

Decision No. 44459

CONFIDENTIAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
FORTIER TRANSPORTATION COMPANY for)
authority to depart from the rules)
and regulations of Highway Carriers')
Tariff No. 2, under the provisions)
of the Highway Carriers' Act.)

Application No. 26241
(7th Supplemental)

Appearance

Edward M. Berol, for applicant

EIGHTH SUPPLEMENTAL OPINION

By prior orders in this proceeding Fortier Transportation Company, a corporation, has been authorized to deviate from the established minimum rates in connection with certain transportation services which it performs for Better Buy Grocery Company, Fresno. The present authority will expire on June 30, 1950. Applicant seeks a one-year extension on a modified basis.

Public hearing of the application was had before Examiner Abernathy at Fresno on May 16, 1950. The matter was submitted with the filing of certain exhibits on June 14, 1950.

The Better Buy company is a wholesale distributor of groceries and related articles. The transportation which is involved in this proceeding consists of the delivery of shipments totaling more than 650,000 pounds per week from Fresno to about 700 retail grocery stores in the San Joaquin Valley area between Bakersfield and Modesto. The number of different items which are transported is in excess of 2,500.

The authority hitherto granted permits (1) classification of shipments on a fixed percentage basis, and (2) observance of a flat rate for split deliveries. Thereunder, property in individual shipments is not classified according to the actual consist but according to percentages determined on an over-all basis. For the additional services required in connection with split-delivery shipments an average rate replaces varying charges otherwise applicable. In other respects the shipments are subject to the minimum rates based upon the weight of the shipments and the distance that they are transported.¹ In accordance with the terms of the present authorization, per-shipment charges, determined as described above, may not be less than those produced by a rate of 24 cents per 100 pounds. Applicant now seeks a year's extension of its classification and split-delivery authority and it proposes to assess per-shipment charges not less than those produced by a rate of 22 cents per 100 pounds, except that charges on shipments from Fresno to Pinedale and Easton and intermediate points shall be not less than those resulting from a rate of 10 cents per 100 pounds..

The authority originally stemmed from conditions arising during the recent war and was designed to alleviate difficulties resulting from serious manpower shortages. It was granted on a showing that the authorized rates would produce charges at least as great as the minimum rates, that the authority was necessary to preserve the transportation to for-hire carriage, and that it would not affect others adversely. The authority has been extended from year to year upon representations that substantially the same conditions prevail.

¹ The applicable minimum rates are those set forth in Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended, in Case No. 4246).

At the hearing in the instant phase of this proceeding the president of Better Buy Grocery Company testified that his company is the only grocery distributor in the area which utilizes for-hire carriage. He was of the opinion that continuation of the authority is essential to his company to enable it to meet the competition of grocery distributors who employ proprietary transportation facilities. He declared positively that if the sought rates are not authorized his company will acquire vehicles by purchase or by lease. Equipment on a lease basis is available, he said, and has been offered by various carriers. Should it become necessary to buy vehicles, the company assertedly is prepared to make the necessary expenditures. The witness pointed out a tax saving of approximately 6 percent of the transportation charges would be realized should Better Buy Grocery Company engage in a proprietary service.² He said further that if his company should embark upon a program of proprietary service, such transportation would not be limited to that involved herein, but would extend to other shipments being transported by for-hire carriers. The total volume of service being performed for his company by for-hire carriers, he estimated, approximates one and one-half million pounds a week.³

In justification of its proposal to assess a minimum per-shipment charge based upon a rate of 22 cents per 100 pounds, instead of the present rate of 24 cents per 100 pounds, applicant stated that during the past year it has been able to reduce operating costs through improvements in operating methods. These improvements were

² The witness was referring to state taxes of 3-1/4 percent applicable to carriers' gross receipts and to a federal transportation tax of 3 percent imposed upon for-hire carriage.

³ Much of the service is being performed by applicant herein.

said to have been accomplished through consolidation in routes which has resulted in greater loads; through revision of delivery schedules so as to provide for less frequent deliveries, thereby reducing vehicle mileage; and through changes in loading procedures. Applicant's assistant comptroller said that changes in loading procedures which were accomplished in February of this year have enabled applicant to reduce the number of vehicles which are required to transport the grocery company's shipments. He explained that in February the grocery company commenced night loading and a result has been that applicant now performs the same service with only six tractors and semi-trailers as it did before with seven tractors and twelve semi-trailers. The witness submitted an exhibit which he had developed to show earnings from the service during the month of March, 1950, and to show also what the earnings would have been had the sought rate of 22 cents per 100 pounds been in effect. The revenue and expense data for March, as set forth in the exhibit, are summarized in the following table:

	<u>Present rate</u> (24 cents per 100 pounds)	<u>Proposed rate</u> (22 cents per 100 pounds)
Revenues	\$6,573	\$6,025
Expenses	<u>5,573</u>	<u>5,526</u>
Net operating revenues	\$1,000	\$ 499
Operating ratio	84.78%	91.73%

The assistant comptroller declared that March is not a representative month in that a greater volume of shipments is attained later in the year, which results in higher earnings.

No one appeared in opposition to granting of the application.

