

ORIGINAL

Decision No. 54558

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SAN FRANCISCO WAREHOUSE CO., a cor-)
 poration, for authorization to per-)
 form unloading and segregating of)
 pool shipments for THE CURTIS) Application No. 38413
 PUBLISHING COMPANY within San Fran-)
 cisco at a rate below minimum rate)
 prescribed by City Carriers' Tariff)
 No. 1-A.)

Vaughan, Paul & Lyons by John G. Lyons, for
 applicant.
Russell Bevans, for Draymen's Association
 of San Francisco, protestant.
John B. Nance and John R. Laurie, for the
 Commission staff.

O P I N I O N

San Francisco Warehouse Co. operates as a carrier, as defined in Section 3911 of the Public Utilities Code, in the transportation of general commodities between points within the City and County of San Francisco.¹ By this application, as amended, it seeks authority to perform the services of unloading or segregating, or of unloading and segregating, pool car shipments of magazines or periodicals for The Curtis Publishing Company at a rate less than the minimum rate.

Public hearing of the application was held before Examiner Carter R. Bishop on October 30, 1956 at San Francisco.

Minimum rates for the services involved in this application are set forth in paragraph (a) of Item No. 220 series of City

¹ Applicant also operates as a highway common carrier between San Francisco and points in the East Bay, holds permits as a highway contract carrier and a radial highway common carrier and conducts a business as a public utility warehouseman.

Carriers' Tariff No. 1-A. These rates are 12 cents per 100 pounds where the carrier also performs transportation service of the pool shipment as a city carrier, and 14 cents per 100 pounds where the carrier does not perform such transportation service. They are third-class rates, applied to magazines or periodicals under an exceptions rating provided elsewhere in the tariff. In lieu of the minimum rates, applicant proposes to observe a uniform rate of 9½ cents per 100 pounds, subject to the condition that The Curtis Publishing Company shall tender to applicant for unloading or segregating, or for unloading and segregating, a minimum of 1,000 tons of magazines or periodicals per year. No deviation is sought as to the charges for other accessorial services in connection with the handling of pool shipments, as set forth in paragraphs (b) to (h) inclusive, of Item No. 220 series of the minimum rate tariff.

Evidence in support of the application was given by applicant's vice president. Applicant, he stated, receives at its terminal in San Francisco one carload of periodicals per week originating at The Curtis Publishing Company plant in Philadelphia, Pa. Each car contains issues of the Saturday Evening Post, a weekly publication, and usually some copies of Curtis' monthly periodicals, such as Ladies Home Journal. The magazines are shipped in bundles weighing approximately 36 pounds each. On arrival at San Francisco none of the bundles is marked except a key bundle for each consignee of each issue in the shipment. The key bundles, which are placed near the door of the car, are marked with the name of the consignee.

The procedure employed by applicant on arrival of the carload is as follows: one of applicant's trucks is placed alongside the open car door, a roller conveyer being placed partially in the car and partially on the truck; two men, a checker and a helper, work in the car, the checker reading from the bills of lading the required

number of bundles for a given consignee, which the helper then pulls; the checker stamps the unmarked bundles with the name and address of the consignee by means of a self-inking stencil device, after which the bundles are rolled into the truck where they are stacked by the truck driver. While consignments which are to be delivered by another carrier are stamped as indicated above, those which applicant delivers, the witness explained, are not stamped, as applicant's driver ascertains from the bills of lading how many bundles go to each consignee to whom he delivers.

According to the record, none of the periodicals which applicant handles are delivered to consignees in San Francisco. Applicant delivers in its own trucks bundles consigned to dealers south of San Francisco, to and including Monterey. The bundles which applicant turns over to other carriers for delivery are destined to consignees in the interior valleys and in the counties north of San Francisco. These latter pool car lots applicant hauls to the terminals of the line-haul highway carriers as their contract pickup drayman.

