

Decision No. 23342

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Red Line Parcel Service to)
charge less than established)
minimum rates.)

Application No. 23342

BAKER, COMMISSIONER:

ORIGINAL

Appearances

W. D. Wall and E. J. Wasson, for applicant.
C. J. Nagel, in propria persona.
F. X. Vieira, for Southern Pacific Company and
Pacific Motor Trucking Company.

O P I N I O N

C. J. Nagel, an individual doing business as Red Line Parcel Service, a city, radial highway common, and highway contract carrier, seeks authority under Section 11 of the Highway Carriers' Act to transport property from various points in the City of San Jose to points in Santa Clara, San Mateo and Alameda Counties within a radius of thirty miles thereof, at rates less than the established minimum rates. A public hearing was held at San Jose.

According to the record, applicant is engaged exclusively in delivering shipments of property from retail department stores and specialty shops in San Jose to patrons of such stores within the city and in the surrounding territory. These shipments consist of a wide variety of articles and ordinarily weigh from one-half pound to six pounds each, but larger shipments consisting of new furniture or household appliances are also transported. Seventeen units of truck equipment are employed in this operation.

Minimum rates have not yet been established for transpor-

tation wholly within the City of San Jose. Minimum rates have been established, however, for transportation from points within the city to points outside. These rates are contained in Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended, in Case No. 4246). They are stated in the form of class rates, varying with the classification of the commodity, the size of the shipment and the length of haul involved, and are subject to minimum charges ranging from 40 cents per shipment for shipments weighing 25 pounds or less to 75 cents per shipment for shipments weighing over 100 pounds.

In lieu of the rates contained in Highway Carriers' Tariff No. 2, applicant proposed to charge rates of 10, 12½ and 15 cents per package (depending upon the weekly minimum revenue guaranteed) for deliveries within a zone embracing a radius of approximately 5 miles of San Jose, described as comprising the metropolitan area of that city, and 25 cents per package for deliveries to points within an outer zone, embracing hauls up to approximately thirty miles. This basis would apply to shipments weighing not more than 100 pounds.

As a substitute for the rates now in effect for the transportation of new furniture and household appliances, applicant proposed to charge 50 cents "per unit." The number of units assignable to each article would be determined according to a table, based upon the relative cost of performing the service. For example, a radio would be classified as one unit and a kitchen stove as four units.

In support of the application, it was contended that the applicable minimum rates were impractical of application for the type of service performed by applicant, and that in some instances they were excessive for this transportation. It was claimed, moreover, that under the present basis, stores in San Jose could not compete with San Francisco merchants.

Applicant Nagel testified that during the year 1939 he transported 210,060 packages, sixty per cent of which consisted of small shipments averaging four pounds in weight, and the balance of which consisted of shipments of new furniture and household appliances of varying weights. He stated that the weighing and classifying of shipments of this nature created an undue burden from a cost standpoint and resulted in congestion and delay at the carrier's terminal. He explained that shipments were picked up at regular intervals daily, brought to a central terminal, and there rated and segregated by routes. Two deliveries daily, he stated, were made to points within the proposed inner zone and from one to two trips weekly to other points. The time consumed in weighing and classifying at the terminal, he said, reduced the number of regular deliveries which could be performed with the facilities available. Applicant pointed out that a number of carriers specializing in parcel delivery service had been exempted from the provisions of Highway Carriers' Tariff No. 2, and claimed that his operation was similar to operations of these exempted carriers in all essential respects.¹

In addition, applicant alleged that United Parcel Service, a highway common carrier, maintained rates for transportation of small shipments from San Francisco to points in San Mateo and Santa Clara counties, as far south as San Jose, ranging from 15 cents to 22½ cents per package.² He stated that these rates gave an undue advantage

1

The exempted carriers referred to are California Delivery Service, Delivery Service Co., Goodman Delivery Service, Inc., V. Fred Jacobsen, doing business as Special Delivery Service Co., Menlo Park and San Francisco Parcel Delivery, 20th Century Delivery Service, Inc., United Parcel Service, Inc., United Parcel Service Bay District, United Parcel Service of Los Angeles, Inc., and Western Parcel Service.

