

ORIGINAL

Decision No. 52630

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FARNSWORTH AND RUGGLES, a corporation,)
 for authority to depart from the rates,)
 rules and regulations of Minimum Rate) Application No. 36823
 Tariff No. 2, under the provisions)
 of the Highway Carriers Act.)

Edward M. Berol, for applicant.
Russell Bevans, for Draymen's Association
 of San Francisco; and Joseph C. Kaspar
 and Robert D. Boynton, for California
 Trucking Associations, Inc.; interest-
 ed parties.
 Owen G. Stanley, Jr., for the Commission's
 staff.

O P I N I O N

Farnsworth and Ruggles, a corporation, operates as a city, radial highway common, and highway contract carrier in the transportation of property between points in this State.¹ By this application it seeks authority under Section 3666 of the Public Utilities Code to transport property for Pacific Gas and Electric Company between points located within a radius of 100 miles of San Francisco.

A public hearing of the application was held before Examiner Carter R. Bishop at San Francisco on June 20, 1955. Evidence in support of the proposal was offered by a certified public accountant, by applicant's traffic manager and by a shipping and traffic supervisor employed by Pacific Gas and Electric Company.

¹ By Decision No. 51044, dated January 25, 1955, in Application No. 35051, applicant was authorized to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of general commodities between all points in the San Francisco-East Bay Cartage Zone, as defined in Appendix A of said decision. Applicant, however, has not yet accepted the certificate thus granted. The time within which it may do so has been extended to November 1, 1955.

Except as to transportation within San Francisco and within the so-called East Bay drayage area, the applicable minimum rates are the rates in cents per 100 pounds provided in Minimum Rate Tariff No. 2. They vary with the length of haul, the weight of the shipment, and the commodity transported. Applicant seeks authority to apply, in lieu thereof, monthly vehicle unit rates as follows:

Capacity of Equipment (Pounds)		Monthly Vehicle Unit Rate (Dollars)	Charge per Mile for Each Mile in Excess of 1050 per Month (Cents)
<u>Over</u>	<u>But Not Over</u>		
15,500	20,500	860	19.5

For services performed at other than regular working hours it is proposed that a charge equivalent to the additional wages plus 10 per cent be assessed. The proposed rates are to include the services of driver only and would not apply to service performed on Saturdays, Sundays or holidays.

The record discloses that the rates sought herein are the same as those which applicant is presently authorized to observe, as to service in equipment of the above-mentioned capacities, in connection with the transportation of iron and steel materials and related articles for Gilmore Steel and Supply Co., Inc. and its affiliates, between points located within a radius of 150 miles of San Francisco. The latter authorization has been in effect continuously since October, 1952.

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Minimum rates, rules and regulations applicable within San Francisco and within the East Bay drayage area are set forth in City Carriers' Tariff No. 1-A and City Carriers' Tariff No. 2-A Highway Carriers' Tariff No. 1-A, respectively.

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The Gilmore authorization was first granted by Decision No. 47802, dated October 7, 1952 at rates somewhat lower than those currently authorized. By the last extension of the authority, in Decision No. 50622, the rates in question were increased to the level sought herein. The Gilmore authority, which is scheduled to expire on October 27, 1955, includes rates for all equipment capacities.

The accountant introduced exhibits and testimony designed to establish the reasonableness of the proposed rates. He stated that he had kept a running statement of expenses and revenues in connection with the aforementioned Gilmore operation. That operation, he asserted, had been profitable from its inception and was expected to so continue. The witness also had made a study to determine the costs which would be incurred in the rendition of the service involved in the instant proceeding. On the basis of a 21-day working month and monthly vehicle mileage of 1050 miles, he had calculated the full operating cost per month to be \$790.82. This figure, related to the proposed monthly vehicle unit rate of \$860, reflects an estimated profit of \$69.18 and an operating ratio of 91.96 per cent, both before provision for income taxes. The witness stated that he had also developed the total operating cost per mile for distances in excess of 1050 miles per month. This figure, he asserted, was approximately 13.8 cents per mile. It is to be compared with the proposed rate of 19½ cents per mile.

In his development of unit costs the accountant utilized, wherever possible, the carrier's actual book figures. With respect to a few items, such as repair expense, he found it necessary to utilize estimates, predicated upon his experience in the preparation of other cost studies of comparable operations.

Applicant's operations as a whole, according to a profit and loss statement prepared by the accountant, reflected, for the first quarter of 1955, operating revenues and expenses amounting to \$203,833 and \$184,853, respectively. The net operating revenue, before provision for income taxes, totaled \$18,980 and the operating ratio, also before taxes, was 90.69 per cent.

The witness had calculated driver labor cost on the basis of wage rates then in effect. At the hearing counsel for applicant called attention to the fact that wage negotiations with the unions were currently in progress. He stated that in the event that an increase or decrease were to occur in the wage rates of applicant the proposed rates would be adjusted by an amount equal to such wage adjustment.

Applicant's traffic manager testified that applicant had been transporting property for Pacific Gas and Electric Company since 1937 and had been rendering for the past ten years the type of service for which the basis of rates sought herein is assertedly designed.⁵ The transportation in question, he said, involves the movement of a wide variety of articles, the individual shipments ranging in weight from 1 to 4,000 pounds. The necessity of rating each item separately, with the attendant clerical detail, he asserted, is extremely burdensome.

