

Decision No. 34980

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 SIGNAL TRUCKING SERVICE, LTD. to )  
 charge less than the minimum rates )  
 established by the California Rail- )  
 road Commission as authorized in )  
 Section 11, Highway Carriers' Act, )  
 State of California (Statutes 1935, )  
 Chapter 223, as amended) and in )  
 Section 10 of the City Carriers' Act, )  
 State of California (Statutes 1935, )  
 Chapter 312, as amended). )

**ORIGINAL**

Application No. 23931

BY THE COMMISSION:

Appearances

- Wallace L. Ware and DeWitt M. Manning, for applicant.
- E. Bissinger, for Southern Pacific Company and Pacific Electric Railway Company, interested parties.
- Harold W. Dill, for The Truck and Warehouse Association of San Diego and Imperial Counties, interested party.
- Lloyd R. Guerra, for Western Truck Lines, Ltd., interested party.
- Arlo D. Poe, for Motor Truck Association of Southern California, interested party.
- Nat H. Williams, for Williams Transfer Company, interested party.
- F. H. Powers, for Sears, Roebuck and Company, interested party.
- H. P. Merry, for Southern California Freight Lines and Southern California Freight Forwarders, interested parties.
- B. F. Bolling, for Pioneer Division, the Flintkote Company, interested party.
- C. G. Anthony, for Pacific Freight Lines, and Keystone Express System, interested parties.

O P I N I O N

By this application Signal Trucking Service, Ltd., a corporation engaged in the transportation of property for compensation as a highway contract carrier and city carrier, seeks authority to transport general commodities for Sears, Roebuck and Company at rates less than those heretofore established by this Commission as minimum.

The matter was submitted at a public hearing had before Examiner Bryant at Los Angeles.

Testimony in support of the granting of the application was offered by the president of Signal;<sup>1</sup> by a certified public accountant regularly employed by Signal; by the regional traffic manager of Sears; and by an employce in charge of Sears' rate division. No other witness testified, and no one specifically opposed granting of the relief sought. A number of carriers and carrier associations appeared as interested parties and participated in cross examination of applicant's witnesses.

From the record thus deveoped, it appears that the service involved in this proceeding is primarily the transportation of general commodities between warehouse and store properties operated by Sears. The service falls into two general categories, one of which was referred to as the "shuttle operation" and the other as the "line-haul operation."

The shuttle operation consists of transporting property between a so-called "control" store and a "control" warehouse on the one hand, and various retail stores on the other hand. The control store and the warehouse are situated in Los Angeles, and all of the retail stores served by the shuttle operation are located within the Los Angeles metropolitan area, including Long Beach, Glendale and Pasadena. There is a regular movement of property outbound from the control store and warehouse to the various retail stores, and a return movement from the retail stores to the warehouse.<sup>2</sup> The service is performed by spotting a semi-trailer at each

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<sup>1</sup> For convenience, applicant will be referred to herein as "Signal," and Sears, Roebuck and Company as "Sears."

<sup>2</sup> It was explained that the return movement to the warehouse is principally for the purpose of assembling and packing before delivery to purchasers.

retail store, two at the warehouse, and three at the control store. Tractors then shuttle back and forth on schedule, hauling a loaded semi-trailer from the control store or warehouse to a retail store, dropping it, and returning to the warehouse with another loaded semi-trailer. The loading and unloading operations are performed by employees of Sears, with some assistance at times from the Signal drivers.

The line-haul operation consists of transporting property from the control store or warehouse to Sears' retail stores located in San Diego, San Bernardino, Riverside, Santa Ana, Fullerton, Inglewood, San Fernando and other points in southern California outside of metropolitan Los Angeles. This is not a scheduled service, but is operated whenever Sears has a load to be delivered to these outside stores. Equipment used in the operation varies with the size of the load. Loading of the equipment is performed by employees of Sears, but unloading at destination is done by Signal's drivers, with some assistance from Sears' store employees.

