

Decision No. 59621**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DART TRANSPORTATION SERVICE, a cor-)
 poration, for authority to depart)
 from the rates, rules and regula-)
 tions of Minimum Rate Tariff No. 2)
 under the provisions of the Highway)
 Carriers Act on transportation for)
 the account of Sears, Roebuck and)
 Co.)

Application No. 41426

A. L. Russell and James L. Roney, for
 Dart Transportation Service, applicant.
R. E. Dempster, for Sears, Roebuck and Co.;
R. D. Toll, A. D. Poe and J. X. Quintrall,
 for California Trucking Associations,
 Inc., interested parties.
Robt. Walker and Grant L. Malquist, for the
 Commission staff.

O P I N I O N

By this application, filed August 26, 1959, Dart Transportation Service, a California corporation, hereinafter referred to as Dart, seeks authority under Section 3666 of the Public Utilities Code to depart from the minimum rates, rules and regulations set forth in Minimum Rate Tariff No. 2 for the transportation of property for Sears, Roebuck and Co., hereinafter called Sears, from Sears' consolidation station at 1337 South Eastman Avenue, Los Angeles, and split pickups made in connection with shipments from that point, to retail stores and retail store warehouses of Sears located at Antioch, Bakersfield, Fresno, Hanford, Marysville, Modesto, Mountain View, Oakland, Sacramento, San Francisco, San Leandro, San Mateo, Stockton, Santa Rosa, Vallejo, Visalia and Walnut Creek. The departures sought are the following:

1. The establishment of an all freight rate which shall not be less than 94 per cent of the first

class rate applicable to the quantity shipped as determined under the provisions of Minimum Rate Tariff No. 2.

2. The acceptance by Dart from Sears of component parts of a shipment, including a split-delivery shipment, being progressively received, handled and loaded into the carrier's equipment prior to being forwarded with manifest or written delivery instructions covering the entire shipment.
3. A deduction or allowance of 11.6 cents per 100 pounds to Sears on shipments loaded by Sears into vehicles released to the carrier under seal wherein the carrier is absolved from any liability for damages caused by improper loading, or nonreceipt or misdescription of the goods, providing the vehicle is received at destination with seals intact (so-called "shippers load and count").

Public hearing was held November 24, 1959 before Examiner Jack E. Thompson at San Francisco.

Sears operates a mail order business and has retail stores in a number of cities in California. It also has warehouses at various points in the State. A wholly owned subsidiary of Sears operates a consolidation station at 1337 South Eastman Avenue, Los Angeles, where goods purchased by Sears from purveyors are received and are then distributed to the retail stores and warehouses operated by Sears.

Dart holds permits from the Commission authorizing operations as a highway contract carrier and as a radial highway common carrier. Pursuant to a contract, Dart performs the transportation of this merchandise to the retail stores and warehouses operated by Sears in northern California. Usually and ordinarily, the traffic originates at the consolidation station, but, occasionally, Dart is required to pick up a large shipment going to one of the warehouses in northern California directly from one of Sears' purveyors in Los Angeles. When this occurs, Dart's truck ordinarily stops at the consolidation station to be loaded with other shipments destined to

the same warehouse so as to obtain the maximum load the vehicle can carry. The entire lot then is billed as a split-pickup shipment.

Sears and Dart have agreed upon a schedule of loading at the consolidation station and deliveries at the various retail stores and warehouses which permits the use of Dart's equipment on back hauls from other shippers. Dart's vehicles are scheduled to arrive at the consolidation station for loading starting at 11:00 a.m. so as to permit the morning delivery in the Los Angeles area of shipments transported by Dart for other shippers. Sears has scheduled delivery times at its various warehouses and stores for Dart to deliver the merchandise. For example, the delivery time at Sears' Army Street store in San Francisco is 8:00 a.m. and the delivery time for the Geary Street store in San Francisco is at a later time. The scheduling of delivery times at the several stores and warehouses permits the unloading of Dart's equipment without delay so that shipments of other shippers in the Bay Area can be picked up that same day for delivery in the Los Angeles area.

At the consolidation station Sears employs loaders, power equipment operators and checkers. The loaders are used to load equipment owned or leased by Sears used in connection with deliveries to retail stores and warehouses in southern California. At present, the freight transported by Dart is handled at the consolidation station as follows: freight being delivered at the consolidation station is loaded onto pallets, a power equipment operator moves the loaded pallets into various bays on the dock of the consolidation station, sub-bills for the freight to be shipped are prepared and from these a bill of lading and a manifest are prepared covering shipments to be transported by Dart. At 11:00 a.m. checkers move the freight from the bays to the tailgates of Dart's equipment, loaders employed by Dart load the vehicles with the freight described in the

bill of lading and manifest. When the freight is loaded the trailer is pulled away from the dock and parked awaiting a line haul tractor. It often occurs that the freight listed on the manifest does not completely occupy all of the loading space of the vehicle and there is other freight on the dock destined to the same point that was placed on dock after the preparation of the bill of lading and manifest. It is not loaded because if shipped under a separate bill of lading, the carrier would be required to assess charges as though it were a separate shipment. Such freight is held and is included as a composite of the shipment tendered the next day.

