

ORIGINALDecision No. 47239

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) Application No. 30240
 minimum rates.) (Third Supplemental)

In the Matter of the Application of)
 DIRECT DELIVERY SYSTEM, LTD. for)
 authority to assess less than) Application No. 30460
 minimum rates.) (Third Supplemental)

Appearances

H. J. Bischoff, for applicant.

F. Z. Wakefield, for The Great Lakes Carbon Corporation, interested party.

SUPPLEMENTAL OPINION

Direct Delivery System, Ltd. has been authorized heretofore to charge lesser rates than those applicable as minimum for certain transportation which it performs for The Great Lakes Carbon Corporation. The rate authority currently in effect will expire in June, 1952. Applicant seeks extension thereof for another year.

Public hearing of the matters was held on a consolidated record before Examiner Abernathy at Los Angeles on May 5, 1952. Evidence was submitted by applicant's president and by the traffic manager of The Great Lakes Carbon Corporation.

The transportation involved herein consists of the transportation of soda ash from West End and diatomaceous earth from a quarry near Lompoc to a plant of The Great Lakes Carbon Corporation at WALTERIA. The transportation of soda ash involves

the movement of approximately 2,500 tons of material annually and that of diatomaceous earth involves the movement of more than 63,000 tons annually. In performing the service applicant utilizes motor vehicle trains consisting of a tractor, semi-trailer, and trailer. The semi-trailers and trailers are of open-top, drop-bottom construction so as to permit the loading and unloading of material with a minimum amount of handling. About 21 tons of material is transported at a time.

Applicant is currently authorized to charge a rate of 22 cents per 100 pounds, minimum weight 41,000 pounds, for the transportation of soda ash, and rates which range from $\$4.64$ ¹ to $\$4.38$ per ton for the transportation of diatomaceous earth. The applicable minimum rates are 37 cents per 100 pounds, minimum weight 36,000 pounds, and $\$6.09$ ² per ton, minimum weight 7 tons, for the soda ash and diatomaceous earth, respectively.

Applicant alleges that the authorized rates have been profitable and that they will continue to be profitable during the coming year. Revenues, expenses and net operating revenues applicable to the transportation of diatomaceous earth during 1951 were reported as follows:

Revenues	\$294,682
Expenses	<u>264,188</u>
Net Operating Revenues	\$ 30,494

¹ The rates for the transportation of diatomaceous earth vary according to the minimum weight of the shipment. The rate of $\$4.64$ per ton is subject to a minimum weight of 43,000 pounds, and that of $\$4.38$ per ton is subject to a minimum weight of 45,000 pounds.

² The minimum rates for the transportation of soda ash are set forth in Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended, in Case No. 4246), and those for the transportation of diatomaceous earth are set forth in City Carriers' Tariff No. 6, Highway Carriers' Tariff No. 7 (Appendix "A" of Decision No. 32566, as amended, in Cases Nos. 4246 and 4434).

Applicant did not submit its revenue and expense figures for the transportation of soda ash during 1951; however, it introduced cost data to show its operations under the authorized rates results in an operating ratio of 92.4 percent before allowance for income taxes.³ Applicant's president testified that operations during the coming year will be conducted at a higher level of expense than that which prevailed during 1951 because of an increase in wage rates which is now in the process of negotiation. He said that the level of his company's earnings will not be affected by the higher costs, however, because in accordance with terms of his company's contract with The Great Lakes Carbon Corporation compensating adjustments will be made in the rates involved herein.

The matters to be decided in the present phases of these proceedings are whether the rates which applicant has been authorized to assess heretofore will be reasonable for the future. Applicant relies upon the showing of its earnings under the rates to establish that they have been and will continue to be reasonable. In proceedings of this nature the profitableness of sought rates frequently is a test of their reasonableness. However, in the instant matters the showings of profitableness are not sufficient to justify a finding that the rates are reasonable.

The record is not clear that applicant's cost data are representative of the full costs of the services involved. Under the indicated method of operations at present, applicant is utilizing.

³ The comparable operating ratio, after allowance for income taxes, would be 95.4 percent. The earnings from the transportation of diatomaceous earth are equivalent to operating ratios of 89.7 percent and 92.7 percent, before and after allowances for income taxes, respectively.

tractors and drivers of subhaulers in conjunction with trailers of its own to provide all of the transportation of soda ash and about 10 percent of the transportation of diatomaceous earth. Also in conjunction with the latter transportation, applicant rents a considerable quantity of equipment from an affiliated common carrier, Southern California Freight Lines. The payments for equipment rental account for about 20 percent of the total expenses incurred in the transportation of diatomaceous earth. The use of subhaulers and of rented equipment represents a departure from the method of operation outlined by applicant in the original phases of these proceedings. At those times it appeared that applicant would provide the services with its own facilities. Under the changed conditions applicant should establish that the payments to subhaulers and the intercompany rentals are reasonably consistent with the costs of the service provided by the subhaulers or the costs applicable to the rented equipment.

