

Decision No. 40914

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOHN T. LANE for an order granting)
 permission to charge less than the) Application No. 28709
 minimum rates on shipments transported)
 for The Coca-Cola Company.)

Appearances

Aaron H. Glickman, for applicant.
 Burdette J. Daniels, for The Coca-Cola Company.
 Frederick W. Mielke, for Delta Lines, Inc.
 Berol and Handler, by Edward H. Berol, for
 Highway Transport, Inc.

O P I N I O N

Applicant is a highway contract carrier. He commenced operating in January of this year. His operations have been limited to the hauling of syrup and empty syrup barrels for The Coca-Cola Company. The syrup has been transported from San Francisco to eighteen bottling plants situated in northern and central California.¹ The empty barrels have been returned from these plants to San Francisco. Two additional bottling plants in northern California are proposed to be served.²

Minimum rates applicable to the above described transportation are set forth in Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, 41 C.R.C. 671, as amended).

¹ These plants are located at San Rafael, Petaluma, Santa Rosa, Vallejo, Napa, Sacramento, Oakland, San Mateo, San Jose, Salinas, Monterey, Watsonville, Santa Cruz, Stockton, Modesto, Merced, Fresno and Visalia.

² They are situated at Willits and Eureka.

These rates were increased by Decision No. 40557 of July 22, 1947, in Case No. 4808.³ The increased rates were made effective September 1, 1947. Applicant seeks authority to revert to the rates theretofore in effect. This authority is sought for a one-year period.

A public hearing was had at San Francisco on September 19, 1947, before Examiner Mulgrew.

The syrup is handled in truckload quantities. Each truckload weighs approximately 30,000 pounds. Some of these consignments are split delivery shipments for two or more bottling plants situated on the same route. Service to each of the eighteen plants is usually rendered at least once a week. Empty barrels are transported to San Francisco on return trips. Employees of The Coca-Cola Company and the bottling plants assist in the loading and unloading operations.

Applicant submitted studies showing that for the eight months ending August 31, 1947 his operating revenue amounted to \$22,324.11. These studies also purport to show that during this period expenses aggregated \$17,434.21, leaving a net operating revenue of \$4,889.90, before provision for income taxes. On cross-examination it was developed that applicant's expense

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Decision No. 40557 increased class rates by 7 per cent plus amounts in cents per 100 pounds ranging from 4 cents in the "any-quantity" to $\frac{1}{2}$ cent in the truckload weight brackets. It increased commodity rates by 10 per cent.

figures understate the cost of providing the service.

Applicant's investment, \$5,721.06 in January, is disclosed by his studies as amounting to \$20,622.75 in August. Provision for depreciation in the sum of \$1,123.47 is made. As so depreciated, the average investment during the period is calculated as \$11,886.74.

Based on his January-through-August operating experience and on his appraisal of the volume of the traffic he will handle in the September-through-December period, applicant estimated that his operating revenues for this latter period would be \$16,000.00. This estimate was figured on the rates in effect prior to the September increase. It assumes that monthly revenues will be somewhat lower than the \$4,700 derived from the August hauling.

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For example, no provision was made for the owner's salary during January and February when he operated only one equipment unit and did all of the driving himself in addition to his other work. Commencing with March he drew a salary of \$500 per month. Similarly, an allocation for space in applicant's home used as an office was not made until April, when \$15 per month was assigned to cover this expense. No compensation was allowed for office work performed by a member of applicant's family involving an estimated time of three quarters to one hour each day.

The \$12.33 shown as the cost of workmen's compensation covered only a deposit paid to the insurance company. The premium subsequently fixed, \$3.75 for each \$100 of wages, amounts to \$137.25 on the \$3,660.42 drivers' and helpers' payroll. The expense of collision insurance admittedly was not included in applicant's cost figures. Likewise, no cost was shown for garaging the equipment. Applicant stated that he incurred no storage expense because his equipment was stored without charge by the garage which did his repair work and supplied him with gas and oil. There is some question as to whether or not applicant will be required to make an adjustment of drivers' and helpers' wages retroactive to May 1, 1947. The amount of any such liability was not disclosed. During the period in question, however, only one man was said to have been employed on a full time basis. Another man assertedly was employed approximately two thirds of the time.

Estimated operating expenses for the September-through-December period are shown as \$13,767.68 and the net operating revenue as \$2,232.32. In making these calculations provision was made for continuing applicant's salary at the \$500 per month figure, for the hiring of an additional driver to relieve him of some of that work, and for office rent at the \$15 per month basis. Drivers' and helpers' wages were computed on the current wage scales. In other respects applicant's cost estimates were based on his previous experience. The estimated costs do not provide a salary for the office work. Workmen's compensation insurance expense is admittedly understated. Collision insurance and storage of equipment are not provided for in the cost figures.

The investment figure, \$20,622.75, in August, remains unchanged in the estimates for the September-through-December period. Accrued depreciation at the end of this period is shown as \$2,403.91 and the depreciated average investment is calculated as \$19,822.47.

The regional traffic manager of The Coca-Cola Company testified that prior to the time applicant commenced operating the company used railroad service for transportation to most of the bottling plants involved and other for-hire carriers for transportation to the remainder. The establishment by the rail lines of a minimum rate of 50 cents per 100 pounds, he said, had prompted the company to change its method of distributing its syrup.

The traffic manager also testified that his concern wanted to maintain the price of its drink notwithstanding increases in wages, materials and transportation. He stated that if this application is denied consideration would be given to proprietary operations, probably with leased equipment. Some preliminary study, he said,

had been given to leasing one equipment unit for the syrup hauls here involved and using for-hire carriers for the traffic which that unit would not be able to handle.

Counsel for protestant Highway Transport, Inc. objected to the admission in evidence of applicant's studies, on the grounds that they are based on insufficient and incomplete records and do not truly and correctly reflect all the operating expenses incurred. Highway Transport, Inc. and Delta Lines, Inc. both contend that applicant's presentation does not justify rates lower than the minimum rates and that this is not a proper case for the granting of authority to observe such lower rates.

It is admitted, and the record shows, that there has been some understatement of applicant's expenses for the January-through-August period. While it is not possible on the basis of the record to determine precisely the extent of this deficiency, it is nevertheless clear that the traffic involved was handled on a compensatory basis.

In regard to the September-through-December estimates, applicant has corrected the more serious of the deficiencies, namely, those involving remuneration for applicant and his drivers and helpers. Other admittedly necessary adjustments, together with cost matters which are in dispute, do not appear to amount collectively to a sum which would seriously affect the probability of applicant being able to conduct operations under the sought rates on a compensatory basis under the circumstances and conditions of record here. The granting of authority to observe the sought rates will avoid any diversion of traffic from for-hire to proprietary operations.

We are of the opinion and hereby find that applicant's proposed rates have been shown to be reasonable. The application will be granted.

O R D E R

Based on the evidence of record and the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that John T. Lane be and he is hereby authorized to transport syrup for The Coca-Cola Company from San Francisco to San Rafael, Petaluma, Willits, Eureka, Santa Rosa, Vallejo, Napa, Sacramento, Oakland, San Mateo, San Jose, Salinas, Monterey, Watsonville, Santa Cruz, Stockton, Modesto, Merced, Fresno and Visalia and empty syrup barrels from the above listed points to San Francisco, for The Coca-Cola Company, at rates lower than the minimum rates for such transportation but not lower than the minimum rates for like transportation in effect on August 31, 1947.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this order.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 12th day of November, 1947.

Harold Kule

Justus F. Galloway

Earl K. Powell

R. F. Dwyer

Commissioners