It appears that the transportation services described are substantially all that are intended to be embraced by the application, although the limitations were not made clear.<sup>3</sup> At the time of the hearing approximately 100 vehicles were used regularly or occasionally in performance of the shuttle and line-haul operations. About half of these were regularly assigned, and were painted with Sears'

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<sup>3</sup> The application is not specifically limited to any particular traffic. The president of Signal stated that if it were granted his company would serve any points in the state that Sears desired; and Sears' traffic manager asked that the authority be not restricted to movements between stores and warehouses of his company, stating that it was desired to use the proposed rates on other traffic occasionally, particularly in connection with rush shipments to retail customers. The application refers also to the transportation of petroleum lubricating oil in a tank semi-trailer, but no evidence was offered to show that the established minimum rates were not appropriate for this movement.

color and insignia; the balance, used less frequently, were not so designated. According to the president of Signal, the number of vehicles devoted to these services will probably increase from time to time with growth of Sears' business. In addition to the operations described, Signal is employed by Sears to transport a substantial volume of traffic for which deviations from the minimum rates are not sought.<sup>4</sup>

The rates which applicant seeks authority to apply are all based upon time per vehicle unit, and are identical with a basis of "equipment-unit" charges which the Commission has established as minimum for use within the Los Angeles drayage area.<sup>5</sup> The charges are stated in dollars and cents per hour or per period of 7, 21 or 25 successive days, and vary according to the maximum gross weight of the property transported by the unit of equipment in any load during the period. Except in connection with the hourly rates, additional charges on a distance basis accrue when the equipment is operated in excess of stated mileages.

No general comparison can be made between the proposed equipment-unit charges and the minimum rates established for transportation beyond or without the Los Angeles drayage area, for the

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<sup>4</sup> According to the regional traffic manager, Sears pays to Signal approximately \$600,000 annually for transportation services, of which about \$200,000 is for performance of the shuttle and line-haul operations hereinbefore described. The balance includes delivery of purchases to retail customers and transportation of inbound merchandise from Los Angeles Harbor or from local manufacturers. Relief from established minimum rates for these latter services is not requested.

<sup>5</sup> For the use of extra semi-trailers or dollies without motor equipment, applicant proposes charges asserted to be properly related to those established for other vehicle units. The proposed basis of rates will, for convenience, be sometimes referred to herein as the "equipment-unit charges." The Los Angeles drayage area, which is described in City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 (Appendix "A" to Decision No. 32504, as amended, in Case No. 4121), does not include all of the points embraced in either the shuttle or the line-haul operation.

reason that the former are predicated primarily upon the time that individual vehicles are engaged, while the latter vary according to the classification of commodities, the weight of the individual shipments, and the constructive distance from point of origin to point of destination.<sup>6</sup> However, the employee in charge of Sears' rate division prepared and introduced a comparison based upon analysis of particular shipments, said to be representative. According to this comparison the charges sought would be in some cases higher and in other cases lower than those which would accrue from application of the established minimum rates and authorized alternation with common carrier rates, although recapitulation of the shipments studied indicates that on the whole the proposed charges would provide the lower basis on both the line-haul and the shuttle operations.

The president of Signal explained the circumstances which in his opinion necessitated and justified use of the proposed equipment-unit charges in lieu of the established minimum rates. He said that the proposed basis would relieve both Sears and Signal from substantial expense incidental to classifying, rating and weighing the articles transported; that Sears had indicated it would acquire proprietary equipment rather than bear its share of this expense under the established rates, rules and regulations; and that under the proposed basis the shuttle operation, particularly, would be an ideal one from the standpoint of the carrier, inasmuch as it involved no carrier supervision, no classification or rating, no claims for loss or damage of property, practically no billing expense, and permitted very high load and use factors.<sup>7</sup> This witness

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<sup>6</sup> Within the drayage area the proposed charges are, as hereinbefore indicated, identical with an approved basis of minimum rates.

<sup>7</sup> The advantage to the carrier of a high load factor under the proposed equipment-unit basis was not explained.

testified also that he had caused a cost study to be made of both the shuttle and line-haul operations, and had satisfied himself that the proposed charges would be reasonable and fully compensatory.

