

Decision No. 67355**ORIGINAL**

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 any and all commodities between and)
 within all points and places in the)
 State of California (including, but not)
 limited to, transportation for which)
 rates are provided in Minimum Rate)
 Tariff No. 2).)

Case No. 5432
 Petition for Modification
 No. 320
 (Filed January 27, 1964)

Vaughan, Paul & Lyons, by John G. Lyons, and
James B. Mahoney, for petitioner.
Russell Bevans, for Draymen's Association of San
 Francisco; James M. Cooper and Charles C. Miller,
 for San Francisco Chamber of Commerce; Jefferson
H. Myers, for San Francisco Port Authority;
C. D. Gilbert, A. D. Poe and J. X. Quintrail, for
 California Trucking Association; and Joseph H.
Anderson, for River Lines, Ltd., interested parties.
A. F. Burns, R. A. Lubich and R. J. Carberry, for the
 Commission staff.

O P I N I O N

This matter was heard before Examiner Lane on March 4 and
 April 9, 1964 in San Francisco. On the latter date it was sub-
 mitted.^{1/}

By this petition, as amended, San Francisco Warehouse Co.,
 a corporation, requests authority as a highway common carrier to
 publish a rate less than the established minimum rate for the
 transportation of rice, in bulk in mobile sea vans furnished by

^{1/} This matter was submitted initially on March 4, 1964. On March
 10, 1964, petitioner filed a petition for an order setting
 aside submission, reopening proceeding for further hearing and
 granting leave to amend. This petition was granted by order
 dated March 24, 1964. The hearing on April 9, 1964 was re-
 sponsive to the order of March 24, 1964.

the shipper,^{2/} from San Francisco to waterfront piers and wharves in Oakland and Alameda.^{3/} The rate sought is 7½ cents per 100 pounds, minimum weight 89,600 pounds. Charges are to be based on the net weight of the rice and the proposed rate includes the free return of empty mobile sea vans. The minimum rate established for the transportation of bulk rice between the points in question is 10 cents per 100 pounds, minimum weight 48,000 pounds. Charges under the minimum rate are based on the gross weight of the shipment, including the weight of the container. The minimum rate does not include the free return of vans.

The traffic which the proposed rate is designed to cover is the movement of rice in bulk in sea van loads of 44,800 pounds each from the plant of C. E. Grosjean Rice Milling Co. in San Francisco to piers on the Oakland waterfront and the return movement of empty sea vans.

Evidence in support of the petition was adduced by petitioner's vice president. Various interested parties and the Commission staff assisted in developing the record. The California Trucking Association opposed granting of the sought authority.

According to the evidence the rice is loaded by gravity in bulk by the shipper in its own mobile sea vans. Petitioner furnishes a tractor and tows the shipper's loaded vans to the steamshippers in Oakland or Alameda. At the piers, the vans with their

^{2/} A mobile sea van is a box or platform, into or upon which packages are loaded for transportation and which is attached to a trailer or semitrailer.

^{3/} No shipments currently go to Alameda piers; however, facilities for handling shipments in mobile sea vans are provided at certain of these piers.

contents of bulk rice are loaded on vessels for further movement by water. Empty vans from inbound vessels are returned to the shipper on the return movements of petitioner's tractors.

Petitioner's vice president testified that the movement in question is unusual in that petitioner provides no equipment other than motive power, does no loading or unloading and experiences little, if any, delays in performing the service. He said, also, that the shipper had advised him that it would lease or purchase a tractor and provide the service itself if the sought rate were not authorized.

The witness introduced into evidence data respecting performance and costs for handling the traffic in question. The performance data were developed on the basis of the time upon which expenses were required to be paid (cost hours) rather than on the basis of the actual times involved. The witness said that the former exceeded actual performance time and was appropriate for developing costs involved in performing the service. Based on the cost study of record, petitioner alleges that the full cost to it of performing the involved transportation, including provision for an operating ratio of 90 percent after income taxes, is 7.28 cents per 100 pounds.^{4/}

The California Trucking Association, in opposition to the granting of the petition, argued that petitioner has not shown that the sought rate is justified under Section 452 of the Public Utilities Code. It further argued that granting of the petition is undesirable inasmuch as the rate sought would become, in fact,

^{4/} Cross-examination developed that certain elements of the cost showing were, in fact, overstated.

the minimum rate for permit carriers under Section 3663 of the Code upon publication by applicant in its tariff. In addition, the Association moved that this petition be considered on a common record with Petition No. 78 in Case No. 5441. This latter petition involved the request of the San Francisco Chamber of Commerce for re-establishment of commodity rates on rice in packages to the port terminals in San Francisco and Oakland from rice mills in San Francisco.

The record shows that the rate proposed will be compensatory. The record further shows that the involved traffic is subject to a severe threat of proprietary carriage which could remove it from for-hire transportation. The Commission finds that the proposed rate is reasonable and justified by transportation conditions.

The traffic covered by Petition No. 78 and that herein involved are dissimilar. Petition No. 78 involves the movement of rice in sacks or cartons in equipment furnished by the carrier. This petition involves the movement of bulk rice in shipper's mobile sea vans for which the carrier provides only the motive power. No useful purpose would be served by considering the two matters on a common record. The motion of California Trucking Association is denied.

The Commission concludes that Petition for Modification No. 320, as amended, in Case No. 5432 should be granted to the extent provided in the ensuing order.

As the conditions surrounding the transportation may change, the authority should be limited to expire with May 31, 1965, unless sooner canceled, modified or extended by order of the Commission.

O R D E R

IT IS ORDERED that:

1. San Francisco Warehouse Co., a corporation, is authorized to establish, not earlier than ten days after the effective date hereof on not less than ten days' notice to the Commission and to the public, a rate of 7½ cents per 100 pounds, minimum weight 89,600 pounds, to expire with May 31, 1965, for the transportation of rice, in bulk, from San Francisco to Oakland and Alameda subject to the following conditions:

- (a) Rate applies only on shipments of Rice, in bulk in Mobile Sea Vans furnished by the shipper.
- (b) Shipments must be tendered to carrier in Mobile Sea Vans subject to a minimum weight of 44,800 pounds per Mobile Sea Van.
- (c) The weight of the Mobile Sea Van will not be used in determining the weight of the shipment nor the charges thereon.
- (d) Rate includes movement of the empty Mobile Sea Van from Oakland or Alameda to San Francisco for loading.
- (e) Carrier will not furnish any loading or unloading service and such service is not included in the rate.
- (f) Rate subject hereto may not be used in combination with any other rate.
- (g) Rate will apply only to shipments having a further movement by water transportation in interstate or foreign commerce.

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

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 11th day of JUNE, 1964.

William L. Bennett
President
John E. Fitchett
Wesley W. Hoop
George L. Hoover
Fredrick B. Hollohoff
Commissioners