

ORIGINAL

Decision No. 47415

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
MAX RUDOLPH, a petroleum irregular)	
route carrier, for permission to)	
increase rates, or to alter rules or)	Application No. 33208
regulations, so as to effect increases)	
in rates.)	

Appearances

Max Rudolph, in propria persona

Blaine T. Romney, for applicant.

C. F. Stephenson, for Union Oil Company of California,
interested party.

O P I N I O N

Applicant is an individual engaged in the business of transporting petroleum products by tank truck as a petroleum irregular route carrier between points within Ventura County and as a petroleum contract carrier elsewhere in California. By this application he seeks authority to increase his common carrier rates for transportation services performed to or from points off the public highways.

A public hearing of the application was held before Commissioner Huls and Examiner Abernathy on April 24, 1952. The matter was taken under submission subsequently with the filing of certain information to supplement that which was furnished at the hearing.

Applicant states that he is called upon to provide transportation of crude oil from oil well sites located off of the public highways. Assertedly, much of this transportation is in

mountainous areas and involves vehicle movements over steep grades, the roads are narrow and poorly maintained, and the transportation consumes more than ordinary amounts of fuel and imposes unusual wear upon engines, gear and braking equipment.

Applicant testified that his present tariff rates are generally at the level of those established as minimum by the Commission for the transportation of petroleum in tank truck equipment. He said that they therefore do not compensate for higher costs incurred in off-highway transportation.¹ In order to recover the costs of the transportation involved herein he proposes to assess hourly rates as follows:

<u>Type of Equipment</u>	<u>Rates in Cents Per Hour</u>
Truck	600
Tractor and semitrailer, capacity of tank 4,000 gallons or less	600
Tractor and semitrailer, capacity of tank more than 4,000 gallons	700
Truck and trailer	700
Tractor and 2 semitrailers	700
Tractor, semitrailer and trailer	700

Applicant proposes to apply the hourly rates only when the shipper or consignee requests service at such rates. Charges under the hourly rates would be not less than those that would accrue under the mileage rates. The hourly rates would apply for the use of carrier's equipment from time of departure to time of return to carrier's terminal. The sought rates, applicant stated, are the same as those published by a tariff publishing agent on behalf of approximately 1,800 other petroleum irregular route carriers.

¹ The minimum rates are mileage rates based on the constructive mileages set forth in the Commission's Distance Table No. 3. The constructive mileages reflect to a certain extent the effect of grades upon a carrier's operations. However, where transportation is performed over roads other than the highways specified in the distance table, the applicable distances for rate purposes are the actual highway mileages without compensating allowances for grades or other adverse traffic factors.

Granting of the application was supported by a representative of an oil company which uses the services involved. This witness testified that in oil field work trucks are used for transportation of crude oil until production at new fields is sufficiently established to justify the laying of pipelines to carry the oil to refineries or storage points. He said that much oil field exploration work is done in areas where there are no public highways and where the only roads are rough service roads constructed by the oil companies to give access to their properties. With respect to applicant's services the witness said that his company uses them to advantage in the Santa Paula area and he advocated the authorization of the hourly rates so that applicant might be more adequately compensated.

It is clear from the record herein that under applicant's present rates his charges for transportation which is performed over private roads are generally less than the charges which have been found to be reasonable as minima for transportation over the public highways. Under the circumstances it appears that applicant should be permitted to adjust his charges to a more adequate basis.

The assessing of hourly rates under the varying conditions ascribed to the transportation involved would produce more reasonable results. However, applicant's proposal is broader in application than appears necessary under the circumstances or justified by the evidence. Although under applicant's proposal the sought hourly rates could be applied in lieu of the present mileage rates to any of applicant's common carrier services, applicant testified that the present rates are sufficiently compensatory except for off-highway transportation. Accordingly, with respect to applicant's services

generally, there seems to be no valid justification for providing different rates which are designed to produce higher charges.

