

ORIGINAL

Decision No. 34554

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PETER KUIPHOF To Charge Less) Application No. 24165
Than Established Minimum Rates.)

BY THE COMMISSION:

Appearances

Thomas Ewing, for applicant.

Arlo D. Poe, for Motor Truck
Association of Southern Cali-
fornia, interested party.

O P I N I O N

By this application Peter Kuiphof, an individual holding a permit from this Commission to operate as a radial highway common carrier, seeks authority to charge less than established minimum rates for the transportation of cattle feeds between certain points in Los Angeles County. Evidence was received and the application submitted at a public hearing held before Examiner Bryant at Los Angeles, and the matter is now ready for decision.

The service involved in this application is the movement of feeds from the warehouses of three feed dealers located in Norwalk, Bellflower and Hynes, respectively, to dairies situated within a distance of five miles of such warehouses.¹ The transportation is performed for and the charges are paid by the consignees. At the time of the hearing applicant counted 26 or 27 dairymen among his regular customers, but said that there were many more dairies which

¹ The dealers are Coast Grain Company, Norwalk; Triangle Grain Company, Bellflower; and Western Consumers Grain Company, Hynes.

might be served. The record shows that for a number of years this transportation has constituted substantially applicant's entire business, although he also performs occasional transportation between other points. He explained that he is the only for-hire operator presently engaged in handling feed locally within his territory. He operates only one vehicle, a flat-bodied truck having a maximum capacity of eight tons, which is garaged at his residence in Clearwater. He employes one man several days a week to drive the truck, and on other days performs the service himself.

Kuiphof seeks authority to charge for the transportation here involved a rate of 3-3/4 cents per 100 pounds, subject to a minimum weight of 6,000 pounds and a minimum charge of \$2.25 per shipment, when such rate is less than that which would otherwise apply as minimum. This proposal would not result in a reduction in connection with rates subject to a minimum weight of 20,000 pounds or more, but would substantially reduce the charges on shipments weighing between 6,000 and 20,000 pounds.²

Applicant testified that in his opinion the established minimum rates, as applied to his particular services, are excessive for the transportation of small shipments. He asserted that the dairymen object to paying more than the rate here sought, and for this reason have transported practically all of the smaller shipments in their own vehicles.³ He said, however, that they would like to

² The established minimum rates are provided in Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended, in Case No. 4246), and are as follows:

<u>Constructive Miles</u>		<u>Any Quantity</u>	<u>Minimum Weight in Pounds</u>				
<u>Over</u>	<u>But Not Over</u>		<u>2,000</u>	<u>4,000</u>	<u>10,000</u>	<u>20,000</u>	<u>30,000</u>
0	3	20½	15½	12½	4	3	2½
3	5	20½	15½	12½	4½	3½	3

³ He explained in this connection that the feed dealers allow 50 cent per ton from the purchase price on shipments called for by the dairymen, but make no corresponding reduction when the feed is handled by Kuiphof or other for-hire carriers.

have him perform their transportation because he is fully acquainted with their requirements, knows when and where to make deliveries, and is in all respects in a position to render the service to their satisfaction. According to his testimony, he has been assured by his customers that if the reduced rate is authorized they will allow him to handle all of their shipments, both large and small. If this occurred, he said, his business would probably increase to an extent which would make it necessary that he purchase another truck and employ a second assistant.

Kuiphof testified that in his opinion the proposed rate would return the cost of performing the service plus a reasonable profit, and in support of this contention introduced a study of his revenues and cost of operation for the first three months of 1941. According to this study his total operating revenue for the period was \$742.61 and his expenses were \$484.60, leaving a net income of \$258.01 from which there must be deducted whatever compensation he should receive for his own services. He testified that during the period involved in the statement all of the shipments exceeded 20,000 pounds, and that the rates which he assessed were \$1.00 per ton for shipments of less than 30,000 pounds and 75 cents per ton for shipments of 30,000 pounds or more.

One other witness, a dairyman who had used Kuiphof's services for a number of years, was called to testify on applicant's behalf. This dairyman spoke highly of applicant's reliability, but offered no testimony or other evidence in support of the rate reduction here sought. The witness stated that he always purchased and received his feed in quantities of 30,000 pounds or more, and paid Kuiphof a rate above the established minimum. He was satisfied with the rate paid, and did not seek a reduction.

The Motor Truck Association of Southern California appeared as an interested party and participated in cross-examination of the witnesses. The association was not concerned with this particular application as such, but was fearful of the precedent which might be established in authorizing less than minimum rates for a radial highway common carrier without restriction to particular transportation services. It argued that if special rate authority were granted to a carrier of this class without restriction except as to distance and commodity, that operator would have a rate advantage over every other carrier which would enable him to solicit all of the business without hindrance. An advantage of this kind, the association declared, would be unfair, and would result in a very apparent discrimination which would affect the public as well as the other carriers.

The statement of revenues and expenses upon which applicant relied in support of his contention that the proposed rates would be compensatory contains certain discrepancies which were not explained in the record.⁴ Even disregarding these, however, the exhibit lends little support to applicant's assertion that the rates would be profitable. The operating revenue was derived entirely from the transportation of larger shipments than those on which the rate reduction is sought; and the rates assessed were considerably higher than those which have been established as minimum. It is obvious that the results of applicant's experience in handling shipments of

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Kuiphof stated that no shipments of less than 10 tons were handled, and that the maximum round-trip mileage per shipment was 10 miles. According to the exhibit, however, a total of 814 tons were handled during the period, and the total round-trip mileage was 3,500. Division of these figures produces a maximum weight per trip of less than 3 tons. When this discrepancy was called to his attention, Kuiphof said that the exhibit must be wrong.

20,000 pounds or more, at rates higher than the minimum rates, can be of little value in supporting a contention that the transportation of smaller shipments at less than minimum rates would be compensatory. Even for the transportation covered by the three-months' study Kuiphof's net revenue was only \$258, or \$86 per month for his total income as driver, manager and owner.

The reduction proposed in this application is a substantial one. Where the established minimum rates range from 4 cents to 12½ cents per 100 pounds, applicant would charge only 3 3/4 cents per 100 pounds. Reduced to its essentials, the evidence offered in justification of this drastic reduction consists of applicant's statements that the dairymen will transport the smaller shipments themselves rather than pay the established charges; that he believes the sought rate would be compensatory; and that if it is authorized he will be able to increase his business. The record offers little or no support to his contention that the proposed rate would be compensatory, and there is nothing to indicate that the consignees could perform the transportation themselves at a corresponding cost. Moreover, according to the testimony, the consignees have willingly paid charges higher than those established as minimum, and higher than those here proposed.

Upon consideration of all of the facts of record, the Commission is of the opinion and finds that the proposed reduced rate has not been shown to be reasonable within the meaning of 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 9th day of September, 1941.

G. H. P. K. M.

Justus J. Casner
Francis D. Havenue

Commissioners