

58047

Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

| | |
|---------------------------------------|-----------------------|
| In the Matter of the Application of) | |
| CONSOLIDATED FREIGHTWAYS, INC.,) | |
| (formerly Farnsworth and Ruggles,) | |
| a corporation) for authority to) | Application No. 36743 |
| depart from the rates, rules and) | (Fifth Supplemental) |
| regulations of Minimum Rate Tariff) | |
| No. 2 under the provisions of the) | |
| Highway Carriers' Act.) | |

SUPPLEMENTAL OPINION AND ORDER

Consolidated Freightways, Inc., a corporation, holds radial highway common carrier, highway contract carrier, household goods carrier and city carrier permits and a certificate of public convenience and necessity to operate between the San Francisco Bay area, on the one hand, and the Los Angeles area, on the other hand. Decision No. 56332, dated March 11, 1958, in this proceeding, authorized it to observe rates less than minimum rates for the transportation of iron and steel articles from South San Francisco to San Francisco for Bethlehem Pacific Coast Steel Corporation. The authority is scheduled to expire March 11, 1959. By this supplemental application, authority is sought to continue to deviate from the minimum rates for a further one-year period but to assess rates one-half cent below the minimum rates established by Decision No. 57545.¹

The supplemental application shows that, in general, the conditions which justified deviation from the minimum rates still obtain. It alleges that the sought extension of the deviation is necessary to retain the traffic for applicant. The supplemental application further alleges that the proposed increases in the authorized rates correspond to the increase granted in the minimum rates by Decision No. 57545, supra.

¹ Decision No. 57545, of November 3, 1958, in Case No. 5432, adjusted the minimum rates effective December 8, 1958.

In the circumstances, it appears, and the Commission finds, that the proposed rates are reasonable. The supplemental application will be granted. A public hearing is not necessary. In view of the expiration date of the current authority, the order will be made effective March 11, 1959.

The special rate authority herein sought and granted is not applicable to common carrier services.² 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.³ In view of the contract carriage involved in this proceeding, a 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. 51873 of August 23, 1955, as amended, in this proceeding, is hereby further amended by substituting the following rates for those shown in the first ordering paragraph thereof:

| <u>Minimum Weight</u> | <u>Rate (In Cents Per 100 Pounds)</u> |
|-----------------------|---|
| Any Quantity | 120 $\frac{1}{2}$ |
| 2,000 Pounds | 71 $\frac{1}{2}$ |
| 4,000 Pounds | 52 $\frac{1}{2}$ |
| 10,000 Pounds | 30 $\frac{1}{2}$ |
| 20,000 Pounds | 16 $\frac{1}{2}$ |
| 36,000 Pounds | 14 |

²

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."

³

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."

(2) That the expiration date of the authority granted by said Decision No. 51873, as further amended herein, is hereby extended to March 11, 1960, unless sooner changed, canceled or further extended by order of the Commission.

(3) That the permit of Consolidated Freightways, Inc., a corporation, to operate as a radial highway common carrier, is hereby conditioned as follows:

"This permit shall not authorize the transportation of iron or steel, iron or steel articles, or structural iron or steel from South San Francisco to San Francisco."

In all other respects, said Decision No. 51873, as amended, shall remain in full force and effect.

This order shall become effective March 11, 1959.

Dated at San Francisco, California, this 24th day of February, 1959.

E. J. Fox
President

John E. Hall

William J. ...

Herbert H. ...

Robert ...
Commissioners