

ORIGINAL

63187

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation
 into the rates, rules, regulations,
 charges, allowances and practices
 of all common carriers, highway
 carriers and city carriers relating
 to the transportation of petroleum
 and petroleum products in bulk
 (commodities for which rates are
 provided in Minimum Rate Tariff
 No. 6).

Case No. 5436

Petition No. 47
 Filed July 21, 1961

John C. Allen, for Reliable Transportation Company
 and Allyn Tank Line, Inc., petitioners.

James Quintrall, J. C. Kaspar, and Arlo D. Poe,
 for the California Trucking Associations, Inc.,
 interested party.

B. F. Maddux, for Kaiser Steel Corporation,
 interested party.

R. T. Hunt, for Richfield Oil Corporation,
 interested party.

R. A. Lubich and Robert Shoda, for the Commission's
 staff.

O P I N I O N

Petitioners are highway common carriers and petroleum irregular route common carriers engaged in the transportation of bulk petroleum products and certain other commodities by tank truck equipment. By this application they seek authority to establish and publish a rate of 10½ cents per 100 pounds for the transportation of residual fuel oil in full tank-truck and tank-trailer loads from the refinery of The Rothschild Oil Company at

Santa Fe Springs to mills of the Kaiser Steel Corporation near Fontana. The rate which applies at present for this transportation is 12 cents per 100 pounds.

Public hearing on the petition was held before Examiner C. S. Abernathy at Los Angeles on September 11, 1961. Evidence was presented by witnesses for petitioners, for the Richfield Oil Corporation and for the Kaiser Steel Corporation. A representative of the California Trucking Associations, Inc., and members of the Commission's staff participated in the development of the record. The matter was taken under submission for decision with the receipt of a late-filed exhibit on October 13, 1961.

The 10½ cent rate which petitioners seek to have authorized in this matter is the same rate as that which Reliable Transportation Company has been authorized to assess heretofore in connection with the transportation of residual fuel oil in tank-truck and tank-trailer loads for the Richfield Oil Corporation from Watson to the aforesaid mills of the Kaiser Steel Corporation (Decision No. 59730, dated February 29, 1960).¹ Said rate was authorized upon a showing that the transportation consisted of the movement of substantial quantities of residual fuel oil throughout the year; that particularly favorable transportation circumstances applied to the transportation; that the transportation under the

¹ Allyn Tank Line, Inc., also publishes the same rate under authority of the so-called alternative provisions (Item No. 110) of Minimum Rate Tariff No. 6, which tariff sets forth the rates, rules and regulations that apply as minimum for the transportation of bulk petroleum and petroleum products in tank truck equipment.

10½ cent rate would be profitable to the carrier, and that unless the rate were authorized the Richfield Oil Corporation would consider performing the transportation by means of its own facilities.

According to the present record, the transportation which is involved herein is virtually the same in all respects as that for which the 10½ cent rate was approved by Decision No. 59730. The Richfield Oil Corporation continues to be the shipper. In effect the same shipments are involved except that under present arrangements they originate at the refinery of the Rothschild Oil Company whereas formerly they originated at the refinery of the Richfield Oil Corporation at Watson. Loading conditions at the Rothschild Oil Company's refinery assertedly are substantially the same as those at the Richfield Oil Company's refinery. The available highway routes are the same in part. Unloading conditions at the mills of the Kaiser Steel Corporation are the same. The principal difference between the hauls is that the length of haul from the Rothschild company's plant at Santa Fe Springs is about 30 miles less per round trip than that from the Richfield company's plant at Watson.²

Estimates of the costs of service and of the revenues therefrom were submitted by witnesses for petitioners to show that the transportation could be performed profitably at the proposed rate. According to the data thus presented, the operating results

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This difference is that between the distances over the shortest routes, as computed in accordance with the Commission's Distance Table No. 4. It appears that the carriers use other routes also, depending on the traffic conditions at the time that the transportation is being performed.

under said rate would be at the level indicated by an operating ratio of about 79 percent.³

The witness for the Richfield Oil Corporation testified briefly concerning the arrangements under which that company supplies residual oil to the Kaiser Steel Corporation. He indicated also that unless the sought rate is authorized it would be probable that the Richfield company would undertake to provide the transportation involved with its own vehicles. He said that the transportation is performed in circumstances which are similar to those applicable to transportation in which the company is already engaged.

