

Decision No. 31606

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment)
of maximum or minimum, or maximum)
and minimum rates, rules and regula-)
tions of all common carriers as de-)
fined in the Public Utilities Act of)
the State of California, as amended,)
and all highway carriers as defined)
in Chapter 223, Statutes of 1935, as)
amended, for the transportation, for)
compensation or hire, of any and all)
commodities.)

ORIGINAL

Case No. 4246

BY THE COMMISSION:

SUPPLEMENTAL OPINION AND ORDER

At an adjourned hearing held in the above entitled proceeding at San Francisco before Examiner Davis evidence was received relative to a petition filed by Dyson Shipping Company seeking exemption from the minimum rates established by Decision No. 31606,¹ as amended.

Dyson Shipping Company is a freight forwarder engaged in consolidating and shipping canned goods and related articles from docks in Wilmington to docks in San Francisco via common carriers by vessel. The minimum rates prescribed for this transportation by Decision No. 31606, as amended, are 54 cents per 100 pounds, any quantity; 37 cents per 100 pounds, minimum weight 4,000 pounds; 33 cents per 100 pounds, minimum weight 20,000 pounds; and 26 cents per 100 pounds, minimum weight 30,000 pounds, Petitioner proposes to

¹ The decision referred to established minimum rates for the transportation of property of all kinds (with certain exceptions not here important) between points in California by common carriers, radial highway common carriers and highway contract carriers.

establish in lieu thereof a rate of 29 cents per 100 pounds without minimum weight limitation.

Petitioner's traffic manager described the manner in which his company operates in connection with the consolidation and shipping services here under consideration. It appears from his testimony that the general practice is to have the various shippers bring their shipments to the Wilmington docks in their own trucks or to send them by common carrier trucks and, when sufficient tonnage has been accumulated to aggregate the vessel minimum weight of 20,000 pounds, to give instructions to the vessel carrier for shipment to San Francisco. Upon arrival of the freight at San Francisco it is segregated into individual lots according to its markings and placed upon the docks and petitioner's customers then call for it in their own equipment.

In view of the way in which the traffic is handled, it was stated, the only direct expenses incurred by petitioner in addition to the vessel charge of 18 cents per 100 pounds are wharfage charges at Wilmington, state toll at San Francisco, "truck taxes" and 3 cents 100 pounds segregation charge made by the vessel carriers for sorting out the individual lots at San Francisco. It was asserted that these direct expenses total 22-²/₄ cents per 100 pounds and that the margin between this amount and the sought rate of 29 cents per 100 pounds was sufficient to cover the cost of supervision, solicitation, stationery and other indirect expenses as well as to offset losses accruing in instances where it was necessary to make shipments before 20,000 pounds had been accumulated.

² The wharfage, truck tax and state toll charges were said to be 75 cents per ton, 25 cents per ton, and 75 cents per ton, respectively. Added to the other direct expenses, this would produce a total out-of-pocket cost of 29-³/₄ cents per 100 pounds, whereas, the rate sought was only 29 cents per 100 pounds. It appears, however, that the wharfage actually is only 5 cents per ton. The state toll was also 5 cents per ton, but was increased to 15 cents per ton, effective December 1, 1939. Based on these figures, the aggregate direct expenses will closely approximate 22-³/₄ cents per 100 pounds, as claimed.

It was also stated that the shippers who previously used petitioner's services compete in the sale of their products in San Francisco with local canners and with canners in Oregon and Washington, but that they cannot continue to do so under the Decision No. 31606 basis. Upon publication of the rates prescribed in that order, it was said, Dyson Shipping Company lost all of the traffic theretofore enjoyed by it and some of its former customers found it necessary to operate their own trucks or withdraw from the San Francisco market.

In view of the wide differential between the rates sought by petitioner and the rates established by Decision No. 31606, as amended, for transportation of the same commodities between the same points by common carriers by land, it is apparent that the granting of this petition would result in a disruption of the minimum rate structure and would place competing land carriers at a serious disadvantage. Consequently, the petition should only be granted on a convincing showing that the rate sought will be reasonable and compensatory for all of the services rendered thereunder. Petitioner's cost estimate contemplates the continued rendition by the vessel carriers of numerous special or accessorial services which were not shown to be usually and ordinarily rendered to the public generally and which were not shown to be authorized to be performed under the vessel carriers' published tariffs. In the absence of information in this regard, it cannot be said that the rate sought will be reasonable or compensatory.

Since petitioner operates between vessel docks in direct competition with vessel carriers themselves, rendering service the speed and quality of which is dependent upon the speed and quality of service accorded by the underlying vessel carriers, it appears

that petitioner should be authorized to establish a rate of the same volume as the vessel rate for corresponding service and exemption from the prescribed minimum rates will be granted to that extent.

It is to be understood that this opinion deals solely with the propriety of the rate sought and that we are not here passing upon the lawfulness of the operations or practices of petitioner or its underlying carriers.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that in lieu of the rates prescribed by Decision No. 31606, as amended, in the above entitled proceeding, Dyson Shipping Company be and it is hereby authorized to establish rates no lower in volume or effect than those maintained for transportation by common carriers by vessel of the same kind and quantity of property from the same point of origin to the same point of destination.

In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

This order shall become effective on the date hereof.

Dated at Los Angeles, California, this 26th day of March, 1940.

Ray L. Lacey
Frank K. Brown
R. B. Washburn
J. M. Miller
Justin J. Green
Commissioners.