

Decision No. 35424.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
A.M. Gross and F. Gross, co-partners)	
doing business under the firm name)	
and style of Gross Systems, for author-)	Application No. 22240
ity to charge less than minimum rates)	
under the provisions of the Highway Car-)	
riers' Act.)	

BY THE COMMISSION:

FOURTH SUPPLEMENTAL OPINION

By Decision No. 32960 of April 2, 1940, as amended, in the above entitled proceeding, A.M. Gross and F. Gross, co-partners doing business as Gross Systems, were authorized to transport property for Certified Grocers, Inc. between points in southern California at rates which differ from and are in some cases less than those established as minimum for general transportation. The authority is scheduled to expire June 11, 1942.

By supplemental application Gross Systems seeks an extension for a further period of one year. Public hearing was had before Examiner Bryant at Los Angeles on April 21, 1942, at which time the matter was submitted for decision.

The operation here involved has been explained and discussed in previous decisions in this proceeding. Very briefly, it consists of the transportation of groceries and related commodities for Certified Grocers, Inc., between the warehouse of that organization, situated in Vernon, and retail stores of its members, located within a radius of 100 miles of the warehouse. Gross Systems performs most, but not all, of this transportation; has been engaged in the operation for about 13 years; and serves no other shipper.

With some exceptions, the established minimum rates are stated in cents per 100 pounds, and vary according to the length of haul, weight of the shipment, and classification of the articles. The

rates assessed by applicant are likewise stated in cents per 100 pounds and related to the length of haul, but are not varied according to the classification or weight. The record indicates that the latter rates are in the aggregate somewhat higher than the minimum rates from which relief is sought, and no reason appears, therefore, for inquiring whether they will be compensatory. What applicant seeks primarily by this application is continuation of the authority by which it is relieved of the necessity of classifying the freight and rating the shipments according to the weight of each class of property.

A consulting traffic manager engaged by Gross Systems testified that he had made an extensive study of the operation here involved, and estimated that the cost to Gross Systems of classifying, rating and billing the shipments in order to apply the established minimum rates would be at least \$700 per month. This amount included salaries of three rate clerks, although on cross-examination the witness conceded that the work would probably not require the full time of three men. He stated that if Certified Grocers were to properly check and verify the transportation charges, it would be confronted with a similar expense.

A.M. Gross testified that the authorized rates, as recently¹ increased, were compensatory, but said that he could not absorb an additional cost of \$700 per month. He introduced revenue and expense figures and offered other exhibits in support of his assertions. This witness explained also that his company no longer used estimated weights, inasmuch as the weight of each package was known to Certified Grocers and indicated on the invoices from which the shipping documents were prepared.²

¹ By Decision No. 35237 of April 7, 1942, in this proceeding, pursuant to supplemental application, the rates charged by Gross Systems were increased approximately 10 per cent.

² Difficulties attendant upon the weighing of individual commodities were an important factor in justifying the existing authority in the first instance. See Decision No. 32960, supra.

The secretary-manager of Certified Grocers testified in support of the application, stating that the present method of rating and billing was satisfactory and that any change would be undesirable. He asserted that his company operated on a narrow margin of profit and could not well afford to absorb any additional expense which might be involved in the classification and rating of freight.

Southern California Freight Lines and Southern California Freight Forwarders appeared as interested parties and questioned the asserted difficulties and expenses of classifying and rating the shipments, but no one specifically opposed the granting of this supplemental application.

In view of the fact that the original difficulties of obtaining weights no longer exist, it is at least questionable whether continuance of the present authority is in fact necessary. The work of classifying and rating the shipments in order to apply the established minimum rates would undoubtedly result in inconvenience and expense to applicant, although the record is by no means convincing that the burden would be as great as anticipated by the witnesses. The objections to classifying and rating shipments are ordinarily far outweighed by public benefits accruing from a stabilized basis of known transportation charges, and the Commission is therefore reluctant to authorize deviations from minimum rates when the request is predicated primarily upon a desire to avoid these burdens.³ We would be constrained to deny the instant request were it not that the present arrangement has continued for several years without apparent injury to other carriers or shippers. No one opposed the requested extension of the existing authority and failure to extend it would disrupt an arrangement that is apparently satisfactory to all concerned. Unnecessary changes in transportation

³ See Decision No. 32320 of September 19, 1939, in Application No. 22408 of Ben Gruell; and Decision No. 33164 of June 4, 1940, in Application No. 23148 of Alfred Zuelow.

arrangements at this particular time, are undesirable. The supplemental application will be granted. The existing authority will be extended to June 11, 1943, unless sooner changed, canceled or extended.

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 the authority granted A. M. Gross and F. Gross, co-partners doing business as Gross Systems, under Decision No. 32960 of April 2, 1940, as amended, in this proceeding be and it is hereby extended to June 11, 1943, unless sooner changed, canceled or further extended by order of this Commission.

This order shall become effective on June 11, 1942.

Dated at San Francisco, California, this 26th day of May, 1942.

Justice J. Calver
Ray L. Riley

[Signature]
Commissioners