

Decision No. 57279

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Lamb Transportation Company, )	
a corporation, for authority to transport )	Application No. 35273
ground tale in bulk from Los Angeles to )	(Fifth Supplemental)
Kaiser, California, at less than the )	
established minimum rates. )	

FIFTH SUPPLEMENTAL OPINION AND ORDER

Applicant holds highway contract carrier, radial highway common carrier and city carrier permits.<sup>1</sup> Prior orders in this proceeding have authorized it, as a highway contract carrier, under Section 3666 of the Public Utilities Code, to deviate from the minimum rate for the transportation of ground tale from Los Angeles to Kaiser for the American Mineral Company. The authority is scheduled to expire September 6, 1958.

By this supplemental application, authority is sought to continue to deviate from the minimum rate to and including October 6, 1958.

The application shows that the operations here involved have been conducted at a profit under the authorized rate during the past year and that the conditions which justified the less than minimum rate still obtain.

The supplemental application states that pursuant to authorization of the Interstate Commerce Commission, applicant's stock was exchanged for stock of Consolidated Freightways, Inc., as the result of which applicant became, and now is, a wholly owned subsidiary of Consolidated Freightways, Inc.<sup>2</sup> By further authority

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<sup>1</sup> Applicant is also authorized to operate as a certificated highway common carrier of petroleum products and as a petroleum irregular route carrier between points not involved herein.

<sup>2</sup> I.C.C. Docket No. MC-F-6533.

of the Interstate Commerce Commission, Consolidated Freightways, Inc., and Lamb Transportation were granted an extension of time to October 6, 1958, within which to conclude the merger. It is the intention of both parties to complete the transaction on that date.

In the circumstances, it appears, and the Commission finds, that the proposed rate is 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 current authority, the following order will be made effective September 6, 1958.

The special rate authority herein sought and granted is not applicable to common carrier services.<sup>3</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>4</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.

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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."

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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."

Therefore, good cause appearing,

IT IS ORDERED:


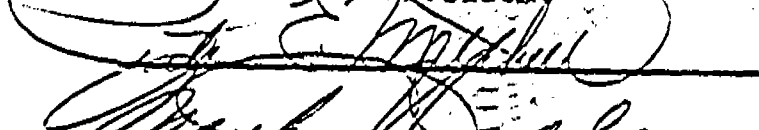


(1) That the authority granted to Lamb Transportation Company, a corporation, by Decision No. 51928 of September 6, 1955, as amended, in this proceeding, is hereby extended to October 6, 1958, unless sooner canceled, changed or further extended by order of the Commission.

(2) That the permit which Lamb Transportation Company holds to operate as a radial highway common carrier is hereby limited to exclude the transportation of ground talc from Los Angeles to Kaiser.

(3) In all other respects Decision No. 51928, as amended, shall remain in full force and effect.

This order shall become effective September 6, 1958.

Dated at San Francisco, California, this 9th day of September, 1958.

  
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President  
  
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Commissioners