

**ORIGINAL**Decision No. 55907

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of petition of G. I. )  
 Trucking Company, a corporation, )  
 for authority to publish a cubic )  
 foot rule and exceptions to the )  
 current classification in South- )  
 western Motor Tariff Bureau )  
 Local, Joint and Proportional )  
 Tariff 18-B, Cal. P.U.C. No. 17 )  
 of J. L. Beeler, Agent. )

Application No. 38927

Glanz & Russell, by Arthur Glanz,  
 for J. L. Beeler, applicant.  
Frank P. Dunn and Thomas W. Schlauch,  
 for G. I. Trucking Company; and  
Anthony V. Danna, for Furniture  
 Manufacturers Association of  
 California; interested parties.  
Leonard Diamond, for the Commission's  
 staff.

O P I N I O N

By this application, J. L. Beeler, tariff publishing agent of the Southwestern Motor Tariff Bureau, seeks authority under Section 454 of the Public Utilities Code to make applicable in connection with G. I. Trucking Company, (hereinafter referred to as G. I.), a highway common carrier, certain classification exception ratings and a tariff rule.<sup>1</sup> The tariff provisions in question, which are now published in Southwestern Motor Tariff Bureau Local Joint and Proportional Tariff No. 18-B in connection with various other carriers, will result in increases if the sought relief is granted.

<sup>1</sup> While the title shows G. I. Trucking Company to be the applicant, strictly speaking the applicant is J. L. Beeler, who filed the application on behalf of the carrier. The record shows that Beeler is authorized by the latter to make such filings for its account.

The sought exception ratings apply on various articles<sup>2</sup> of low density and result in higher charges than those applicable under Western Classification No. 76 and Pacific Southcoast Freight Bureau Exception Sheet No. 1-S, which now govern G. I. Trucking Company's class rates. The proposed tariff rule (Item No. 290 series) relates to charges on low density shipments. It reads:

"On light and bulky articles measuring in excess of 64 cubic feet per shipment, weighing less than 15 pounds per cubic foot of space occupied, charges will be assessed by applying the class or commodity rate applicable on a basis of 15 pounds for each cubic foot of space occupied."

Public hearing of the application was held before Examiner Carter R. Bishop at Los Angeles on September 11, 1957. Evidence in support of the application was introduced through applicant and the president of G. I. Trucking Company.

Applicant reviewed the circumstances which led up to the filing of the instant application. These were as follows: G. I. was granted a highway common carrier certificate by Decision No. 52652, dated February 14, 1956, in Application No. 36282.<sup>3</sup> Effective May 25, 1956, G. I. was made a party to the aforementioned Tariff No. 18-B, as an initial tariff filing with this Commission. The tariff pages comprising said filing included an item, No. 207, by which it was attempted to make the provisions here in issue applicable in connection with G. I. Prior to the above-mentioned effective date the Commission rejected the tariff pages involving the proposed Item

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2 The articles involved are: agricultural implements, other than hand; aluminum utensils, kitchen or cooking; barrels or drums; bicycles; burial cases, set up; box springs; blankets; mattresses; pads; pillows; air coolers; cooling pads; furniture, new, set up, blanket-wrapped; instruments, scientific or electronic; sanitary pads; facial cleansing tissue; paper napkins; ranges or stoves; refrigerators; traveling bags and trucks.

3 The certificate, as amended, authorizes G. I. to transport general commodities between points located in the Los Angeles - Redlands area. Prior to securing said certificate G. I. was authorized to operate solely as a permitted carrier.

No. 207 and the items embraced by the instant application. The basis for the rejection was that the proposed provisions (1) were ambiguous and (2) tended to penalize or divert "light-and-bulky" freight in contravention of the Commission's letter of January 3, 1956, addressed to "interested parties".<sup>4</sup>

Following the rejection of the aforesaid tariff pages applicant filed special docket applications seeking to make effective on the original scheduled date of May 25, 1956, on less than statutory notice, revised tariff schedules which, it appears, eliminated the objectionable feature of ambiguity that had characterized the rejected pages. The revised schedules differed from the latter in form only, not in substance. Except as to certain provisions which did not relate to light and bulky freight, the special docket applications were, on June 19, 1956, denied.<sup>5</sup> The application herein, which seeks authority to establish for account of G. I. the tariff provisions for which relief was denied on the special docket, was filed on March 20, 1957.

Applicant explained that some of the exception items involved herein are not exceptions to the ratings in the Western Classification, but provide so-called "rate stops". Thus, Item No. 680-E, applying on agricultural implements, other than hand, states that the ratings of the Western Classification apply, but provides that charges on shipments weighing in excess of 4,000 pounds shall be computed on the basis of class rates applicable to a minimum weight of 4,000 pounds. Under this requirement a 10,000-pound

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4 The letter in question related to tariff filings to be made pursuant to the issuance of highway common carrier certificates in the so-called "policy" decision applications (Decision No. 50448). In order to be satisfactory to the Commission such filings, the letter stated, "shall be free from rules or special charges designed to penalize or divert 'light-and-bulky' freight or other particular kinds of traffic for which the carrier is certificated".

5 The special docket applications in question are Nos. 454-1670 and 491-1338.

shipment, for example, would be assessed the 4,000-pound lot rate rather than the lower rate published under the 10,000-pound bracket.

