

Decision No. 33420

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of MILLS TRANSFER COMPANY, INC.,)
For authority to charge less es-)
tablished minimum rates and)
transportation of refrigerators,)
gas ranges and water heaters, in)
Los Angeles County.)

Application No. 23441

BY THE COMMISSION:

ORIGINAL

Appearances

- L. Lee Bernstein, for applicant.
- E. L. H. Bissinger, for Pacific Electric Railway,
interested party.
- Arlo D. Poe, for Motor Truck Association of South-
ern California, interested party.
- Wallace K. Downey, for Pacific Freight Lines and
Keystone Express System, interested parties.
- T. F. McCue, for Crane Company, interested party.
- John J. Williams and Nate Williams, for Williams
Transfer Company, interested party.

O P I N I O N

By this application Mills Transfer Company, Inc., a city carrier and a radial highway common carrier, seeks authority under Section 10 of the City Carriers' Act and Section 11 of the Highway Carriers' Act to charge rates which differ from, and are in some instances less than, the established minimum rates for the transportation of gas appliances between points in Los Angeles County.

Public hearing was had before Examiner Bryant at Los

Angeles, and the matter is now ready for decision.

The service involved in this application consists of the transportation of new refrigerators, gas ranges and water heaters from the warehouse of the Southern California Gas Company located at 1700 Santa Fe Avenue, Los Angeles, to residences within the County of Los Angeles, and the return of used appliances to the same warehouse. It includes also numerous accessorial services frequently required in connection with this operation, such as the dusting and polishing of the appliances, the rearranging of furniture in order that the appliances may be installed in their assigned locations, the occasional removing of doors of the residences or of the appliances to permit entree to the proper room, and other similar services not ordinarily encountered in connection with the transportation of general commodities. Approximately 90 per cent of the deliveries are made within the city limits of Los Angeles, and the remainder at other points in the county, including the cities and communities of Beverly Hills, Pasadena, Inglewood, South Pasadena, Hawthorne, Culver City, Lennox, Alhambra and Westwood.

In performing this service applicant has usually assigned two helpers to assist the driver of each vehicle. The shipments have been routed by the shipper prior to transportation in order that deliveries in each area may be made in the same truck, thus avoiding unnecessary duplication and overlapping of the truck routes. Five or six deliveries are ordinarily performed on each route by each vehicle. The time involved in accomplishing the deliveries varies greatly according to the type of appliance, the location of the destination, and the nature and extent of the accessorial services required.

The rate proposed by applicant for this transportation is

\$3.00 per appliance unit, and includes the return movement of used appliances to the shipper's warehouse and all accessorial services performed in connection with the transportation. The proposed rate may not be readily compared with rates heretofore established as minimum by the Commission, as the latter are stated on the basis of 1 cents per 100 pounds or, in some circumstances, in cents per hour. The record shows that both increases and decreases will result, and a witness for applicant stated that he believed that on the average the rate proposed would return revenue greater than would accrue under strict application of the established minimum rates.

Applicant's president testified that in his opinion the established minimum rates would be unsatisfactory for the transportation here involved, principally because the shipper desired a uniform delivery charge per appliance unit regardless of the weight of the unit, the length of haul involved, or the amount of accessorial services required. He declared also that use of the established rates would increase the clerical expense of applicant and probably also of the shipper, due to the necessity of calculating charges according to weight, location of destination and extent of the services required; and that application of these rates would return to applicant less net revenue than would accrue under the rate proposed, particularly in view of the added clerical expense.

The witness explained that the rate upon which approval of the Commission is here sought was offered to the shipper by his company upon an experimental basis, and had been used as a "trial"

¹ The established minimum rates for the transportation involved are provided in Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended, in Case No. 4246), and City Carriers' Tariff No. 4 and Highway Carriers' Tariff No. 5 (Appendix "A" of Decision No. 32504, as amended, in Case No. 4121).

rate since January 1, 1940. He stated that the rate had proved satisfactory to applicant, and, as far as he knew, to the Southern California Gas Company as well. He said that if applicant were required to assess its charges upon the basis of the established minimum rates, and if this basis resulted in added clerical expense to the shipper, he believed the shipper would return to its former practice of delivering the appliances in its own vehicles.

