

ORIGINAL

Decision No. 59205

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of VALLEY EXPRESS CO. for authority under Section 452 of the California Public Utilities Commission to deviate from Minimum Rates as set forth in Minimum Rate Tariff No. 2.

} Application No. 41036

F. S. Kohles, for Valley Express Co., applicant.

J. C. Kaspar, A. D. Poe and J. Quintrall, for California Trucking Associations, Inc., interested party.

A. R. Day and Thomas W. Morley, for the Commission's staff.

O P I N I O N

Applicant is engaged in the common carriage of general commodities as an express corporation. As such it serves the shipping public throughout most of the state, utilizing highway common carriers as its underlying carriers.

Amongst the shippers that applicant serves is Chemurgic Corporation, a manufacturer of liquid starch, washing compounds and table syrups. The plant of Chemurgic is located about two miles from Turlock. From this plant applicant transports from 800,000 to 1,000,000 pounds of liquid starch per month. The shipments are transported to destinations located principally in the San Francisco Bay Area and in Sacramento and Stockton. Assertedly, applicant transports all of Chemurgic's starch shipments to these destinations.

In connection with this transportation Valley Express Co. seeks to establish and assess rates which are less than those that are prescribed in Minimum Rate Tariff No. 2 as the minimum rates for said transportation. Applicant alleges that it has been informed that unless reduced rates as sought herein are established, Chemurgic will undertake to perform the transportation with its own trucking facilities.

Public hearing on the application was held before Examiner C. S. Abernathy at San Francisco on July 6, 1959. Evidence was submitted by applicant through its general traffic manager. A representative of the California Trucking Associations, Inc., and members of the Commission's staff participated in the development of the record.

The minimum rates which are involved herein and the rates which applicant proposes to establish are as follows:

<u>Destination</u>	<u>Present Rates</u> (a)		<u>Proposed Rates</u> (a)	
	(b)		(b)	
	<u>40,000</u>		<u>30,000</u>	<u>45,000</u>
San Francisco	35		35	27
Oakland	35		35	27
Redwood City	35		35	27
San Jose	32		32	25
Sacramento	32		32	25
Stockton	22		22	19½

(a) Rates in cents per 100 pounds.

(b) Minimum weight in pounds.

The proposed rates would also apply to points intermediate between Chemurgic's plant near Turlock and the destinations listed above when lesser charges would result under such rates than would otherwise accrue under applicant's present tariff provisions. They would also include unlimited split deliveries without additional charge for the split delivery service.

According to figures which are set forth in the application, gross revenues under the present rates range from \$1.18 to \$1.93 per truck mile. Gross revenues per truck mile under the proposed rates would be as follows:

<u>Destination of Shipment</u>	<u>Weight of Shipment</u>	
	<u>30,000 pounds</u>	<u>45,000 pounds</u>
San Francisco	\$.88	\$1.02 $\frac{1}{2}$
Oakland	.88	1.02 $\frac{1}{2}$
Redwood City	.92	1.06 $\frac{1}{2}$
San Jose	.96	1.12 $\frac{1}{2}$
Sacramento	1.04	1.22 $\frac{1}{2}$
Stockton	1.45	1.93

Applicant did not submit cost data by means of which net revenues which might be realized under the sought rates could be measured. Its traffic manager said, however, that he considers that rates which yield gross revenues of \$1.00 per truck mile for a one-way load (or \$.50 per truck mile where a load is transported on the return trip) are amply compensatory.

In other respects applicant undertook to justify its proposals on the grounds that the transportation characteristics of starch are substantially the same as those of canned goods, and that for this reason the rates for starch should be at the same level as that of canned goods. At present the level of the minimum rates for shipments of canned goods from San Joaquin Valley points to the destinations involved herein are substantially less than those for corresponding starch shipments. However, these rates are in the process of revision. The rates which applicant proposes to establish for starch are at the same level as those which a rate expert of the Commission's staff has proposed be adopted as reasonable minimum rates for canned goods for the future.

The California Trucking Associations, Inc., participated in the hearing of this matter as an interested party and as such did not oppose the granting of the application. However, the representative of the Associations questioned whether applicant had made a showing upon which the sought rates could be authorized. He said that the showing made does not apply to the propriety of the level of the sought rates. With respect to the showing of similarity in transportation characteristics between liquid starch and canned goods, he pointed out in effect that the characteristics are the same to other destinations also, and that on this basis reduced rates for starch should be applied to other parts of the State also.

