

ORIGINAL

Decision No. 55044

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HARRY MCKENZIE TRUCKING CO., a cor-)
 poration, for an order authorizing)
 departure from the rates, rules and)
 regulations of Minimum Rate Tariff) Application No. 38541
 No. 2, pursuant to the provisions)
 of Section 3666 of the Public Util-)
 ities Code for the transportation)
 of brandy.)

Marvin Handler, for applicant.
Pillsbury, Madison & Sutro by Noel Dyer,
 for Fromm & Sichel, Inc.; J. C. Kaspar
 and Arlo D. Poe, for California Trucking
Associations; and J. K. Quintrall, for
Western Motor Tariff Bureau, interested
 parties.
Grant L. Malquist, for the Commission staff.

O P I N I O N

Harry McKenzie Trucking Co. operates as a highway contract carrier in the transportation of property between points in this State.¹ By this application it seeks authority to transport brandy in barrels for Fromm & Sichel, Inc., at rates less than those established as minimum.

A public hearing of the application was held before Examiner Carter R. Bishop on January 31, 1957, at San Francisco.

The transportation involved herein is from the distillery of Fromm & Sichel, Inc., hereinafter referred to as "Fromm", located

¹ Applicant also holds a radial highway common carrier permit from this Commission. Additionally, applicant is authorized by Decisions Nos. 53470 and 53958, in Application No. 36163, to operate as a certificated highway common carrier between certain points. That authority does not embrace the movements involved herein.

at Lac Jac, to bonded warehouses at Monmouth, Fowler and Biola, where the brandy is placed in storage.² The application relates also to the return movement of the brandy from the warehouses to Lac Jac for bottling at the distillery. Both the inbound and outbound shipments are in truck load lots of not less than 40,000 pounds.

The established minimum rates for the transportation here in issue are the fifth-class mileage rates, subject to a truckload minimum weight of 30,000 pounds, as set forth in Minimum Rate Tariff No. 2. These rates, including a 7 per cent surcharge are set forth in Column 1 of Table I, below. The rates sought herein to be applied are set forth in Column 2. These latter rates would be subject to a minimum weight of 40,000 pounds.

TABLE I
(Rates are in cents per 100 pounds)

<u>Between</u>	<u>And</u>	<u>Column 1</u> <u>Present</u> <u>Rate</u>	<u>Column 2</u> <u>Proposed</u> <u>Rate</u>
Lac Jac	Biola	17.120	14.445
Lac Jac	Fowler	12.305	11.235
Lac Jac	Monmouth	12.305	11.235

According to the record, the sought rates reflect constructive rates of 13½ cents to Biola and 10½ cents to Fowler and Monmouth, increased by 7 per cent.

The assistant to the applicant's president described the operations, equipment and facilities involved in the handling of the Fromm traffic. His testimony disclosed the following facts: The traffic in question is of substantial volume. The heaviest movement, both to and from the warehouses, is during the grape harvesting

² All four points are located in Fresno County. Lac Jac, Monmouth and Fowler are southeast of Fresno, while Biola is northwest of that city.

season (September to December, inclusive). However, there is a regular movement every week during the year.³ The brandy is transported in 50-gallon barrels in either flat-bed or van type equipment of 21-foot length, the average weight per load being approximately 46,500 pounds. Loading and unloading operations are efficient. At Lac Jac and Biola, electric hoists, operated by the shipper's employees, are utilized. At Monmouth and Fowler loading and unloading are accomplished at platform level and skids are utilized in placing or removing the upper tier of barrels.⁴ At none of the locations involved does carrier's driver assist in loading or unloading operations beyond the tail gate of the truck. No delays are encountered at the warehouses. Occasionally minor delays are experienced at Lac Jac due to switch engine operations.

Applicant's drivers and equipment, the witness said, are not employed exclusively in handling the brandy traffic, but are utilized in the carrier's other operations as well, so that maximum use is made both of vehicles and drivers. Seasonally, such maximum use is made possible because the peak movement of brandy follows that of most agricultural products and of canned goods, and precedes that of cotton.

