

ORIGINALDecision No. 55811

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 provided in Minimum Rate)
 Tariff No. 2).)

Case No. 5432
Pet. 92

Glanz & Russell, by R. Y. Schureman, for
 petitioner.
Arlo D. Poe and J. C. Kaspar, for California
 Trucking Associations, Inc.; Roger Ramsey,
 for United Parcel Service; and H. J. Bischoff,
 for Southern California Freight Lines and
 and Southern California Freight Forwarders,
 protestants.
Carl B. Blaubach, for the Commission staff.

O P I N I O N

Robert F. Harding, an individual doing business as Harding's Freight Service, operates as a highway common carrier of automotive parts or accessories, machinery and machinery parts between San Diego, on the one hand, and Fallbrook and Pala, on the other hand, and intermediate points. He also operates as a highway contract carrier of the same commodities between San Diego and Oceanside. By this petition he seeks to be exempted from the established minimum rates set forth in Minimum Rate Tariff No. 2 with respect to the above-described transportation on shipments of 100 pounds or less.

Public hearing was held before Examiner William E. Turpen at Los Angeles on October 7, 1957.

Petitioner's operations consist primarily of the transportation of automobile parts and accessories and machinery parts

from San Diego to the other points he serves. Most of these shipments, according to petitioner, are to garages and service stations which need an expedited service. Petitioner stated that approximately 90 percent of the shipments he handles are under 100 pounds in weight and that of these, about 60 percent of the commodities transported fall within the exemption he is seeking. According to petitioner, the 10 percent of his shipments that are above 100 pounds in weight usually do not run over 300 to 400 pounds and are usually larger items from the same shippers tendering the smaller shipments. The other commodities handled by petitioner, for which exemption is not sought, include some drug supplies, laboratory samples to and from hospitals, and other miscellaneous articles. In addition to the above-described freight operations, petitioner acts as a distributor of a San Diego newspaper. The newspapers are carried at the same time as his other freight and turned over to subcontractors at key points for ultimate delivery. He operates three 3/4-ton trucks, with a 1/2-ton truck as a spare, and makes two trips a day over each of two routes.

The particular type of transportation conducted by petitioner, he said, has been built up by him and is not offered by other carriers in the area. Western Greyhound Lines operates in the area and offers a depot-to-depot express service. Although petitioner does not know if any of his shippers now use the Greyhound service, he alleges that many of his shippers have pointed out to him that that service is available at lower rates.

Petitioner asserted that he now observes the minimum rates as set forth in Minimum Rate Tariff No. 2, and that under these rates he has been able to conduct his operations at a profit. He said

that if the exemption is granted, he intends to continue to observe the present level of rates. However, he stated, any increases in the minimum rates would probably cause him to lose a number of his accounts to proprietary operations. Petitioner also asserted that similar exemptions have been granted to other carriers engaged in the same type of operations. The pending revisions of the minimum rates prompted the filing of the petition.

The different protestants objected to the granting of the petition in varying degree. Counsel for the California Trucking Associations, Inc., stated that his organization feels that exemptions by carrier name, such as is sought here, are unwarranted and that already too many such exemptions have been authorized. He alleges that the granting of such authorities contributes to a weakening of the minimum rate structure and eventually will lead to its breakdown. He strongly urged that no new exemptions be granted. United Parcel Service feels that these types of exemptions should be limited to strictly parcel delivery carriers. Counsel for United Parcel Service suggested that, if the petition is granted, the authority be limited to apply only with respect to those shippers who never offer shipments of over 100 pounds.

Although it is true, as pointed out by petitioner, that many other carriers conducting somewhat similar operations have been granted exemptions from the minimum rates, it should be noted that such carriers in general are either passenger stages carrying incidental express shipments, carriers operating solely as parcel delivery carriers, or carriers operating in rural areas which are otherwise devoid of freight service.¹ Petitioner did not show that

1. See Decision No. 52199, dated November 7, 1955, in Case No. 5432.

his operation is that of a true parcel delivery carrier. It is clear that he operates in an area that cannot be considered as rural in nature. The record shows that he is now operating at a profit, but a large part of his revenues is derived from the newspaper transportation. Accordingly, it cannot be determined if the revenues received from the transportation of small shipments actually cover the costs. An exemption, such as is requested, would permit petitioner to publish rates even lower than he now observes, and permit any other carrier operating in the area served by petitioner as a highway common carrier to observe the same rates. The petition will be denied.

Petitioner may seek authority to publish specific rates over his common carrier route, and to charge less than minimum rates as a contract carrier. If such petition and application are filed, he should be prepared to show the reasonableness of the rates sought.

O R D E R

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

IT IS ORDERED that Petition for Modification No. 92, in Case No. 5432, be and it is hereby denied.

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

Dated at San Francisco, California, this 15th day of November, 1957.

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