

**ORIGINAL**

Decision No. 62846

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of )  
BRAKE DELIVERY SERVICE )  
to amend its Local Parcel )  
Tariff No. 1, Cal.P.U.C. )  
No. 1. )

Application No. 43744  
(Filed September 11, 1961)

O P I N I O N

By this application, Brake Delivery Service, a highway common carrier of general commodities within southern California, seeks authority to increase certain rates which it maintains for the transportation of parcels within the Los Angeles area.

The rates in question are contained in applicant's Local Parcel Tariff No. 1, Cal.P.U.C. No. 1, and apply only for the transportation of commodities in packages weighing 70 pounds or less. The application alleges that the parcel rates are lower than the normal level of minimum rates, and were published under authority of the alternative application provision of the Commission's Minimum Rate Tariff No. 2 in order to be competitive with the rates then being charged by United Parcel Service.

Applicant's present and proposed parcel rates are set forth in Exhibit "B" attached to the application. The principal change would be an increase of two cents per package in the "per package" charges. Additionally, there would be an adjustment in the charges for returned packages, a clarifying rule would be added to govern the application of rates, and the charges for C.O.D. collections would be changed from 20 cents for each \$100 collected to 30 cents per C.O.D. collection regardless of amount. The change in the C.O.D. charge would be either an increase or a reduction, depending upon the amount of the C.O.D. collection. All of the resulting increases and

adjustments are designed to make applicant's tariff identical to the corresponding items in the current tariff of United Parcel Service.

As stated in the application, the rates of United Parcel Service were increased to their present levels effective August 14, 1961, under authority of Decision No. 62344 dated July 25, 1961, in Application No. 42924. By the instant application, Brake Delivery Service seeks authority to bring its existing parcel delivery rates to the same level authorized for the United Parcel Service in said Decision No. 62344.

Applicant alleges, among other things, that it has been subject to the same increased costs as those encountered by United Parcel Service. The application contains a statement of income and expenses for Brake Delivery Service for the period January 1 through July 31, 1961. The statement reflects all the operations of Brake Delivery Service, but does not show separately the revenue or expenses attributable to the parcel delivery services to which the application is limited. The following is a summary of applicant's statement of income and expenses for all of the operations for the seven-month period:

Freight Revenues .....	\$ 268,812
Direct Operating Expenses .....	179,038
Direct Equipment Expenses .....	37,949
General and Administrative Expenses .....	<u>20,819</u>
Total Operating Expenses .....	\$ 237,806
Net Income from Operations .....	31,006.
Other Income .....	1,257
Provision for Federal Income Tax ..	11,169
Net Income .....	21,094

The application states that aside from the company's need for increased revenues, it is applicant's contention that the preservation of the Commission's minimum rate orders requires that

rates published below the general minimum level to be competitive with other common carriers be increased when the common carrier rate upon which the reduced rate is based is increased. Applicant alleges that highway common carriers which have published railroad competitive rates "have always been authorized and indeed required to increase their rates filed in accordance with the alternative application provisions of the Commission's Minimum Rate Tariffs when the common carrier rate upon which the reduced rate has been based is increased."

Applicant is in error in its understanding of the circumstances under which so-called competitive rates have been or may be increased. No common carrier may raise any rate except upon a showing before the Commission and a finding by the Commission that the increase is justified (Public Utilities Code Section 454). Although the Commission has issued many orders authorizing and directing highway common carriers to increase rail-competitive rates, in other cases rail rates of less general effect have been authorized to be increased without any companion order having been directed to highway common carriers. In the absence of an order issued by this Commission, no highway common carrier has been or may be authorized or required to increase any rate, competitive or otherwise.

Contentions similar to those herein advanced by Brake Delivery Service were made by the same carrier in a 1959 proceeding and were therein considered fully by the Commission and discussed in its decision.<sup>1</sup> As indicated in that decision, a showing of the established minimum rate levels and their relationship to the rates in issue may have a material bearing upon an application to increase competitive transportation rates, but such showing should not be relied upon to the exclusion of other evidence which may have a direct bearing upon the question whether proposed increases are justified.

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<sup>1</sup>Decision No. 59072 dated September 29, 1959, in Application No. 40389.

Although applicant's showing of itself provides scant grounds for a finding that ~~the sought increases are justified~~, it appears that the increases should be authorized on another basis under which the Commission authorized Brake Delivery Service to establish its present parcel delivery rates pursuant to Decision No. 59072, supra. Brake Delivery Service operates both within the so-called Los Angeles drayage area and beyond the drayage area. By a decision issued on November 7, 1961, the minimum rates for the transportation of packages and the handling of C.O.D. collections within the Los Angeles drayage area were increased effective December 16, 1961.<sup>2</sup> These increased minimum rates and charges within the Los Angeles drayage area correspond in essential respects to those of United Parcel Service and consequently to the rates and charges herein proposed by Brake Delivery Service. Since these rates and charges represent the lowest that have been found to be reasonable for application within the drayage area, it seems indisputable that the same rates and charges represent the lowest that would be reasonable and sufficient rates for the transportation of packages from points within the drayage area to the points which applicant serves outside of the drayage area. Moreover, it appears that these rates and charges are the lowest rates that applicant may assess to numerous points outside of the drayage area and comply both with the long-and-short-haul provisions of the Constitution and of the Public Utilities Code and with the Commission's directive to apply the rates as the minimum package rates for transportation within the drayage area. Although common carriers may, in special cases, be authorized to depart from the long-and-short-haul requirements, applicant does not have such authority with respect to its parcel rates.

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<sup>2</sup>Decision No. 62768 in Petition No. 29, in Case No. 5435.

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The application shows that copies thereof were served on all known interested parties. No objection to the granting of the application has been received.

Upon consideration of the foregoing relationship of applicant's rates to the minimum drayage rates and other factors bearing upon its rates, including the requirement that its charges be nondiscriminatory, the Commission is of the opinion and finds that the increased rates which applicant seeks to establish are justified. A public hearing is not necessary. Applicant will be authorized to establish the proposed rates and charges on five days' notice to the Commission and to the public as requested.

ORDER

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


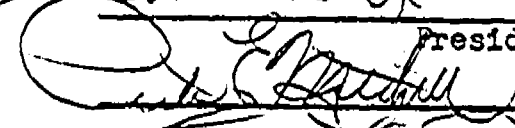
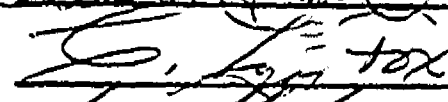
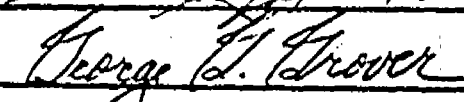
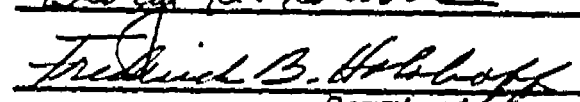
IT IS ORDERED that:

(1) Brake Delivery Service is hereby authorized to publish and file, on not less than five days' notice to the Commission and to the public, the increased rates and revised tariff provisions as proposed in Application No. 43744.

(2) The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

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

Dated at San Francisco, California, this 21st day of November, 1961.

  
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President  
  
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Commissioners