If the authority sought is granted, Sears proposes to load Dart's equipment with its employees. The equipment would be scheduled for loading as at present; however, it would remain at the dock until completely loaded or until Dart is ready to accept the vehicle in order to make its schedule. In this manner all of the freight on the dock or being handled by Sears which is to be shipped to points served by Dart will be available so as to provide capacity loads for Dart's equipment.

Dart made a study of the cost of loading its equipment at Sears' consolidation station. The cost per man per hour was computed at \$3.047. From a three-week sample taken in August 1959, a production factor of 2,623 pounds per man-hour was developed. The cost per 100 pounds was computed to be \$0.1162.

Dart also presented a study showing its cost per mile of transporting property. Dart's president testified that the transportation performed for Sears is more favorable from the aspect of cost than other operations conducted. The cost per mile developed is 47.8 cents. Dart also prepared a study showing that the average revenue per mile received from the transportation of property for Sears is 54.13 cents per mile.

From a sample of traffic tendered to Dart over a period of a year, Sears made a determination of the weighted average of the ratings of articles shipped. The sample included over a million pounds of freight. The average so developed was 93.961 per cent of first class.

Operations conducted under the proposal would result in the following advantages to Dart:

1. A better load factor of equipment.
2. Relieve it from certain expenses incidental to supervision of helpers at Sears' consolidation station.
3. Reduce its billing expense.
4. Reduce its liability for loss or damage to goods.
5. Provide for flexibility in the dispatch of equipment from Sears' consolidation station.

No one opposed the granting of the authority sought.

The evidence shows that on all merchandise transported by Dart from Sears to the retail stores and warehouses in northern California, a rate based upon 94 per cent of the applicable minimum first class rate will provide revenues, in the aggregate, no lower than the revenues which would be received under the minimum rates. It also shows that the revenues received by Dart at the applicable minimum rates are above the full cost of providing the service. We find that the saving in cost to Dart resulting from being relieved of the necessity of employing personnel to load equipment at Sears' consolidation station, from being relieved of liability for loss or damage to merchandise caused by improper loading, nonreceipt or misdescription of goods providing seals are intact, and from being relieved of the necessity of determining proper classification ratings of the articles contained in the shipment, will be no less than $11\frac{1}{2}$ cents per 100 pounds. The above findings hold under certain conditions and limitations. One of the conditions is that all of

the goods be loaded by Sears and tendered under "shippers load and count." The analysis of the cost to Dart of providing helpers to load equipment at Sears is based upon cost factors, including performance factors, presently encountered and resulting from those employees performing all of the loading of the equipment. The savings in cost estimated by Dart is based upon the premise that Sears would perform all of the loading. It is obvious that if Dart employs helpers some of the time to load equipment at Sears, the cost per 100 pounds to Dart would be substantially higher than under present conditions where Dart's employees load all of the freight tendered. Any consideration of the savings cost to Dart of having Sears' employees load the vehicles, therefore, must be predicated upon the condition that all freight tendered by Sears to Dart at the consolidation station is tendered as "shippers load and count." For this reason an allowance of 11.6 cents per 100 pounds on shipments loaded by Sears' employees will not be authorized. Consideration of the cost saving will be given in the determination of the rates for the transportation of property tendered to Dart by Sears under conditions of "shippers load and count" at its consolidation station destined to points in northern California.

From time to time, Sears directs Dart to pick up a shipment at a purveyor in Los Angeles destined to one of the stores or warehouses of Sears in northern California. Usually such shipments consist of large lots. It has been Dart's practice to have the equipment containing the shipment obtain additional lading at Sears' consolidation station. The entire lot of freight is billed as a split-pickup shipment. This is desirable to Dart because it provides a greater load factor for the equipment. In those circumstances, Dart should be authorized to assess charges based on 94 per cent of the minimum first class rates on the components picked up at 1337 South Eastman Avenue.

Dart proposes to accept component parts of a shipment, including a split-delivery shipment, being progressively received, handled and loaded into its equipment at 1337 South Eastman Avenue, prior to being furnished with a manifest or written delivery instructions covering the entire shipment. In actual practice, Dart will accept tender of the goods only after the vehicles are sealed by Sears. The problem encountered is the preparation of a master bill of lading prior to the loading of the vehicle and sealing thereof and before the departure of the equipment from Sears' dock. It appears from the testimony that Dart is furnished with hand tags or copies of sub-bills showing, in the aggregate, the contents of the load and the destination of the shipments comprising the load. One of the purposes of the rule requiring the issuance of a shipping document prior to or at the time of the receipt of freight by a carrier is to assure the assessment of freight charges by the carrier reflecting the actual circumstances of the tender of the freight by the shipper. The words "being progressively received, handled and loaded into the carrier's equipment" considered in the light of the physical operation at the consolidation station, would indicate that the departure would cover only those shipments made during that period while Dart's equipment is being loaded. In the circumstances the relief sought is justified; however, in order to clarify the conditions under which Dart may depart from the requirement of issuance of shipping documents, the words "during a single calendar day" will be included in the authorization which will be granted.

