

Decision No. 32791.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Co-Operative Delivery Service, Ltd., )  
for permission to charge less than ) Application No. 22429  
the minimum rates on shipments )  
regardless of classifications. )

Appearances

Laurence Berger, for applicant.  
Irving Bekey, for applicant  
L.A. Bey, for the William Volker Co., interested party.  
John J. Williams, for Williams Transfer Company,  
interested party.  
Lawrence Price, for Chief Delivery Service,  
interested party.  
Ben Fullman, for Morden Delivery Service and  
City Messenger Express, interested party.  
E.L.H. Bissinger and F.F. Willey, for Pacific  
Electric Railway Company, as its interests may appear.

BY THE COMMISSION:

SECOND SUPPLEMENTAL OPINION

By Decision No. 31597 of December 27, 1938, in this proceeding, the Commission authorized Cooperative Delivery Service, Ltd., a corporation operating as a city carrier and a highway contract carrier, to charge less than established minimum rates for the transportation of property for William Volker Co. within the Los Angeles drayage area.<sup>1</sup> The reduced rates were approved for a one year's period upon allegations that the routed and scheduled transportation service performed by Cooperative Delivery Service, Ltd. was of a specialized nature for which the established minimum rates were not entirely appropriate; that in a service of this nature economies were possible which would permit profit-

<sup>1</sup> The "Los Angeles drayage area" referred to herein is the area within which minimum rates were established by Decision No. 31473 of November 25, 1938, as amended, in Case No. 4121. Rates established by this decision were cancelled and superseded effective January 1, 1940, by those established in and by Decision No. 32504 of October 24, 1939, as amended, in the same proceeding. Except as herein explained, the changes do not materially affect this application.

able operations at rates lower than those required for ordinary drayage; and that the shipper involved had definitely decided to expand its proprietary operations if applicant were required to assess the established minimum rates and abide by the governing rules and regulations.

By the terms of said Decision No. 31597, as amended, the present authority will expire with February 29, 1940, unless sooner cancelled, changed or extended by the Commission.<sup>2</sup> Applicant now seeks, by supplemental application, to have the authority extended to December 27, 1940. It alleges that conditions have not materially changed since granting of the original authority, and that the shipper has advised that it will be unable to operate under the established minimum rates.

Public hearing on the supplemental application was had before Examiner Bryant at Los Angeles, and the matter is now ready for decision.

The traffic manager of William Volker Co. testified that as a result of tests made of shipments moving during the months of January and February, 1939, he had determined that had certain "unit rates" (which became effective January 1, 1940) been applied to all shipments transported for William Volker Co. by applicant during that period, the resulting charges would have been substantially higher than those which would have resulted under the established rates then in effect under Decision No. 31473, supra.<sup>3</sup> He stated that he had not had an opportunity to make an adequate comparison with the rates now being

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The authority was originally scheduled to expire with December 27, 1939, but, by Decision No. 32664 of December 19, 1939, it was extended to February 29, 1940, in order that carrier and shipper might suffer no hardship pending a full consideration of the present record by the Commission.

<sup>3</sup> The unit rates referred to are those named in Item No. 410 of Appendix "A" to Decision No. 32504, supra.

applied under applicant's temporary authority, but said that a partial check of one week's business in September, 1939, indicated that application of the new unit rates would have produced charges some 38 per cent higher than those now being assessed. He testified that his company owned and operated two motor trucks at the present time, and that Cooperative Delivery Service, Ltd. transported all shipments within the Los Angeles drayage area which were not handled by these vehicles. The witness stated that unless applicant were permitted to maintain the present reduced rates, William Volker Co. would expand its proprietary operations in order to minimize its transportation costs. He explained that his company sold its products on a narrow margin of profit in active competition with other manufacturers, some of whom operated their own trucking equipment. He added that applicant had satisfactorily served his company for a number of years, and that he was desirous of continuing to use its services provided he could do so at the present reduced rates.