The regional traffic manager of Sears testified that his company would purchase vehicles and undertake proprietary operation for all transportation services involved in the application unless it were able to secure from applicant certain advantages which he considered to be essential. These advantages he listed as: (a) no necessity for weighing freight, (b) no necessity for classification of freight, (c) no necessity for packing and crating, (d) absolute freedom to ship at the time and in the manner desired, (e) no comminglement of shipments with those of other shippers, (f) absolute control of shipments at point of origin and point of destination, (g) no local cartage and transfer to effect consolidation of tonnage to one store. He said that in his opinion the only way in which applicant could offer the required advantages was through the use of equipment-unit charges such as those proposed. This witness declared that if the application were denied his company would in all probability purchase equipment to handle not only the traffic immediately involved, but also other traffic of his company. He stated that Sears pays some \$3,000,000 annually to for-hire carriers for transportation services in California, and indicated that a substantial portion of this revenue might eventually be lost to the transportation industry if his company ventured into proprietary operations in this state.

The witness estimated that classification and weighing amount to more than 20 per cent of the company's over-all packing and shipping cost, but did not explain in any detail the segregation of this percentage as between the shuttle, line-haul, or other operations, or between transportation charges and internal clerical

costs. The practice in connection with the shuttle operation, he said, would be to load the semi-trailers without classifying or weighing the merchandise or preparing any of the customary shipping documents. The loaded vehicle bodies would be locked and unlocked by Sears' employees, and Signal would have no knowledge of the articles transported. He declared that classifying and weighing the property in this particular operation would be quite impracticable. The witness testified, however, that weighing would present no problem in connection with the line-haul operation, inasmuch as the practice of his company in regard to such traffic was to weigh this merchandise as it was prepared for shipment, recording the weights on inter-store documents. He said that segregation of the line-haul shipments according to classification would be an added burden, but conceded that his company made the segregation in connection with shipments tendered to other carriers. Asked to explain in this connection what distinguished line-haul movement via Signal from that via the other carriers, the witness stated that in his opinion the volume of tonnage to the stores served by Signal was sufficient to justify the use of plant-facility equipment, or in the alternative, a basis of equipment-unit charges such as here proposed. He explained also that shipments tendered to other carriers had to be appropriately packed if they were to arrive in saleable condition, whereas articles transported by Signal were often moved without packing protection of any kind.

The cost accountant employed by Signal introduced in exhibit form a study of the cost of performing the services involved in this application. According to figures thus developed, based on a representative six months' period, the shuttle operation would result in total revenue of \$16,270.45, and total expenses of \$15,475.82, leaving a net profit for the period of \$794.63, or approximately \$132. per month. The cost of performing the line-haul service was

developed by calculating the expense of a single trip between Los Angeles and Riverside, between Los Angeles and San Bernardino, and between Los Angeles and San Diego. By reducing the proposed rental charges to a daily basis, the witness produced an estimated net profit per round trip of \$1.28 to Riverside, \$.72 to San Bernardino, and \$3.64 to San Diego.

The cost data of record are not sufficiently complete to demonstrate that the particular charges here proposed would be fully compensatory as applied to the traffic involved in this application; and the exhibits, moreover, contain certain discrepancies which were not adequately explained. However, since the rates sought to be applied are those which after investigation have been established by the Commission for general application within the Los Angeles drayage area, which is a limited part of the territory here involved, complete cost information from applicant is of somewhat less importance than would otherwise be the case. This is particularly true with respect to the shuttle operation, since all of the points thus served are within or relatively close to the drayage area. The record is persuasive that in this operation the necessity of classifying the merchandise and weighing the tonnage in each classification is a burden from which applicant may well be relieved. The application, in so far as it relates to the shuttle operation, will be granted,

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The cost studies show the detail of only drivers' wages, fuel, lubrication, tires and tubes, repairs, and maintenance, and an item for depreciation on a basis not stated. All other expenses, including those for operation of terminals, salaries of loaders, checkers and watchmen, solicitation and advertising, in addition to the costs usually considered as overhead, were included in a lump sum as "overhead expense." This sum was arbitrarily taken at 10 per cent of the gross revenue, the witness stating that he knew this percentage to be relatively high. Other than this unsupported statement, the record affords no information from which the accuracy of this important item may be tested. Each of the operations resulted in a small net profit according to the expense and revenue estimates of the cost witness, but the expenses thus developed exceeded in several instances the revenues for comparable trips as developed by the rate witness.



