

Decision No. 35736

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of MELVIN ROY doing business as )  
FLO'DEL COMPANY, for an order ) Application No. 24907  
authorizing an increase in freight )  
rates and charges. )

BY THE COMMISSION:

ORIGINAL

Appearances

Harry A. Encell, for applicant.

OPINION

By this application Melvin Roy, a highway common carrier doing business as Flo'Del Company, seeks authority to publish and collect rates higher in volume and effect than those currently set forth in his Freight Tariff No. 1, C.R.C. No. 1, for the transportation of cut flowers and kindred commodities between points in the San Francisco Bay area.<sup>1</sup> Authority is also sought to make changes in designated rules and regulations which would result in increases. A public hearing was had in this matter before Examiner Knapp at San Francisco.

At the hearing the applicant outlined in detail the manner in which the service authorized under his certificate was performed, explaining that four panel delivery trucks are used in the operation, that the service is of a highly specialized nature, and that it is not competitive with other truck transportation. Applicant's rates are on a weight basis. They are stated in cents per 100 pounds

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Applicant holds a certificate of public convenience and necessity from this Commission authorizing him to render "a highway common carrier service for the transportation of fresh cut flowers, potted flowers, potted plants, fresh floral wreaths, and other floral arrangements, for compensation between San Francisco and El Cerrito and San Leandro and intermediate points via Oakland, Berkeley, Piedmont, Albany and Alameda; and between San Francisco and Palo Alto and intermediate points, over and along the Bay Shore Highway and El Camino Real." This certificate was granted by Decision No. 31278 of September 19, 1936, in Application No. 21879.

and are subject to minimum charges per single shipment of 40 cents for shipments of 25 pounds or less, 50 cents for shipments weighing over 25 pounds but not over 50 pounds, 60 cents for shipments weighing over 50 pounds but not over 75 pounds, 70 cents for shipments weighing over 75 pounds but not over 100 pounds, and 75 cents for shipments weighing over 100 pounds.

The proposed rates are stated on a "unit" basis, a unit being defined as "a single article in the form in which it is shipped, (e.g., a single box, not a bundle; a wreath; a potted plant; or a vase containing flowers.)" The basic unit rates proposed are 50 cents for transportation between San Francisco and East Bay points, and between San Francisco and Peninsula points, and 75 cents for transportation between East Bay points on the one hand and Peninsula points on the other.<sup>2</sup> They are limited to weights not exceeding 15 pounds and to overall measurements not exceeding 75 inches. Additional charges are proposed for so-called large or heavy units.<sup>3</sup> In addition, rules similar to those heretofore prescribed by the Commission in Decision No. 31606, as amended, in Case No. 4246 for collecting charges on a gross weight basis, receiving and transmitting purchase orders, collect-on-delivery shipments, collection of charges and packing of shipments are proposed. Rules limiting liability and providing conditions of delivery are also proposed.

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East Bay points are: El Cerrito, Albany, Berkeley, Piedmont; Oakland, Alameda and San Leandro. Peninsula points are: Daly City, Colma, South San Francisco, San Bruno, Milbrae, Burlingame, Hillsborough, San Mateo, Beresford, Belmont, San Carlos, Redwood City, Atherton, Menlo Park and Palo Alto.

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Proposed additional charges for large or heavy units are:

"UNITS accepted for transportation hereunder having an overall measurement of more than 75 united inches shall be subject to an additional charge of 3 cents for each five united inches or fraction thereof, by which each such UNIT'S measurement, exceeds 75 united inches." (United inch means the total of the length, width and breadth added.)

"UNITS accepted for transportation hereunder having a weight greater than 15 pounds shall be subject to an additional charge of 3 cents for each pound or fraction thereof, by which each such UNIT'S weight exceeds 15 pounds."

The applicant testified that approximately 99½ per cent of his traffic consists of shipments weighing less than 25 pounds, which are subject to the minimum charge of 40 cents provided in his tariff.<sup>4</sup> He claimed that a 40-cent minimum per shipment is insufficient for the type of service rendered and that because of the character of the property transported, relief from the necessity of weighing shipments is highly desirable. Under the unit system of rates proposed, he asserted, weighing ordinarily would not be required. The witness acknowledged that his objection to weighing shipments was directed chiefly at the inconvenience involved and stated that in other respects the proposed increase of his minimum charge from 40 to 50 cents would meet his revenue requirements.