2

United Parcel Service Bay District Tariff C.R.C. No. 4, names rates for transportation of packages from San Francisco to points in San Mateo and Santa Clara counties ranging from 15 cents to 25 cents per package. Under this tariff, stores are classified according to the character of goods handled. Rates vary also according to territories and to the amount of revenue guaranteed over weekly periods.

to San Francisco stores and enabled them to invade the San Jose trading area. Nagel stated that while the rates which he proposed were somewhat lower than those charged by United Parcel Service, they involved shorter hauls and more favorable operating conditions. He testified that his shippers had informed him that the value of the commodities transported and the narrow margin of profit resulting from retail sales would not permit them to pay rates for delivering package shipments higher in volume than those which he proposed, and that if the authority sought was not granted, they would use parcel post service or engage in proprietary trucking as a means of delivering merchandise to their patrons.

Applicant did not contend, however, that the rates contained in Highway Carriers' Tariff No. 2 were excessive for the transportation of new furniture and household appliances. In fact, he pointed out that the proposed rates would produce higher transportation charges in many instances. The proposed "unit rates" appear to be desired primarily in order to eliminate weighing and classifying such traffic.

A comparative statement of revenues and expenses incurred by applicant in delivering property for San Jose retail stores for the years 1936 to 1939, inclusive, was also submitted. The revenue figures were said to be based upon the proposed rates. According to this statement, revenues were substantially in excess of expenses for each year.

	<u>1939</u>	<u>1938</u>	<u>1937</u>	<u>1936</u>
Revenues	\$49,288.00	\$45,456.75	\$41,692.35	\$33,163.00
Expenses	43,353.00	40,569.65	36,588.70	28,077.00

Nagel stated that the expense figures submitted did not include a salary for his own activities in the business, but that \$3,000 would be an adequate annual allowance therefor. Neither does it appear that these figures include a return on the investment in plant

and truck equipment, which investment was said to amount to \$20,000.

Several shipper witnesses testified in behalf of the applicant. They confirmed his statement that rates in excess of those proposed would be prohibitive, giving as the reason the narrow margin of profit upon which they operated. They also stated that the granting of this application was essential to enable them to compete freely with San Francisco merchants who were afforded a substantially lower basis of rates for package shipment deliveries than was provided in Highway Carriers' Tariff No. 2. They asserted that many San Jose merchants undoubtedly would resort to proprietary hauling as a means of distribution if the instant application was denied.

Applicant stated that this operation was not competitive with any other for-hire carrier. No one opposed the granting of the application.

The record is convincing that the heavy volume of traffic enjoyed by applicant within San Jose and in the adjacent residential areas embraced by the proposed inner zone is conducive to efficient use of the carrier's equipment and produces lower unit costs than are encountered in normal highway transportation. Moreover, due to the large number of small shipments handled and in the absence of any showing that any shipper or competing carrier would be adversely affected, the expense of weighing and classifying appears to be disproportionate to the advantage to be gained therefrom.

Under these circumstances the sought rates appear justified for delivery of shipments within the proposed inner zone. It does not appear, however, that the authority should extend to shipments weighing up to 100 pounds as requested. As hereinbefore pointed out applicant's transportation within the proposed inner zone is confined to shipments weighing generally 1/2 pound to 6 pounds each and averaging 4 pounds per shipment. Ample allowance for occasional shipments

of greater weight will be made if the authority is limited to apply to shipments weighing not to exceed 25 pounds each.

Transportation to points located more than five miles beyond San Jose, however, does not appear to be subject to the same favorable or unusual conditions that attend transportation within the inner zone. Manifestly, the volume of traffic is much lighter and, as stated, deliveries are made less frequently. In addition, applicant's cost of performing this service has not been shown to be materially lower than the cost experienced by highway carriers generally and the added expense of weighing and classifying has not been shown to be unduly burdensome. While it was shown that United Parcel Service transported small shipments from San Francisco to points in this outer zone territory at a relatively low level of rates, it was not shown that this factor had materially affected the interests of San Jose merchants. Also, the only evidence submitted in support of the unit rates for transportation of furniture and household appliances was that weighing and classifying shipments would be eliminated. It was not shown that these requirements were unduly burdensome or that the rates provided in Highway Carriers' Tariff No. 2 were impractical of application for this class of traffic or were otherwise unreasonable. In these latter respects, therefore, the application should be denied.

It is to be understood that the conclusions reached herein relate only to the propriety of the proposed rates for operation by applicant as a highway contract carrier or radial highway common carrier. Nothing in this opinion is to be construed as a determination that the transportation involved may lawfully be performed by applicant without first obtaining a certificate of public convenience and necessity for operation as a common carrier, since the lawfulness of applicant's operation is not here in issue.