A study of the cost of performing the services involved herein was introduced by a certified public accountant employed by applicant. In Table II, below, the proposed rates are compared with the estimated full costs for the various movements as developed by

³ According to the record, the total movement of brandy in barrels between Lac Jac and the three warehouse locations involved, during the 12-month period ending June 30, 1956, amounted to 19,272,957 pounds. Of this amount, 13,017,487 pounds were handled during September-November, inclusive, and 6,255,470 pounds during the remainder of the year. Approximately 70 per cent of the total tonnage moved between Lac Jac and Biola.

⁴ At Lac Jac loading and unloading take place at separate locations. At the latter, the operation is similar to those at Monmouth and Fowler.

the accountant. Costs are separately shown for the peak season and for the balance of the year. Operating ratios reflected by the proposed rates and estimated full costs, before provision for income taxes, are also shown.

TABLE II
(Rates and costs are in cents per 100 pounds)

<u>Between Lac Jac</u>	<u>And</u>		
	<u>Biola</u>	<u>Fowler</u>	<u>Monmouth</u>
Proposed Rate	14.445	11.235	11.235
Full Cost (peak season)	12.4	7.5	8.5
Operating Ratio*	85.8%	66.7%	75.7%
Full Cost (other than peak season)	13.1	8.7	9.4
Operating Ratio*	90.7%	77.4%	83.7%
Operating Ratio (annual)* (weighted average)	87.0%	71.3%	80.2%

* Before provision for income taxes.

As indicated by Table II, the estimated operating ratios under the proposed rates, predicated on the weighted average full costs as developed by the accountant, are 87.0, 71.3, and 80.2 per cent for the movements from and to Biola, Fowler and Monmouth, respectively. The composite operating ratio under the proposed rates and the weighted average estimated full costs for the entire operation would be 85.1 per cent, before income taxes.

The costs as developed by the accountant, the record discloses, were understated in certain respects. Labor costs were predicated on wage rates which were in effect on May 1, 1956. Under existing wage agreements, the accountant stated, an advance of 7 cents per hour in the basic wage rate would become effective on May 1, 1957. No consideration was given to this increase in the

witness' calculation of transportation costs. Moreover, the study does not reflect certain other increases in operating expenses which have taken place since the close of 1956, including the cost of fuel and tires, and increased social security tax rates. The witness testified that if his study were revised to give effect to all known increases in cost items as developed in the record, the resulting operating ratios would be higher than those shown in the study by no more than one per cent.⁵

The assistant secretary of Fromm & Sichel testified that the application herein had been filed after consultation which he had had with applicant's officers; that his company had been giving consideration, ever since the minimum rates were increased in 1955, to performing the transportation in question in its own equipment; and that if the application herein were not granted his company would, in all probability, engage in proprietary operations as a result of which all the brandy traffic now enjoyed by applicant would be lost to that carrier. Additionally, he said, the case goods traffic now handled by other for-hire carriers for account of his company would, at the same time, be diverted to company hauling.⁶ The secretary testified regarding the large volume of brandy produced by Fromm and how it is expected to increase in the future. He pointed out that the facilities at Lac Jac have been recently expanded and that contracts have been let for their further enlargement.

No one opposed the granting of the application.

⁵ Apart from the matter of increases in operating costs the study also made no provision for the expense of providing standby equipment in the event of breakdowns on the road.

⁶ According to the record, Fromm has no vehicles now, and in addition to purchasing equipment would be compelled to establish terminals from which to conduct its highway operations.

As pointed out above, applicant's cost study is deficient in certain respects. The evidence is convincing, however, that applicant will be able to perform the transportation involved herein under the sought rates on a compensatory basis.

The Commission is of the opinion and hereby finds that the proposed 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. Also, in order to avoid possible violation of the provisions of Section 3542 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.⁷

O R D E R

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

IT IS ORDERED that Harry McKenzie Trucking Co., a corporation operating as a contract carrier, be, and it is hereby, authorized to transport brandy in barrels between Lac Jac, on the one hand, and Biola, Fowler and Monmouth, on the other hand, for Fromm & Sichel, Inc., at rates less than the established minimum rates, but

⁷ Section 3542 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.

not less than the following, subject to a minimum weight of 40,000 pounds:

<u>From or to Lac Jac to or from</u>	<u>Rate</u> (In cents per 100 pounds)
Biola	14.445
Fowler	11.235
Monmouth	11.235

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 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 Los Angeles, California, this 27th day of MAY, 1957.

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

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.