The pool car operation involved herein, the witness asserted, is an unusually efficient one. He pointed out that because many of the bundles are unmarked on arrival at San Francisco it is not necessary to examine each bundle for the consignee's name and address. Thus, time is saved. Also, the use of the roller-conveyer expedites handling of the bundles. Finally, the witness testified, it is customary with most pool car operators to unload railcars onto the platform and from there into the trucks, whereas applicant, because of the nature of the Curtis operation, is able to load directly from car to truck, and thus avoid the cost of extra handling.

A study of the cost of performing the pool car services involved herein was introduced by the vice president. This study shows full cost, exclusive of transportation rate fund tax and income taxes, to be 8.18 cents per 100 pounds. By expanding this amount to include transportation rate fund tax and income taxes² a total cost figure of 8.63 cents per 100 pounds is obtained. This amount, which is to be compared with the sought rate of 9½ cents, reflects an operating ratio of 90.8 per cent.

Applicant's cost study was developed from the expenses incurred in performing the services in question on all of the Curtis pool shipments handled by applicant during the period from January 17 to July 24, 1956, inclusive. The witness considered that period as representative for the traffic involved. The total weight of these shipments was 1,463,070 pounds. In developing the segregating and unloading costs, the witness stated, the wages of the truck driver were not included. This was because that employee is engaged in loading the truck and does not participate in the segregating and unloading of the pool shipment. His wages, the witness asserted, are a part of the cost of the transportation from applicant's terminal to destination or to line-haul carrier's terminal.

The calculated costs make no provision for overtime. If more than eight hours is required to unload a car, the witness stated, two teams are employed, so that no overtime payments are involved. He said that the employees sometimes work overtime on

² Income taxes were calculated at 4 per cent for state tax and a normal tax of 30 per cent for the federal portion.

other jobs, but that none of the overtime is attributable to the work involved herein.

The cost study was undertaken, the record shows, at the request of Curtis. That company had felt that a proper rate for the services involved would be 8 cents per 100 pounds, but at the conclusion of the study informed applicant that 9½ cents would be satisfactory. Curtis has told applicant, the witness said, that if the sought rate were not established the publisher would have to look around and find a better way of doing the job. The witness inferred from this that if the application is denied applicant will lose the Curtis traffic.³

The granting of the application was opposed by the Draymen's Association of San Francisco. Its participation was confined to cross-examination of applicant's witness by the Association's secretary-manager and through argument. On direction by the Association he moved that if the application herein is granted the authorized rate be incorporated in City Carriers' Tariff No. 1-A. Rates, rules and regulations set forth in that tariff are established as minimum for all city carriers subject thereto, except as specifically otherwise authorized. The proposal has not been justified. The motion will be denied.

While there appear to be some infirmities in applicant's cost study, the evidence is persuasive that applicant will be able

³ Lower minimum charges for the pool shipment services in question are in effect in the East Bay Cities. In that area a fourth-class rating is applicable, with rates for segregating and unloading of 9½ cents when transportation service is performed, and 11½ cents when no transportation service is performed, by the carrier rendering the pool shipment service. In Petition No. 20, in Case No. 5441, the Draymen's Association of San Francisco seeks the establishment of a fourth-class rating on magazines and periodicals. Should that petition be granted the San Francisco rates corresponding to those stated above would be 10 cents and 13 cents, respectively.

to perform the transportation involved herein under the sought rate on a compensatory basis.

Paragraph (d) of Item No. 220 series of City Carriers's Tariff No. 1-A provides a charge of one cent per package, subject to a minimum charge of 41 cents per component part, for labeling or stenciling packages. Although the record herein shows that applicant, as a part of the services it renders to Curtis, stencils a large number of the bundles of periodicals, it appears from the vice president's testimony that no charge is made therefor. The witness explained that originally the practice was for Curtis to label all the bundles.⁴ Some time ago, he said the carrier suggested to Curtis that the bundles be shipped from Philadelphia unmarked and that Curtis send out the labels to applicant, who would affix them on arrival, thus eliminating the necessity for applicant to examine and segregate each individual bundle of magazines when unloading the pool cars. Curtis consented to this arrangement. It would be unfair, the witness asserted, to charge Curtis for this labeling or stenciling service, since it was being done for the convenience of the carrier.

