

ORIGINAL

Decision No. 59707

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into)
 the rates, rules and regulations, charges,)
 allowances and practices of all common)
 carriers, highway carriers and city)
 carriers relating to the transportation)
 of any and all commodities between and)
 within all points and places in the)
 State of California (including but not)
 limited to, transportation for which rates)
 are provided in Minimum Rate Tariff No. 2).)

Case No. 5432
 Petition for
 Modification No. 152

Michael N. Khourie, Earl J. Bechtold, for Metropoli-
 tan Parcel Delivery, petitioner.
Edward J. Maurer, for General Delivery Service;
Norman R. Moon, for Highway Transport, Inc., and
 Highway Transport Express; Russell Bevans, for
 Draymen's Association of San Francisco, Inc.,
 protestants.
Roger L. Ramsey, for United Parcel Service; Edwin H.
Griffiths, for Ace Delivery Service; Phillip A.
Winter, for Delivery Service Company; R. D. Toll,
A. D. Poe and J. X. Quintrall, for California
 Trucking Associations, Inc., interested parties.
Robert E. Walker, for the Commission's staff.

O P I N I O N

By petition filed May 18, 1959, Metropolitan Parcel Delivery, a California corporation with principal place of business in San Francisco, seeks exemption from the rates provided in Minimum Rate Tariff No. 2 for the transportation of drugs, general retail parcels, flowers, liquor, candy, photographic supplies, equipment and parcels in packages of less than 100 pounds in the areas of San Francisco City and County, San Mateo County, Santa Clara County, Alameda County, Contra Costa County and Marin County.

Public hearing was held before Examiner J. E. Thompson at San Francisco on July 20, 1959.

United Parcel Service filed a motion that public hearing in this proceeding be postponed pending action by the Commission upon its complaint, Case No. 6315, United Parcel Service v. Metropolitan Parcel Delivery. This motion was denied by the Examiner.

At the hearing, petitioner stated that it desired the sought exemption to be limited to:

"Shipments weighing 100 pounds or less when delivered from retail stores or retail store warehouses to the customers thereof (including return of shipments previously delivered from said stores or warehouses) where point of origin and point of destination are located within the Counties of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa and Marin."^{1/}

Petitioner holds permits authorizing operations as a city carrier, a radial highway common carrier and a highway contract carrier. Its permit to operate as a radial highway common carrier has been suspended at the request of the petitioner.

Petitioner has been in the transportation business since 1958. It operates four panel trucks and two motorcycles with sidecars in a parcel delivery operation. Among others, petitioner serves S. H. Kress and Podesta Baldocchi. In both instances, it cannot secure traffic to points exceeding 35 miles from these stores because petitioner must assess the minimum charge prescribed in Minimum Rate Tariff No. 2, whereas United Parcel Service is not required to do so in connection with deliveries from retail stores,

^{1/} Under present provisions of Minimum Rate Tariff No. 2, City Carriers' Tariff No. 1-A, City Carriers' Tariff No. 2-A, Highway Carriers' Tariff No. 1-A, deliveries of shipments of 100 pounds or less from retail stores are exempt in:

- (a) San Francisco
- (b) The East Bay Drayage Area
- (c) For distances not exceeding 35 miles

The petition, therefore, is concerned with operations beyond the geographical scope of these exemptions.

and Flo-Del Company, a parcel carrier serving florists, has a similar exemption. The president of petitioner testified that it has had difficulty in obtaining contracts with other florists petitioner would like to serve because of the limitation allowing it to meet the rates of competitors only within a 35-mile radius. The witness illustrated the problem encountered by him in obtaining business by pointing out the differences in rates to several cities which are located near the perimeter of the 35-mile radius. His present rate per package of flowers is \$1.05 within the exempt zone. Immediately outside this zone, the minimum charge for the delivery of a package of flowers is \$1.60.^{2/} The witness said that San Anselmo is outside the 35-mile radius, but is nestled between two cities which are within the exempt zone. Palo Alto is just outside the 35-mile radius, so that petitioner must assess \$1.60 for delivery of a package of flowers whereas Flo-Del assesses \$1.09. He said that he has attempted to negotiate contracts with several florists but has been unable to secure their business because the florists desire to have deliveries made to points outside the 35-mile radius as well as within the exempt zone but do not wish to pay 51 cents per package more than they pay Flo-Del. He said that he had encountered similar resistance from other retailers in San Francisco.

The rates proposed to be assessed by petitioner are in evidence. It will continue to perform service pursuant to the terms of contracts presently in force and effect. The rates specified in those contracts for delivery within the 35-mile area

^{2/} The minimum charge prescribed in Minimum Rate Tariff No. 2 for shipments not over 25 pounds for distances not exceeding 150 miles is \$1.60. A package of flowers ordinarily does not weigh over 15 pounds, according to the witness.

conform generally to the rates it proposes to assess in the extended area. The following is a comparison of the rates per package proposed by petitioner and the minimum charge per shipment prescribed in Minimum Rate Tariff No. 2.^{3/}

OTHER THAN FLOWERS

<u>Weight per Package or Shipment</u>	<u>Petitioner's Rates Per Package (Cents)</u>	<u>Minimum Charge Per Shipment (Cents)</u>
20 pounds	50	160
30 pounds	75	160
40 pounds	100	160
60 pounds	125	185
70 pounds	150	185
80 pounds	175	215
90 pounds	225	215

FLOWERS

Any Quantity Less than 100 pounds	105	(as above)
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From their closing statements and from the nature of their cross-examination of petitioner's president, it appears that protestants and United Parcel Service are concerned about possible operations of petitioner in the wholesale parcel delivery field. That service is not in issue in this proceeding.

That petitioner is in the parcel delivery business is evident. From the fact that its proposed rate per package weighing over 82 pounds exceeds the applicable minimum charge per shipment established by the Commission is indicative that petitioner will not conduct operations other than in this specialized field. Competitors have been granted exemption from the minimum rates in the performance of services similar to those of petitioner's. Upon

^{3/} Note that petitioner's proposed charges are in rates per package whereas the minimum charges are per shipment. Petitioner's rates in some instances will exceed those established in Minimum Rate Tariff No. 2 where there is more than one package in the shipment.

consideration of all the facts and circumstances of record, we are of the opinion and find that the relief sought is justified and should be granted.

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 that Decision No. 52199, in Case No. 5432, as amended, is further amended by adding to the list of carriers in Appendix B thereof, Metropolitan Parcel Delivery, for the transportation of shipments weighing 100 pounds or less when delivered from retail stores or retail store warehouses to the customers thereof (including return of ^{16.} shipments previously delivered from said stores or warehouses) where point of origin and point of destination are located within the counties of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa and Marin.

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

Dated at San Francisco, California, this 23rd day of February, 1960.

Robert E. Ditchell President
Matthew J. Deal
E. J. Foster
Theodore J. Jensen Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.