

Decision No. 31807

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
J. G. Jones, doing business under
the firm name and style of JONES
TRANSPORTATION SERVICE, for authority
to charge less than minimum rates,
under the provisions of the Highway
Carriers' Act.

Application No. 21796

Edward M. Berol, for applicant
A. L. Whittle, for Southern Pacific Company, protestant
Edward Stern, for Railway Express Agency, Inc., protestant
Wm. C. Klebenow, for Motor Truck Association of Southern
California, protestant
Wallace K. Downey, for Pacific Freight Lines and Valley
and Coast Transit Company, protestants

BY THE COMMISSION:

O P I N I O N

By this application, J. G. Jones, an individual doing business as Jones Transportation Service, seeks authority under Section 11 of the Highway Carriers' Act to transport for Safeway Stores, Inc., groceries and grocers' supplies from Los Angeles to Santa Maria, Pismo Beach, San Luis Obispo, Atascadero and Paso Robles, and to transport for the same shipper empty containers, spoiled merchandise, eggs and produce on return trips, at rates less than the established minimum rates.¹

A public hearing was had before Examiner Bryant at Los Angeles and the matter was submitted on briefs.

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The particular rates from which applicant seeks authority to deviate are those established by Decision No. 28761 of April 27, 1936, as amended, in Case No. 4088, Part "A", and by Decision No. 30370 of November 29, 1937, as amended, in Case No. 4088, Part "V".

Applicant proposes to transport groceries and grocers' supplies² from the warehouse of Safeway Stores, Inc., located at 1925 East Vernon Avenue, Los Angeles, to retail stores located at Santa Maria, Pismo Beach, San Luis Obispo, Atascadero and Paso Robles, at a rate of 22½ cents per 100 pounds, minimum weight 24,000 pounds, including split delivery service; and to transport empty containers and spoiled merchandise from these retail stores, together with occasional shipments of eggs and produce purchased in the territory, to the same warehouse in Los Angeles, at a rate of 30 cents per 100 pounds, minimum weight 10,000 pounds, including split pick-up service.

It was contended by applicant that (1) the proposed rates would be compensatory for the transportation performed, and that (2) rates higher than those proposed would result in a diversion of this traffic to proprietary trucks.

Applicant testified that he has been engaged in this transportation under contract with Safeway Stores, Inc., since 1931. According to his testimony two diesel-operated units are used in this particular service; one unit, consisting of a tractor and two trailers, makes three trips per week, and the other, consisting of a truck and trailer, makes two trips per week. The first unit is considered to be employed its full time, whereas the second unit is used but two-thirds of its time in this service, being used in other work during the remainder of the week. It was said that this equipment and schedule has proved entirely adequate to handle the tonnage involved and was capable of moving an even greater volume in the event it should be offered. While there are five scheduled

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A list of the commodities proposed to be transported as groceries and grocers' supplies is shown in Appendix "A" hereto.

trips Jones said that if insufficient tonnage is offered shippers have no objection to a trip being dropped to await accumulation of a full load. This eventuality has never occurred, however, there always being sufficient tonnage available to warrant the operation of the full schedule. Shipments moving from Los Angeles are assembled by the shipper on wheeled vehicles on the loading platform at the warehouse and transferred from these platform vehicles directly to the line-haul truck or trailer by the driver and his helpers. This loading requires between two and four hours. No fixed time for loading is required by the shipper, but Jones stated the cargo is usually loaded and the truck enroute by about 9:00 P.M., enabling it to reach destination early the following morning. At destination shipments are unloaded by the storekeeper or his clerks directly from the trucks, with the driver lending assistance only by breaking down the load to make the packages more accessible. Occasional split delivery service is necessary when stores at destinations do not need a full truckload. No carrier-operated terminal facilities are required at either origin or destination.

Relating to the southbound movement, applicant stated that the traffic for Safeway Stores, Inc., consists of empty containers and spoiled merchandise being returned by the several retail stores, together with occasional shipments of eggs and produce purchased in the district by Safeway for their Los Angeles warehouse. The loading is performed by the driver only, with assistance being rendered, when necessary, by the shippers. Split pick-up service is necessary on this traffic inasmuch as loads are completed by stores at all five points mentioned. In conjunction with this movement for Safeway, the same trucks are used to haul butter, cheese and related dairy products from the Harmony Creamery, San Luis Obispo, to their plant

at Los Angeles. For this particular traffic Jones employs helpers for both loading and unloading. This additional traffic, which Jones has enjoyed under contract for the past 10 years, amounted to about 73 tons per month throughout the year of 1937. For 1937 the total traffic handled for Safeway, in both north and southbound movement, amounted to 5,939,091 pounds. A comparison of 1938 tonnage figure with that of 1937 is said to reveal an increase of 25 per cent.