Discussion, Findings and Conclusions

It is clear that the transportation with which this matter deals is the same type of service, performed under virtually the same conditions (except as to length of haul), as that which has been considered in connection with Decision No. 59730, and for which a rate of 10½ cents per 100 pounds was established and is being maintained by petitioner carriers. Insofar as length of haul is concerned, it is evident that less service is required for the transportation herein involved.

With respect to the earnings that the sought rate would yield, it appears that the earnings would be less than those estimated by petitioners' witnesses. The estimates overstate the earnings, since they include no provision for the income taxes that

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These computations do not include allowance for income taxes or for an increase in wage costs which the carriers experienced subsequent to June, 1961. Testimony of petitioners' witnesses indicate that, had allowance been made for the increase in wage costs, the corresponding operating figure would be about 80.5 percent.

would apply. The estimates, moreover, are not altogether indicative of the earnings that the sought rate would produce, inasmuch as they were developed in part upon petitioners' total operations instead of wholly upon the specific services in issue. We are persuaded, nevertheless, that the earnings under the sought rate would not be below a reasonable level.

In consideration of these several circumstances, and of the element of proprietary competition which petitioners are endeavoring to meet, the Commission finds and concludes that the establishment of the sought rate has been shown to be justified by transportation conditions. The rate will be authorized.

In connection with the establishment of the rate, petitioners ask that they be allowed to publish and maintain the rate on a non-intermediate basis, and that to this extent they be authorized to depart from the long- and short-haul prohibitions of Section 460 of the Public Utilities Code. They state that they cannot justify the application of the rate to transportation to intermediate points between Santa Fe Springs and the Kaiser company's mills near Fontana. The requested limitation of the rate will be granted. In order that they may effect this limitation lawfully, petitioners will be authorized to depart from the long- and short-haul prohibitions of Article XII, Section 21, of the State Constitution and of Section 460 of the Public Utilities Code.

Petitioners also ask that in connection with the establishment of the authorized rate they be permitted to make the rate effective retroactively as of July 21, 1961, the date of the filing of the petition in this matter. By this request petitioners in

effect seek authority to make reparation to the Richfield Oil Corporation for amounts which they have collected from said corporation for the transportation services involved which are in excess of the charges that would have accrued under the rate herein authorized. This request will be denied as being outside of the purview of the matters to be disposed of on this petition. The procedure by which awards of reparation may be sought and ordered are set forth in Section 734 of the Public Utilities Code. The parties are hereby referred to said section for consideration as to whether the basis for such relief is present under these circumstances.

O R D E R

Based on the findings and conclusions contained in the preceding opinion,

IT IS HEREBY ORDERED that:

1. Reliable Transportation Company and Allyn Tank Line, Inc., be, and they hereby are, authorized to establish and maintain a nonintermediate rate of $10\frac{1}{2}$ cents per 100 pounds to apply for the transportation of residual fuel oil, in bulk, in full tank-truck and tank-trailer loads, from the refinery of the Rothschild Oil Company at Santa Fe Springs to mills of the Kaiser Steel Corporation near Fontana, San Bernardino County.

2. Reliable Transportation Company and Allyn Tank Line, Inc., be, and they hereby are, authorized to depart from the long- and short-haul prohibitions of Article XII, Section 21, of the State Constitution and of Section 460 of the Public Utilities Code to the

extent necessary to carry out the effect of this order. In the publication of the rate hereinabove authorized, Reliable Transportation Company and Allyn Tank Line, Inc., shall make reference in their respective tariffs to this order authorizing the aforesaid long- and short-haul departures.

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

4. The request that the provisions of this order be made retroactive to July 21, 1961, be, and it hereby is, denied.

Dated at San Francisco, California, this 26th day of JANUARY, 1962.

Cecil W. Page
President

George T. Traver

Fredrick B. Holdhoff

Commissioners

Peter E. Mitchell

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