

ORIGINAL

Decision No. 63480

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 KARL A. WEBER for an order author-)
 izing departure from the rates,)
 rules and regulations of Minimum)
 Rate Tariff No. 2, pursuant to the)
 provisions of Section 3666 of the)
 Public Utilities Code for the)
 transportation of soda ash.)

Application No. 44207
 (Filed February 21, 1962)
 (Amended March 19, 1962)

INTERIM OPINION AND ORDER

Applicant is a highway contract carrier. He is presently transporting soda ash from West End to Hayward for Glass Containers Corporation. Shipments are carried in bottom dump, hopper-type trailers and the weights of individual loads average 51,000 pounds. The operation involves a regular and frequent movement of soda ash from origin to destination. The soda ash is available in unlimited quantities at West End and the storage tank at Hayward holds approximately 500 tons of this commodity. Loading and unloading can be accomplished throughout 24 hours each day.

West End is located 4.5 miles south of Trona and the consignor is served by the Trona Railroad Company. Glass Containers Corporation's plant at Hayward is served by the Southern Pacific Company. Pacific Southcoast Freight Bureau Tariff No. 263-D provides a rate of 30½ cents per 100 pounds subject to a minimum weight of 160,000 pounds for the transportation involved. Minimum Rate Tariff No. 2, which governs the transportation of soda ash by applicant, provides that said rates may be applied subject to the condition that the entire shipment (160,000 pounds) shall be picked up by the carrier within a period of two days computed from 12:01 a.m. of the

date on which the initial pickup commences, excluding Saturdays, Sundays and legal holidays.

Applicant has only three units each consisting of a tractor and two trailers. With such limited equipment, he finds it is extremely difficult and, at times, impossible to pick up 160,000 pounds within the time prescribed. Applicant also uses the vehicles to transport commodities for other shippers from the San Francisco Bay Area and San Joaquin Valley to Los Angeles so as to obtain more favorable load factors for the equipment. Under those circumstances, he cannot complete the pickups of 160,000 pounds within the prescribed time. He alleges that the limitation prescribed in Minimum Rate Tariff No. 2 can be met if he adds one more unit of equipment, however, it is questionable whether it would be economically practical to add such other unit to the operation. He requests the Commission to authorize him to assess the 30½-cent rate subject to the condition that pickups of shipments of 160,000 pounds be accomplished within four days. By the amendment to the application he requests that he be granted interim authority, without hearing, for a period of 120 days during which time the matter may be set for hearing.

The minimum rate for the transportation service in question is the 30½-cent rate, minimum weight 160,000 pounds, including all provisions, conditions and limitations applicable in connection therewith. One such condition is that the entire quantity be picked up by the carrier within two days. While ostensibly applicant is seeking waiver of the "two-day" rule in connection with multiple-lot shipments, applicant seeks, in actuality, authority to charge a less-than-minimum rate for the transportation service in question. Section 3666 of the Public Utilities Code, under which applicant seeks the requested authority, provides that if any carrier other than a highway common carrier desires to perform any transportation

at a lesser rate than the minimum established rates, the Commission shall, upon a finding that the proposed rate is reasonable, authorize the lesser rate. We have consistently held that in order to make such a finding, a showing must be made that the proposed rate will be compensatory.

The Commission's Transportation Division has made a preliminary analysis of the cost data in the Amendment to the Application and has reported that it appears that the transportation at the proposed rate of 30½ cents per 100 pounds would be compensatory when the vehicles operated are fully laden, which is almost always the case. It is reported that applicant will lose the traffic unless he is authorized to charge the 30½-cent rate without delay. The staff suggests that the circumstances surrounding this case indicate that an emergency exists which would warrant authorizing applicant to assess the rate of 30½ cents per 100 pounds subject to a minimum weight of 50,000 pounds for each load transported so that evidence concerning the proposal, particularly concerning the application of the proposed rate and the cost of performing the service could be received at a hearing.

Upon consideration of all of the circumstances we find that a rate of 30½ cents per 100 pounds subject to a minimum weight of 50,000 pounds for each truckload is reasonable for the transportation of soda ash from West End to Hayward. We further find that an emergency situation exists which warrants granting authority to applicant to assess said rate for a period of 120 days. Therefore, good cause appearing,

IT IS ORDERED that:

1. Karl A. Weber is authorized to transport soda ash for Glass Containers Corporation from West End to Hayward at the rate

of 30½ cents per 100 pounds, subject to a minimum weight of 50,000 pounds for each load transported.

2. The authority granted herein shall expire one hundred twenty days after the effective date hereof.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 27th day of March, 1962

Robert W. Reed
President

John L. Mitchell

E. Lee Fox

George H. Grover

Fredrick B. Holhoff
Commissioners