

Decision No. 31653

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Seaboard Transportation Co., Inc.,
for authority to charge less than
minimum rates established by the
Railroad Commission of the State of
California affecting the territory,
San Luis Obispo and south, and within
the City of Los Angeles, and the Los
Angeles drayage territory.

Application No. 22226

ORIGINAL

Arthur H. Glanz, for Applicant.
William C. Klebenow, for Motor Truck Assoc-
iation of Southern California, Protestant.
F.F. Willey, for Pacific Electric Railway
Company, Protestant.
E.T. Lucey, for The Atchison, Topeka and
Santa Fe Railway Company, Protestant.
A.L. Whittle, for Southern Pacific Company
and Pacific Motor Trucking Company,
Protestants.

BY THE COMMISSION:

O P I N I O N

By this application Seaboard Transportation Company, Inc., a radial highway common carrier, highway contract carrier and city carrier, seeks authority under Section 11 of the Highway Carriers' Act and Section 10 of the City Carriers' Act to transport carbonated beverages and empty containers between the plant of Canada Dry Ginger Ale, Incorporated, located in Vernon, and various points in southern California, at charges less than those which would accrue at minimum rates heretofore established by the Commission; and to make reparation of the difference between the rates now sought and those collected pursuant to minimum rate orders of the Commission.

The matter was assigned to Commissioner Wakefield, and evidence on his behalf was taken at a public hearing held at Los Angeles before Examiner Bryant.

The proposed rates may not be readily compared with those

established as minimum by the Commission, due to differences in weight brackets and in methods of application, but it is apparent that both in-¹creases and reductions are contemplated. The service involved consists of the transportation of carbonated beverages from the shipper's bottling plant, located in Vernon, to dealers located in Los Angeles and neighboring cities, and in the cities of Pomona, Santa Ana, Riverside, San Bernardino, Ventura, San Jacinto, Santa Barbara, Palm Springs and San Diego; and the return movement of empty bottles and cases to the Vernon plant.

Applicant's vice president testified in explanation of the service, and the manner in which it has been rendered in the past and is proposed to be rendered in the future. He explained that applicant has regularly and continuously performed all of the transportation within the area embraced by this application for Canada Dry Ginger Ale, Incorporated, since that company opened its southern California plant in 1932. He said that in his opinion this transportation may be rendered more economically than the average, due principally to the fact that close cooperation between carrier and shipper permits capacity or near-capacity loads to be carried on each vehicle in the outbound movement, and to the fact that outbound shipments of beverages and inbound shipments of containers are loaded and unloaded at the plant by shipper's employees working with mechanical endless belts.² At the dealers' locations receiving clerks assist in unloading of beverages and loading of

¹ The proposed rates are shown in Appendix "A" hereof. The established minimum rates are as provided by Decision No. 30600, as amended, in Case No. 4121; Decision No. 29480, as amended, in Case No. 4088, Part "M"; and Decision No. 30370, as amended, in Case No. 4088, Part "V".

²

The witness testified that a time study had developed that 20,500 pounds of beverages were loaded in an hour by this method, the time being computed from the arrival of the vehicle at the yard until its departure.

the returning containers.

From the testimony of this witness, it appears that applicant's dispatcher is advised by telephone each day of the shipments to be moved the following day, and thus is enabled to send just sufficient vehicle equipment to properly meet the requirements. Because of the loading and unloading methods it is unnecessary to employ helpers, and, as a matter of fact, one driver frequently spots two semi-trailers for simultaneous loading at the Vernon plant.³ Outbound shipments seldom weigh less than 10,000 pounds; however, 10 or 15 per cent of the shipments require split delivery, in which case the component parts may weigh as little as 2,500 or 5,000 pounds. Due to established sales practices, the outbound shipments fall rather uniformly into four weight blocks of 10,000, 15,000, 22,000 and 30,000 pounds, with the majority in the 15,000 and 22,000 pound blocks. Empty containers to be returned are picked up when the beverages are delivered, and applicant never makes special trips for the containers.

The witness explained that applicant has assessed and collected the established minimum rates since they became effective, but he believed these rates to be too high for the service here involved, and was convinced that the shipper would now purchase trucking equipment and perform all of its own transportation within the area embraced by this application unless the sought rates are authorized. He stated that he had reached this latter conclusion as the result of conversations with the shipper's local traffic manager, and with the national traffic manager who spent approximately six weeks in California during July and August of 1938 conducting a detailed investigation into the local transportation situation and particularly into the advantages and estimated costs of proprietary trucking. As a re-

³ This is done with the use of a so-called "converter gear," which permits the coupling of two semi-trailers to one tractor.

sult of these conversations the proposed rates had been agreed upon between carrier and shipper, although both parties apparently believe that such rates, while lower than those now in effect, would cost the shipper somewhat more than would the operation of its own trucks. The witness said that he had engaged two experienced auditors and accountants to make a joint study and report of applicant's cost of performing the service, and as a result of this report he was satisfied that applicant could operate profitably under the proposed rates.