The president of Cooperative Delivery Service, Ltd. briefly described applicant's method of operation. It appears that applicant utilizes a total of 43 trucks in rendering a routed and scheduled parcel delivery service for a large number of shippers. All shipments are brought to applicant's terminal for segregation, and are thereafter distributed over 27 delivery routes. The witness had no information as to the total tonnage handled for all shippers, the total tonnage handled for William Volker Company, or the percentage relationship which the Volker traffic bore to the total.

He anticipated that unless the present rates were continued in effect a substantial portion of the William Volker traffic would be diverted to proprietary vehicles, and that his company would be unable to offset the resulting loss in revenue by a compensating reduction in the overhead cost of operation. He declared that his

company had lost the tonnage of a number of other shippers in recent years, and could ill afford to lose the traffic involved in this application.

The witness testified that in his opinion the William Volker traffic was relatively economical to transport, due to properly arranged loading facilities at the shipper's place of business, convenient size and weight of packages, volume of tonnage, and absence of traffic congestion between shipper's plant and applicant's terminal. He stated that he had no doubt that the traffic of William Volker Co. was compensatory, although he had made no calculations to establish this fact and had never attempted to estimate the revenue return on this particular operation.

He stated that the average revenue from this shipper had approximated \$475. per month, and said that for a year's period the reduced rates in question had returned some 35 per cent more revenue than accrued under rates previously assessed, while the estimated revenue under established minimum rates would have been approximately 27 per cent higher than that received.

A number of other carriers appeared and participated in the cross examination of witnesses, but no one specifically opposed the granting of this application.

From a consideration of the evidence offered in this proceeding it will be seen that there is nothing in the record to show that the reduced rates which applicant seeks to continue in effect are reasonable or compensatory. Summarized, it may be said that the record

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<sup>4</sup> He explained that in his opinion it would be impossible to segregate all of the expenses chargeable to the traffic of any shipper.

shows only that the rates in question are higher than those assessed William Volker Co. prior to fixation of minimum rates by this Commission, and lower than those now established as minimum for other carriers and shippers; that unless applicant is permitted to continue its present rate, the shipper will expand its proprietary operations; that in some respects the William Volker traffic is more economical to handle than the average; and that as to this particular traffic the unit rates which became effective January 1, 1940, did not result in a reduction under the established class rates.

The rates which applicant has been assessing on the traffic of William Volker Co. and which it is here seeking authority to continue until December 27, 1940, are substantially lower than those applied by applicant to its other shippers.<sup>5</sup> Although the reduced rates have been in effect under temporary authority for more than a year, applicant has apparently made no attempt to determine whether or not they have in fact been fully compensatory.

In view of the total absence of information relative to the estimated cost of transporting the traffic here involved, and the complete lack of any substantial evidence to indicate that the rates in question have been and may be expected to continue to be compensatory, the Commission is obviously unable to make a finding that the rates are reasonable. Without such a finding it may not authorize applicant to perform transportation at less than the established minimum rates. (Section 10, City Carriers' Act; and Section 11, Highway Carriers' Act).

Upon consideration of all the facts and circumstances of

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<sup>5</sup> The traffic involved in this application consists entirely of shipments weighing from 100 to 500 pounds. (The record shows that applicant has assessed and collected the established minimum rates and charges on shipments of 100 pounds or less, and 500 pounds or more.) The relief rate on this traffic is 15 cents per 100 pounds, while the comparable established rates applied by applicant to its other shippers are from 19 cents to 29 cents per 100 pounds.

record, the Commission is of the opinion that the proposed rates have not been shown to be reasonable or compensatory. The supplemental application, except to the extent that it has heretofore been granted, will be denied.

OR D E R

This proceeding having been duly heard and submitted, full consideration of the matters and things involved having been had, and the Commission now being fully advised,

IT IS HEREBY ORDERED that the supplemental application filed in this proceeding on November 15, 1939, except to the extent that it has heretofore been granted, be and it is hereby denied.

Dated at San Francisco, California, this 6<sup>th</sup>  
day of February, 1940.

Ray L. Wiley  
Francis J. Wiley

W. H. Miller

Justus J. Cameron  
Commissioners.