

Decision No. 61935

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 WALTER SPHAR, doing business as  
 WALTER SPHAR TRUCKING, P. O. Box 83,  
 Likely, California, to deviate from  
 established rates for the transporta-  
 tion of peat moss.

Application No. 42822

Walter Sphar, applicant.  
J. C. Kasper, Arlo D. Poe and  
 James X. Quintrall, for California  
 Trucking Associations, Inc.,  
 interested party.  
John F. Specht, for the Commission staff.

O P I N I O N

By the above-entitled application, filed November 3, 1960, and amended January 17, 1961, Walter Sphar, doing business as Walter Sphar Trucking, seeks authority to assess a rate lower than the applicable minimum rate on shipments of peat moss for Jeffery and Associates from Likely (Modoc County) to points in central California.

Public hearing on the application was held before Examiner William E. Turpen at San Francisco on March 24, 1961. Applicant testified in his own behalf. Representatives of the California Trucking Associations, Inc., and of the Commission's staff assisted in developing the record. No one opposed the granting of the sought authority.

The record shows that applicant lives within two blocks of the shipper's plant at Likely and that he remains at home while his truck is being loaded by the shipper. He transports two loads of peat moss per week of from 40,000 to 45,000 pounds each to points

such as San Jose, Modesto, Stockton, Sacramento, San Francisco and Oakland. Each shipment usually involves about five split deliveries. Peat moss takes a class rating of "D", which makes the applicable minimum rate vary from 50 cents to 64 cents per 100 pounds depending on the destination. Applicant seeks a flat rate of 50 cents per 100 pounds, minimum weight 44,000 pounds and subject to all other accessorial charges named in Minimum Rate Tariff No. 2.

Under this proposal, the revenue for each trip, including charges for 5 split deliveries, would amount to \$257.50. The application, as amended, shows that expenses amount to \$58.00 per trip. The record shows, however, that several of the expenses were understated, and that no provision was made for depreciation, maintenance, or applicant's wages as driver. From the data developed on cross-examination of applicant, it is possible to estimate that his expenses per trip would amount to about \$220.00. The record shows that applicant operates under unusually favorable conditions and that the loading by shipper contributes to the low cost of performing this transportation.

Applicant testified that if a reduced rate is not authorized the shipper will probably resort to rail transportation.

The research director of the California Trucking Associations, Inc., pointed out a number of difficulties that would arise if the authority as sought were granted. He suggested that instead applicant be authorized to assess a rate of 85 percent of the applicable minimum rate. Such authority, he said, would result in a rate approximately the same as that sought herein. Applicant had no objection to this proposal.

It is clear that under the conditions surrounding the transportation here involved, revenues received under applicant's proposal will exceed the cost of performing the service by a considerable margin, but that authorization of the exception rating as proposed by the California Trucking Associations, Inc., would be preferable. In the circumstances, the Commission is of the opinion and finds that assessment by applicant of a rate equal to 85 percent of the otherwise applicable minimum rate for the transportation here involved is reasonable. The application will be granted to that extent. Also, because the conditions under which the service is performed may change at any time, the authority will be limited to a one-year period. The authorized rate will be made subject to the condition that all loading is done by the shipper.

O R D E R

Based upon the evidence of record and upon the findings and conclusions contained in the preceding opinion,

IT IS ORDERED that:

1. Walter Sphar be and he is hereby authorized to assess a rate not lower than 85 percent of the Class D rate in Minimum Rate Tariff No. 2 (subject to all other applicable rules and charges in said tariff), subject to a minimum weight of 44,000 pounds, for the transportation of peat moss from the plant of Jeffery and Associates at Likely (Modoc County), when all loading of the vehicle is done by the shipper.

2. The authority hereinabove granted shall expire one year after the effective date of this order unless sooner canceled, changed, or extended by order of the Commission.

3. Except to the extent hereinabove granted, Application No. 42822 be and it is hereby denied.

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

Dated at San Francisco, California, this 1st day of May, 1961.

Green B. Page  
President  
John J. Mitchell  
George J. Brown  
Fredrick B. Hallock  
Commissioners