

ORIGINAL

Decision No. 57281

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
EARL L. WILSON, GERTRUDE E. WILSON, )  
WILLIAM J. WILSON, AND MADOLINE L. )  
WILSON, co-partners doing business )  
under the firm name and style of PONY )  
EXPRESS FAST FREIGHT, to charge less )  
than the minimum rates established by )  
the California Public Utilities Com- )  
mission as authorized in Section )  
3666 of the Public Utilities Code of )  
the State of California. )

Application No. 37363  
(Third Supplemental)

THIRD SUPPLEMENTAL OPINION AND ORDER

Applicants hold radial highway common, highway contract and city carrier permits. By prior orders, in this proceeding, they were authorized as a highway contract carrier, under Section 3666 of the Public Utilities Code, to deviate from the established minimum rates. The authority is limited to the transportation of automobile accessories and supplies under contract for General Motors Corporation, United Motors Service Division, from that company's Vernon warehouse to General Motors dealers throughout southern California. It permits deviation from the established minimum rates by observing a second-class rating on all automobile accessories and supplies in lieu of the actual classification on each article. The rates applicants are observing are those set forth in Minimum Rate Tariff No. 2. The authority is scheduled to expire November 21, 1958.

By this supplemental application authority is sought to continue to deviate from the minimum rates.

According to the supplemental application, the conditions which justified deviation from the minimum rates still obtain. Applicants state that a study made of 57 shipments during

the first fifteen days in July, 1958, show that a greater over-all revenue accrued under the authorized second-class rating than would have accrued under the actual classification ratings.

The application shows that on or about July 21, 1958, the California Trucking Associations, Inc., was notified of the filing of the supplemental application. No objection has been received to its being granted.

In the circumstances it appears, and the Commission finds, that the proposed basis of rating and charges is reasonable. A public hearing is not necessary. The supplemental application will be granted. However, as the conditions surrounding the transportation may change, the extension will be limited to one year unless sooner canceled, changed or extended by order of the Commission.

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 the authority granted to Earl L. Wilson, Gertrude E. Wilson, William J. Wilson and Madoline L. Wilson,

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<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 of the 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."

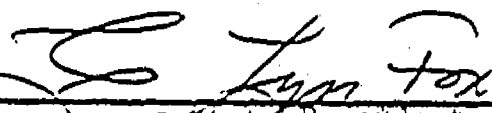

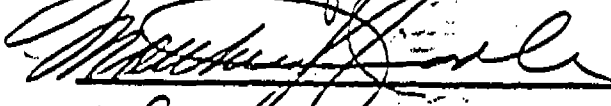
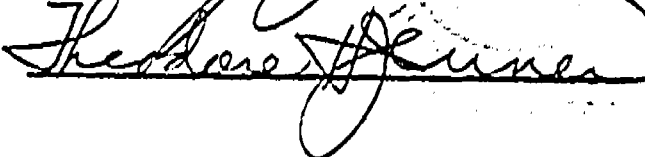
copartners, doing business under the firm name and style of Pony Express Fast Freight, by Decision No. 52156 of November 1, 1955, as amended, in this proceeding, is hereby extended to November 21, 1959, unless sooner canceled, changed or extended by order of the Commission.

(2) That the permit of Earl L. Wilson, Gertrude E. Wilson, William J. Wilson and Madoline L. Wilson, copartners, doing business as Pony Express Fast Freight, to operate as a radial highway common carrier is hereby limited to exclude the transportation of automobile accessories and supplies from Vernon to points in southern California.

(3) That in all other respects Decision No. 52156 shall remain in full force and effect.

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

Dated at San Francisco, California, this 22<sup>nd</sup> day of September, 1958.

  
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President  
  
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Commissioners