

**ORIGINAL**Decision No. 50740

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of JAMES GRIFALL, CHARLES GRIFALL	)	
and JOHN GRIFALL, copartners doing	)	
business as GRIFALL BROS. TRUCKING	)	
COMPANY, for an order authorizing	)	Application No. 35701
departure from the rates, rules	)	
and regulations of Highway Carriers'	)	
Tariff No. 2, under the provisions	)	
of Section 3666 of the Public	)	
Utilities Code.	)	

Appearances

Marvin Handler, for applicants.  
Robert Boynton, for Truck Owners  
 Association of California.  
Joseph C. Kaspar, for Motor Truck  
 Association of California.

O P I N I O N

Applicants are engaged in the transportation of property as a radial highway common carrier and as a highway contract carrier. In this proceeding they seek authority to assess rates in connection with transportation for Westates Steel Co., Santa Clara, which are different than those applicable as minima under the provisions of Minimum Rate Tariff No. 2.

Public hearing of the application was held before Examiner C. S. Abernathy at San Francisco on October 5, 1954. Evidence was presented by one of the applicant partners, by

the manager of Westates Steel Co., and by a consulting engineer. A representative of the Motor Truck Association of California participated in the development of the record through cross examination of the witnesses.

Westates Steel Co. is a distributor of iron and steel articles and materials. Its area of operations lies generally within a radius of 40 miles of the city of Santa Clara. Within this area the company undertakes to supply the requirements of various iron and steel users such as small manufacturers, fabricators, welders and general contractors. In supplying these requirements the company is called upon to make expedited deliveries, to make special trips and to make deliveries at the times specified by its customers.

According to testimony of the steel company's manager, the distribution of steel is a highly competitive business which requires that his company provide the degree of service indicated in order to meet the competition of other distributors in the field. He said that his experience over the past year has been that the transportation service which is available in for-hire carriage under the provisions of Minimum Rate Tariff No. 2 is not adequate for his company's needs and that as a consequence he has had to seek more suitable arrangements for the future. He declared that unless such arrangements can be made his company will have to discontinue the use of for-hire facilities in favor of its own. The manager said that in order to comply with the requirements of its customers and to meet the service standards of competing distributors who operate

their own equipment or under special authorities granted by the Commission his company should have complete control over the loading, unloading and dispatching of the vehicles used in the transportation of its materials.<sup>1</sup>

Applicants and the steel company propose to enter into a contract for the coming year whereby applicants will supply the company for its exclusive use a truck of 10,500 pounds capacity and driver at a charge of \$719 monthly plus an additional charge of \$.16 per mile for each mile that the equipment is operated in excess of 1,050 miles per month.<sup>2</sup> The proposal in effect is that applicants shall provide the steel company with a vehicle and driver at the minimum monthly vehicle

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<sup>1</sup> Competing steel companies being served under specially authorized rates and the carriers involved are as follows:

<u>Steel Company</u>	<u>Carrier</u>
United States Steel Supply Company	Daniel Gallagher Teaming, Mercantile and Realty Company
Gilmore Steel and Supply Co.	Farnsworth and Ruggles
Joseph T. Ryerson & Son, Inc.	Walkup Drayage & Warehouse Company

<sup>2</sup> A copy of the proposed contract was received in evidence as Exhibit No. 1.

unit rates specified in City Carriers' Tariff No. 2-A, Highway Carriers' Tariff No. 1-A for the size of equipment operated.<sup>3</sup>

The authority which applicants seek is to assess these monthly rates instead of complying with the provisions of Minimum Rate Tariff No. 2 which requires that rates shall be assessed in cents per 100 pounds according to the weights and classification of the shipments transported and the length of haul.

The partner of applicants who testified supplied various details regarding the proposed service. He said that his company has adequate financing and personnel to provide the service and that it can be conducted efficiently in conjunction with the other operations of his company. The consulting engineer submitted estimates of the costs of the service. According to the data which he supplied, the proposed operations under the sought rates would result in earnings, before allowance for income taxes, as indicated by an operating ratio of 90.8 percent.

Notices of the hearing of this matter were published in the Commission's calendar and were sent to persons believed to be interested. No one appeared in opposition to granting of the application.