subject to limitations and conditions intended to restrict the authority in the main to the service as described in this record. 9

No evidence whatsoever was offered in justification of the proposed charges as applied to special deliveries to retail customers, transportation of lubricating oil in bulk, or any other service which might be only incidentally covered by the application. Considerable testimony was introduced relative to the line-haul operation, but this testimony indicates only that the sought equipment-unit charges would be more convenient than the minimum rates heretofore established by this Commission; that they would perhaps be compensatory; and that the shipper will resort to proprietary transportation unless it is able to secure from applicant certain advantages considered to be essential. Of the seven advantages specified, only two cannot practicably be offered under the established minimum rates. The first of these is freedom from necessity for weighing freight, and this "essential advantage" may be dismissed as of no importance since the record shows that freight transported in the line-haul operation is voluntarily weighed by Sears for reasons of its own. The single remaining advantage sought - freedom from necessity of classifying - does not appear from this record to be an essential one, since Sears regularly classifies its merchandise shipped by other carriers and in this respect apparently distinguishes Signal only by the fact that the tonnage transported by the latter is relatively heavy. Even though the cost estimates were fully convincing (which they are not), the record does not show that the charges herein proposed are necessary or desirable for other

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The rates hereinafter authorized do not include those proposed for extra semi-trailers or dollies furnished without motor equipment. Applicant's attention is directed to the fact that equipment which is neither self-propelled nor drawn by a self-propelled vehicle is not a motor vehicle within the meaning of the Highway Carriers' and City Carriers' Acts. On the other hand, when such equipment is drawn by a self-propelled vehicle it constitutes or becomes part of a "unit of carrier's equipment" for which charges hereinafter provided are applicable.

than the shuttle service. Deviations from bases upon which established minimum rates are predicated will be authorized only where the necessity or desirability of such deviations has been clearly established.

Upon consideration of all the facts and circumstances of record, we are of the opinion and find that the rates and charges proposed in this application will be reasonable to the extent hereinafter authorized, and that in other respects the proposed rates and charges have not been shown to be necessary or "reasonable" within the meaning of Section 10 of the City Carriers' Act or Section 11 of the Highway Carriers' Act. The authority hereinafter granted, being based upon existing circumstances and conditions as disclosed on this record, will be limited to a one-year period, subject to prior cancellation, modification or extension by appropriate order of the Commission.

O R D E R

This application having been duly heard and submitted, full consideration of the matters and things involved having been had,

IT IS HEREBY ORDERED that Signal Trucking Service, Ltd., be and it is hereby authorized to assess for the transportation of certain property for Sears, Roebuck and Company, in lieu of the minimum rates heretofore established in other proceedings, rates no lower than those set forth in Appendix "A" attached hereto and by this reference made a part hereof, subject to the rules, regulations, conditions and restrictions set forth or specifically referred to in said appendix.

IT IS HEREBY FURTHER ORDERED that the authority herein

granted shall expire one year from the effective date of this order, unless sooner canceled, changed or extended by appropriate order of the Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects this application be and it is hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 3rd day of February, 1942.

Justus F. Coe  
Chas. L. Ripley  
H. J. Miller  
Francis D. Hayward  
Arthur L. Chase  
Commissioners

## APPENDIX "A"

1. Rates, rules and regulations provided in this appendix apply only for the transportation of property between stores, warehouses or other properties owned, leased, operated or controlled by Sears, Roebuck and Company.

2. Rates, rules and regulations provided in this appendix apply only for the transportation of property between points within the Los Angeles drayage area as described in Items Nos. 30, 31, 32 and 33 of City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 (Appendix "A" to Decision No. 32504 of October 24, 1939, as amended, in Case No. 4121); and between points within said Los Angeles drayage area on the one hand and Glendale, Long Beach, Pasadena, and the stores of Sears, Roebuck and Company situated in the vicinities of 1101 Westwood Boulevard and 4550 West Pico Boulevard (Los Angeles) on the other hand.

3. Rates provided in this appendix are subject to Items Nos. 10, 11, 30, 31, 32, 33, 150, 160-A and 401-A of said City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5.