Upon consideration of all of the facts and circumstances, we are of the opinion and find that the rates set forth in Appendix A hereof are reasonable and should be authorized.

O R D E R

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

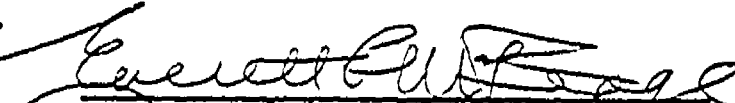
IT IS ORDERED:


1. That Dart Transportation Service, a corporation, is authorized to transport property for Sears, Roebuck and Co. from 1337 South Eastman Avenue, Los Angeles to retail stores and retail store warehouses of Sears, Roebuck and Co. at rates and charges no lower in volume or effect than the rates and charges set forth in Appendix A attached hereto and by this reference made a part hereof.


2. That the authority granted herein shall expire January 1, 1961, unless sooner modified, extended or canceled by order of the Commission.

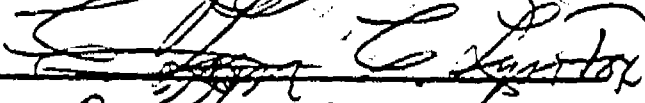
The effective date of this order shall be twenty days after the date hereof.

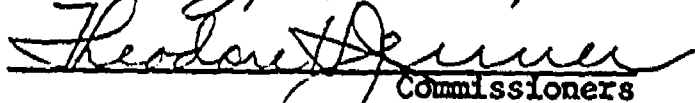
Dated at San Francisco, California, this 1st day of FEBRUARY, 1960.



President








Commissioners

Schedule of Minimum Rates for the Transportation
of Property for Sears, Roebuck and Co.

Section 1

Item 10. Application of Rates - General

To the extent that Minimum Rate Tariff No. 2 prescribes minimum rates for the transportation of property, said minimum rates, rules and regulations are applicable to all shipments except as specifically provided in Section 2.

Section 2

Item 20. Application of Rates - Territorial

Rates in this section apply to the transportation of property from 1337 South Eastman Avenue, Los Angeles, to retail stores and retail store warehouses of Sears, Roebuck and Co. located at Antioch, Bakersfield, Fresno, Hanford, Hayward, Marysville, Modesto, Mountain View, Oakland, Sacramento, San Francisco, San Leandro, San Mateo, Stockton, Santa Rosa, Vallejo, Visalia and Walnut Creek.

Item 30. Application of Rates - Commodities

Rates in this section apply only to such articles regularly sold or to be offered for sale by Sears, Roebuck and Co. in its mail order and chain retail department store businesses.

Item 40. Application of Rates - Limitations and Conditions

Except as provided in Item 60, rates in this section are subject to the following conditions:

- (a) All property must be loaded into carriers' equipment by the shipper and tendered to the carrier with the vehicle sealed by the shipper.
- (b) Shipping documents must bear the notation "Shippers Load and Count."
- (c) Carrier shall be absolved from liability and shall not accept liability for loss, damage, nonreceipt or misdescription of the goods, other than that where the collision or overturning of the vehicle is the proximate cause thereof, provided the vehicle is received at destination with seals intact.

- (d) In the case of a split-delivery shipment, unless the vehicle is resealed at all points of destination, until such time as it is completely unloaded, the carrier shall be absolved from liability and shall not accept liability for loss damage, non-receipt or misdescription of the goods, other than that where the collision or overturning of the vehicle is the proximate cause thereof, provided the vehicle is received at the first point of destination with seals intact.

Item 50. Shipping Documents

Carrier may accept from the shipper component parts of a shipment, including a split-delivery shipment, being progressively received, handled and loaded into the carrier's equipment during one calendar day, prior to being furnished with manifest or written delivery instructions covering the entire shipment.

Item 60. Split Pickup - Exception to Classification

Components of a split-pickup shipment received at 1337 South Eastman Avenue, Los Angeles, shall be rated as 94 per cent of first class. Split-pickup shipments shall not be subject to Items 40 and 70. Item 50 shall apply only on the components picked up at 1337 South Eastman Avenue, Los Angeles.

Item 70. Rates (In Cents per 100 Pounds)¹Property as Described in Item 30

FROM: 1337 South Eastman Avenue, Los Angeles.

TO:

		Minimum Weight in Pounds				
		A.Q.	2,000	4,000	10,000	20,000
Antioch)					
Hayward)					
Modesto)					
Mountain View)					
Oakland)					
Sacramento)	234	-	143	107	92
San Francisco)					
San Leandro)					
San Mateo)					
Stockton)					
Bakersfield		196	155	105	65	55
Fresno		217	206	126	88	75
Hanford		213	197	122	84	73
Marysville		257	-	166	130	115
Santa Rosa		262	-	171	135	120
Vallejo		257	-	166	130	115
Visalia		209	190	120	181	69
Walnut Creek		253	-	161	126	111

¹ Subject to all increases and surcharges prescribed in supplements to Minimum Rate Tariff No. 2, and

Not applicable to split-pickup shipments.