

ORIGINAL

Decision No. 41413

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of just, reasonable and nondiscriminatory maximum or minimum or maximum and minimum rates, rules, classifications and regulations for the transportation of property for compensation or hire over the public highways of the City of Los Angeles.) Case No. 4121

In the Matter of the Application of FRANK J. BROWN, doing business as A. & B. GARMENT DELIVERY for authority to increase his rates.) Application No. 28965

Appearances

Arlo D. Poe, for Frank J. Brown, doing business as A. & B. Garment Delivery, petitioner in Case No. 4121 and applicant in Application No. 28965.

Preston W. Davis, for United Parcel Service of Los Angeles, Inc., respondent in Case No. 4121 and interested party in Application No. 28965.

(For earlier appearances in Case No. 4121 see previous decisions in that proceeding)

O P I N I O N

Frank J. Brown, doing business as A. & B. Garment Delivery, is engaged in the transportation of garments, on hangers, between wholesale and retail stores in the metropolitan Los Angeles area. He is authorized to operate as a highway common carrier between designated communities, and as a permitted carrier elsewhere. In these proceedings he seeks (1) authority to increase his highway common carrier rates, and (2) the establishment of minimum rates particularly applicable to the transportation of garments on hangers within the Los Angeles Drayage Area.

Public hearing was had before Examiner Bryant at Los Angeles on January 22, 1948. The matters are ready for decision.

The transportation herein involved is a specialized type of service. As performed by applicant¹, finished garments on hangers, encased in protective bags supplied by the carrier, are transported in vehicles which are equipped with garment racks and are used for no other service. Each bag encloses a number of garments, generally limited to a maximum of 25. This method of handling permits various conveniences and economies to shippers and consignees, including particularly a saving in the expense of wrapping, packing, and subsequent pressing.

Brown's present tariff rates, and those which he proposes to publish, are as follows:

Present: - 15 cents per bag plus 1 cent per pound, but not less than 15 cents per bag plus 2 cents per garment, for all garments except women's blouses or shirts which shall be 1 cent each.

Proposed:- 20 cents per bag plus 1½ cents per pound, but not less than 20 cents per bag plus 2½ cents per garment, for all garments except women's blouses or shirts which shall be 1 cent each.

Applicant asks that the Commission establish as minimum, for all carriers transporting garments on hangers within the Los Angeles Drayage Area, a rate of 20 cents per bag plus 1 cent per pound, but not less than 20 cents per bag plus 1 cent per garment for women's blouses or shirts and 2 cents per garment for all other garments. This rate, with accompanying rules, would be published as an exception to the present minimum rate of 14 cents per package or piece plus one-half cent for each pound or fraction thereof of its gross weight.²

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As a matter of convenience, Frank J. Brown, who is petitioner in one proceeding and applicant in the other, will be referred to herein as applicant.

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The latter rate is set forth in Item No. 325-A of the so-called Los Angeles Drayage Tariff (City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5, which is Appendix "A" of Decision No. 32504 (42 C.R.C. 239). The tariff names also other bases of rates in which no changes are proposed. It was applicant's position that the other bases are not adaptable to the specialized service of transporting garments on hangers.

Brown described the development of his service and the details of its performance. He testified that he pioneered this type of service in 1940; that he encountered competition from other carriers from time to time; that three or four such competitors were operating currently; and that two competitors in particular make a business of this specialized type of service. It was his understanding that these two carrier assess rates generally the same as his, although with some deviations. He said that he had discussed the instant application and petition with these two operators, and that they had indicated their approval.

Applicant stated that his rates have been increased only slightly since 1940, although the cost of rendering the service has advanced materially. He declared that current operations, both for city drayage and highway common carriage, were resulting in operating losses. He believed it necessary, if his business were to be continued, that rates for both services be increased promptly. According to his testimony, an increase in his drayage rates without the support of a corresponding minimum rate order would result in the diversion to imprudent competitors of local traffic which was badly needed to round out his operations. He testified that his highway common carrier service is complemented by the city drayage business, and could not be successfully carried on without it. It was his estimate that the proposed rates, if applicable during a studied period of twelve months, would increase his highway common carrier revenues by \$8,100, or 21.5 per cent, and his drayage revenues by \$7,800, or 7 per cent.

A consulting transportation engineer, testifying in applicant's behalf, introduced and explained a study which he had made of the revenues, expenses, and costs developed by applicant. Using figures for the year ending September 30, 1947, modified to reflect recent increases in expenses and to allow a salary to the owner, he

estimated a net loss from operations of \$8,943, of which he attributed \$7,320 to the highway common carrier services and \$1,623 to the city service. He calculated that if revenues were to be increased sufficiently to make the operation profitable, based upon an operating ratio of 93 per cent which he considered to be reasonable, the rates would have to be increased by 27.84 per cent for the certificated services and 9.08 per cent for the drayage service.

