

Decision No. 36676

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)  
 FLOYD A. GREENE and D. J. GLARDON, )  
 Copartners Operating Under the Name) Application No. 25733  
 of ARROW TRANSFER, for Permission )  
 to Charge Less Than Established )  
 Rates for Transporting Flour. )

**ORIGINAL**

BAKER, COMMISSIONER:

Appearances

P. A. Whitacre, for applicants.  
 C. A. Hodgman, for Harbor Commission of San Diego  
 and San Diego Chamber of Commerce, interested  
 parties.

O P I N I O N

By this application Floyd A. Greene and D. J. Glardon, copartners operating under the name of Arrow Transfer, seek authority under Section 10 of the City Carriers' Act to assess rates and accessorial charges less than those established by the Commission as minimum for the transportation of flour between points within the City of San Diego.

Public hearing was had at San Diego on September 29, 1943.

The service here involved is the transportation of flour in truckload lots from public team tracks in San Diego to the San Diego bakeries. This service was formerly performed by Earl H. Robinson, whose business was also conducted under the name of Arrow Transfer. The present applicants acquired the business from Robinson, including vehicles and other equipment, on or about May 1, 1943. Drivers and other employees were retained, and witnesses testified that the new owners were conducting precisely the same type of trucking business as was done and maintained by Robinson prior to the transfer.

The proposed rates are higher by one-half cent per 100 pounds than those which Robinson was authorized to observe as minimum (Decision No. 34346, as amended, in Application No. 23887), but are in fact the same as those which have been actually charged for more than a year. The proposed rates range from  $4\frac{1}{2}$  to  $6\frac{1}{2}$  cents per 100 pounds, according to the locations of origin and destination, with additional charges of one-half cent, or one cent, (depending upon the service required) for extra handling at destination.<sup>1</sup> Upon taking over the business from Robinson, applicants continued to observe the rates and charges for which authority is here sought. One of the partners testified that they had understood and assumed that this could lawfully be done under the authority granted to the former owner. The application asks that the rates be made retroactive to May 1, 1943.

Current information concerning the cost of performing the service was introduced by applicants' office manager, a transportation accountant who had formerly been employed by Robinson. According to the cost exhibit, the margin of profit at the proposed rates would be ample, ranging from 13 to nearly 32 per cent of the revenue, without inclusion of the accessorial charges. The cost study does not purport to be complete and detailed in all respects, but is similar to that which was introduced in the Robinson application, supra, adjusted to reflect recent increases. It does not make provision for depreciation on buildings owned, or for certain other items. Considered as a whole, however, and in view of the history of this operation, the evidence is convincing that the proposed rates and charges will be compensatory.

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The established minimum rates for general application are uniformly higher by one and one-half cents per 100 pounds. The established minimum accessorial charges are not readily comparable, but are in all cases higher than those proposed.

No one opposed the granting of this application.

Upon consideration of all of the facts and circumstances of record, I am of the opinion and find that the rates and charges proposed in this application will be reasonable for the transportation here involved. The application should be granted accordingly, except in so far as it requests that the rates be made retroactive. Under the circumstances herein disclosed, it is regrettable that the bakeries should be penalized by the imposition of higher charges for transportation performed by applicants since May 1, 1943, but applicants have not cited any provision of law by which the desired relief may be granted. The Commission has upon several occasions declined to establish retroactive rates under the City Carriers' and Highway Carriers' Acts, due to an absence of any showing of statutory authority therefor.<sup>2</sup>

The findings herein are necessarily predicated upon existing conditions, and the authority hereinafter granted should, therefore, be limited to a period of one year. If, prior to the time of expiration, applicants are of the opinion that an extension is justified, an appropriate supplement application should be seasonably filed.

I recommend the following form of order:

#### O R D E R

Public hearing having been held in the above entitled application, and based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

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See Application of J. A. Clark Draying Co. (Decision No. 29105 in Application No. 20629); Application of Triangle Transfer & Storage Company (Decision No. 29974 in Application No. 21275); and Applications of C. & R. Transfer Company (Decision No. 29992 in Applications Nos. 21309 and 21310).

