Decision No. 29211.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC MOTOR TRUCKING COMPANY for authority to waive rates prescribed by Decision No. 28761, Case 4088, Part "A", on automobiles weighing less than 4,000 pounds.	Application No. 20628.

R. E. Wedekind, for applicant.

BY THE COMMISSION:

O P I N I O N

By application filed June 19, 1936, Pacific Motor Trucking Company, a corporation, engaged in the business, among others, of transporting automobiles as a highway contract carrier, seeks authority to waive application of the minimum rates established in Decision No. 28761 of April 27, 1936, in Case No. 4088 (Part "A"), 39 C.R.C. 732, in so far as they apply to the transportation of shipments of automobiles weighing less than 4,000 pounds between San Francisco, Oakland and Southgate on the one hand and various points in California on the other hand.

The matter was submitted at a public hearing held before Examiner Johnson at San Francisco.

The established minimum rates from which relief is sought are based upon the lowest common carrier rates for the same transportation. It is alleged that the only less-than-carload rates of common carriers within California applicable to the movement of

automobiles are class rates, the classification rating being one and one half times first class and that such rates are excessive for the movement of the traffic here involved.

Applicant has attached to its application, as Exhibits "A" and "B" thereof, schedules of rates which it proposes to apply in lieu of the minimum rates established in Decision No. 28761, supra. From Southgate to various destinations in southern California, rates are proposed on shipments of single automobiles weighing less than 4,000 pounds, equal to one fourth of applicant's present charge per trip for the transportation of shipments of automobiles in lots of four cars.[1] Between Oakland on the one hand and numerous points in northern California on the other hand, "single car rates" ranging in volume from 25 per cent to 62 per cent of applicant's "four car rates" between the same points are proposed. Applicant's rate schedule also contains so-called "drive and haul rates" for the driving of automobiles under their own power between Oakland and points in northern California when offered for movement in lots of less than four cars, which rates, under the provisions of Rule No. 2 of Exhibit "A" would be applicable to the transportation of shipments of single automobiles weighing less than 4,000 pounds by motor truck in back-haul movement.[2] The volume of the "single car" drive and haul rates is

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1 For example, from Southgate to Pomona and Riverside, one fourth of applicant's per trip rates, applicable on shipments of four automobiles of $16.60 and $19.90 or $4.15 and $4.85, respectively, are proposed on shipments of single automobiles weighing less than 4,000 pounds.

2 Rule No. 2 of Exhibit "A" reads:

"(a) If there is an occasion to haul four cars, or multiples of four cars, from any point to Terminal (Oakland), and less than four cars are offered for hauling from Terminal (Oakland) to point, or any point, on direct route intermediate thereto, rates named in 'Drive and Haul Rates' Column, are applicable."

"(b) If there is an occasion to haul four cars, or multiples of four cars, to any point from Terminal, (Oakland) and less than four cars are offered for hauling to Terminal, (Oakland), from point, or any point, on direct route intermediate thereto, rates named in 'Drive and Haul Rates' Column are applicable."

one fourth of the "four car" rates.

In support of the proposed rates, L. B. Young, Vice-President and General Manager of applicant corporation, testified:

(1) That applicant has entered into exclusive contracts with Chevrolet Motor Company, Oakland, and General Motors Corporation, Los Angeles, for the transportation of automobiles from and to the plants of those concerns at Oakland and Southgate;

(2) That while the traffic in question is usually offered and transported in lots of four automobiles per shipment (each automobile weighing approximately 3,100 pounds) it is sometimes necessary to transport shipments consisting of one automobile;

(3) That the proposed rates are necessary to meet "drive-away" competition on such shipments;

(4) That if applicant cannot handle the single car shipments, the multiple car shipments will likewise be lost to drive-away competition, in which event such traffic will be lost to all forms of hire carriers;

(5) That applicant's service is not comparable with that offered by other radial highway common or highway contract carriers for the reason that this traffic is handled on specially designed truck equipment which applicant possesses;

(6) That the proposed rates will not burden other traffic, for the reason that applicant serves only one shipper from and to Oakland and Los Angeles respectively;

(7) That only 21 shipments of single automobiles have been transported in applicant's service since October, 1935.

No one appeared in protest of the application.

While it is alleged in the application that the minimum rates heretofore established on the traffic here involved are excessive, little or no evidence was offered in support of this contention. The reductions are sought for the purpose of forestalling an anticipated diversion of the traffic to drive-away competition, a service over which the Commission obviously has no control. The Commission should be liberal in circumscribing the bounds beyond which a carrier subject to its jurisdiction cannot go in meet-

ing unregulated competition.[3] On the other hand, the record fails to show that the proposed rates will return operating costs or even the out-of-pocket cost of performing the service. Relief under Section 11 of the Highway Carriers' Act, authorizing the application of rates lower than the minimum rates established in accordance with the provisions of Section 10 of said Act may be granted by the Commission only upon a finding that the proposed rates are reasonable.[4] A mere showing that a given rate is necessary to meet the threat of competition is not sufficient to establish its reasonableness. On a different or more comprehensive record, a finding of reasonableness might well be justified, but upon this record the application should be denied.

At the time of the filing of this application, applicant also operated as a highway common carrier between some of the points involved in this proceeding, and its highway common carrier Tariff No. 4, C.R.C. No. 32, provided rates between Oakland, San Jose and intermediate points,[5] which were applicable on shipments of automobiles. It appears however that these rates have never been assessed on such shipments, if indeed any have been transported. Suffice it to say that if applicant has carried automobiles between these points, steps should immediately be taken to collect transportation charges

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[3] See Decision No. 28891, June 15, 1936, in re: Application of M.S. Dodd, doing Business as The Dodd Warehouses, etc.

[4] Section 11 of the Highway Carriers' Act reads: "If any highway carrier other than a common carrier desires to perform any transportation or accessorial service at a lesser rate than the minimum rates so established, the Railroad Commission shall, upon finding that the proposed rate is reasonable authorize such rates less than the minimum rates established in accordance with the provisions of section 10 hereof."

[5] These points are also served by applicant in its capacity as a highway contract carrier for the transportation of automobiles.

in accordance with the rates, rules and regulations contained in its common carrier tariffs on file with the Commission, as of the dates such shipments may have been moved.

Subsequent to the hearing had in this matter, applicant amended its common carrier tariff to provide that "rates named in this tariff will not apply on automobiles, set-up" (Supplement No. 1, Pacific Motor Trucking Company Tariff No. 4, C.R.C. No. 32, effective August 20, 1936).

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that the above entitled application be and it is hereby denied.

Dated at San Francisco, California, this 26th day of October, 1936.

Commissioners.