

Decision No. 58048

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application of) | |
| HULSMAN TRANSPORTATION CO., a) | |
| corporation, for authority to waive) | Application No. 40634 |
| collection of charges.) | |

OPINION AND ORDER

By this application, Hulsman Transportation Co., a corporation operating as a highway common carrier and a highway permit carrier, requests the issuance of an order by the Commission, pursuant to Section 494 of the Public Utilities Code, authorizing the waiver and nonassessment of certain charges applicable as a highway common carrier for shipments of bulk dried prunes transported to packing or processing plants during the period from November 22, 1955, through November 3, 1958.¹

Applicant is certificated as a highway common carrier to transport various commodities including dried prunes between (1) San Francisco Territory and Ukiah and certain off-route points; (2) Asti and Richmond, on the one hand, and Vallejo, Cordelia and Napa, on the other hand; and (3) Richmond and Livermore.

Applicant states that, when it filed its application for a certificate of public convenience and necessity, it requested authority to transport general commodities with certain exceptions. The application specifically requested that the authority, if granted, exclude the transportation of fruits, vegetables and nuts destined to processing plants, wineries, canneries, packing plants and sheds and warehouses. Applicant further states that such exception was desired because of the nature of the transportation conditions involved in

¹ Applicant's tariff rates were made effective March 7, 1956.

handling such movements, the long-established procedures followed by shippers and carriers in contracting for such traffic, and the exemption of such transportation from minimum rate regulation.

Applicant alleges that it believed that the certificate had been limited as sought and, therefore, did not file specific rates governing the transportation of commodities for which it had requested exception. As a result, the transportation of such commodities became subject to applicant's class rates. However, applicant states that it was unaware of the necessity of applying such rates, and therefore continued to contract with shippers at other than its class rates for the transportation of dried prunes to packing or processing plants. Applicant also alleges that it first knew of the tariff violations when it received a letter from the Commission's Secretary on August 25, 1958, directing it to collect undercharges. Upon receipt of such letter, applicant filed a petition for modification of its certificate to exclude therefrom the transportation of dried prunes and apples to processing plants, wineries, canneries, packing plants and sheds and ice houses. The petition was granted, effective November 3, 1958.²

The instant application avers that applicant receives a substantial portion of its total revenues from the transportation of fruits to packing and processing plants and canneries. The application also states that the negotiated contract rates reflect the favorable operative conditions involved, such as expeditious loading and unloading by shippers, absence of extra lumper expense, full utilization of equipment, and substantial volumes of traffic transported. Applicant alleges that the class rates were not suitable

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Decision No. 57561, dated November 3, 1958, in Application No. 36343.

for this transportation, and that if they were required to be collected the resulting charges would be unjust and unreasonable.


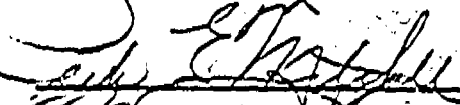
Based upon the facts stated in the instant verified application, the Commission is of the opinion and finds that the class rates contained in the tariff of Hulsman Transportation Company during the period from March 7, 1956, to November 3, 1958, inclusive, were not suitable or reasonable for application to the particular traffic involved in this application. Under the specific circumstances of this proceeding, Hulsman Transportation Company will be authorized to waive the application of such rates to the shipments in question.

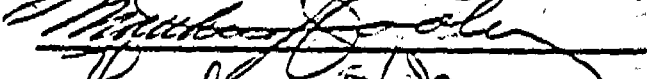
Therefore, good cause appearing,



IT IS ORDERED that Hulsman Transportation Co. is authorized to waive the assessment of the rates named in its tariff on file and in effect from March 7, 1956, to November 3, 1958, inclusive, to the shipments of bulk prunes involved in this application.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 27th day of February, 1959.


 _____ President






 _____ Commissioners