

**ORIGINAL**

Decision No. 56953

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
Dan Keeney for authority, under )	
Section 3666 of Highway Carriers' Act )	
and under Section 4015 of City Car-	
riers' Act, to charge other than mini-	Application No. 34534
imum rates on Grain, Grain Products and )	(Fifth Supplemental)
other articles transported for General )	
Mills, Inc. )	

FIFTH SUPPLEMENTAL OPINION AND ORDER

Applicant holds highway contract, radial highway common and city carrier permits. Prior orders in this proceeding have authorized him, as a highway contract carrier under Section 3666, and as a city carrier under Section 4015 of the Public Utilities Code, to observe monthly vehicle unit rates for General Mills, Inc., Sperry Division, within southern California, which are lower than the established minimum rates. The authority is scheduled to expire July 31, 1958.

By this supplemental application, authority is sought to continue to deviate from the minimum rates for a further one-year period. Applicant proposes, however, to increase the current rates to the level of the rates as set forth in the supplemental application.

The supplemental application states that, except for increased labor costs, which became effective September 1, 1957, the conditions which justified deviation from the minimum rates still obtain. The application indicates that rates somewhat higher than those heretofore authorized have been assessed since September 1, 1957, by agreement between the carrier and shipper. Applicant states that the increased charges have offset the higher labor costs. The supplemental application shows that the operations

have been profitable.

In the circumstances, it appears, and the Commission finds, that the proposed rates are reasonable and consistent with the public interest. This is a matter in which a public hearing is not necessary. The supplemental application will be granted.

The special rate authority herein sought and granted is not applicable to common carrier services.<sup>1</sup> 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.<sup>2</sup> 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 Decision No. 47484 of July 15, 1952, as amended, is hereby further amended by substituting for the rate provisions of Item No. 15 of Appendix "A" attached thereto the following:

<u>Maximum Load In Pounds</u>	<u>Vehicle Unit Charge per Calendar Month (a)</u>	<u>Excess Mileage Charge (b)</u>
Over 12,000 but not over 20,000	850	21
Over 20,000	1100	34

(a) Rates in dollars per unit.

(b) Rates in cents per mile to be applied to the mileage, if any, by which the aggregate mileage of all vehicle units subject to the same vehicle unit charge exceeds 1,250 miles multiplied by the number of said vehicle units.

<sup>1</sup> 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."

<sup>2</sup> Section 3542, Public Utilities Code reads as follows:

"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."

(2) That the expiration date of the authority granted by said Decision No. 47484, as further amended herein, is hereby extended to July 31, 1959, unless sooner changed or further extended by order of the Commission.

(3) That the permit of Dan Keeney to operate as a radial highway common carrier is hereby conditioned as follows:

"This permit shall not authorize the transportation of grain, grain products, and related articles as described in Items Nos. 652-B, 652<sup>1</sup>-B, 653-A and 655-B of Minimum Rate Tariff No. 2, transported by motor vehicle between Vernon, Los Angeles, Los Angeles Harbor or Long Beach, or from any of the aforementioned points to places in any of the following counties: Los Angeles, Ventura, San Bernardino, Santa Barbara, San Luis Obispo, Kern, Inyo, Riverside, Imperial, San Diego and Orange.

(4) In all other respects said Decision No. 47484, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 8<sup>th</sup> day of July, 1958.

*E. Lynn Fox*  
 President

*John E. Mitchell*

*James Wettramer*

*William D. ...*

*Theodore Jenner*  
 Commissioners