As we have previously mentioned, the alleged high degree of efficiency of the Curtis operation is due in part, according to testimony of applicant's witness, to the very fact that the labeling or stenciling of the bundles is performed by applicant rather than by the shipper. Nowhere is this evidence controverted. On the other hand, the requirements of Item No. 220 series are such that the charge for labeling or stenciling must be assessed, as minimum, whether the

⁴ Formerly the names of consignees and their addresses were printed on labels which were pasted to the bundles. Just recently that practice has been abandoned for the stenciling procedure herein-before mentioned.

service is performed for the carrier's convenience or otherwise. If the carriers, without specific authorization in the minimum rate tariff, were free to waive the assessment of rates or charges provided therein on the ground that the services involved were performed solely for the carriers' convenience, the integrity of the minimum rate structure would be undermined, the rate situation would become chaotic, and the financial health of the carriers would be jeopardized.

Moreover, no attempt has been made by applicant to secure, through proper procedures, relief from the requirements of paragraph (d) of Item No. 220. It could have sought permission, under Section 3666 of the Public Utilities Code, to deviate from the requirements of that paragraph with respect to the Curtis traffic, or, if applicant believed that the tariff provision in question was unduly burdensome or otherwise improper, it could have filed a petition seeking modification of the tariff requirements. By failing to assess the established charge for labeling or stenciling applicant has, in effect, changed the minimum rate tariff without authorization from the Commission.

Under the circumstances, we have no alternative but to require applicant to collect from Curtis all undercharges resulting from failures to apply the provisions of paragraph (d) of Item No. 220 series, where applicable, with respect to any and all shipments handled for Curtis during the statutory period. Applicant will be so directed, as a condition to the granting of the authority herein sought. It will be directed also to inform the Commission in writing when said undercharges have been collected, identifying the shipments involved and the amounts collected, and will be directed to report

monthly progress as to such collections. Applicant will, as to future shipments, be expected to observe without deviation, except as otherwise specifically authorized, the provisions of Item No. 220 series in connection with pool shipments subject thereto.

The Commission is of the opinion and hereby finds that the proposed reduced rate is reasonable and consistent with the public interest. Subject to the above-stated condition, the application, as amended, will be granted. Because 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 and findings set forth in the preceding opinion,

1. IT IS ORDERED that San Francisco Warehouse Co., a corporation operating as a city carrier, be and it is hereby authorized to perform in San Francisco the services of unloading or segregating, or unloading and segregating, pool car shipments of magazines or periodicals for The Curtis Publishing Company at a rate less than the established minimum rate but not less than 9½ cents per 100 pounds, subject, however, to the condition that The Curtis

Publishing Company shall tender to applicant for unloading or segregating or unloading and segregating a minimum of 1,000 tons of magazines or periodicals per year, and subject, further, to the condition that applicant shall proceed forthwith to comply with the directives set forth in the third ordering paragraph hereinafter.

2. IT IS FURTHER ORDERED that 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.

3. IT IS FURTHER ORDERED that San Francisco Warehouse Co. be and it is hereby directed to collect from The Curtis Publishing Company all undercharges resulting from applicant's failures to apply the provisions of paragraph (d) of Item No. 220 series of City Carriers' Tariff No. 1-A to any and all pool shipments handled for The Curtis Publishing Company during the statutory period, as to which shipments services have been accorded for which charges are provided in said paragraph (d), and to inform the Commission, by monthly progress reports, in writing, when said undercharges have been collected, identifying the shipments involved and the amounts collected.

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

Dated at San Francisco, California, this 19th day of February, 1957.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner..... Rox Hardy..... being necessarily absent, did not participate in the disposition of this proceeding.