One of these accounting experts testified for applicant and introduced as an exhibit in this proceeding a cost study showing the results of his investigation. The study develops the estimated full cost of the several hauls involved, and indicates that each of the proposed rates would return the cost of rendering the service, plus a profit. It is based primarily upon an analysis of the transportation actually performed by applicant for Canada Dry Ginger Ale, Incorporated, during the six months from December, 1937, to May, 1938, but uses the figures resulting from this analysis in combination with figures developed in a study introduced by one of the Commission's engineers in another proceeding.⁴ The witness explained that as to certain items he had found the latter study to be based upon considerably more data than were available in the records of the applicant herein, and that as to such items he had used the engineer's figures where they differed materially from those developed under his own study.⁵ He said that in every case where this had been done, it tended

⁴ Exhibit No. 6 in Case No. 4246, In the Matter of the Establishment of Maximum or Minimum Rates, etc. The exhibit is entitled "Study of Cost of Transporting Property in Motor Trucks Between Points in California," and was prepared and introduced by Fred H. Chesnut, Senior Engineer.

⁵ For example, the engineer's figures were used in estimating the cost of taxes and licenses, garage and shop rent, and cost per mile of fuel, lubricants, tires and repairs.

to a more conservative (higher) cost estimate than would have resulted from the use of applicant's figures alone. This witness also stated that in his opinion the operation here involved is an unusually economical one, as the flow of traffic is constant and quite uniform, the capacities of the equipment and the sizes of the loads are well integrated, and unusually close cooperation exists between carrier and shipper.

The local traffic manager of Canada Dry Ginger Ale, Incorporated, testified that the weighing and billing of the returning empty containers as now required under the established minimum rates has proved burdensome and unsatisfactory, and said that inasmuch as the empty movement is to the shipper an integral part of the outbound movement it was desirable and necessary to have the cost of returning the empties included in the rate paid on the outbound shipment, as contemplated under this application. He explained that the national transportation policy of his company in distributing its products from the various plants throughout the United States is based upon proprietary trucking, and the Los Angeles plant is the only one in the country which regularly employs for-hire carriers. This witness stated that the national traffic manager, a specialist on trucking costs, had satisfied himself and the company that Canada Dry could successfully and satisfactorily perform its own transportation in the area here involved at a cost approximately 12 to 15 per cent less than would be incurred even under the rates proposed. He said that applicant's services had been satisfactory in the past and Canada Dry would continue to use them rather than purchase its own equipment, even at a cost somewhat greater than that of proprietary operation, but he stated unequivocally that the company had definitely concluded to purchase vehicles and perform all of its own transportation within the area involved in the event this

application is denied. He said that if the traffic is lost to applicant it will be diverted to proprietary trucks and not to any other for-hire carrier. According to his calculations the sought rates would result in an over-all reduction in charges under those now resulting from the established minimum rates of from 25 to 30 per cent.

The Motor Truck Association of Southern California, the Pacific Electric Railway Company, and The Atchison, Topeka and Santa Fe Railway Company appeared as protestants in this proceeding and participated in cross-examination of witnesses, but did not introduce any testimony of their own nor state the basis of their objections to the granting of the application. Southern Pacific Company and Pacific Motor Trucking Company also appeared as protestants, and a traffic witness for these carriers testified that Southern Pacific Company transports beverages for other shippers between some of the points embraced by this application, and might be faced with a request for similar reduction in rates between the same and related points in the event the application is granted.

The record shows clearly that the transportation service here involved is an exceptionally efficient and well-coordinated one, permitting of numerous economies in operation which may not be experienced under ordinary circumstances. Although applicant's cost witness relied to some extent upon a cost study having no direct relationship to applicant's operation, the record is convincing that the proposed rates will be compensatory; and the shipper's testimony leaves little doubt that unless the sought rates are authorized the traffic will be lost not only to applicant but to all for-hire carriers. Upon consideration of all the facts of record, therefore, we are of the opinion and find that the proposed rates are reasonable for the specialized transportation service here involved, and necessary to prevent diversion of the

traffic to proprietary vehicles. The application will be granted except insofar as it seeks authority to refund charges collected on past shipments. No statutory provision has been cited whereby the Commission may lawfully authorize such action.⁶

The findings herein are based upon existing conditions and the authority will therefore be made effective for a temporary period expiring one year from the effective date hereof, unless sooner changed, cancelled or extended.