IT IS HEREBY ORDERED that applicants Floyd A. Greone and D. J. Glardon, copartners operating under the name of Arrow Transfer, be and they are hereby authorized to assess and collect for the transportation for which rates are provided in Appendix "A" attached hereto and by this reference made a part hereof, rates and charges less than the minimum rates and charges heretofore established by the Commission, but in no event less than those provided in said Appendix "A."

IT IS HEREBY FURTHER ORDERED that in connection with transportation for which rates are provided in Appendix "A" hereto applicants shall issue and preserve a freight bill for each shipment received for transportation, in accordance with the requirements of Decision No. 35055, as amended, in Case No. 4434, and shall observe in connection with such transportation all rules and regulations established in and by City Carriers' Tariff No. 7, Highway Carriers' Tariff No. 9 (Appendix "A" to said Decision No. 35055), as amended, which are not inconsistent with those specifically provided in Appendix "A" hereto.

IT IS HEREBY FURTHER ORDERED that in connection with transportation for which rates are provided in Appendix "A" hereto applicants shall abstain from quoting, assessing, charging or collecting rates or accessorial charges based upon a unit of measurement different from that in which such rates and charges are stated.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this order unless sooner changed, canceled or extended by appropriate order of the Commission.

This order shall become effective on the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26<sup>th</sup> day of October, 1943.

Francis K. Heron  
U.S.A.M.  
Arthur J. Casper  
Richard L. Kirby  
Myra C. Clark  
Commissioners

APPENDIX "A"

ITEM NO. 10 - APPLICATION OF RATES

(a) Rates provided in this appendix apply only for the transportation of flour in shipments subject to a minimum weight of 30,000 pounds, for shippers and consignees listed in Item No. 30, between points within the corporate city limits of San Diego.

(b) Rates include unloading from rail car at point of origin, and tailgate unloading at point of destination. (See Item No. 50 for accessorial charges for delivery beyond tailgate.)

ITEM NO. 20 - DEFINITION OF TERMS

(a) SHIPMENT means a quantity of freight tendered by one shipper on one shipping document at one point of origin at one time for one consignee at one point of destination.

(b) TAILGATE UNLOADING means unloading of the shipment from carrier's equipment and placing it at a point not more than 25 feet distant from said equipment.

ITEM NO. 30 - SHIPPERS AND CONSIGNEES

Mrs. Conkling's Bakery  
Continental Baking Company  
Fisher Flouring Mills Company  
Franco Superior Bakery  
Snowflake Bakery  
Southern California Baking Company  
Winter Baking Company  
Heber's Bakery, Division of Interstate Bakeries  
Bowie Pie Co.

ITEM NO. 40 - EXPLANATION OF ZONES

Zones referred to herein are Zones 1, 2 and 3 as described in Item No. 30 of City Carriers' Tariff No. 7, Highway Carriers' Tariff No. 9, in so far as such zones embrace territory within the corporate city limits of San Diego.

ITEM NO. 50 - ACCESSORIAL CHARGES

(a) When delivery service other than tailgate unloading is performed, the following accessorial charges shall be made:

(1) For delivery beyond tailgate at street level, including stacking if required, not to exceed 12 sacks high, one-half cent per 100 pounds.

(2) For delivery beyond tailgate at street level, including stacking in excess of 12 sacks high, one cent per 100 pounds.

(3) For delivery beyond tailgate at other than street level, without stacking, one-half cent per 100 pounds.

(4) For delivery beyond tailgate at other than street level, including stacking, one cent per 100 pounds.

ITEM NO. 60 - RATES

Minimum Weight 30,000 Pounds

<u>From Rail Team Tracks in Zone 1 to points in</u>	<u>Rates in Cents per 100 pounds</u>
Zone 1	4½
Zone 2	5½
Zone 3	6½

  

<u>From Rail Team Tracks in Zone 2 to points in</u>	
Zone 1	5½
Zone 2	4½
Zone 3	6½

End of Appendix "A"