized to be maintained in connection with the increased provided weights directed to be established by Ordering Paragraph 2 hereof.

6. Common carrier tariff publications made as a result of this order which involve increases shall be filed not earlier than the effective date of this order and shall be effective not earlier than the fourth day after the effective date hereof. Tariff publications required shall be effective four days after the effective date hereof. Tariff publications involving reductions may be made effective not earlier than the fourth day after the effective date of this order. The authority for authorized increases and/or reductions 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.

7. 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.

8. The expiration date of Exceptions 1(b) and (c) of Item 330 of MRT 8-A is canceled.

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

Dated FEB 18 1981, at San Francisco, California.

John E. Guyra

President
Richard D. Powell

Lawrence J. ...

Commissioners

SECTION 1--RULES OF GENERAL APPLICATION (Continued)

ITEM

UNITS OF MEASUREMENT TO BE OBSERVED

Rates or accessorial charges may be quoted or assessed by carriers on a per package basis provided.

- (1) The freight charges assessed are not less than those which would have been assessed had the rates and accessorial charges stated in this tariff been applied and
- (2) The carrier's shipping documents contain all the information necessary to compute the freight charges on the basis of the unit of measurement provided in this tariff.

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GROSS WEIGHT

(a) Charges shall be assessed on the gross weight of the shipment as tendered, including container icing, if any. No allowance shall be made for the weight of containers. (See Exceptions 1, 2 and 3)

(b) In connection with shipments weighing 20,000 pounds or more, transported for distance in excess of 50 constructive miles, the actual gross weight of the shipments shall be confirmed by a public weighmaster's certificate, which shall be obtained by the carrier prior to or at the time of unloading. (See Notes 1, 2, and 3) Iced shipments shall be weighed at first available scale along route of movement.

(c) When the carrier obtains a public weighmaster's certificate, charges shall be based on the weight of the commodities as confirmed by the public weighmaster's certificate. The original and duplicate copy of the public weighmaster's certificate shall be affixed to the shipper's and carrier's copy of the freight bill (See Item 190), respectively.

(d) Whenever a carrier is requested by the shipper, consignee or debtor to obtain a certified weight from a public scale, or when a carrier must obtain a certified weight for billing purposes or for other legal requirements, and a charge is assessed by the public weighmaster for this service, the carrier shall assess a charge of not less than the actual amount paid by the carrier to the public weighmaster for the weighing service for each weight certificate obtained and furnished to the debtor or other person requesting a certified weight.

§330
(Continued)

EXCEPTION 1.--On shipments containing exclusively the commodities provided below, charges shall be assessed on the gross weights as follows:

- (a) ONIONS, BEETS, TURNIPS, ROTABAGAS, PARSNIPS, CARROTS AND POTATOES

<u>When Packed and Invoiced as:</u>	<u>Charges shall be assessed on Gross Weight per Package of:</u>
10 Pounds per Sack	10 1/2 Pounds per Sack
15 Pounds per Sack	15 1/2 Pounds per Sack
25 Pounds per Sack	25 1/2 Pounds per Sack
50 Pounds per Sack	50 1/2 Pounds per Sack
100 Pounds per Sack	101 Pounds per Sack
Five 10-Pound Consumer Paper Bags per Sack	51 3/4 Pounds per Sack
50 Pounds per Carton	53 Pounds per Carton

(Continued)

Change, Decision No. **92738**

EFFECTIVE 3/29/68

Correction

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

GROSS WEIGHT (Concluded)

o(b) ORANGES or LEMONS when packed in standard orange or lemon box with inside depth, width and length dimensions of 10-1/4 X 10-11/16 X 16-3/8", identified as container 58 in Title 3, Section 1380.19 of the California Administrative Code, charges shall be assessed on the gross weights as follows:

oORANGES - 41.25 lbs. per box oLEMONS - 38.50 lbs. per box.

o(c) GRAPEFRUIT when packed in standard grapefruit box with inside depth, width and length dimensions of 9-3/4 X 10-11/16 X 16-3/8", identified as container 59 in Title 3, Section 1380.19 of the California Administrative Code, charges shall be assessed on the gross weight o36.25 lbs. per box.

* (d) TANGERINES when packed in standard tangerine box with inside depth, width and length dimensions of 7-1/2 to 8-1/2 x 10-11/16 x 16-3/8", identified as container 63 in Title 3, Section 1380.19 of the California Administrative Code, charges shall be assessed on the gross weight 30.25 lbs. per box.

EXCEPTION 2.--When palletized shipments subject to minimum weights of 20,000 pounds or more are loaded or unloaded with power equipment, the weight of the pallets (elevating truck pallets or platforms or lift truck skids) shall not be used in determining the weight of the shipment nor the charges thereon. When rail rates are used under provisions of Items 70, 80, 90 and 100 of this tariff, the weight of the pallets shall be included or excluded in accordance with the provisions of the governing rail tariff.

EXCEPTION 3.--When rail rates are used under the provisions of Items 70, 80, 90 and 100 of this tariff, actual, estimated or agreed weights shall be used to compute charges in accordance with the provisions of the governing rail tariff.

NOTE 1.--A single public weighmaster's certificate shall be obtained for each unit of carrier's equipment which contains (a) one or more shipments weighing 20,000 pounds or more and other shipments or (b) a portion of a shipment weighing 20,000 pounds or more and other shipments. Such certificate shall show the combined actual weight of all shipments on each such unit of carrier's equipment. The combined weight thus obtained shall be allocated among the shipments in each unit of carrier's equipment. A load manifest or similar document shall be prepared for each such unit which shall set forth the kind and quantity of each commodity in each shipment and the method of allocating the weight to each.

NOTE 2.--Carriers are not required to obtain a public weighmaster's certificate:

- (a) When the weighing of the shipment on a public weighmaster's scale would require the carrier to traverse a route which is more than five constructive miles longer than the shortest route from point(s) of origin to point(s) of destination as determined in accordance with Item 180.
- (b) When no public weighmaster's scale along the route of movement is open for weighing at the time the carrier arrives at the scale point.
- (c) When tariff agreed weights set forth in Exception 1 (above) are used to determine gross weights.

NOTE 3.--Not applicable in connection with rates named in Section 3.

o Change)
 = Addition)
 o Increase) Decision No.
 o Reduction)

92738

EFFECTIVE 3/24/81

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

Correction

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