

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.)

ORIGINAL

Application No. 22226

BY THE COMMISSION:

THIRD SUPPLEMENTAL OPINION

By Decision No. 31653 of January 16, 1939, as amended, Seaboard Transportation Co., Inc., a highway contract carrier and city carrier, was authorized to transport carbonated beverages from the bottling plant of Canada Dry Ginger Ale, Inc., located in the City of Vernon, to various specified points in southern California, and to transport empty containers returning to the bottling plant, at rates lower than the established minimum rates. This authority will expire with April 2, 1940, unless sooner cancelled, changed or extended by appropriate order of the Commission. By supplemental petition, applicant asks that it be extended for an additional period of one year or more.

Public hearing upon the supplemental application was had before Examiner Bryant at Los Angeles on February 27, 1940, and the matter is now ready for decision.

From the record now before the Commission, it appears that there has been no material change since granting of the original authority herein in the physical handling of the traffic, in the cost of rendering the service, or in the relations between applicant and the shipper. Such changes as have been made are merely minor improvements in method which have reduced rather than increased applicant's

costs. The testimony of the vice-president of the applicant corporation, of a certified public accountant engaged by applicant, and of the traffic manager of the shipper, all indicates without contradiction that the rates sought to be continued have in the past, and would in the future, return the full cost of performing the service plus a reasonable profit. The principal question to be decided, then, is whether these rates are necessary and in the public interest.

The minimum rates which were in effect for the transportation involved at the time the original authority herein was granted have since been superseded by revised rates.¹ In general, the present rates are substantially lower than those formerly in effect. The record indicates that granting of the original authority herein resulted in a reduction of from 25 to 30 per cent under established minimum rates then in effect, whereas continuation of that authority would now produce a saving of less than 4 per cent under the current basis of minimum rates.²

It appears, however, that in spite of the small over-all difference between the charges which would accrue under the present minimum rates and under the authorized rates, both carrier and

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The original authority was granted on January 16, 1939. At that time the established rates for the transportation involved were those prescribed 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". These orders have since been cancelled and superseded by Decision No. 31606, as amended, in Case No. 4246, and Decision No. 32504, as amended, in Case No. 4121.

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Applicant introduced an exhibit identifying each shipment transported for the entire year from January 21, 1939, to January 20, 1940, showing for each the consignee, commodity, weight, rate and revenue under the authorized basis and the rate and revenue under the established basis of minimum rates now in effect. From this exhibit it appears that the total revenue accruing under the authorized rates was \$23,371.85, while the revenue which would have accrued on the same shipments under the present minimum rates would have been \$24,017.55.

shipper are firmly of the opinion that continuance of the basis under which they are now operating is absolutely necessary. Their principal reason for this conclusion springs from the conviction that use of the established basis would put the shipper to substantial clerical expense, and that this added expense would render the continued use of applicant's services impracticable.

The traffic manager of Canada Dry Ginger Ale, Inc. testified that in order properly to check and rate the traffic under the established rates his company would require one additional employee, at a minimum salary of \$1,800 per year. He said that this would be equally true whether the carrier or the shipper did the initial rating, as the national and local policy of Canada Dry required careful and prompt auditing of all invoices. He did not assert that the full time of such employee would be devoted to this detail, but stated positively that the work could not be performed without engaging the extra man. He based this statement upon personal experience gained in re-rating all shipments for a one-year period.³

The shipper witness also testified that as the result of a detailed study made in 1938 his company was satisfied that it could successfully and satisfactorily perform its own transportation at a total cost some 12 to 15 per cent less than that of using for-hire carriers, even at the authorized rates.⁴ He explained that the

³ The established minimum rates are on a zone basis within the Los Angeles Drayage Area, and on a constructive mileage basis elsewhere. In either case they are stated in cents per 100 pounds, and vary according to the weight and class of the shipment, and the zones or distance involved. Rates for return movements of empty containers are stated separately. The authorized rates are likewise stated in cents per 100 pounds, but are on a point-to-point basis under which the outbound rates include the return of empty containers.

⁴ Similar testimony was introduced at the original hearing in this proceeding.

national transportation policy of Canada Dry is based upon distribution of its products in proprietary equipment, and that of the 20 plants located throughout the United States and Canada, the Vernon plant is the only one which regularly employs for-hire carriers for this purpose.

This witness stated that applicant had satisfactorily served the Vernon plant since it was opened some seven or eight years ago, and that his company would continue to use these services if the supplemental application were granted, rather than to purchase its own equipment. On the other hand, he said, the full cost of operating proprietary equipment would be about 25 per cent less than the cost of shipping by for-hire carrier at regularly established rates plus the expense of the additional clerk and, unquestionably, Canada Dry would purchase proprietary vehicles or otherwise revise its distribution system rather than continue applicant's services at such a material difference in cost. He added that the purchase of proprietary equipment would probably cause the loss to for-hire carriers other than applicant of some traffic in incoming materials and supplies.

Although the Motor Truck Association of Southern California and a number of individual carriers appeared as protestants at the original hearing in this proceeding, no one opposed granting of the supplemental application now under consideration.

In form and volume the rates here involved do not appear to be materially different from the minimum rates now in effect, except that under the sought basis the outbound rates include free return of empty containers. The record leaves no doubt, however, that the difference between the two bases is deemed by the shipper to be of such importance as to spell the difference between proprietary and for-hire transportation. The record is convincing, moreover, that

these rates have been and will continue to be compensatory. Under these circumstances, it does not appear that any injury would be done to any other carrier or shipper, or that the public interest would be adversely affected, if applicant were to be permitted to retain the traffic at the rates heretofore authorized.

Upon consideration of all the facts of record, therefore, we are of the opinion and find that the rates heretofore authorized in this proceeding are reasonable for the transportation service here involved and are necessary to prevent diversion of the traffic from for-hire carriers. The supplemental application will be granted.

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that the expiration date of the authority granted to Seaboard Transportation Company, Inc., by Decision No. 31653, as amended, in the above entitled application, be and it is hereby extended to April 1, 1941.

IT IS HEREBY FURTHER ORDERED that in all other respects said Decision No. 31653, as amended, shall remain in full force and effect.

This order shall become effective April 2, 1940.

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

Ray L. Rice
Frank Smith
W. B. Baker
Justin P. Casner
Commissioners