Applicant's payments to subhaulers are at a rate of 20 cents a mile. According to testimony of applicant's president, this rate is the "going" rate for tractors with drivers. He said also that the rental payments to the affiliated company are at the "going" rate for such equipment. The fact that the rates for a service are "going" rates does not establish as a matter of course that they reflect the costs of the service. "Going" rates, as in the case of other prices set on the open market, are established by the forces of supply and demand. The cost of the service may be a factor, but not necessarily the controlling factor, in establishing an applicable price for any specific period. Applicant's president undertook to relate the "going" rate for subhaulers to costs by stating in effect that

experience of subhaulers serving his company and Southern California Freight Lines shows the rate is a profitable one. However, he did not present evidence in support of this allegation. The "going" rates for equipment rental, it appears, are stated as a percent of the gross revenue earned from the use of this equipment. It is evident that this basis of rates is only indirectly related to costs. Where the equipment is used to transport both high-rated and low-rated commodities, it may be that the average rental payments will return the costs, but where the rates applying to the commodity being transported are less than the established minimum, it is reasonably questionable in the absence of specific cost data that the equipment rentals cover the costs. Such cost data were not supplied.

The record herein is deficient in another respect. In seeking a year's extension of its present rate authority, applicant asks in effect that the Commission find that the rate will be reasonable under the conditions which normally may be anticipated during the coming year. With respect to future operations the evidence is clear that they will be conducted under a substantially higher wage scale for drivers. Inasmuch as negotiations concerning the drivers' wage rate were still in progress at the time of the hearing in the present phase of these proceedings, the full amount of the expected increase in wage cost is not known. In the absence of definite information concerning the effect of the wage increase upon the costs of providing the services involved herein, the record does not afford a sound basis for finding that the present rates will be reasonable for the ensuing year.

A further infirmity of applicant's showing relates to certain of the figures which were submitted to show the costs of transporting soda ash. These costs were represented as average costs

of applicant and of Southern California Freight Lines. In proceedings of this nature the applicant carrier should submit segregated data which relate specifically to the transportation involved, or where it relies upon average costs, it should make a full showing to establish that the average costs are not less than those directly applicable to the services.

For the foregoing reasons it is concluded that the record does not support extension of applicant's present rate authority for another year. Nevertheless, the record as a whole is convincing that lesser rates than those which currently apply as minimum would be reasonable for the specific services involved. Denial of the present applications in toto would impose upon applicant the duty of collecting from The Great Lakes Carbon Corporation higher rates than appear necessary. In order to avoid this undesirable alternative, it appears that applicant should be granted further opportunity to implement its showing to overcome the deficiencies noted herein. It appears also that in the meantime extension of the present rate authority, modified to reflect increases in wage costs which applicant has experienced since May 5, 1952, when hearing of these matters was held, is justified. To this extent the application will be granted. The authority hereinafter granted will be made to expire with November 17, 1952, to coincide with the expiration date of other special rate authority under which applicant is providing transportation service for The Great Lakes Carbon Corporation. To prevent lapse of applicant's present authority, the order herein will be made effective June 9, 1952.

O R D E R

Public hearing of the above-entitled supplemental applications having been held, the evidence received therein having been carefully considered, and good cause appearing,

IT IS HEREBY ORDERED that unless sooner changed or further extended by order of the Commission the expiration dates of the authorities granted to Direct Delivery System, Ltd. by Decision No. 43071 of June 28, 1949, as amended, in Application No. 30240 and by Decision No. 44820 of September 19, 1950, as amended, in Application No. 30460 be and they are hereby extended to expire with November 17, 1952, subject to the following conditions:

- a. In the exercise of the rate authority hereinabove granted applicant shall increase the authorized rates by such amounts as necessary to compensate for increases in drivers' wage rates, including increases in vacation and welfare allowances, which it has experienced since May 5, 1952.
- b. Within 15 days after the effective date of said increases in drivers' wage rates and allowances applicant shall file with the Commission verified statements as part of the record in these proceedings showing the amounts by which the rates heretofore authorized have been increased by reason of said increases in drivers' wage rates and allowances.

This order shall become effective June 9, 1952.

Dated at Los Angeles, California, this 5th day of June, 1952.

A. Z. [Signature]
President
Janus J. Casner
Harold P. Hule
Genevieve [Signature]
Peter E. [Signature]
Commissioners