

Decision No. 44134

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Forwarding Company for authority to perform transportation service for Pacific Coast Wholesalers' Association in the Los Angeles Drayage Zone at less than minimum rates, rules and regulations heretofore established by the Commission in Case No. 4121.) Application No. 30930

Appearances

Gordon and Knapp, by Wyman Knapp, for San Diego Forwarding Company, applicant.

Arlo D. Poe, for Motor Truck Association of Southern California, interested party.

H. J. Bischoff and W. A. Steiger, by W. A. Steiger, for Southern California Freight Lines and Southern California Freight Forwarders, protestants.

O P I N I O N

San Diego Forwarding Company, a California corporation, is engaged in transporting property for compensation under authority of highway contract carrier and city carrier permits issued by the Commission.¹ By the above-numbered application, as amended, it seeks authority to assess, for certain transportation service it performs for Pacific Coast Wholesalers' Association, a rate which is less than the established minimum rates.

Public hearing of the matter was had before Examiner Abernathy at Los Angeles on March 2, 1950. Evidence received in a prior proceeding relating to matters in issue herein was also² incorporated in the present record by reference.

¹ San Diego Forwarding Company is also engaged in performing other types of transportation service which are not involved in this proceeding.

² The evidence which was received in the earlier proceeding is set forth and discussed in Decision No. 43483, dated November 1, 1949, in Case No. 4121. In that proceeding San Diego Forwarding Company petitioned the Commission to establish, as a minimum rate, virtually the same rate as that for which authority is herein sought. The petition was denied for the reason that it did not appear that the sought minimum rate would be reasonable and nondiscriminatory; moreover, general need for the rate had not been shown.

Evidence in support of the application, and that adduced in the prior proceeding, was submitted by applicant's president and by the general manager of Pacific Coast Wholesalers' Association. According to the record Pacific Coast Wholesalers' Association is a nonprofit shipper association which is engaged in consolidating and forwarding shipments of auto parts, hardware, and machinery in rail carload lots from eastern points of origin to various destinations in the Pacific Coast area. Upon arrival at destination the cars are unloaded and the shipments are segregated and delivered to the association members. The association pays the applicable transportation charges and bills the members for their respective shares of the charges.

The service involved in this proceeding consists of the unloading of freight cars which arrive at Los Angeles; the segregation of the component parts of the pool car shipments; and the delivery of the shipments to the association members who are located within that portion of Los Angeles County referred to at times as the Los Angeles drayage area.³ It was stated that the volume of the freight which is distributed within the drayage area for the account of the association approximates five million pounds annually.

The association's general manager testified that the accounting methods of his organization for distributing among the members the costs incident to the consolidation, forwarding, and delivery of shipments are based primarily upon the assessing of flat amounts per 100 pounds, without regard to classification of the freight. He said that with respect to shipments delivered within the Los Angeles drayage area special procedures for allocating the charges are required by the fact that the volume of the charges depends in part on the classification of the various articles included in each car. In order that the expense of the special procedures might be avoided, he believed that a flat rate to apply regardless of

³ The drayage area is described in Items Nos. 30, 31, 32 and 33 series of City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5 (Appendix "A" to Decision No. 32504, as amended, in Case No. 4121).

classification should be authorized to cover the services involved in delivering the association's shipments within the drayage area.⁴

The association witness was of the opinion that a rate which would result in lesser charges than those which are assessed under the applicable minimum rates would be justified. He said that the association does certain billing services which relieve the carrier of expense; the carrier is not required to effect any collections in connection with the deliveries; neither is it required to file any loss and damage claims against other transportation companies. Because of the asserted savings to the carrier, the witness believed that the association should have the benefit of lower charges on its shipments.

Applicant seeks authority herein to assess a flat rate of 24 cents per 100 pounds to cover the combined services it performs in unloading, segregating, and delivering the association's shipments. Applicant's president declared that the shipments are less bulky and easier to handle than are pool car shipments generally. Billing costs assertedly are less because of billing services performed by the association. No claim service against other carriers, or allocation and collection of freight charges is required. On the basis of a study which he had made covering 18 carloads, totaling 457,596 pounds, distributed for the association during October, 1949, the witness calculated that the minimum class rates had returned an average rate of 24.56 cents per 100 pounds. His study indicates that had the hourly rates which the tariff provides been assessed, the resulting charges would have been equivalent to those resulting from an average rate of 24.53 cents per 100 pounds; had the unit rates been assessed, the resulting charges would have been equivalent to an

⁴ The witness said that up to two hours' time per car is required by the association to compute and verify the charges assessed by applicant in accordance with the minimum class rate provisions of City Carriers' Tariff No. 4. Highway Carriers' Tariff No. 5.

average rate of 40.64 cents per 100 pounds.⁵ The witness said that the minimum hourly rates have not been assessed for transportation of the association's shipments. He recognized that the classification of freight is not required when the hourly basis of charges is employed. He asserted, however, that in order to obtain efficient use of his company's vehicles it is necessary to mingle the association's shipments with those of other consignors, and that when the shipments are mingled, it is difficult to apply the hourly rates. Applicant's president declared that he is satisfied that the sought rate of 24 cents per 100 pounds would be compensatory. He said that his conclusions in this respect were based upon certain calculations he had made earlier in the year. However, he did not have available any financial data to show specifically what his company's earnings from the sought rates would be.