The record in this proceeding shows that applicant was originally authorized to assess a flat rate of 3½ cents per 100 pounds for split deliveries and to classify shipments in accordance with the following fixed percentages:

	<u>Percent of total weight of shipment</u>
First Class	2.00
Second Class	1.00
Third Class	3.00
Fourth Class	3.00
90% of Fourth Class	91.00

Thereafter, in 1946, a study of the grocery company's tonnage disclosed a substantial change in the character of the traffic, the principal change being that fourth-class shipments had increased to 13.4 percent of the total whereas shipments in the lower classification had decreased to 82.4 percent. In recognition of this change and of asserted increases in operating costs applicant was authorized to apply a minimum charge per shipment based upon a rate of 20½ cents per 100 pounds. With subsequent extensions of the authority different minimum charges per shipment have been authorized, the last being based upon a rate of 24 cents per 100 pounds.⁴

An analysis of the grocery company's shipments which was introduced in evidence in the instant phase of this proceeding

⁴ The authority was originally granted by Decision No. 37338, dated September 20, 1944, and modified as indicated in 1946 by Decision No. 42801. The subsequent modifications are set forth in the fourth, fifth, sixth, and seventh supplemental opinions and orders in this proceeding.

discloses present classification divisions and an average split-delivery rate as follows:

	<u>Percent of total weight of shipment</u>
<u>Shipped under class rates</u>	
First Class	1.12
Second Class	.72
Third Class	2.95
Fourth Class	4.86
90% of Fourth Class	6.13
Fifth Class	59.10
Class "A"	.53
<u>Shipped under commodity rates</u>	
Flour	14.48
Cereal	2.78
Rice	.54
Sugar	6.79

Average rate for split deliveries: 7.79 cents
per 100 pounds.

In view of the present nature of the traffic, as disclosed by the foregoing analysis, it appears that applicant's present authority to classify shipments on a fixed percentage basis and to apply a flat rate for split deliveries should be amended to reflect present conditions. Separate percentages should be provided for truck-load and less-truck-load shipments in order to conform to the shipping practices as disclosed by the record.

The evidence shows that further extension of authority to classify shipments on a basis of fixed percentages and to assess a flat rate for split deliveries is still required by applicant to enable it to meet proprietary competition. Adjustment of the percentage relationships and of the rate for split deliveries to reflect current conditions would result in approximately the same transportation charges as would apply under the minimum rates. It is

apparent that such adjustment would lessen any need for applying minimum charges per shipment. Continuation of the minimum per-shipment charges does not appear necessary. Should applicant find it necessary to assess higher rates than the minimum rates, it may do so without specific authorization by the Commission.⁵

Upon careful consideration of all of the facts and circumstances of record, the Commission concludes and finds that the classification percentages and a flat rate for split deliveries, as specifically set forth in the following order, are reasonable and justified. The authorization on this basis will be granted for the ensuing year, but will be made subject to earlier cancellation or further change should circumstances warrant. To prevent lapse of applicant's authority, the order will be made effective June 30, 1950.

O R D E R

A public hearing having been had in the above-entitled proceeding, and based upon the evidence received and upon the conclusions and findings set forth in the preceding opinion,

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From the tenor of the evidence which was submitted at the recent hearing it appears that applicant now conceives that the rate which has hitherto been prescribed as the basis for minimum charges per shipment may be applied as a flat rate for the transportation of all shipments, regardless of classification, within the area involved. If such is applicant's understanding, it is not consistent with the authority which has been granted heretofore or with the authority which is sought in the supplemental application now being considered.

IT IS HEREBY ORDERED that Decision No. 37338, as amended, in this proceeding, be and it is hereby further amended by providing that

1. In lieu of the percentage basis heretofore authorized for classifying property, classification ratings shall be determined in accordance with the following:

<u>Less Truckload Shipments</u>		<u>Truckload Shipments</u> (minimum weight 30,000 pounds)	
<u>Percent of total weight of shipment</u>	<u>Rate as</u>	<u>Percent of total weight of shipment</u>	<u>Rate as</u>
1.0	1st Class	1.0	1st Class
1.0	2nd Class	1.0	2nd Class
3.0	3rd Class	3.0	3rd Class
5.0	4th Class	5.0	4th Class
72.5	90% of 4th Class	65.5	5th Class
14.0	See Note 1	14.0	See Note 1
3.0	See Note 2	3.0	See Note 2
0.5	See Note 3	0.5	See Note 3
		7.0	See Note 4

Note 1 - Rate as grain, grain products, and related articles as described in Item No. 653 series, Highway Carriers' Tariff No. 2.

Note 2 - Rate as grain, grain products, and related articles as described in Item No. 655 series, Highway Carriers' Tariff No. 2.

Note 3 - Rate as rice as described in Item No. 728 series, Highway Carriers' Tariff No. 2.

Note 4 - Rate as sugar.

2. Additional charges for split deliveries shall be computed on a rate of 7.75 cents per 100 pounds instead of on the rate of 3.5 cents per 100 pounds heretofore authorized.
3. The minimum per-shipment charge specified in Decision No. 42801 in this proceeding shall be and it is hereby canceled.

4. The expiration date of the authority granted by Decision No. 37338, as amended by the decision herein, shall be extended to June 30, 1951, unless sooner changed or further extended by order of the Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the authority sought in the seventh supplemental application in this proceeding be and it is hereby denied.

The effective date of this order shall be June 30, 1950.

Dated at San Francisco, California, this 27th day of June, 1950.

R. Z. Johnson

Robert A. Hall

Harold P. Kille

Commissioners