

ORIGINALDecision No. 62672

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
BRUNO ALBERT MALUCCHI, an individual,
doing business as A. M. DEVINCENZI
COMPANY for authority to deviate from
the rates, rules and regulations
prescribed in City Carriers Tariff
No. 1-A.

Application No. 43533

Bertram R. Silver, for applicant.
R. D. Toll, A. D. Poe and J. K. Quintrall, for
California Trucking Associations, interested
party.
John R. Laurie and R. J. Carberry, for the
Commission staff.

OPINION

Bruno Malucchi, an individual, doing business as A. M. Devincenzi Company, operates as a city carrier, a highway contract carrier and a highway common carrier between points in this State. By this application he seeks authority, as a city carrier, to transport flour, with not to exceed six percent chemical ingredients, between points in San Francisco at rates less than those established as minimum. Said transportation would be performed for eight specified shippers.^{1/}

Public hearing of the application was held before Examiner Carter R. Bishop at San Francisco on August 21, 1961.^{2/}

^{1/} The shippers in question are Centennial Mills, Inc., Coast Dakota Flour Company, Cook Flour Company, Fisher Flour Mills, General Mills, Joe Lowe Corporation, Monarch Flour Company and Terminal Flour Mills Company.

^{2/} Application No. 43534 and a petition for modification in Application No. 42143 were scheduled to be heard with Application No. 43533. However, at the hearing, counsel for applicant stated that written requests for dismissal of those matters would be filed. Accordingly, all evidence offered related to the application herein. In the petition for modification Malucchi sought the elimination, from his common carrier certificate, of shipments of flour from San Francisco to intercity points. By Application No. 43534, Malucchi sought extension of an existing authority to deviate from minimum rates in transportation of flour from San Francisco to intercity points. Under an interim order of the Commission said authority was extended to October 21, 1961, pending receipt of evidence which Malucchi had originally planned to present in justification of maintenance of the relief in question beyond said date.

Applicant has at various times in the past held authority to deviate from the minimum rates in the transportation of flour within San Francisco for substantially the same group of shippers as is involved herein. The most recent of such authorizations was canceled effective August 22, 1960.^{3/}

The established minimum rates for the transportation in question are set forth in Item No. 392 series of City Carriers' Tariff No. 1-A. They vary with the weights of the shipments. The applicable minimum rates, together with those for which authority is herein sought, are set forth in Appendix "A", attached hereto.

The record discloses that the transportation of flour by applicant in San Francisco drayage is accomplished with unusual efficiency. The eight shippers hereinbefore mentioned utilize applicant's warehouse for the storage of their flour. This warehouse is located on applicant's premises, adjacent to his truck terminal. Because of these circumstances, no time is consumed and no expense incurred by the carrier's equipment in movements from the terminal to points of pickup. Moreover, shipments from different consignors can be loaded at applicant's warehouse on a particular truck, in order to promote the most economical routing in accomplishing delivery.

Applicant testified that the filing of the application herein was prompted by the competitive situation in which his customers are placed. The flour companies for whose account the rate relief is sought, he said, compete with other flour companies who bring into San Francisco flour from other California and interstate origins, store it in their own warehouses, and deliver it to local customers in their own vehicles. Under this competitive situation a difference in a few cents in the price of a sack

^{3/} By Decision No. 60491, dated August 2, 1960, in Application No. 41697, Malucchi was denied extension of said authorization beyond August 22, 1960.

of flour will determine whether a sale will be made. The foregoing testimony was corroborated by that of a representative of one of the interested flour companies.

Applicant's accountant testified concerning a study he had made of the costs incurred in performing the transportation service here in issue. His analysis was applied to seven hauls, selected at random, which took place on July 28 and August 4, 1961. The seven loads comprised 32 individual shipments with an aggregate weight of 200,025 pounds. The estimated weighted average operating ratios for the entire movement, as developed by the accountant, were 82.8 percent and 35.9 percent under the present and sought rates, respectively. These figures reflect the situation before provision for income taxes.^{4/} The number of shipments carried on each truck haul ranged from one to twelve.

In his development of cost estimates the accountant, in some instances utilized average cost figures, rather than the actual experience of the truck movements in issue. For example, running costs per mile were averages for the carrier's entire fleet, embracing intercity as well as San Francisco drayage operations. The use factor which the accountant employed in the development of fixed vehicle cost per hour was an average figure, taken from a Commission staff study in a minimum rate proceeding. It was the opinion of the witness that the use factor for the movements here in issue, had it been developed, would have been higher than that utilized in his cost estimates. According to the record, wherever it was practicable to do so the actual experience of the carrier in performing the services in question was utilized in the development of said estimates.