No one opposed applicant's proposal to establish increased rates for his own services, but the commerce attorney for United Parcel Service of Los Angeles, Inc. testified in opposition to the sought establishment of special minimum rates for all carriers operating within the Los Angeles Drayage Area. He explained that his company was not currently engaged in the type of service rendered by applicant, but objected to the minimum-rate proposal because of technical complications inherent in the suggested rate item, and because of difficulties which his company and others would encounter in republishing tariffs to comply with such minimum rates. He believed it to be generally undesirable to establish minimum rates according to the kind of container or shipping form in which articles are tendered, or according to the type or class of service to be rendered. It was his opinion that minimum rates should be based upon the cost of ordinary freight transportation under normal operating conditions, leaving specialty carriers free to make their own rates based upon the particular service which they offer. Referring specifically to the item proposed by applicant, the attorney pointed out possible ambiguities and cited questions which might arise regarding its interpretation. This witness agreed that the existing minimum rate of 14 cents per package plus one-half cent per pound was inadequate for the type of service rendered by applicant, but declared that the difficulty lay in the rate being subnormal even for regularly

packaged merchandise. He argued that, in any event, applicant's cost showing in support of the sought minimum rate was inadequate for the reason that it was based on averages which excluded some shipments within the drayage area, included others without the area, and admittedly contained desirable hauls which were handled at less than the average cost.

In reply argument, applicant's counsel urged that it is the Commission's function to establish reasonable minimum rates in order that the public might be assured of adequate transportation. He said that applicant's services, although specialized, were necessary and should be preserved. Conceding that the suggested minimum-rate item might have technical infirmities, and might present problems, he urged that the proposal not be rejected on such grounds if the Commission deemed it to be otherwise reasonable. He asked that the Commission prescribe the item in modified form if necessary, permitting further refinements to be suggested at subsequent hearings.

The record is clear that applicant provides a specialized service of value to that portion of the public which deals in garments, clothing, and wearing apparel. That the rates currently maintained by applicant produce insufficient revenue to permit profitable operations cannot be questioned on the evidence which has been submitted. Based upon data submitted by the consulting engineer, the rates as proposed by applicant would produce an operating ratio of 98.2 per cent on the highway common carrier services, leaving less than 2 per cent of the gross revenues for income taxes and profit.³ Clearly the revenues which may be anticipated from the proposed rates would not be excessive or unreasonable. Upon consideration of the

³ On the same bases, the operating ratio for the city drayage would be 94.8 per cent, and the average for all operations would be 95.7 per cent.

facts and circumstances of record the Commission is of the opinion and finds as a fact that the rates sought by applicant in Application No. 28965, as amended, are justified, and that the publication of such rates on ten days' notice to the Commission and to the public is justified. The application will be granted.

Applicant's petition, as it relates to the establishment of minimum rates applicable to other carriers within the Los Angeles Drayage Area, cannot be found justified on this record. The evidence introduced on applicant's behalf was developed almost entirely from his own records and experience, without specific reference to the current experience of other carriers. His own records were not segregated in such manner as to permit any clear distinction between operations within and without the Los Angeles Drayage Area. Moreover, even though a segregation were available, minimum rates of general application should not be established solely upon the revenue experience of any single carrier. The petition in Case No. 4121 will be denied.

O R D E R

Public hearing having been had in the above entitled proceedings, full consideration of the matters and things involved having been had, and the Commission being fully advised,

IT IS HEREBY ORDERED that Frank J. Brown, doing business as A. & B. Garment Delivery, be and he is authorized to amend, on not less than ten (10) days' notice to the Commission and to the public, the paragraphs under heading "RATES", appearing in Item No. 100 of his Local Freight Tariff No. 1, C.R.C. No. 1 (Frank J. Brown & Mascotte Ralston, d.b.a. A. & B. Garment Delivery, series), and appearing in Item No. 100 of his Local Freight Tariff No. 2,

C. R. C. No. 1, to read as follows:

"20 cents per bag plus $1\frac{1}{2}$ cents per pound, but not less than 20 cents per bag plus $2\frac{1}{2}$ cents per garment, for all garments except women's blouses or shirts which shall be 1 cent each."

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire except to the extent that rates and charges published pursuant to this authority are filed and made effective within ninety (90) days from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that the petition of Frank J. Brown, doing business as A. & B. Garment Delivery, filed in Case No. 4121 on December 22, 1947, be and it is hereby denied.

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

Dated at San Francisco, California, this 30th day of March, 1948.

R. Z. Indurana
Justin F. Gannon
Leopoldo L. L. L.
Harold A. Hill
Remond P. P.
Commissioners