Applicant testified that the exception ratings which he attempted to place in effect via G. I. were part of an initial filing and believed that, with the removal of the ambiguities which attended the form of publication as originally attempted, the exception items should have been permitted to take effect.<sup>6</sup> With the exception of two of the items in question, applicant stated, all of the provisions here in issue have been in effect for at least six years, and some for much longer periods, in connection with various other carriers who are parties to Tariff No. 18-B.<sup>7</sup>

The president of G. I. testified that his company, prior to becoming a certificated common carrier, had transported shipments of the articles here in issue between points in the Los Angeles area at ratings higher than those provided in the Western Classification. As a result of the Commission's rejection of the aforementioned tariff pages, he said, G. I. has had to transport some commodities at lower charges as a certificated carrier than it did formerly as a permitted carrier. The president stated also that, as a further consequence of the rejections, the carrier is now handling many more low density shipments than it did formerly, the revenues from which are assertedly inadequate.<sup>8</sup>

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<sup>6</sup> The witness pointed out that G. I., in its application for a certificate, had stated that it proposed to establish rates, rules and regulations in substantial conformity with those in applicant's Tariff No. 18-series.

<sup>7</sup> According to the witness, Items Nos. 729 (box springs) and 802 (instruments, scientific) have been in the tariff for approximately two and three years respectively.

<sup>8</sup> The witness cited instances in which the total revenue from a truckload of low density freight was insufficient even to meet the wages of the truck driver, not to mention other operating expenses and provision for profit.

No one opposed the granting of the application. A representative of the Furniture Manufacturers Association and an associate transportation rate expert from the Commission's staff assisted in the development of the record. At the request of the rate expert, Exhibits Nos. 20 and 21 in Case No. 5840 were incorporated into the record herein by reference. Exhibit No. 20 contains abstracts of the so-called "cubic foot" rule provisions of common carriers operating within California, including the aforementioned Item No. 290 series of applicant's Tariff No. 18-B. In Exhibit No. 21 are set forth the results of a study made by the Commission's Rate Branch into said provisions and the practices of the carriers in applying them. The staff concluded that the rules in question are impractical to apply, are productive of results which either are unreasonable or otherwise highly undesirable, and are difficult of enforcement. The exhibit contains the staff recommendation that all highway common carriers and their affiliated express corporations be ordered to cancel tariff rules which require that charges be assessed upon the volume of space occupied by the shipment.

Conclusions:

The rule in Tariff No. 18-B, governing the assessment of charges on light and bulky shipments, which applicant seeks to make applicable in connection with G. I., is now under formal investigation, together with all similar rules of common carriers operating in this state, in Case No. 5840. That proceeding was instituted on the Commission's own motion for the purpose of determining whether such rules are unjust, unreasonable, discriminatory or otherwise unlawful.

Case No. 5840 is now under submission. In the circumstances, it appears that action with respect to that portion of the application herein which relates to the aforementioned rule in Tariff No. 18-B should await the issuance of a decision in the investigation proceeding. When Case No. 5840 is decided, a supplemental order in the application herein will be issued.

With reference to the proposed exception ratings, no detailed showing was made to establish their propriety in connection with G.I. On the contrary, it is primarily the position of applicant that the proposed ratings should be authorized on the premise that the Commission erred in rejecting their attempted publication as initial common carrier filings. Had the rejected pages been permitted to go into effect, applicant urges, they could subsequently have been made the subject of complaint or investigation, as in the case of any initial tariff filing.

The record shows, however, that all of the provisions here in issue have, for several years, applied in connection with various other carriers parties to applicant's tariff, and that most of these provisions have so applied for many years. Thus, the exception provisions in question carry with them a presumption of reasonableness. Here it should be observed that the ratings of the Western Classification and of the exception sheet, in so far as they govern the class rate structure which the Commission has established as minimum, are not necessarily maximum reasonable ratings. Higher ratings, as exceptions thereto, may be established where such are shown to be within the zone of reasonableness.

In view of the foregoing considerations it is our conclusion, and we so find, that the increases proposed herein, except that relating to Item No. 290 series of the aforesaid Tariff 18-B, have

been justified. To that extent the application will be granted.

Inherent in the application is relief from the long-and short-haul provisions of Article XII, Section 21, of the Constitution of the State of California and Section 460 of the Public Utilities Code, in order to permit the application of the sought ratings to rates which are nonintermediate in application. For the reasons that departures from the above statutory provisions were authorized for the rates, like authority is justified for application of the exception ratings. Such authority will be granted.

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 J. L. Beeler be and he is hereby authorized to establish for account of G. I. Trucking Company the classification ratings and other tariff provisions, except those contained in Item No. 290 series of Southwestern Motor Tariff Bureau Freight Tariff No. 18-B, as proposed in the application filed in this proceeding.

IT IS FURTHER ORDERED that J. L. Beeler, in establishing and maintaining, for account of G. I. Trucking Company, the exception ratings authorized hereinabove, be and he is hereby authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California, and Section 460 of the Public Utilities Code, to the extent necessary to adjust long-and short-haul departures now maintained under outstanding authorizations; that such outstanding authorizations be and they are hereby modified only to the extent necessary to comply with this order; and that schedules containing the exception ratings published under this authority shall make reference to the prior orders authorizing the long-and short-haul departures and to this order.

IT IS FURTHER ORDERED that the authority herein granted shall expire unless exercised within sixty days after the effective date of this order.

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

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

[Signature]  
President  
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Commissioners