Granting of the application was opposed by a representative of Southern California Freight Lines and Southern California Freight Forwarders, who participated in the cross-examination of the witnesses. A representative of the Motor Truck Association of Southern California also participated in the proceeding as an interested party.

Before the rate which applicant seeks to establish may be authorized, the Commission must, in conformity with provisions of the City Carriers' Act and the Highway Carriers' Act, make a finding that the rate is reasonable and consistent with the public interest.⁶ Applicant undertook to establish that the sought rate would be reasonable by showing that the service entails lesser expense than does other transportation service which may be performed at the

⁵ In addition to minimum class rates, City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5, provides hourly, weekly, and monthly rates; package rates; and rates which vary according to the number of defined units transported within a calendar month.

⁶ See Section 10, City Carriers' Act and Section 11, Highway Carriers' Act.

minimum rates. The record is clear that a substantial portion of the asserted operating economies which applicant enjoys is attributed to the fact that the association performs certain billing functions. A reduction in operating expenses of a carrier resulting from preparation of freight bills by a shipper is not an acceptable basis for authorizing a rate which is less than the minimum rates. As stated in Decision No. 43483, supra, freight bills are a primary record of a carrier and the preparation of this important record should not be delegated to others.⁷ Even though applicant should be able to transport the association's shipments at somewhat lesser costs than it would incur otherwise, that fact, standing alone, does not justify a finding that the sought rate is reasonable. Consideration must be given to the compensatory nature of the rate. Applicant did not prove that the rate would return the cost of the service plus a reasonable profit. The testimony of applicant's president, unsupported as it was by specific financial data relating to the operation, did not establish that the rate would be adequately compensatory.

In so far as applicant and the Pacific Coast Wholesalers' Association are concerned, a flat rate to cover the services involved undoubtedly would be a more convenient basis for determining the applicable charges than are any of the bases of rates which are set forth in the minimum rate tariff. However, it appears that it

⁷ With respect to certain of the other asserted operating economies it appears that such economies stem from the fact that applicant is not called upon to provide services for which additional charges are provided in City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5. For example, the matter of preparing loss and damage claims and filing them upon behalf of the association appears to be a service which is properly classifiable as an accessorial service and for which an additional charge would be applicable. Although applicant company, by not performing the service, does not incur the expense incident thereto, it also does not receive the additional revenue which it would otherwise earn.

is within applicant's province at present to moderate some of the alleged difficulties being experienced by the association in connection with the class rates by assessing charges on the basis of other rates which are provided in the applicable tariff. For example, should the hourly rates be assessed, both applicant and the association would be relieved of the necessity of classifying the various shipments. Whether the hourly rates would be sufficiently profitable for applicant's purposes cannot be determined from the record.

Nevertheless, it is noted that applicant's study indicates that the hourly rates are equivalent to a greater average rate, stated in cents per 100 pounds, than the rate sought herein. In a proceeding of this nature it is necessary that the Commission weigh the asserted inconveniences which may result from use of the established bases of minimum rates and regulations against the public benefits which are derived from the maintenance of a stabilized basis of transportation charges. In order to preserve these benefits for the public, the Commission will not authorize deviations from the established rates and regulations in the absence of a clear affirmative showing that such rates and regulations would prove unduly burdensome or impracticable. (See Decisions Nos. 35064, A & B Garment Delivery 44 CRC 48, 49); 35518, R. W. Baetz (44 CRC 267, 271); and 32320 in Application No. 22408, Ben Gruell, (unreported)).

Upon careful consideration of the evidence of record, it is concluded that applicant has not shown its proposed rate to be "reasonable" or "consistent with the public interest" within the meaning of Section 10 of the City Carriers' Act, and Section 11 of the Highway Carriers' Act. The application will be denied.

O R D E R

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

IT IS HEREBY ORDERED that the above-entitled application
be and it is hereby denied.

The effective date of this order shall be twenty (20) days
after the date hereof.

Dated at San Francisco, California, this 2nd day of
May, 1950.

R. E. Anderson

Harold Lowell

Harold A. Kula

Herbert P. Potter
Commissioners

Commissioner Justus E. Craomer, being
necessarily absent, did not participate
in the disposition of this proceeding.