The record is convincing that the circumstances which apply to the transportation involved herein justify the sought

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<sup>3</sup> City Carriers' Tariff No. 2-A, Highway Carriers' Tariff No. 1-A sets forth minimum rates, rules and regulations which apply for the transportation of general commodities within and between the cities of Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont.

departures from the provisions in Minimum Rate Tariff No. 2. The form of rates which is proposed appears necessary to enable the Westates Steel Co. to meet the competition of other steel distributors who operate their own vehicles or who engage the services of for-hire carriers operating under special authority similar to that involved in this proceeding. The rates themselves appear adequately compensatory in light of the estimates of the costs of the service. Upon careful consideration of all of the facts and circumstances of record the Commission concludes and finds as a fact that the rates and charges proposed in this proceeding have been shown to be reasonable. The application will be granted subject to the conditions hereinafter provided. For clarity of definition the authority will be made applicable between points in Santa Clara, San Mateo and Alameda Counties instead of between points within a radius of 40 miles of the city of Santa Clara as specified in the application. The representatives of applicant and of Westates Steel Co. both concurred in this definition of the area in which the authority should apply.

The conclusions herein regarding the compensatory nature of the rates in issue necessarily have been based upon estimates inasmuch as applicants have not been providing the service heretofore. For this reason and because of the fact that the conditions which justify the authorization may change at any time, the authority will be limited in duration to one year. At the end of that time should applicants desire extension of the authority, they should be prepared to submit a full

showing of their actual operating results under the authorized rates.

As stated hereinabove, applicants' operations are conducted as a radial highway common carrier and as a highway contract carrier. The testimony of applicant partner shows that as a radial highway common carrier his company has been holding itself out to transport a wide range of articles, including those of iron and steel, within the area involved herein. In this proceeding, however, applicants seek special rate authority as a highway contract carrier. To avoid violation of the provisions of Section 3542 of the Public Utilities Code in transporting materials for Westates Steel Co., applicants propose to limit their services in transporting iron and steel within Santa Clara, San Mateo and Alameda Counties to contract carriage.<sup>4</sup> Because of the prohibitions of Section 3542, it appears that the authority hereinafter granted should be conditioned upon the observance of these limitations which applicants proposed to effect. The order which follows will so provide. In response to applicants' request that they be permitted to inaugurate the proposed service at the earliest possible date, the order will be made effective ten days after the date hereof.

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<sup>4</sup> Section 3542 of the Public Utilities Code states that

"No person or corporation shall engage or be permitted by the Commission to engage in the transportation of property on any public highway, both as a common carrier and as a highway contract carrier of the same commodities between the same points."

O R D E R

Based upon the evidence of record and upon the conclusions and findings contained in the preceding opinion,

IT IS HEREBY ORDERED that the applicants in the above-numbered proceeding, James Grifall, Charles Grifall and John Grifall, copartners doing business as Grifall Bros. Trucking Company, be and they are hereby authorized to transport iron and steel articles and materials between points in Santa Clara, San Mateo and Alameda Counties for Westates Steel Co. at rates and charges not less in volume and effect than, and corresponding in form to, those set forth in Appendix "A" which is attached hereto and which by this reference is made a part hereof.

IT IS HEREBY FURTHER ORDERED that except as otherwise provided hereinafter the authority herein granted shall expire one year after the effective date of this order unless sooner canceled, changed or extended by order of the Commission.

IT IS HEREBY FURTHER ORDERED that during the period that the authority herein granted is in effect the aforesaid applicants shall not engage in the transportation of iron and steel articles and materials between points in Santa Clara, San Mateo and Alameda Counties as a radial highway common carrier and that any such transportation which applicants may perform

in violation of these provisions shall be cause for revocation of the authority herein granted.

This order shall become effective ten days after the date hereof.

Dated at San Francisco, California, this 3rd day of November, 1954.

John E. Mitchell  
President

Justin J. Caswell

Kenneth Potter

James Higgins

Raymond L. ...  
Commissioners

APPENDIX "A" TO DECISION NO. 50740  
IN APPLICATION NO. 35701

Authorized Monthly Vehicle Unit Rates,  
including driver,  
(Subject to Note 1)

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	<u>Column 1</u>	<u>Column 2</u>
Vehicle of 10,500 pounds capacity or less.....	719	16

Column 1 - Rate per month in dollars per unit of carrier's equipment. When equipment is operated in excess of 1,050 miles per month, add charge for excess mileage as shown in Column 2.

Column 2 - Charge in cents per mile to be added to charge computed under rate in Column 1 when unit of carrier's equipment is operated in excess of 1,050 miles per month.

Note 1 - Rates named herein apply for service during regular working hours, Mondays through Fridays, holidays excepted. For service performed at other than regular working hours and on Saturdays, Sundays and on the holidays named below an additional charge equal to the additional labor expense will be made. When such holidays fall on Sunday, the following Monday will be considered a holiday.

Holidays:	New Year's Day Washington's Birthday Decoration Day Fourth of July	Labor Day Admission Day Thanksgiving Day Christmas Day
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(End of Appendix)