^{4/} The estimated operating ratios for the individual loads, as developed by the accountant ranged from 91.6 to 68.7 percent, under present rates, and from 93.6 to 71.8 percent, under the sought rates.

All of applicant's drivers, the record shows, are paid on the union wage scale, including fringe benefits. At the time of the hearing, negotiations were in progress for a new wage agreement, as a result of which applicant anticipated that his labor costs would be increased by an amount then undetermined. The cost study of record necessarily did not reflect those increases since negotiations for the new labor contract had not been completed.

In view of the expected increases in labor costs, applicant stated at the hearing that he would increase the rates herein proposed by amounts equivalent to such increases as should be made, predicated on said augmented labor costs, in the corresponding rates in City Carriers' Tariff No. 1-A.^{5/}

No one opposed the granting of the application. Representatives of California Trucking Associations and of the Commission's Transportation Division staff assisted in the development of the record.

The estimated operating ratios under the sought rates, as developed by the accountant, are highly favorable. As previously pointed out, however, the value of the accountant's estimate of operating costs for the services in question is somewhat impaired because of the utilization, in some instances, of averages, which may or may not be representative of the costs of said services. Nevertheless, the record is persuasive that applicant could transport flour from his warehouse to San Francisco consignees at the proposed rates on a compensatory basis, had there been no increase

^{5/} We take official notice of the fact that a new wage contract involving truck drivers in San Francisco drayage service has been concluded, and that, predicated on the increased carrier operating costs resulting therefrom, the Commission has, by Decision No. 62599 in Petition for Modification No. 52 in Case No. 5441 increased the minimum rates on flour in City Carriers' Tariff No. 1-A by varying amounts. The increased rates become effective November 4, 1961.

in his labor expense since the time of the cost study. Since, however, applicant's labor costs have, in fact, advanced, any authorization to deviate from minimum rates pursuant to the application herein should provide sufficient revenues to offset the wage, and related, increases.

Upon careful consideration, we hereby find that the rates set forth in the column headed "Authorized", Appendix A, attached hereto, will be reasonable and in the public interest. To this extent the application will be granted.

Because the conditions under which the service is performed may change at any time, the authority will be made to expire at the end of one year, unless sooner canceled, changed or extended by order of the Commission.

O R D E R

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

IT IS ORDERED that:

1. Bruno Malucchi is hereby authorized as a city carrier to transport flour, with not to exceed six percent chemical ingredients, for Centennial Mills, Inc., Coast Dakota Flour Company, Cook Flour Company, Fisher Flour Mills, General Mills, Joe Lowe Corporation, Monarch Flour Company and Terminal Flour Mills Company from his warehouse and terminal in San Francisco to points and places within the city and county limits of San Francisco, at rates less than the minimum rates but not less than those set forth in the column headed "Authorized" in Appendix A hereof.
2. The authority herein granted shall expire one year after the effective date of this order, unless sooner canceled, changed or extended by order of the Commission.

3. Petition to Extend Time in Which to File Tariffs and Establish Service And to Extend Time to Charge Rates Less Than the Minimum Rates Prescribed by the Commission, which petition was filed on July 21, 1961, in Applications Nos. 42143, 43533 and 43534, is hereby dismissed with respect to Application No. 43533.

4. In all other respects Application No. 43533 is hereby denied.

This order shall become effective November 4, 1961.

Dated at San Francisco, California, this 10th day of October, 1961.

Charles W. Rogers

President

E. Lynn Fox

George J. Hoover

Fredrick B. Halbach

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Flour, in Sacks, With Not to Exceed Six Percent

Chemical Ingredients

<u>Weight</u>	<u>RATES</u>		<u>In Cents</u>		
			<u>Per Shipment</u>		
			<u>*Present</u>	<u>Proposed</u>	<u>Authorized</u>
Over 500 pounds or less		375	350	365	
" 500 " but not over 1000 pounds		500	475	495	
" 1000 " " " " 1500 "		615	585	610	
" 1500 " " " " 2000 "		715	685	710	

	<u>RATES</u>		<u>In Cents</u>		
			<u>Per 100 Pounds</u>		
			<u>*Present</u>	<u>Proposed</u>	<u>Authorized</u>
Over 2000 pounds but not over 5000 pounds		35	33	34	
" 5000 " " " " 10000 "		27	25	26	
" 10000 " " " " "		23	21	22	

* Minimum rates named in Item No. 392 of City Carriers' Tariff No. 1-A, including increases prescribed by Decision No. 62599, in Petition for Modification No. 52 in Case No. 5441, which increases become effective November 4, 1961.