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that applicant, Seaboard Transportation Co., Inc., be and it is hereby authorized to assess and collect for the transportation for which rates are provided in Appendix "A" attached hereto and by this reference made a part hereof, rates less than the minimum rates heretofore established by the Commission, but not less than those provided in said appendix.

⁶ As to the Highway Carriers' Act, this point was directly in issue in Application of J.A. Clark Draying Company, Decision No. 29105 in Application No. 20629, in which the Commission said: "Applicants ask, however, that authority sought be granted as of June 1, 1936, or, in the event the Commission is of the opinion that it is without authority to grant such relief, that it be made effective from time the application was filed. Under what provision of law this relief is sought, the record does not show. This Commission is authorized to award reparation in cases where the applicable charges of carriers subject to the Public Utilities Act are found to be unreasonable, excessive or discriminatory by virtue of Section 71 of that act. No such provision is contained, however, in the Highway Carriers' Act under which this proceeding is brought. The request for retroactive relief will be denied." This interpretation was reaffirmed in Application of Triangle Transfer & Storage Company (Decision No. 29974 in Application No. 21275) and in Applications of C & R Transfer Company (Decision No. 29992 in Applications Nos. 21309 and 21310), and in the Matter of the Application of Brown Trucking Company for authority to charge less than the minimum rates (Decision No. 30733 in Application No. 21618). See also Decision No. 31184 in Case No. 4286 and in Applications Nos. 21496, 21719 and 21816.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one year from the effective date of this order unless sooner changed, cancelled, or extended by appropriate order of the Commission.

This order shall become effective five (5) days from the date hereof.

Dated at San Francisco, California, this 16th day of January, 1939.

Ray B. Wapner
Frederick B. Allen
W. J. Riley
W. H. Allen
Justus F. Cravens
Commissioners

APPENDIX "A"

ITEM NO. 10- DEFINITION OF TERMS

SHIPMENT means a quantity of freight tendered by one shipper on one shipping document at one point of origin at one time for one consignee at one point of destination, except as provided in Item No. 30.

ITEM NO. 20- APPLICATION OF RATES

(a) Rates provided in this Appendix apply for the transportation of carbonated beverages from the bottling plant of Canada Dry Ginger Ale, Incorporated, located in the City of Vernon, to points named only, and include the free return of used empty containers.

(b) Charges shall be assessed upon actual weight of the shipment, even though such charges exceed those computed upon a rate based upon a greater minimum weight.

(c) Shipments for which rates are not provided herein shall be subject to established minimum rates otherwise applicable.

ITEM NO. 30- SPLIT DELIVERY

A shipment may consist of two or more component parts delivered to (a) one consignee at more than one point of destination, or (b) more than one consignee at one or more points of destination, subject to a split delivery charge (in addition to the freight rate) of not less than \$2.00 for each delivery more than one.

ITEM NO. 40- EXPLANATION OF LOS ANGELES ZONES

(a) Los Angeles Zone A includes only that portion of Los Angeles County embraced by Zones 1, 2, 3, 4, 5, 7 and 8 as described in Rule No. 20 of Appendix "A" to Decision No. 31473 of November 25, 1938, in Case No. 4121.

(b) Los Angeles Zone B includes only the portion of Los Angeles County embraced by Zone 6 as described in Rule No. 20 of Appendix "A" to Decision No. 31473 of November 25, 1938, in Case No. 4121.

ITEM NO. 50 - RATES IN CENTS PER

100 POUNDS

<u>DESTINATION</u>	<u>Weight of Shipment in Pounds</u>			
	<u>9,000 to 13,000</u>	<u>13,001 to 16,000</u>	<u>16,001 to 25,000</u>	<u>Over 25,000</u>
Los Angeles (Zone A),	12	8	7 $\frac{1}{2}$	7
Los Angeles (Zone B), Alhambra, Pasadena, Glendale, Long Beach,	15	10	9	8
Santa Monica, Pacoima, Arcadia, Ocean Park, Culver City, Inglewood, Venice, Hermosa Beach, Beverly Hills, Pacific Palisades, Redondo Beach,	17	12	11	10
Pomona, Santa Ana,	19	13	13	10
Riverside, San Bernardino	26	17	16	13
Ventura,	32	22	19	16
San Jacinto,	34	23	20	16
Santa Barbara,	39	26	23	18
Palm Springs,	43	29	25	20
San Diego,	46	31	27	21

(End of Appendix "A")