The witness stated that he had made an estimate of the transportation costs involved from a study of the records of applicant's operations for the period from January 1 to April 1, 1940, and concluded from this study that the proposed rate would be compensatory and would in fact return to applicant a net profit of approximately \$8.40 per truck per day.²

No representative of the Southern California Gas Company appeared in support of applicant's proposal or otherwise participated in the disposition of this proceeding. The Motor Truck Association of Southern California and several individual carriers appeared as interested parties and participated in cross-examination, but did not specifically oppose the granting of the application.

The record in this proceeding indicates that applicant voluntarily solicited the traffic here involved at the flat charge of \$3.00 per appliance unit delivered, regardless of the amount of

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The witness' cost figures appear in the application. In connection therewith he explained that the labor costs for three men on one truck working 9 hours per day amounts to \$18.00 per day; that the average mileage per truck per day is 80 miles; and that the operating expense per truck is 12 cents per mile, including gasoline, oil, accessories, insurance, licenses and taxes, rent utilities, telephone, and executive salaries. He calculated that 80 miles per day at 12 cents per mile would equal \$9.60 and that this, added to the labor expense of \$18.00 per day, would total \$27.60 per truck per day for all expenses. The gross revenue at the proposed rate of \$3.00 per appliance with an average of 12 appliances per truck per day would equal \$36.00, leaving a net profit of \$8.40 per truck per day.

transportation and accessorial service required. Apparently no attempt was made, either before or after the filing of this application, to assess the rates and charges heretofore established by this Commission as minimum. The testimony offered by applicant's president discloses that he had made little or no effort to familiarize himself with the established rates, rules and regulations. At the same time it does not appear that applicant considered the established rates to be excessive or in any other respect unreasonable for the transportation here involved, but rather that it seeks authority to continue use of the proposed flat rate per appliance unit primarily as a matter of convenience to the shipper and of clerical economy to itself.

The record is by no means convincing that observance of the established rates, rules and regulations would subject the carrier or shipper to substantial added clerical expense. No representative of the shipper offered testimony to this effect, and the statement of applicant's president that his company would be forced to employ an additional clerk was obviously made without study or analysis of the minimum rate provisions.³

³ Only two less-than-carload classification ratings are applicable to the commodities involved in this application. The current minimum rate order prescribing rates for transportation of property within the Los Angeles Drayage Area (which includes a substantial portion of the city of Los Angeles and several adjoining cities), provides only three different rates applicable to each class of property in small shipments, dependent upon the zone or zones involved. Under these circumstances, it appears that a total of not to exceed six rates would have to be considered by applicant in connection with transportation of any-quantity shipments within the Drayage Area. Minimum hourly rates are also available within this area at the shipper's election. For transportation to other destinations within Los Angeles County it does not appear that application of established rates, rules and regulations would be more difficult.

In so far as concerns applicant's contention that use of the established rates would in some cases return insufficient revenue to his company for the services performed, it is only necessary to point out that these rates are minimum in application and that greater charges may be lawfully applied subject only to the provision that they be stated on the prescribed units of measurements.

Upon consideration of all of the facts and circumstances of record, we are of the opinion and find that the proposed rate has not been shown to be necessary or "reasonable" within the meaning of Section 10 of the City Carriers' Act and Section 11 of the Highway Carriers' Act. The application will be denied.

O R D E R

This application 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 this application be and it is hereby denied.

Dated at San Francisco, California, this 20th day of August, 1940,

Ray L. Klein
Stanley R. Nelson
Ralph A. Brown
W. H. Kelly
Justin J. Caseman
Commissioners