

ORIGINAL

Decision No. 56927

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of J. E. CORRIGAN, an individual doing business as TROJAN FREIGHT LINES for authority to charge less than minimum rates pursuant to Section 3666 of the Public Utilities Code for the transportation of paper bags in shipments weighing 30,000 pounds or more for the Los Angeles Paper Bag Company.

Application No. 39688

Theodore W. Russell, for J. E. Corrigan,
applicant.
James Quintrall, Arlo D. Poe and J. C. Kaspar,
for California Trucking Associations, Inc.,
interested party.
R. A. Lubich, for the staff of the Public Utilities
Commission of the State of California.

O P I N I O N

J. E. Corrigan, doing business as Trojan Freight Lines, is engaged in the business of transporting property as a for-hire carrier under permits authorizing operations as a radial highway common carrier, a highway contract carrier, and as a city carrier. By this application he seeks authority as a highway contract carrier to charge lesser rates than the applicable minimum for transporting paper bags for the Los Angeles Paper Bag Company from Los Angeles to destinations in the San Francisco Bay area and in and in the vicinity of Sacramento, Stockton and Modesto.

Public hearing on the application was held before Examiner C. S. Abernathy at Los Angeles on March 18 and 19, 1958.

Evidence was presented by witnesses for applicant to the effect that applicant has been performing the services involved herein for a considerable period of time; that there is a regular movement of paper bags in truckload quantities from the Los Angeles Paper Bag Company to destinations in the San Francisco Bay area and in Sacramento, Stockton and Modesto; that the minimum rate which applies to this transportation under the provisions of Minimum Rate Tariff No. 2 is 63 cents per 100 pounds; that applicant proposes and seeks authority to assess a rate of 58 cents per 100 pounds; that unless the sought rate is authorized it is likely that the Los Angeles Paper Bag Company will undertake to acquire and operate vehicles of its own for the transportation of its products; that applicant can operate profitably under the sought rate, and that such rate will result in earnings as indicated by an operating ratio of 81.28 percent.

The authority which applicant seeks will not be granted.

Although it appears that applicant's services for the Los Angeles Paper Bag Company are profitable, it also appears that the profits are due to circumstances not directly associated with those services. The evidence of applicant's witnesses shows that in addition to the paper bag transportation applicant transports salt, beer, canned goods, lard substitutes, molasses and meat between Los Angeles and the San Francisco Bay area, and that in the transportation of these several commodities applicant is able to combine and coordinate the movements so as to achieve a high load

factor for his vehicles in each direction. This high load factor is also achieved by the use of subhaulers on a one-way basis in instances when the volume of traffic which is tendered to applicant at one time exceeds the capacity of his vehicles. The cost showing which applicant made in connection with the paper-bag transportation was developed for only the northbound movements of the vehicles. However, it is evident that the usage of equipment and manpower which applicant attains in the paper bag transportation depends to a substantial extent upon movements of the other commodities. In the circumstances the cost development used by applicant does not provide a suitable basis for a finding that the rate which is sought for the paper bag transportation is reasonable within the meaning of Section 3666 of the Public Utilities Code. Moreover, the cost showing reflects in part the use of subhaulers and does not take into consideration the costs of such subhaulers that reasonably might be attributable to the transportation performed. In addition the cost showing is inaccurate or deficient in various respects. For example, it included no provision for the salary of applicant, although the evidence shows that he devotes his full time to the operations.

Second, the record is clear that the paper-bag transportation rests in part upon illegal operations. Section 602 of the Vehicle Code provides as follows:

"No person shall drive upon any highway any vehicle designed or used for transporting merchandise, freight, materials or other property for more than 12 consecutive hours nor for more than 12 hours spread over a total of 15 consecutive hours. Thereafter, such person shall not drive any such vehicle until eight consecutive hours have elapsed.

"Regardless of aggregate driving time, no driver shall drive for more than 12 hours in any 24-hour period unless eight consecutive hours off duty have elapsed."

Applicant's operations as a contract carrier are subject to these provisions of the Vehicle Code. The record shows that notwithstanding the statutory limitations upon drivers' hours of service applicant regularly allows his drivers to exceed the permissible limits. Deviations from the minimum rates will not be authorized as reasonable when it appears that the sought deviations are founded upon illegal operations.

Upon consideration of the facts and circumstances of record, the Commission is of the opinion and finds that applicant has not established the reasonableness of the rate which it seeks to assess for the transportation of paper bags for the Los Angeles Paper Bag Company. The application will be denied.

O R D E R

Based on the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that the above-numbered application be, and it hereby is, denied.

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

Dated at San Francisco, California,
this 1st day of July, 1958.

[Signature]
President
[Signature]
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Commissioners