To support his contention that the rates here shown would be compensatory, Jones presented a statement of revenues and expenses experienced in this operation for the first three months of 1938, during which period such rates were assessed. The figures shown were said to be representative for any period of similar length throughout the year. Separate records were not kept on the complete operations of each truck, and in order to arrive at equitable figures to cover the transportation for Safeway, Jones said that where actual figures were not available he had taken either one-third of the total amounts shown in his books, or an estimated figure predicated upon the miles actually run by these two trucks in Safeway service as compared with the costs and mileage operated by the entire fleet. Items shown in the statement prorated upon the basis of one-third the actual expenses incurred include taxes and licenses, insurance, rent, office expense and dues. The amounts shown for tires, repairs, clerical, supervision and miscellaneous expenses were said to have been voluntarily inflated to more nearly reflect the amounts which another carrier would be obliged to assume, but upon which he enjoys distinct advantages. He explained that he is a distributor for a large tire manufacturer and so obtains a discount of 45 to 50 per cent on purchases for his fleet. The item

for repairs he regarded as mythical, as he has never been called upon to make any such expenditure over the normal repair costs throughout his long operating experience. The office is maintained in conjunction with a service station, and 50 per cent of the total office expense has been allotted to the fleet, from which one-third has been prorated to this Safeway service. The item for clerical expense was also said to be inflated, inasmuch as such work is handled by applicant's wife and occupies but four afternoons each week of her time. The item shown for supervision represents an estimated amount Jones allows himself as salary, although he contended that he had never been called upon to exercise any supervision of this particular service, and stated that it is self-operating. The only amounts not prorated from his total expenses but which were actually paid out in this service are wages for drivers and helpers, telephone, telegraph and postage. The items for return on investment and depreciation are the book figures covering the two trucks involved.

For the three months period covered by this statement a net operating profit of \$1,357.19 is shown, after such arbitrary increases as have been mentioned. Jones admitted his figures were not exact, but said that he believed his statement to be as reliable for this purpose as if a minute and careful study of each individual truck operation had been available.

In support of his contention that rates higher than those here proposed would result in diversion of this traffic to proprietary trucks, Jones testified that the shipper had complained that the present rates charged, which conform to those prescribed as minimum in and by Decision No. 30370, *supra*, were excessive for the service performed, and had requested that he seek authority to charge the

rates now proposed, which are the same as those Jones had in effect prior to April 1, 1938. He also asserted that shippers have advised him that they would terminate their existing contract immediately and resort to proprietary hauling in the event such authority is denied.

The traffic manager for Safeway Stores, Inc., in supporting this application, stated that his company intended substituting proprietary trucks in this service in the event lower rates are not secured, and that in no circumstances would they consider another carrier for the performance of this hauling. He said that while no survey or cost study had been made to cover this particular operation, they had sufficient information upon the subject, gained through the use of some 285 vehicles in similar service, to know definitely that such proprietary operation would result in costs of approximately the same volume as those experienced by the applicant.

In opposition, protestant rail lines and highway carriers urged that granting of this application would create an unjust discrimination against smaller shippers and consignees throughout the territory involved. Witness for Southern Pacific Company said that in the event a less than minimum rate is authorized, his company would be required to meet such a reduced rate not only from Los Angeles but, in order to maintain the present parity, from San Francisco and other shipping points as well. He presented a list of consignees located in the communities shown in the application who favored his company with their shipments. He said these consignees would demand a similar rate, although, upon examination, it was indicated that none of them enjoyed the volume of tonnage per month which applicant proposes as a minimum for each shipment.

While the method used by applicant in distributing his overhead costs is not above criticism, it appears to be altogether improbable that any corrections or reasonable additions to the costs

shown in his statements would entirely eliminate an operating profit based upon the proposed rates of 22½ cents and 30 cents per 100 pounds for the respective movements. It appears, therefore, that due to the unusually heavy volume of tonnage offered by Safeway Stores, Inc., providing a high load factor and the complete elimination of the usual terminal facilities upkeep, office, and other expenses, the proposed rates would be compensatory. The record is persuasive that unless relief is granted the traffic in issue will be lost not only to applicant but to all for-hire carriers.

