

ORIGINAL

Decision No. 30367

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of J.P. SPAENHOWER for authority to charge less than minimum rates, under the provisions of the Highway Car- riers' Act.	}	Application No. 21753
---	---	-----------------------

- Edward M. Berol, for applicant
- R.E. Wedekind, for Southern Pacific Company and Pacific Motor Transport Co.
- Douglas Brookman, for Sierra Railway Co., protestant
- W.G. Stone, for Sacramento Chamber of Commerce
- James J. Broz, for Valley Express Company and Valley Motor Lines, Inc.
- J.C. Sommers, for Stockton Chamber of Commerce
- J.C. Sommers and C.O. Burgin, for Stockton Traffic Bureau

BY THE COMMISSION:

O P I N I O N

Applicant, a highway contract carrier, seeks authority under Section 11 of the Highway Carriers' Act to transport property from Stockton and Tracy to various points in central California at rates lower than the minimum rates established by this Commission in Decision No. 30370 as amended, in Part "U" of Case No. 4088. The property to be transported consists of groceries and other articles handled by Western States Grocery Company and Safeway Stores, Inc. The rates to be applied and the destinations involved are set forth in Appendix "A" hereto.

A public hearing was had at San Francisco before Examiner Mulgrew.

Applicant has transported property for the grocery concerns

¹ During the hearing applicant requested authority to add other points of destination at comparable rates if and when occasion arose.

involved or their predecessors since 1921. He testified that the services he renders differ from those ordinarily performed by highway carriers in that they do not entail the supervision of drivers or the preparation of shipping orders. These duties are said to be attended to by the shippers. Moreover, he contends that the circumstances surrounding this transportation are such that there is no need for terminal handling or solicitation, nor under the rates proposed, for the classification of the property to be shipped. Any increase in transportation charges, he believes, will result in the termination of his contract of carriage.

Exhibits submitted by applicant show that, on the traffic handled in 1937 and on the expenses incurred on that traffic but adjusted to reflect existing wage levels and tire cost, the rates sought will return a substantial profit. In 1937 applicant transported 10,000 tons in six units of equipment dedicated to this operation. Due to this large volume of traffic, the regularity of its movement, and the observance of minimum weights of not less than 10,000 pounds per trip applicant enjoys high equipment load and use factors.

The district manager of Safeway Stores, Inc., testified that Western States Grocery Company was the wholesale department of Safeway Stores, Inc. He expressed a personal preference for for-hire carriage in this instance but stated that this preference did not prevail generally among his principals and that certain of their competitors employed their own trucks for comparable services. He said that his companies had extra equipment in other districts which would be utilized in place of applicant's services in the event the relief sought is not granted. Upon information furnished him by his traffic manager he believes that the increase that would result if the prescribed rates were applied to this traffic would justify the use of his company's own equipment.

Protestants represented that on an average the rates sought closely approximate those prescribed in Decision No. 30370, as amended.² They argued that under such circumstances the established rates should be given a fair trial before authority for relief therefrom was sought and that unnecessary deviations from prescribed minimum rates would unduly prejudice common carriers. They conceded that some relaxation of the split delivery rule might be proper but contended that applicant had not shown that the relief sought was necessary.

The record is persuasive that the traffic in issue will be lost not only to applicant, but to all for-hire carriers unless relief from the prescribed rates is granted. It also shows that the rates sought will net applicant a substantial profit. While in particular instances the prescribed rates are not higher than those sought the transportation involved is performed under one contract and should be considered as a unit.

Upon consideration of all the facts of record, we are of the opinion and find that the rates specifically proposed by applicant if subjected to the weight minima presently observed are reasonable and justified. To this extent the application will be granted. Applicant has not shown that relief from the requirements of Decision No. 30370 respecting the issuance of freight bills is necessary. Nor will authority be granted to depart from outstanding minimum rate orders by charging "comparable rates" if and when a movement arises. If further relief becomes necessary a specific request therefore should be made.

2

It should be observed that the rates shown in one of their exhibits as having been prescribed for the transportation involved are 90 per cent of the prescribed fourth class, and that this rating is applicable only on canned goods, dried fruit, and salt; and that in another of the exhibits the prescribed rates as set forth therein are those subject to a minimum weight of 18,000 pounds. Applicant indicated that ordinarily he transported less than 18,000 pounds per trip. There can be no doubt that in the aggregate the prescribed rates produce charges substantially in excess of those sought. This is particularly true when consideration is given to the established additional charge for split deliveries.

The findings herein are necessarily predicated upon existing conditions. Because of the possibility of changes in these conditions which might require modification of the rates here found justified the relief to be authorized should be limited to a definite period. Accordingly the application will be granted for a period of one year. If upon its expiration the carrier is of the opinion that an extension is justified an appropriate application requesting such action should be filed.

O R D E R

The matter having been duly heard and submitted

IT IS HEREBY ORDERED that applicant J.P. Spaenhower, be and he is hereby authorized to assess and collect for the transportation of the property and between the points for which rates are provided in Appendix "A" attached hereto and hereby made a part hereof, rates less than the minimum rates heretofore established in Case No. 4088, Part "U", but not less than the rates provided in said Appendix "A"; provided that if said J.P. Spaenhower elects to exercise the authority herein granted the rates set forth in said Appendix "A" shall be observed as minima in connection with all transportation for which rates are provided therein.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that in all other respects the application be and it is hereby denied.

The effective date of this order shall be five (5) days from the date hereof.

Dated at San Francisco, California, this 11th day of April, 1938.

William H. Mason
Leon A. Russell
Frank R. McMillan
Raymond A. Tully
Ray L. Tully
Commissioners

APPENDIX "A"

Application of Appendix

Rates in this appendix apply only for transportation for Western States Grocery Company or Safeway Stores, Inc.

Column A rates apply for transportation of all property from Stockton; Column B rates apply for transportation of sugar from Tracy.

Except as otherwise indicated rates in this appendix are subject to a minimum weight of 10,000 pounds for each trip of any of the carriers' vehicles.

Minimum Rates in cents per 100 Pounds

	Column			Column	
	A	B		A	B
Stockton	-	6	Knights Ferry	20	-
Lodi	8	8	Yosemite Junction	20	-
Tracy	9	-	Jamestown	20	-
Sonora	20	20	Chinese	20	-
Oakdale	11.25	9	Ione	15	15
Escalon	9	9	Acampo	9	-
Modesto	10	9	Lockeford	15	-
Turlock	13.25	10	Galt	9	9
Sutter Creek	20	20	Columbia	25	25
Manteca	8	-	Pinecrest	50	-
Jackson	20	20	Pinegrove	30	-
Ripon	10	-	Tuolumne	-	25
Brentwood	12.5	-	Fresno	Minimum 20,000 pounds	15
Knightsen	12.5	-	Sacramento	Minimum 20,000 pounds	10.8
Oakley	12.5	-			
Byron	12.5	-	Minimum 10,000 pounds one way	15	
Mokelumne Hill	20	-	" " " both ways	7.5	
Plymouth	20	20	" 20,000 pounds one way	7.5	
Amador City	20	-	" 20,000 pounds both ways	6.25	
Wild Cat Canyon	20	-			