

ORIGINAL

Decision No. 57701

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ALMA)
MAE MARSH extending application from) Application No. 39420
operation of Minimum Rate Tariff No. Two.) (First Supplemental)

FIRST SUPPLEMENTAL OPINION AND ORDER

Alma Mae Marsh, doing business as Felix Marsh Transfer, holds radial highway common, highway contract carrier, household goods carrier and city carrier permits. Decision No. 55653 of October 8, 1957, in this proceeding, authorized her to assess rates and charges based upon units of measurement different from those in which the minimum rates were stated in Minimum Rate Tariff No. 2, in connection with transportation of property for the Pacific Telephone and Telegraph Company. Applicant was authorized to assess rates per hour or per piece as named in Minimum Rate Tariff No. 4-A (used household goods). The authority expired October 9, 1958. Applicant seeks reinstatement of this authority for a three-year period.

Applicant alleges that the highly specialized nature of the traffic she handles and the requirements of her shipper are the same as when the authorization was first granted by Decision No. 47215, dated June 5, 1952, in Case No. 4208. She asserts that the prior authorization allowed her to meet the shipper's requirements with respect to bases of charges and that the need for relief from the unit of measurement provisions is the same. She states that at all times the authorized bases produce charges in excess of those produced by the minimum rates otherwise applicable under Minimum Rate Tariff No. 2 and that the service has been profitable.

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

A. 39420 (1st Supp.)-AC

be granted. However, as the conditions under which the service is performed may change at any time, the authority 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.¹ 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.² In view of the contract operation involved in this proceeding, the order herein will provide that during the period that the authority herein granted is in effect the applicant shall not engage in the transportation of the same commodities between the points involved in this authority as a radial highway common carrier.

Therefore, good cause appearing,

IT IS ORDERED:

(1) That Alma Mae Marsh, doing business as Felix Marsh Transfer, is hereby authorized to quote and assess rates and charges in the units of measurement used in Items Fos. 400-E and 410-A of Minimum Rate Tariff No. 4-A and no lower than the rates and charges named in those items, in lieu of minimum rates per 100 pounds specified in Minimum Rate Tariff No. 2; and that this authority is restricted to the transportation of property for Pacific Telephone and Telegraph Company.

¹ 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."

² 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."

A. 39420-AC *

(2) That the authority herein granted shall expire one year after the effective date of this order, unless sooner changed or extended by order of the Commission.

(3) That during the period that the authority herein granted is in effect the aforesaid applicant shall not engage in the transportation of the same commodities between the points involved in this authority as a radial highway common carrier; and that such transportation which applicant may perform in violation of these provisions shall be cause for revocation of the authority herein granted.

(4) That in all other respects First Supplemental Application No. 39420 of Alma Mae Marsh, doing business as Felix Marsh Transfer, is hereby denied.

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

Dated at Los Angeles, California, this 9th day of December, 1958.

E. Lynn Fox
President
W. E. [unclear]
Ray [unclear]
[unclear]
Theodore [unclear]
Commissioners