

ORIGINALDecision No. 45991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into)
 the rates, rules, regulations and prac-)
 tices of all common carriers, highway)
 carriers and city carriers relating to)
 the transportation of property.)

Case No. 4808

Appearances

Phillips and Avakian, by J. Richard Johnston and
 Spurgeon Avakian, for Daniel H. Souza, petitioner.
 Reginald L. Vaughan, Varnum Paul, John G. Lyons,
 Edward M. Berol, E. S. Waldie, Jack Keuper,
 N. R. Moon, and Russell Bevans, for various
 protestants.
 Clifton E. Brooks, Ward G. Walkup, Jr., Dan Baker,
 L. E. Binsacca, A. T. Eche and V. Fred Jakobsen,
 for various other interested parties.

S U P P L E M E N T A L O P I N I O N

Daniel H. Souza, doing business as City Drayage Company, holds highway contract and radial highway common carrier permits. He is engaged in the transportation of general commodities between points in the San Francisco Bay area. For these transportation services, he is required to observe rates no lower than the established minimum rates. Decision No. 45429 of March 6, 1951, in this proceeding, established effective April 2, 1951, interim increases in the minimum rates for the transportation of general commodities. With certain exceptions, these adjustments included advances in the minimum per shipment charges for small shipments.¹ By petition, Souza seeks authority to continue to observe the lower minimum charges that were in effect prior to the interim adjustment.

¹ The increases affecting petitioner's traffic were part of the general interim advances made in the state-wide minimum rate structure for less-truckload transportation of general commodities. The state-wide rate structure has been under review at extensive public hearings that were recently concluded. An examiner's proposed report therein has been issued. The interim adjustment in question was designed to afford the carriers needed relief until final disposition of the matter.

A public hearing of the petition was held at San Francisco on April 19 and May 9, 1951, before Examiner Jacopi. Evidence in support of the proposal was introduced by petitioner and by representatives of two shippers who use his service. Officials of a number of competing common carriers offered evidence in opposition to the granting of the petition.

Petitioner operates between San Francisco, Oakland, Alameda and various East Bay cities as far north as San Pablo and El Sobrante, and between San Francisco, Oakland and Alameda and points as far south as San Jose via a route through San Leandro and via another route through the Peninsula territory. The weights of the shipments handled generally range from 1 to 700 pounds. Occasionally, heavier shipments are transported. The bulk of the traffic is comprised of small shipments moving from wholesale drug establishments to hospitals, druggists, doctors, veterinarians and jobbers. The weights of most of these shipments range from 1 to 40 pounds. The majority of the drug shipments as well as shipments of other commodities are subject to the established minimum charges per shipment.²

Two scales of minimum per shipment charges are in effect in the general territory served by petitioner. The application of the scales depends upon the location of the points involved. One of the scales applies only between San Francisco or South San Francisco, on the one hand, and the East Bay cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Oakland, Piedmont and San Leandro, on the other hand. These particular minimum charges were not subjected to

²

The shipments of other commodities consist of candy, chemicals, cleaning compounds, coffee, electric lamps, nuts, soap, tea and tires.

the interim increase hereinabove referred to and petitioner does not seek to deviate therefrom.³ The other scale of minimum charges applies between all of the other points served by petitioner. The minimum charges provided by this scale amounting to 70 cents for shipments weighing less than 15 pounds and \$1.05 for the heavier shipments were increased by 15 cents per shipment under the interim increase effective April 2, 1951.⁴ Petitioner desired to forego the 15-cent increase and to observe the lower minimum charges theretofore in effect.

In support of the proposal, petitioner testified that his shippers had informed him that the 15-cent increase had resulted in minimum charges that were too high for some of their small shipments and that they would divert a portion of the traffic to parcel post service. It was pointed out that about 60 percent of the total revenue earned in the territory for which the reduced minimum charges are sought was derived from shipments subject to minimum charges. The witness claimed that unless the sought authority was granted the shippers would divert a substantial amount of traffic from his service "and therefore my profit won't be what it was before."

Petitioner further testified that operations under the minimum rates and charges that were in effect prior to the interim increase on April 2, 1951, had been profitable. According to exhibits introduced by him, the revenues for the year 1950 and for

³ As shown in Decision No. 45429, the minimum charges in question are on a special basis found necessary on a record specifically dealing therewith because of circumstances peculiar to that traffic and they were not therefore subjected to the interim increase.

⁴ The traffic on which the minimum charge of \$1.05 applied was also subject to the charge, when higher, for 100 pounds at the applicable rate. This is also true of the minimum charge as increased under the interim adjustment.

the first quarter of the year 1951 exceeded the operating expenses for those periods by \$13,511 and \$4,723, respectively. These results are for petitioner's entire operations, including the portion of the territory served for which reduced minimum charges are sought herein. No allowance was made in the operating expenses for a salary for petitioner's management of the business. In addition, a wage increase for drivers amounting to \$1.00 per day effective May 1, 1951, is not reflected in the operating expenses for the first quarter of 1951. It was pointed out, however, that the expenses for the two periods included nonrecurring items amounting to \$1,115 and \$1,050, respectively.

According to petitioner, the over-all operations would produce a reasonable profit in the event that the authority sought herein were granted. However, estimates of the results of operation anticipated under the proposed changes in minimum charges were not submitted.