Upon consideration of all the facts of record, therefore, the Commission is of the opinion and finds that the rates proposed by the applicant are reasonable and should be authorized to the extent shown in Appendix "A" hereto. The authority herein granted is based on existing conditions and will be made effective for a period of one year, unless sooner cancelled, changed or extended.

O R D E R

Upon consideration of all the facts and circumstances of record,

IT IS HEREBY ORDERED that J. G. Jones, an individual doing business as Jones Transportation Service, be and he 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 those heretofore established as minimum by the Commission, but not less than those provided in said appendix.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date hereof,

unless sooner cancelled, changed 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 6th day of March, 1939.

Robert A. ...
Frank R. ...
W. L. Riley
W. B. ...
John D. Coe

Commissioners.

APPENDIX "A"

ITEM NO. 10 - SHIPPER

Rates provided in this appendix apply only for transportation performed for Safeway Stores, Inc.

ITEM NO. 20 - APPLICATION OF RATES

(a) Rates named from Los Angeles apply only from shipper's warehouse located at 1925 East Vernon Avenue, and include split delivery at destinations named.

(b) Rates named to Los Angeles apply only to shipper's warehouse located at 1925 East Vernon Avenue, and include split pick-up at origins named.

(c) Rates are governed by rules and regulations established in and by Decision No. 30370 of November 29, 1937, in Case No. 4088, Part "V", as amended or superseded, which are not inconsistent with those provided herein.

ITEM NO. 30 - DESCRIPTION OF GROCERIES AND GROCERS' SUPPLIES

Ammonia - household	Cocoa
Bakery goods	Cocoanut- prepared
Baking powder	Coffee
Beans, peas and lentils, dried	Coffee substitutes
Beverages - soda, gingerale	Cordage
Beverage preparations - dry	Dessert preparations
Biscuits - dog	Dressing or blacking (stove or shoe)
Bleaches - chlorine solutions,	Eggs
liquid	Extracts - not medicinal
Bluing - liquid and dry	Feed - animal or poultry including
Borax	bird seed and gravel and canned
Brooms and brushes	dog food
Butter	Fish - other than fresh
Butter substitutes (oleomargarine)	Fruit, fresh
including cocoa butter	Fruit - dried including raisins
Candy and confectionery (gum)	Fly swatters
Candles	Fungicides and insecticides other
Canned goods as described in Item	than agricultural
210 series Pacific Freight	Glass and glassware including fruit
Tariff Bureau Exception Sheet	jars, jelly glasses and tops
I-P	Glucose
Cereals or cereal food preparations	Gloves - cotton
cooked or uncooked	Grain and grain products
Cheese - except cottage cheese	Honey - except in comb
Chocolate	Insecticides - not agricultural
Chloride of lime, including	Lard
drain pipe solvent	Lard substitutes and compounds
Cigars	Liquors - malt
Cigarettes	Lye

(Continued)

ITEM NO 30 - DESCRIPTION OF GROCERIES AND GROCERS' SUPPLIES (Concluded)

Macaroni - spaghetti - noodles	Rice
Malt Syrup	Sago - tapioca
Matches	Sal soda
Meat - other than fresh	Salt
Milk - powdered or flaked, including malted milk	Soda
Mince meat - dry	Soap, including soap powder and flakes and cleansers, water softeners
Mops and mop parts	Spices
Mustard - dry	Starch, including laundry compounds - starch and bluing combined
Nuts - edible - shelled or unshelled - salted or unsalted	Sugar
Paper dishes and cups including oyster pails	Tea
Paper and paper articles including cellophane paper and bags	Vegetables, fresh
Popcorn - not popped	Vegetables, dried
Polish - wax	Tobacco
Sheet steel ware including aluminum kitchenware	Wine
	Woodenware

ITEM NO. 40 - RATES IN CENTS PER 100 POUNDS

<u>Commodities</u>	<u>From</u>	<u>To</u>	<u>Rate</u>	<u>Minimum Weight</u>
Groceries and Grocers' Supplies as described in Item No. 30	Los Angeles	Santa Maria Pismo Beach San Luis Obispo Atascadero Paso Robles	22½	24,000 Pounds
Empty Containers (returning)	Santa Maria Pismo Beach			
Merchandise, spoiled	San Luis Obispo Atascadero	Los Angeles	30	10,000 Pounds
Eggs	Paso Robles			
Produce				

End of Appendix "A"