The question to be decided in this matter is whether the reduced rates which applicant proposes to establish for liquid starch are justified by transportation conditions.<sup>1</sup> Considerations upon which such a finding may be made are, amongst others, whether the proposed rates are necessary to applicant's retention of the traffic, and whether the rates would have the effect of burdening other traffic. If the traffic can be held by applicant without reductions in rates, or without reductions as great as those sought, there would be basis for holding that the sought rates would improperly sacrifice revenues with a consequent burdening of other

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<sup>1</sup> " ... no common carrier ... may establish a rate less than a maximum reasonable rate for the transportation of property for the purpose of meeting the competitive charges of other carriers or the cost of other means of transportation which is less than the charges of competing carriers or the cost of transportation which might be incurred through other means of transportation, except upon such a showing as is required by the commission and a finding by it that the rate is justified by transportation conditions ... ."  
Section 452, Public Utilities Code

traffic and with potential collateral losses to other carriers. Whether the proposed rates are reasonably compensatory in the circumstances is another consideration, since rates which would not return the costs of the services provided clearly would burden other traffic.

On the record here before us we are not fully persuaded that the factor of proprietary competition is so great as to provide grounds in part for authorization of the sought rates. In this connection it should appear, as precedent to granting of the sought authority, that the threat of proprietary competition is one of such substance that there is good reason to conclude that it must be met by the rate reductions proposed if the traffic is not to be lost to for-hire carriage. That applicant has been induced here to seek reduced rates at the expense of its revenues is indicative that it is satisfied that the proposed action is a necessary one. However, the record does not disclose the extent that applicant conducted any investigations of the probable costs of Chemurgic's providing its own transportation or the extent that applicant took other steps to affirm that the traffic would, in fact, be lost to it if the sought rates are not authorized in full. Without some supporting evidence along this line, an allegation of proprietary competition hardly provides basis that would justify the finding that is requisite in matters of this kind.

Applicant's showing herein likewise appears deficient in its bearing on the question of the compensatory nature of the proposed rates. In applicant's operations as an express corporation the physical services which are involved are performed by other

carriers. No evidence was presented by applicant concerning its arrangements with its underlying carriers and whether under such arrangements the transportation of starch under the reduced rates would be profitable to applicant. That the proposed rates would be profitable may not be concluded upon the statement of applicant's traffic manager that rates which yield \$1.00 per truck mile per one-way load are amply compensatory. This statement appears to be a generality which for the purpose of having competent value for this proceeding should be supported by cost data relating directly to the transportation involved herein. Moreover, it appears that even measured by this standard, the reasonableness of certain of the proposed rates is not established, since applicant's figures show that in some instances they would return less than \$1.00 per truck mile. In this connection it is further observed that applicant's mileage revenue figures were developed without regard to the distances the trucks would traverse in the transportation of split-delivery shipments. What the return would be from such shipments was not shown.

The comparisons which applicant submitted to show similarities of transportation characteristics between liquid starch on the one hand and various items subject to the rates for canned goods likewise do not establish the reasonableness of the sought rates. As has been stated hereinbefore, the rates for canned goods are in the process of being revised. Rate proposals in that proceeding which have not yet been acted upon do not constitute an acceptable yardstick for measuring the reasonableness of rate proposals in this matter. Moreover, the establishment of commodity rates for canned goods involves transportation considerations that are different in part than those that apply to liquid starch. The fact that there may also be certain similarities does not necessarily establish that the same rates should apply to both classes of commodities.

Upon consideration of the evidence which has been submitted in this matter the Commission is of the opinion and finds that the reduced rates which applicant proposes to establish for the transportation of liquid starch have not been shown to be justified by transportation conditions. The application will be denied.

ORDER

Based on the findings and conclusions set forth in the preceding opinion,

IT IS HEREBY ORDERED that Application No. 41036 is denied.

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

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

Ernest A. Peay  
 President

W. C. [unclear]

William [unclear]

S. [unclear]

Theodore Jenner  
 Commissioners