

Decision No. 67063

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of FLOUR TRANSPORT, INC., a California corporation, for authority to deviate from minimum rates pursuant to Sections 3666 and 4015 of the Public Utilities Code for the transportation of flour in bulk for specified shippers between points within the Los Angeles Drayage Area.

Application No. 45431

(Filed May 14, 1963)

Carl H. Fritze, for Flour Transport, Inc.,  
applicant.  
James Quintrall, J. C. Kaspar, and Arlo D. Poe,  
for California Trucking Association,  
interested party.  
R. J. Carberry and Ralph J. Staunton, for the  
Transportation Division of the Commission's  
staff.

O P I N I O N

Flour Transport, Inc., is engaged in the transportation of flour in bulk between points within and about the City of Los Angeles. By this application it seeks authority to deviate from the provisions of Minimum Rate Tariff No. 5 in connection with the transportation which it performs within the area defined and designated in said tariff as the Los Angeles Drayage Area. More

specifically, it seeks authority to assess rates in cents per 100 pounds in lieu of the hourly rates which are set forth in the tariff.<sup>1</sup>

Public hearing on the application was held before Examiner Abernathy at Los Angeles on August 9, 1963.

Witnesses for applicant submitted evidence to the effect that applicant's services consist of the delivery of flour from or for milling companies to bakeries; that the deliveries are made in quantities of 30,000 pounds or more; that the equipment which applicant uses is described as pneumatic tank vehicles; that applicant has heretofore considered its services as not subject to Minimum Rate Tariff No. 5 because of provisions of said tariff (Item No.40-T) stating that the rates do not apply to the transportation of "commodities when transported in bulk in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles"; that question as to whether applicant's services are, in fact, exempt from Minimum Rate Tariff No. 5 has recently been raised by the issuance of an informal ruling of the Transportation Division of the Commission's staff stating that "pneumatic hopper equipment as commonly used for the transportation of dry flowable commodities is not tank vehicle equipment within the meaning of Item No. 40-T of Minimum

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<sup>1</sup> The hourly rate which applies at present to applicant's services is \$13.50 per hour. The rates in cents per 100 pounds which applicant seeks to assess are as follows:

<u>Distance in Miles</u>		<u>Minimum Weight in Pounds</u>	
<u>More than</u>	<u>But not more than</u>	<u>30,000</u>	<u>40,000</u>
0	10	11.5	9.5
10	15	12.0	10.0

Rate Tariff No. 5"; that applicant has heretofore been charging on the basis of rates in cents per 100 pounds; that the hourly basis of rates prescribed in Minimum Rate Tariff No. 5 does not provide a means for predicting the applicable transportation charges with the certainty required by applicant's patrons; that other rates in Minimum Rate Tariff No. 5 which also apply for the transportation of flour are excessive for applicant's services;<sup>2</sup> that the rates which applicant seeks to assess will return revenues as great as, or greater than, those which would be returned under the hourly rates; and that the proposed rates will return earnings estimated as those represented by an operating ratio of about 90 percent (before provision for income taxes).

Since the charges which applicant would assess under the proposed rates would be the same or more than those which would accrue under the hourly rates, it is evident that applicant is not seeking to reduce its charges below a reasonable minimum level. The sought deviation is one of form. We find said deviation to be justified. It will be authorized subject to the condition that applicant maintain sufficient records to show that its charges under the authorized rates at all times equal or exceed the charges

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Minimum Rate Tariff No. 5 sets forth class and commodity rates, stated in cents per 100 pounds, which also apply for the transportation of flour. Said rates are based on minimum weights which are not greater than 20,000 pounds. The commodity rates, which are the lower, are 13 to 33 percent more than applicant's proposed rates which are subject to a minimum weight of 30,000 pounds and 37 to 60 percent more than applicant's proposed rates which are subject to a minimum weight of 40,000 pounds.

which would apply under the hourly rates.<sup>3</sup> Because the conditions under which the services are performed may change at any time, the authority will be limited in duration to one year, subject to extension upon further order of the Commission. The effective date of the order will be made to coincide with the date of the change in Minimum Rate Tariff No. 5 prescribed by Decision No. 66931.

O R D E R

IT IS ORDERED that:

1. Flour Transport, Inc., is authorized to transport grain or rice flour (including chemical or other ingredients not to exceed 4 percent of the weight of the shipment transported), in bulk, and semolina or semolina and grain flour, in bulk, between points within the Los Angeles Drayage Area (as defined in Minimum Rate Tariff No. 5), for the milling companies named in Appendix A (attached hereto and by this reference made a part hereof), at the rates and subject to the conditions also set forth in said Appendix A.

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The question of whether applicant actually needs authority to assess the proposed rates is moot. The exemption which Item No. 40 series of Minimum Rate Tariff No. 5 provided for commodities transported in tank vehicles has been restricted since the commencement of this proceeding to liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk (Decision No. 66931 dated March 10, 1964). Hence, even though applicant's vehicles were deemed to be tank vehicles, the exemption would not apply to dry flowable commodities such as flour.

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.

This order shall become effective April 18, 1964.

Dated at San Francisco, California, this 7th day of April, 1964.

*Sullivan L. Benesh*  
President  
*[Signature]*  
*Walter A. Page*  
*George H. Trover*  
*Fredrick B. Holbrook*  
Commissioners

Milling Companies:

California Milling Corporation  
 Capitol Milling Company  
 Centennial Mills Incorporated  
 Colorado Milling & Elevator Co.  
 Fisher Flouring Mills Co.  
 General Mills Inc.  
 Inglehart Operations  
 The Ismert-Hincke Milling Co.

Kansas Milling Company  
 New Era Milling Company  
 The Pillsbury Company  
 Quaker Oats Company  
 Russel Miller Milling Co.  
 Salt Lake Flouring Mills  
 Sheridan Flouring Mills

Authorized Rates (in cents per 100 pounds):

<u>Miles(Actual)</u>		<u>Minimum Weight</u>	<u>Minimum Weight</u>
<u>More than</u>	<u>But not more than</u>	<u>30,000 pounds</u>	<u>40,000 pounds</u>
0	10	11.5	9.5
10	15	12.0	10.0

NOTE 1 Loading Time: An additional charge of \$3.00 shall be assessed for each 45 minute period or fraction thereof after the first 45 minutes of free time.

NOTE 2 Railroad Car Unloading Service: Add 2.0 cents per 100 pounds for railroad car unloading service except when consignee furnishes electrical power at team track, in which event add 1.5 cents per 100 pounds.

NOTE 3 Weighing Service: Add \$15 per car for weighing service provided in connection with unloading of rail cars.

NOTE 4 When charges accruing on a shipment based on actual weight exceed the charges computed on a rate based on a greater minimum weight, the latter shall apply.

Conditions:

1. The charges assessed shall in no event be less in total for the vehicles used in the transportation than the charges which would apply from application of the hourly rates named in Item No. 420 series of Minimum Rate Tariff No. 5 to the transportation performed.
2. Transportation performed by Flour Transport, Inc., under the rates herein authorized shall be performed by vehicles of the type depicted or described in Exhibits Nos. D and E appended to Application No. 45431.
3. Flour Transport, Inc., shall retain and preserve copies of its freight bills covering transportation performed under the authority herein granted. Each such copy shall be preserved for a period of not less than three years from date of issuance, and shall have attached thereto a statement of the charges computed at the hourly rates specified in Paragraph 1, above, and full information necessary to accurate determination of the charges under said hourly rates.

(End of Appendix)