In another respect the sought rates appear objectionable. As indicated hereinabove they would apply only when shipper or consignee requests service at the hourly rates. Thus, in effect, whether the mileage rates or the hourly rates would apply becomes a matter of bargaining. Under these conditions it appears unlikely that the carrier would be able to maintain a uniform and nondiscriminatory scale of charges for the same amount, class, or type of transportation service. It also appears that where the carrier would be unable to secure the shipper's or consignee's assent to the hourly rate for off-highway transportation, he would be confronted with the dilemma of either providing the service at less than reasonable rates or of violating his obligations as a common carrier by refusing to provide the transportation.

In order to overcome these undesirable features of his proposal applicant asked that consideration be given in the alternative to authorization of the sought rates on the basis that they be restricted in application to transportation performed off the public highways. Under this alternative proposal the hourly rates would apply where the off-highway transportation is in excess of two miles, and they would not be contingent upon specific requests therefor by shippers or consignees. Applicant stated that the alternative would be acceptable and would accomplish his primary purpose of making his revenues for the off-highway service more commensurate with revenues from his other common carrier service. On the basis of revenue figures which he submitted it appears that on the average the sought rates would produce slightly greater revenues per shipment than those

which applicant earns under the mileage rates. The difference is not substantial, however, and appears to be justified by the greater costs of the off-highway service.

On the evidence herein it is concluded that applicant's alternative proposal is reasonable. It appears that the rates thereunder may be applied without discrimination or preference. Moreover, it appears that increases in revenue in excess of those which are anticipated under this proposal may not be found justified in the absence of more specific cost information than was supplied. Upon careful consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds as a fact that applicant's alternative proposal has been shown to be justified. To this extent the application will be granted. Applicant requested that he be authorized to publish the hourly rates on seven days' notice to the Commission and to the public in order to minimize any losses from the off-highway transportation service. In this respect also the sought authority will be granted.

O R D E R

Public hearing having been held in the above-entitled proceeding, the evidence therein having been considered carefully, and good cause appearing,

IT IS HEREBY ORDERED that Max Rudolph be and he is hereby authorized to amend his Local Tariff Cal. P.U.C. No. 2 so as to establish on not less than seven (7) days' notice to the Commission and to the public hourly rates as set forth in Appendix "A" which is attached hereto and by this reference is made a part hereof.

IT IS HEREBY FURTHER ORDERED that the authority granted herein shall expire unless exercised within sixty (60) days after the effective date of this order.

IT IS HEREBY FURTHER ORDERED that except as provided herein 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 30th day of

January. 1952.

R. J. [Signature]
President

Hansel [Signature]

[Signature]
[Signature]

Commissioners

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

APPENDIX "A" to DECISION NO. 47415AUTHORIZED HOURLY RATES AND RULES AND REGULATIONS
APPLICABLE THERETO OR IN CONJUNCTION THEREWITHApplication of Rates

- a. The hourly rates named herein apply only to transportation which is performed over private road where the distance traveled thereon is more than two actual miles one way.
- b. When the transportation is upon both public highway and private road and the distance traveled over private road is more than two actual miles one way, the hourly rates named herein shall apply to that portion of the transportation which is performed over private road and the mileage rates otherwise applicable in accordance with the provisions of Local Tariff Cal. P.U.C. No. 2 of Max Rudolph (or reissues of said tariff) shall apply to that portion of the transportation which is performed over public highway.
- c. When all or a part of the transportation which is performed involves travel over private road for a one-way distance of less than two actual miles, mileage rates shall apply.
- d. For the purposes of computing charges under the hourly rates named herein, time shall be computed to the nearest one-quarter hour, subject to a minimum of one-quarter hour.

Hourly Rates

<u>Type of Equipment</u>	<u>Rate in Cents Per Hour</u>
Truck	600
Tractor and semitrailer, capacity of tank 4,000 gallons or less	600
Tractor and semitrailer, capacity of tank more than 4,000 gallons	700
Truck and trailer	700
Tractor and 2 semitrailers	700
Tractor, semitrailer and trailer	700

(End of Appendix)