

Decision No. 55128

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
TED PETERS TRUCKING COMPANY, INC., )  
for authority under Section 3666 of )  
the Public Utilities Code to assess )  
and collect transportation charges )  
based on rates lower than the mini- )  
mum rates heretofore establish by )  
the Commission. )

Application No. 37675  
(First Supplemental)

INTERIM SUPPLEMENTAL OPINION AND ORDER

Applicant holds a highway contract carrier permit. By Decision No. 53265, dated June 19, 1956, in this proceeding, it was authorized, under Section 3666 of the Public Utilities Code, to assess rates less than the applicable minimum rates for the Carnation Company. The authority covers shipments of frozen pies, cakes and cookie rolls from Los Angeles Territory to Fresno, San Francisco Territory, Sacramento, Chico and certain intermediate points, and frozen fruits and berries to Los Angeles Territory from certain of the above points and Watsonville. Applicant is authorized to charge rates of 39, 51 and 65 cents per 100 lbs., according to distances from Los Angeles, subject to a minimum weight of 36,000 pounds. This authority is scheduled to expire July 9, 1957. By this supplemental application, authority is sought to continue to assess the authorized rates for a further one-year period, but subject to a five percent surcharge.

The supplemental application states that there has continued to be a substantial movement of the traffic involved. A profit and loss statement submitted with the application shows that applicant's operations for 1956 were profitable. Applicant states, however, that it has, in common with other members of the trucking industry, experienced increases in operating costs. The shipper, Carnation Company, has informed applicant by letter of its agreement to the five percent surcharge proposed herein to offset the

increased operating costs.

In Application No. 36145, Ted Peters Trucking Company, Inc. sought authority to operate as a highway common carrier between the San Francisco Bay area and Sacramento, on the one hand, and the Los Angeles area, on the other hand; also between those areas, on the one hand, and intermediate points, on the other hand. Decision No. 53265, supra, provided that the authority granted therein would be canceled if applicant should be granted a certificate of public convenience and necessity on the same commodities from the same points of origin to the same points of destination as provided therein. However, by Decision No. 54740 dated March 26, 1957, Application No. 36145 was denied insofar as it involved operation to or from the Los Angeles area. Therefore, the condition imposed in Decision No. 53265 is no longer applicable.

The profit and loss statement attached to the application shows that applicant's entire operations have been profitable, but there is no data to show that the operations under the reduced rates here in issue have been profitable or will be profitable for the ensuing year. In these circumstances, the supplemental application will be granted, but limited to a 90-day period to enable applicant to show the profitableness of the operations here involved.

The special rate authority herein sought and granted is not applicable to common carrier services.<sup>1</sup> Applicant holds a permit as a radial highway common carrier as well as a permit as a highway contract carrier. Section 3542 of the Public Utilities Code forbids carriers to operate both as a common and as a contract carrier of the same commodities between the same points. The authority hereinafter granted will contain necessary restrictions to avoid conflict with the statutory prohibitions.

---

1

Section 3666 of the Public Utilities Code reads as follows:  
"If any highway carrier other than a common carrier desires to perform any transportation or accessorial service at a lesser rate than the minimum established rates, the commission shall, upon finding that the proposed rate is reasonable, authorize the lesser rate."

Therefore, good cause appearing,

IT IS HEREBY ORDERED:

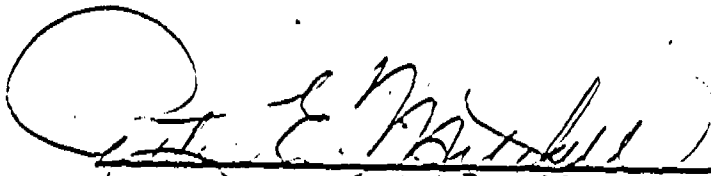
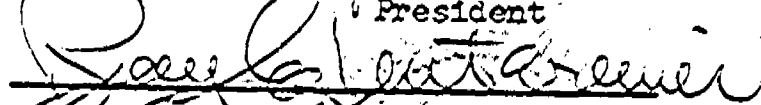

(1) That Appendix "A" of Decision No. 53265 dated June 19, 1956, in this proceeding, be and it is hereby amended by providing that the rates authorized therein shall be subject to a five percent surcharge.

(2) That the expiration date of the authority granted by said Decision No. 53265, as amended herein, be and it is hereby extended to October 7, 1957, unless sooner canceled, changed or extended by order of this Commission.

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

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

Dated at San Francisco, California, this 16<sup>th</sup> day of June, 1957.

  
\_\_\_\_\_  
President  
  
\_\_\_\_\_  
  
\_\_\_\_\_

Commissioners