4. Signal Trucking Service, Ltd. shall issue, for each vehicle furnished, a shipping document containing a certification that during the period covered by the document the vehicle was operated only in transportation service for which rates are provided in this appendix (or full explanation of other operations, with reference to shipping documents covering); showing rates and charges assessed; and containing all such information respecting each of the factors entering into the computation of the charges as may be necessary to verify the lawfulness of the charges assessed. Signal Trucking Service, Ltd. shall retain and preserve a copy of each such shipping document, subject to the Commission's inspection, for a period of not less than three (3) years from the date of its issuance.

HOURLY RATES

Subject to Notes 1 and 2

<u>Weight in Pounds</u>	<u>Rates in Cents Per Hour</u>	<u>Minimum Charges in Cents</u>
250 or less .....	200	100
Over 250 but not over 500 ...	200	125
Over 500 but not over 2,000 ...	200	200
Over 2,000 but not over 3,000 ...	225	225
Over 3,000 but not over 5,000 ...	250	250
Over 5,000 but not over 8,000 ...	300	300
Over 8,000 but not over 12,000 ...	350	350
Over 12,000 but not over 20,000 ...	400	400
Over 20,000 .....	500	500

NOTE 1.-Weight in pounds is the greatest (heaviest) gross weight of the property transported by the unit of carrier's equipment at one time during a single trans-action. No allowance shall be made for weight of con-tainers.

NOTE 2.-(a) The total of the loading, unloading and driving time computed from the arrival of carrier's equip-ment at point of origin, or first point of origin when more than one point of origin is involved, to the time un-loading is completed at point of destination, or last point of destination when more than one point of destina-tion is involved, subject to paragraph (b) hereof, shall be used to compute charges.

(b) In computing time under the basis outlined in paragraph (a) hereof the various time factors shall be not less than the actual time involved in minutes. After the total time has been determined under the provisions of paragraph (a) hereof, it shall be converted into hours and fractions thereof. Fractions of an hour shall be determined in accordance with the following table:

Less than 8 minutes ..... omit.  
 8 minutes or more but less than 23 minutes shall be 1/4 hour.  
 23 minutes or more but less than 38 minutes shall be 1/2 hour.  
 38 minutes or more but less than 53 minutes shall be 3/4 hour.  
 53 minutes or more shall be 1 hour.

#### WEEKLY AND MONTHLY RATES

Weight in Pounds (Subject to Note 1)	Column 1	Column 2	Column 3	Column 4
2,500 or less .....	75	250	270	5
Over 2,500 but not over 5,000 ...	85	270	295	6
Over 5,000 but not over 8,000 ...	90	300	325	7
Over 8,000 but not over 12,000 ...	100	355	385	10
Over 12,000 but not over 20,000 ...	125	390	425	15
Over 20,000 .....	155	485	530	20

COLUMN 1.-Rates in dollars per unit of carrier's equip-ment for a period of seven successive days or any portion thereof. When equipment is operated in excess of 350 miles during such period, add rates provided in Column 4.

COLUMN 2.-Rates in dollars per unit of carrier's equip-ment for a period of twenty-one successive days or, when the equipment is not operated on Saturdays, Sundays and legal holidays, for a period of twenty-one successive days exclusive of Saturdays, Sundays and legal holidays, or any portion of such periods. When equipment is operated in excess of 1,050 miles during the period, add rates pro-vided by Column 4.

COLUMN 3.-Rates in dollars per unit of carrier's equipment for a period of twenty-five successive days or, when the equipment is not operated on Sundays and legal holidays, for a period of twenty-five successive days exclusive of Sundays and legal holidays, or any portion of such periods. When equipment is operated in excess of 1,250 miles during the period, add rates provided by Column 4.

COLUMN 4.-Rates in cents per mile to be added to the Column 1, 2 and 3 rates when the unit of carrier's equipment is operated in excess of the maximum mileage allowed thereunder.

NOTE 1.-Weight in pounds is the gross weight of the property transported by the unit of carrier's equipment at the time the equipment is transporting the greatest (heaviest) load during the period covered by the transaction. No allowance shall be made for weight of containers.

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(End of Appendix "A")