

ORIGINAL

Decision No. 44560

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DIRECT DELIVERY SYSTEM, LTD.,
for authority to assess less than
minimum rates. }

Application No. 31433

Appearances

H. J. Bischoff, for applicant

Frederick A. Jacobus, for The Atchison, Topeka and
Santa Fe Railway Company, protestant.

Charles H. Jacobsen, for Transportation Department,
Public Utilities Commission, interested
party.

O P I N I O N

Direct Delivery System, Ltd., is a California corporation transporting property under a permit authorizing operations as a highway contract carrier. By its application, as amended, it seeks authority to assess rates less than those applicable as minima for service to be performed for the Hemet Packing Company, Hemet.

Public hearings of the matter were had before Examiner Abernathy at Los Angeles on June 23 and July 7, 1950.

According to testimony of applicant's president, transportation service for the Hemet Packing Company has been provided for about twenty years by Southern California Freight Lines, a highway common carrier which is under the same ownership and management as applicant herein. Assertedly the packing company recently has become concerned about its ability to pay the tariff rates of Southern California Freight Lines and has sought lower rates. It

was proposed in the alternative that Direct Delivery System, Ltd. serve the packing company at lesser rates than the minimum rates, provided such rates would be profitable.¹

In performing the service applicant proposes to coordinate its operations with those of Southern California Freight Lines. Applicant's president said that the equipment that would be used would be that of the highway common carrier. It would be leased from the common carrier at Hemet and returned to the carrier at the point where delivery of a shipment for Hemet Packing Company is completed. Applicant's president said that Southern California Freight Lines transports substantial tonnage to Hemet and vicinity, and that it would utilize the equipment returned to it by applicant in performing such transportation.²

The rate authority which applicant seeks would apply to shipments of canned goods which are transported from Hemet to destinations within a radius of 250 miles. For shipments weighing 18,000 to 22,000 pounds the proposed rates are approximately 95 percent of the minimum rates. The proposed rates for shipments of 28,000 to 32,000 pounds are 80 to 95 percent of the minimum, and for 38,000 to 42,000-pound shipments they are approximately 60 to 75 percent of the minimum. Applicant does not propose to transport shipments of weights other than those specified.

¹ The minimum rates which are referred to herein are those in Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended, in Case No. 4246). The tariff rates of Southern California Freight Lines for the transportation involved herein generally correspond to the minimum rates.

² Applicant's president is also president of Southern California Freight Lines.

Applicant's witness submitted exhibits to show the costs of the service and to show that the proposed rates would result in earnings of approximately seven percent of the gross revenues. All of the costs were developed on the basis that applicant would be charged for only the outbound movements of the vehicles and that the costs of returning the vehicles to Hemet would be assumed by Southern California Freight Lines in connection with its common carrier operations. Applicant's president frankly stated that Direct Delivery System, Ltd. could not offer to transport the shipments of the packing company at the proposed rates were it not for the fact that the vehicles would be utilized by Southern California Freight Lines on the return trips.

The president of the Hemet Packing Company testified that his company is engaged in the processing and canning of fruits and vegetables. He said that most of its products are sold in the area between Santa Monica and San Bernardino, and he indicated that market conditions require reductions in the company's operating costs wherever possible. As an alternative to continuing to pay the present rates of Southern California Freight Line, he asserted that his company would undertake to provide its own transportation, by either buying or leasing vehicles for that purpose. He said, however, that he had not made any investigation of what the costs of a proprietary service would be.

A representative of The Atchison, Topeka and Santa Fe Railway Company appeared as a protestant but did not participate in the proceeding. Otherwise, granting of the application was not opposed.

In this proceeding applicant undertook to establish the reasonableness of its proposed rates by endeavoring to show that they would be adequately compensatory. The record is clear that the rates do not include allowance for all of the costs applicable to the services involved. Applicant's development of costs on the basis of only one-way vehicle movements from Hemet is unsound. It assumes that all movements of the vehicles subsequent to delivery of shipments of the Hemet Packing Company would be for the benefit of Southern California Freight Lines and that the costs of such movements are a proper charge to that carrier. The evidence shows, however, that the handling of the packing company's shipments will entail the movement of empty vehicles which would not benefit or be required by the common carrier. Proper cost development would assign the costs of such movements to applicant's operations. To what extent the cost data should be adjusted is not determinable from the record.

Although it was alleged that the traffic of the packing company would be diverted to a proprietary service unless the sought rates are established, the testimony of the witness for the packing company showed clearly that he had not investigated the costs of a proprietary service. Whether the company would be able to realize lesser costs in performing its own transportation than it incurs at present in shipping its merchandise via Southern California Freight Lines appears to be a matter that is speculative and not shown to be a fact. The evidence is not persuasive that lesser rates than the minimum rates are necessary or proper. Deviations from the established minimum rates will be authorized only upon a clear showing of their justification.

Upon careful consideration of all of the facts of record, the Commission is of the opinion and finds that the proposed rates have not been shown to be "reasonable" within the meaning of the Highway Carriers' Act or to be necessary. The application will be denied.

O R D E R

Public hearings having been held in the above-entitled proceeding, and based upon the evidence received at the hearings and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that this application be and it is hereby denied.

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

Dated at San Francisco, California, this 15th day of August, 1950.

R. E. Anderson
James F. Craven
George H. Faircliff
Harold B. Hale
Kenneth H. Potter
Commissioners