Applicant testified further that, based on the present tariff rates, his business was conducted at a loss during the past three years. He stated that at a basic rate of 50 cents per shipment the earned return on his capital investment would have been 1.79 per cent in 1939, 3.10 per cent in 1940 and 2.19 per cent in 1941. A public accountant corroborating applicant's testimony relating to his need for additional revenue, testified that applicant's net return for the year 1941, after disposing of maintenance, operating and depreciation expenses, but before allocating a salary to the applicant, would have been only \$2,400 under a basic 50-cent rate.<sup>5</sup> This witness estimated that under most favorable conditions

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According to the witness, the shipments transported are divided as follows:

<u>TYPE OF SHIPMENT</u>	<u>PER CENT OF TOTAL</u>
Funeral pieces, averaging 5 pounds per piece . . . . .	50
Corsages, averaging 12 ounces each . . . . .	25
Cut flowers, averaging 1½ pounds per box . . . . .	16
Floral arrangements, averaging 6 pounds per arrangement . . . . .	5½
Potted plants, averaging 12 pounds per plant . . . . .	3
Large or unusual shipments, weighing over 25 pounds . . . . .	½

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The applicant expressed the opinion that he is entitled to a salary of not less than \$2,400 per year.

revenue produced by the sought rates would not result in a return on invested capital of more than 4 or 5 per cent.

The applicant also requested exemption from the requirements of Decision No. 35271 of April 14, 1942, Increased Rates and Charges, 1942, which, among other things, prescribed a 6 per cent increase in collect-on-delivery charges. He said that he hauled little or no traffic involving such collections. Justification of the other tariff adjustments sought is limited to that contained in the application. The proposed rates are said to be adequate to insure protection on claims not exceeding \$10, the normal value of the property involved, but not on claims exceeding that amount. It is represented that the basic rates proposed are, therefore, limited to that value and additional charges are sought to be established for shipments of greater value. The delivery conditions rule is said to be necessary in order to assure an expedited delivery of the perishable traffic involved.

A group of shippers, said to be composed of applicant's principal patrons, asked that the application be granted. These shippers asserted that applicant's service was essential to the conduct of their business and urged that nothing be done which would hamper his operations. Other shippers were notified of the filing of the application and of the hearing therein and none of them opposed the granting of the sought authority.

The showing made discloses that applicant requires additional revenue. An increase of from 40 to 50 cents in the basic minimum charge, applicable to shipments weighing 25 pounds or less, appears justified from the showing of applicant's revenue needs made on this record.

In other respects, however, applicant's showing fails to establish the propriety of his proposals. With regard to applicant's contention that weighing requirements are unduly burdensome, it appears that his proposed basis of rates not only contemplates weighing in order to calculate charges on shipments weighing

more than 15 pounds, but, in addition, measuring to determine whether shipments exceed 75 united inches. Hence, it appears that handling costs would be increased rather than decreased were the proposed unit basis authorized.

No evidence was submitted to show the extent of claims for loss or damage arising in the past or of other circumstances justifying the limitation of liability provision proposed. Except for an unsupported assertion in the application that the conditions sought to be imposed are essential to an expedited delivery service, the record shows no need for the proposed rule relating to delivery conditions. Likewise, no reason has been made to appear why applicant should deviate from the generally prevailing rates for collect-on-delivery service. Applicant is a respondent in Case No. 4246 and is under direction by outstanding orders therein to establish and maintain the prescribed rules of Decision No. 31606, as amended in so far as they pertain to his operations. The showing made herein fails to demonstrate that deviations from these rules are justified. It will be expected that he will make such changes in his tariff as may be necessary to bring it into conformity with the prescribed rules.

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 Melvin Roy, doing business as Flo'Del Company, be and he is hereby authorized to amend his Freight Tariff No. 1, C.R.C. No. 1, by publishing a basic minimum charge of 50 cents in lieu of the currently effective minimum charge of 40 cents per shipment for the transportation of shipments weighing 25 pounds or less.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is void unless exercised within ninety (90) days from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that in all other respects the 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 1<sup>st</sup> day of September, 1942.

Justus J. Casner

[Signature]

Frank R. Havens

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Commissioners