

ORIGINAL

Decision No. 54768

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
 into the rates, rules, regulations,)
 charges, allowances and practices of)
 all common carriers, highway carriers)
 and city carriers relating to the)
 transportation of general commodities)
 (commodities for which rates are pro-)
 vided in Minimum Rate Tariff No. 2).)

Case No. 5432
 (Petition No. 81)

O P I N I O N

Minimum Rate Tariff No. 2 provides rates, rules and regulations for the transportation of general commodities between points in California. Item No. 70-D of the tariff provides that transportation charges shall be assessed on the gross weight of the shipment and that no allowance shall be made for the weight of containers.¹ By Petition for Modification No. 81 in Case No. 5432, as amended, Clifford L. Aksland and three other highway contract carriers seek authority under Section 3666 of the Public Utilities Code to deviate from the requirements of Item No. 70-D in that they propose to assess charges for the transportation of bakery goods in wheeled carriers on the net weight of such commodities.² Petitioners state that jointly they transport substantially all the bakery goods moving from the San Francisco Bay Area to points in northern and central California.

Petitioners point out that the proposed provision was previously contained in the tariff and that it was canceled effective

¹ The item contains an exception for certain palletized shipments.

² The other parties to the petition are as follows: W. E. Morrissey, doing business as Morrissey Trucking; Paul H. Melvin, doing business as M & S Trucking; and Young's Commercial Transfer, Inc.

March 1, 1953, upon a showing that the shipping practices of the bakeries had changed and the provision was no longer needed in the tariff. They state that the shipping practices of their shippers involve the use of wheeled bread racks which are specially constructed to permit them to be wheeled loaded into the carriers' equipment. According to the petition, these racks for the most part are owned by the carriers and are considered an integral part of their equipment. Petitioners assert that the practice of delivering bread in this manner has been in use for many years; that the method is feasible and economical and permits expeditious handling of bakery goods with a minimum of damage to the commodities. Petitioners claim that the operations can be conducted at a reasonable profit without charging for the weight of the racks. The shippers who utilize petitioners' services, the petition states, have informed petitioners that unless the sought relief is granted, said shippers will resort to proprietary operations, and petitioners will lose the business.

Interested parties have been notified of the filing of the petition, as amended. No objection has been offered to its being granted.³

Upon consideration of all the facts and circumstances, it is concluded that petitioners' proposal is justified. The petition will

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In the original filing, petitioners sought amendment of Item No. 70-D of Minimum Rate Tariff No. 2, to provide for the assessment of charges on bakery goods in wheeled carriers based on the net weight of the commodities. By amendments to the original petition the carriers revised their request as hereinabove set forth. California Trucking Associations, Inc., while objecting to ex parte granting of the proposal as originally filed, has stated that it had no objection to the granting, under Section 3666, of authority to petitioners to deviate from the minimum rate provisions in question.

be granted.⁴ A public hearing is not necessary. 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.

O R D E R

Based upon the conclusions and findings set forth in the preceding opinion,

IT IS ORDERED that Clifford L. Aksland, W. E. Morrissey, doing business as Morrissey Trucking, Paul H. Melvin, doing business as M & S Trucking, and Young's Commercial Transfer, Inc., operating as highway contract carriers, are and each of them is hereby authorized to assess charges for the transportation of shipments of bakery goods in wheeled carriers on the net weight of the bakery goods exclusive of the weight of said wheeled carriers.

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

⁴ Some of the applicants herein operate also as radial highway common carriers. Section 3542 of the Public Utilities Code provides 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. In order to avoid possible violation of the provisions of Section 3542, a limitation will be placed upon applicants' service as radial highway common carriers during the existence of the authority herein granted.

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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 this Commission.

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

Dated at San Francisco, California, this 2nd day of APRIL, 1957.

[Signature]
President
[Signature]
[Signature]
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Commissioners