

ORIGINAL

Decision No. 53172

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
R. H. DAVIS, and F. J. DAVIS, a)
partnership, doing business as)
FRUITVALE DRAYAGE, for authority to)
transport certain commodities under)
monthly vehicle unit rates between)
Oakland, Alameda, Berkeley,)
El Cerrito, San Pablo, Richmond,)
Albany, Piedmont, Castro Valley,)
Hayward, Haymont, San Lorenzo,)
Concord, Pittsburg and Newark.)

Application No. 38014

OPINION AND ORDER

R. H. Davis and F. J. Davis, a partnership doing business as Fruitvale Drayage, hold city and highway contract carrier permits. By Decision No. 51437 of May 10, 1955, in Application No. 36855, they were authorized to deviate from the minimum rates in connection with the transportation of groceries and related items for the Louis Stores, a chain grocery company. The authorization permits the assessment of monthly unit rates, which otherwise would be applicable only within the East Bay Drayage Area, to transportation from the grocery company's warehouse in Alameda to its retail stores in Alameda, Albany, Berkeley, Castro Valley, Concord, El Cerrito, Emeryville, Haymont, Hayward, Oakland, Piedmont, Richmond, San Lorenzo and San Pablo. ¹ That authority expired May 30, 1956. Since it was granted, the monthly minimum rates within the East Bay Drayage Area have been increased. ²

By this application, as amended, authority is sought to continue to observe monthly rates for a further one-year period,

¹ The East Bay Drayage Area consists of the cities of Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont.

² Decision No. 52020 of October 4, 1955, in Case No. 5441.

but at the increased level. Applicants also seek extension of the authority to include shipments from the shipper's new warehouse in Emeryville and deliveries to its stores in Newark and Pittsburg.

The application, as amended, states that the conditions which have justified deviation from the minimum rates still obtain, and that the proposed rates may reasonably be expected to result in profitable operations during the ensuing year. It also states that the shipper is moving its warehouse from Alameda to Emeryville within the next two months and that it has also acquired retail outlets in Newark and Pittsburg. Applicants assert that the conditions surrounding this transportation are the same as those for the other operations.

In the circumstances, it appears and the Commission finds that the proposed rates are reasonable. This is a matter in which a public hearing is not necessary. The application will be granted. Inasmuch as the prior authority has expired, the following order will be made effective on the date hereof.

The special rate authority herein sought and granted is not applicable to common carrier services.³ Applicants hold a radial highway common carrier permit as well as the contract and city carrier permits. Section 3542 of the Public Utilities Code forbids carriers to operate both as a common carrier and as a highway contract carrier of the same commodities between the same points. The authority hereinafter granted will contain the necessary restriction to avoid conflict with the statutory prohibition.

Therefore, good cause appearing,

IT IS HEREBY ORDERED:

(1) That R. H. Davis and F. J. Davis, a partnership, doing business as Fruitvale Drayage, be and they are hereby authorized to

³ Section 3542 of the Public Utilities Code reads as follows: "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."

transport groceries and related items for Louis Stores at rates and charges which differ from those heretofore established as minimum but no lower than those set forth in Appendix "A" attached hereto and by this reference made a part hereof.

(2) That the authority herein granted shall expire May 30, 1957, unless sooner canceled, changed or extended by order of the Commission.

(3) That any transportation performed by applicants as a common carrier of the same commodities between the same points shall be cause for revocation of the authority herein granted.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 4th day of June, 1956.

John E. Mitchell
President
Justin J. Craemer
Raymond L. Linterlin
P. Hardy
Commissioners

APPENDIX "A" TO DECISION NO. 53172

Rates apply only for the transportation of groceries and related items for Louis Stores from its warehouses in Alameda and Emeryville to its retail stores in Alameda, Albany, Berkeley, Castro Valley, El Cerrito, Emeryville, Haymont, Hayward, Oakland, Piedmont, Richmond, San Lorenzo, San Pablo, Concord, Pittsburg and Newark, and for the return movement of rejected shipments.

MONTHLY VEHICLE UNIT RATES including driver and all other operating expenses (Subject to NOTES 1 and 2.)	Column 1	Column 2	Column 3
10,500 pounds or less	730	900	16
Over 10,500 pounds and not over 20,000 pounds	850	1050	21
Over 20,000 pounds	970	1170	28

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 3.

COLUMN 2 -- Rates per month in dollars per unit of carrier's equipment for service including service on Saturdays, Sundays and Holidays. When equipment is operated in excess of 1,250 miles per month, add rates shown in Column 3.

COLUMN 3 -- Rates in cents per mile to be added to the Column 1 and 2 rates when unit of carrier's equipment is operated in excess of the maximum mileage allowed thereunder.

NOTE 1 -- Rates named herein apply during regular working hours of 8:00 A.M. to 5:00 P.M. except Saturdays, Sundays and the following holidays: New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Admission Day, Thanksgiving Day, and Christmas Day. When such holidays fall on Sunday the following Monday shall be considered a holiday. For services performed at the request of the shipper or consignee at other than those hours and on Saturdays, Sundays or the holidays shown, an additional charge equal to the additional cost of overtime will be made. When carrier is required to provide additional labor, at point of origin or point of destination, for the handling of articles or packages which, because of their weight or bulk, cannot be handled by one man, an additional charge of \$3.65 per man per hour, minimum charge of \$3.65, shall be made.

NOTE 2 -- R. H. Davis and F. J. Davis, doing business as Fruitvale Drayage, shall issue, for each vehicle furnished, a shipping document containing a certification that during the period covered by the document the vehicle was operated only in transportation service for which rates are provided by this decision (or full explanation of other operations, with reference to shipping documents covering), showing rates and charges assessed and containing all such information respecting each of the factors entering into the computation of the charges as may be necessary to verify the lawfulness of the charges assessed. R. H. Davis and F. J. Davis, doing business as Fruitvale Drayage, shall retain and preserve a copy of such shipping document, subject to the Commission's inspection, for a period of not less than three years from the date of its issuance.

(End of Appendix "A")