

ORIGINAL

Decision No. 56912

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)	Application No. 37675
collect transportation charges based)	(Third Supplemental)
on rates lower than the minimum rates)	
heretofore established by the Commission.))	

THIRD SUPPLEMENTAL OPINION AND ORDER

Applicant holds radial highway common, highway contract and city carrier permits.¹ By Decision No. 53265 of June 19, 1956, as amended, in this proceeding, it was authorized to assess rates less than the applicable minimum rates for shipments of frozen pies, cakes and cookie rolls for the Carnation Company from the Los Angeles Territory to Fresno, San Francisco Territory, Sacramento, Chico and certain intermediate points, and fresh frozen fruit and berries from certain of the aforementioned places and Watsonville to the Los Angeles Territory. The rates authorized by Decision No. 53265 were made subject to a five percent surcharge by Decision No. 55628 of October 1, 1957. The authority is scheduled to expire July 7, 1958.

By this supplemental application, authority is sought to continue to deviate from the minimum rates for a further one-year period and to increase the currently authorized surcharge from five to seven percent.

The supplemental application shows that the portion of applicant's operations here involved has been conducted at a profit under the authorized rates during the past year. It shows that applicant has experienced certain increases in the cost of operation and that the proposed increase in rates will offset the increased operating cost which it has incurred. The Transportation Division staff has reviewed the application and has recommended that it be granted.

¹ Applicant is also authorized to operate as a certificated highway common carrier of general commodities between points not involved herein.

In the circumstances, it appears, and the Commission finds, that the proposed rates are reasonable. This is a matter in which a public hearing is not necessary. The supplemental application will be granted. In view of the expiration date of the present authority, the following order will be made effective July 7, 1958.

The special rate authority herein sought and granted is not applicable to common carrier services.² Section 3542 of the Public Utilities Code forbids carriers to operate both as a common carrier and as a highway contract carrier of the same commodities between the same points.³ In view of the authority herein granted, a necessary limitation will be placed upon applicant's radial highway common carrier permit to preclude the dual operations prohibited by Section 3542 of the Code.

Therefore, good cause appearing,

IT IS ORDERED:

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

(2) That the expiration date of the authority granted by said Decision No. 53265, as further amended herein, is hereby extended to July 7, 1959, unless sooner canceled, changed, or extended by order of this Commission.

² 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."

³ Section 3542, Public Utilities Code:

"No person or corporation shall engage or be permitted by the commission to engage in the transportation of property on any public highway, both as a common carrier and as a highway contract carrier or as a common carrier and a petroleum contract carrier of the same commodities between the same points."

(3) That the permit of Ted Peters Trucking Co., Inc., to operate as a radial highway common carrier is hereby conditioned as follows:

"This permit shall not authorize the transportation of:

1. Frozen pies, cakes and cookie rolls, in straight or mixed shipments from Los Angeles Territory, as defined in Minimum Rate Tariff No. 2 to:
 - (a) Fresno and intermediate points on U. S. Highway 99
 - (b) San Francisco Territory, as defined in Minimum Rate Tariff No. 2, and intermediate points between Fresno and San Francisco on U. S. Highways 99 and 50, and State Highway 33 and intermediate points between Gilroy and San Francisco on U. S. Highway 101
 - (c) Sacramento and intermediate points between Fresno and Sacramento on U. S. Highway 99 and State Highway 33
 - (d) Chico and intermediate points between Sacramento and Chico on U. S. Highways 40, 99-E and 40 Alternate
2. Fresh frozen fruits and berries to Los Angeles Territory from:
 - (a) Fresno and points and places within 25 miles thereof except points on U. S. Highway 99 north of Fresno, and intermediate points between Fresno and Bakersfield, on U. S. Highway 99
 - (b) San Francisco Territory, and intermediate points on U. S. Highway 99 and State Highway 33 north of Fresno, on U. S. Highway 101 between San Francisco and Gilroy, and off-route points within 10 miles of Watsonville.
 - (c) Sacramento and intermediate points between Sacramento and Fresno on U. S. Highway 99 and State Highway 33

(d) Chico and intermediate points between Chico and Sacramento on U. S. Highways 40, 99-E and 40 Alternate

This order shall become effective July 7, 1958.

Dated at San Francisco, California, this 12th day of July, 1958.

E. Lynn Fox
President
Carl E. Mitchell
Carl L. Winter
Walter K. ...
Theodore J. ...
Commissioners