I recommend the following form of order:

O R D E R

A public hearing having been held in the above entitled application, and based upon the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that C. J. Nagel, an individual, doing business as Red Line Parcel Service, be and he is hereby authorized to transport property, in shipments weighing 25 pounds or less, from retail stores named in Appendix "A" of this order to points in Santa Clara County within the territory described in Appendix "B" of this order, at rates less than the established minimum rates, but not less than those set forth in said Appendix "B".

IT IS HEREBY FURTHER ORDERED that in all other respects the application of C. J. Nagel be and it is hereby denied.

The authority herein granted shall expire one (1) year from the date hereof, unless sooner cancelled, changed or extended by appropriate order of the Commission.

This order shall become effective on the date hereof.

The foregoing opinion and order are hereby adopted and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of June, 1940.

Ray & Riley
Stanley D. Allen
Ray B. Campbell
H. H. Ball
Justin F. Coe
Commissioners

APPENDIX "A"

LIST OF CONTRACT SHIPPERS LOCATED IN SAN JOSE,
FOR WHICH APPLICANT IS AUTHORIZED TO TRANS-
PORT PROPERTY AT LESS THAN THE ESTAB-
LISHED MINIMUM RATES.

<u>NAME</u>	<u>SAN JOSE ADDRESS</u>
M. Blum and Co.	26 South First Street
Appleton's	First and San Carlos Streets
Bon Ton	78 South First Street
Blooms	135 South First Street
Herolds	74 South First Street
Hale Bros.	First and San Carlos Streets
L. Hart & Son, Inc.	Market and Santa Clara Streets
Kiddie Shop	281 South First Street
Juvenile Shop	236 South First Street
Montgomery, Ward & Co.	162 South First Street
Nathan-Dohrmann Co.	325 South First Street
J. C. Penney	51 South First Street
Milday's Shop	25 South Second Street
Roos Bros.	16 South First Street
Robinson's	First and William Streets
Sears, Roebuck and Co.	350 South First Street
Prussia's	127 South First Street
Union Furniture Co.	353 South First Street
J. S. Williams	227 South First Street
Wardrobe	Second and Santa Clara Streets
Spring's	Market and Santa Clara Streets
Marcus, The Furrier	56 South First Street
Leon Jacobs	79 South First Street
Valley Hardware Co.	286 South First Street
Kress Co.	170 South First Street
Vogue Shop	60 South First Street
Kocher Jewelry	169 South First Street
Vargaus Hat Shop	82 South First Street
Royce Jewelry	72 South First Street

APPENDIX "B"

AUTHORIZED RATES

ZONE 1

Beginning at the intersection of U. S. Highway No. 101 and Brokaw Road; thence southwesterly along Brokaw Road to the corporate boundary of the City of Santa Clara; westerly, southerly and easterly along said corporate boundary to Santa Clara and Los Gatos Road; southerly along Santa Clara and Los Gatos Road through Campbell to a point approximately 1/2 mile south of Campbell Avenue; easterly along an imaginary line to Union Avenue; southerly along Union Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; northerly along Almaden Road to Stone Avenue; southerly and easterly along Stone Avenue to U. S. Highway No. 101; southeasterly along U. S. Highway No. 101 to Tully Road; northeasterly along Tully Road to King Road; northwesterly along King Road to Story Road; northeasterly and easterly along Story Road to Clayton Road; northerly along Clayton Road to Mt. Hamilton Road; northwesterly along an imaginary line to Alum Rock Fall Road; westerly along Alum Rock Road and Penitencia Road to Capitol Avenue; northwesterly along Capitol Avenue to Berryessa Road; southwesterly along Berryessa Road to the point of crossing of the Coyote River; northwesterly along an imaginary line paralleling said river channel to its intersection with State Highway No. 17 and Brokaw Road; westerly and southwesterly along Brokaw Road to point of beginning.

Shipments weighing 25 pounds or less:		
From	To	Rate in Cents Per Package
San Jose retail stores described in Appendix "A" of this order.	Points within Zone 1.	15. (1) 12½ (2) 10
(1) Subject to a guaranteed weekly minimum revenue of \$2.00. (2) Subject to a guaranteed weekly minimum revenue of \$10.00.		