The managers of the San Francisco branches of two drug manufacturing concerns testified in support of petitioner's proposal. According to the witnesses, these companies use the services of petitioner, of other highway carriers and of parcel post in distributing their drugs. Assertedly, the majority of the drug shipments handled by petitioner are small and the minimum charges therefor as increased under the interim adjustment are too high in comparison with parcel post charges. The witnesses stated that some of the smaller shipments would be diverted from petitioner's service to parcel post unless the sought minimum charges were authorized. The amount of traffic that would be lost to petitioner was not disclosed. It was indicated that the weight of the shipment would be a major factor in selecting the shipments for movement by parcel post but

that in doing so it would also be necessary to consider whether or not prompt service was required by the consignee. Assertedly, parcel post service had been found to be inconsistent and more reliable service was provided by petitioner and other for-hire carriers. On cross-examination, it was admitted that pickup service at point of origin was not provided by parcel post, that it would be necessary for the shippers to deliver the shipments to the post office, and that the pickup service was included in the established minimum charges observed by petitioner.⁵ No other shippers appeared in support of the petition.

The authorization of the minimum charges sought by petitioner was opposed by five competing common carriers. Officials of these companies testified that substantial proportions of their total revenues were derived from small shipments on which minimum charges were assessed.⁶ They contended that in the event the sought authority was granted they would be forced to make corresponding reductions in their minimum charges to avoid being at a competitive disadvantage with petitioner. Assertedly, past experience had shown that any attempt to maintain higher minimum charges on small shipments would result in loss of not only those shipments but also many of the heavier shipments. It was contended that under such circumstances shippers would not segregate the heavier shipments but would be inclined to forward them by the competitor having the lower rates on the small shipments. The witnesses pointed out that their companies

⁵It was indicated that the warehouse of one of the drug concerns in question was located next door to a post office.

⁶Two of the witnesses stated that the revenues from shipments handled under minimum charges amounted to 25 percent of the annual transportation revenues earned by each of their companies. The other witnesses did not have the figures but claimed that the minimum charge revenues were substantial.

had experienced increases in wages effective May 1, 1951, amounting to 10.0 cents per hour for line-haul drivers and 12.5 cents per hour for drivers in the East Bay area and that an advance of \$2.00 per day sought for drivers in the San Francisco territory was now under negotiation. They claimed that under these conditions the loss of revenue that would result from the reduction of their minimum charges to meet those sought by petitioner would seriously impair their earning position. One of the witnesses asserted that the reduction in minimum charges would decrease his company's revenue by about \$1,000 per month and that a general increase in its other rates would be necessary to avoid conducting the operations at a loss.

The question presented in this matter is whether or not petitioner should be relieved of the necessity of observing the established minimum per shipment charges on certain of his traffic. Requests for exemption from minimum rates must be decided in the light of the facts presented in each case. The general rule is that exemptions are authorized where it is shown that the minimum rates theretofore established are inappropriate or unsuitable for particular traffic. It is not the purpose of such authorizations to afford a rate advantage to any carrier in the handling of competitive traffic.

The proposed exemption is sought in connection with all of the 22 shippers served by petitioner on the ground that they have threatened to divert some of their small shipments from petitioner's service to parcel post unless the sought charges were authorized. Assertedly, the anticipated loss of traffic would reduce petitioner's profit but data were not submitted showing the total amount of revenue that would be lost nor the extent to which the financial results of operation would be affected. Although petitioner asserted that operations under the sought minimum charges would be reasonably

compensatory, he did not offer estimates of the revenues and expenses anticipated thereunder.

The record tends to indicate that the amounts of revenue derived from individual shippers for the transportation of shipments under minimum charges in the territory where exemption is sought are relatively small. An exhibit offered by petitioner covering four of his shippers selected at random shows that the revenues from minimum-charge shipments for the week ended March 17, 1951, amounted to \$11.55 for a candy firm, \$21.00 for a coffee shipper and \$37.45 and \$61.25 for two drug manufacturers. Assuming that the interim adjustment had been in effect at that time, the charges shown would have been increased by \$2.05, \$3.75, \$6.70 and \$11.00, respectively. The evidence shows that in diverting shipments to parcel post shippers would be faced with the added expenses involved in delivering the shipments from their places of business to the nearest post office. As previously indicated, these expenses would be incurred by reason of the fact that pickup service at point of origin is not provided by parcel post whereas such service is included in the established minimum charges from which exemption is sought. Further additional costs would result from the increase that will be made in parcel post charges effective October 1, 1951, amounting to 33-1/3 percent on the first pound and 25 percent on each additional pound.

On this record, it has not been shown that the existing minimum per shipment charges are inappropriate or unsuitable for the service performed by petitioner. Neither has it been shown that the interim increase of 15 cents per shipment included in the existing charges would cause loss of traffic that warrants the granting of the broad exemption sought.

Upon careful consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that the exemption from the established minimum per shipment charges sought herein by petitioner has not been justified. The petition will be denied.

O R D E R

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

IT IS HEREBY ORDERED that the petition filed in Case No. 4808 on March 16, 1951, by Daniel H. Souza, doing business as City Drayage Company, be and it is hereby denied.

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

Dated at San Francisco, California, this 24th day of July, 1951.

R. J. [Signature]
Justin P. [Signature]
Harold A. [Signature]
Herbert P. [Signature]
John E. [Signature]
Commissioners