The traffic supervisor for Pacific Gas and Electric Company explained that under that company's arrangement with applicant one of the latter's trucks, accompanied by a driver, is furnished the shipper each working day and that Pacific Gas and Electric Company has complete control of said driver and equipment. He stated that the truck is used primarily for emergency trips, usually for the transportation of urgently needed materials from one of his company's warehouses, located in San Francisco and Oakland, to its workers in the field. Emergency calls from the field for materials, according to the supervisor, are now much more frequent than formerly because of the company's current policy of maintaining a greatly reduced inventory of supplies. He corroborated the testimony of the carrier's traffic manager relating to the great saving in paper work which will be effected, both for the shipper and the carrier, if the relief sought herein is granted.

This witness further testified that if the proposed basis of rates is not authorized his company will seriously consider purchasing a truck with which to perform the transportation in question on a

⁵ According to the witness, with few exceptions the points of origin and of destination of the shipments transported for Pacific Gas and Electric Company have been located within a radius of 100 miles of San Francisco.

proprietary basis. In this connection, he indicated that Pacific Gas and Electric Company had made an investigation to determine the cost of conducting such a proprietary operation and had concluded that a substantial saving under the present shipping charges would result thereby.

No one opposed the granting of the application.

Applicant is affiliated with United Transfer Co.-Carley and Hamilton, Inc., in that the president of applicant herein is also the president of United. The latter company operates as a highway common carrier of general commodities between San Francisco and South San Francisco. In view of the provisions of Section 3542 of the Public Utilities Code to the effect that no person or corporation shall engage in the transportation of property both as a common carrier and as a highway contract carrier of the same commodities between the same points, the question was raised at the hearing in the instant proceeding as to whether United Transfer Co.-Carley and Hamilton, Inc., was the "alter ego" of Farnsworth & Ruggles.⁶ In Decision No. 51873, dated August 23, 1955, in Application No. 36743, the Commission found that such is not the case and that the intercorporate relationships of the two companies were not such as to prevent, under the provisions of Section 3542, supra, of the Code, the operation of applicant as a highway contract carrier between the points covered by United's common carrier certificate.

The evidence is convincing that applicant will be able to perform the transportation involved herein under the sought rates on a compensatory basis.

⁶ At the request of counsel for applicant certain testimony of Farnsworth's president and of its accountant adduced at a hearing held on May 20, 1955 in Application No. 36743 was incorporated into this record by reference. The testimony related to the intercorporate relations of applicant and United.

The Commission is of the opinion and hereby finds that the proposed reduced rates are reasonable. The application will be granted. Because the conditions under which service is performed may change at any time the authority will be made to expire at the end of one year, unless sooner canceled, changed or extended by order of the Commission.

O R D E R

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

IT IS HEREBY ORDERED that Farnsworth and Ruggles, a corporation operating as a highway contract carrier, be and it is authorized to transport property for Pacific Gas and Electric Company, between points and places located within a radius of 100 miles of San Francisco at rates and charges which differ from those established as minimum rates and charges, but not lower than the following:

<u>Capacity of Equipment</u> <u>(Pounds)</u>		<u>Column 1</u>	<u>Column 2</u>
<u>Over</u>	<u>But Not Over</u>		
15,500	20,500	860	19.5

Column 1 - Rates per month in dollars per unit of carrier's equipment for service exclusive of service on Saturdays, Sundays and holidays. When equipment is operated in excess of 1,050 miles per month, add rates shown in Column 2.

Column 2 - Rates in cents per mile to be added to the Column 1 rates when the unit of carrier's equipment is operated in excess of the maximum mileage allowed thereunder.

Holidays mean New Year's Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Admission Day, Thanksgiving Day, and Christmas Day.

For services performed at other than regular working hours, a charge equivalent to the additional wages plus 10% shall be assessed.

Rates include service of driver only and do not include bridge or ferry tolls.

In order to avoid possible violation of the provisions of Section 3542, supra, of the Public Utilities Code, a limitation will be placed upon applicant's service as a radial highway common carrier during the existence of the authority herein granted. Also, the granting of the relief herein sought will be made subject to the condition that, in the event that applicant shall accept the highway common carrier certificate granted to it by Decision No. 51044, supra, the authority herein granted shall, effective with the effective date of tariffs filed pursuant to the acceptance of said certificate, be restricted to exclude its application between points embraced by said certificate.

IT IS HEREBY FURTHER ORDERED that during the period that the authority herein granted is in effect the aforesaid applicant shall not engage in the transportation of the same commodities between the points involved in this authority as a radial highway common carrier, and that any such transportation which applicant may perform in violation of these provisions shall be cause for revocation of the authority herein granted.

IT IS HEREBY FURTHER ORDERED that, if, during the period that the authority herein granted is in effect, the aforesaid applicant should accept the certificate of public convenience and necessity granted to it by Decision No. 51044, dated January 25, 1955, in Application No. 35051, the authority herein granted shall be restricted so as to exclude its application between points embraced by said certificate, said restriction to be effective as of the effective date of the rates filed pursuant to the acceptance of said certificate.

IT IS HEREBY FURTHER ORDERED that, subject to the provisions of the immediately preceding ordering paragraph herein, the authority granted herein shall expire one year after the effective date of this order unless sooner canceled, changed or extended by order of the Commission.

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

Dated at San Francisco, California, this 4th day of October, 1955.

[Signature]
President
[Signature]
[Signature]
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Commissioners