EP

Decision No. 67560

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of WILLIAM E. DANIEL, an individual, under Section 3666 of the Public Utilities Code of the State of California, for authority to charge rates less than those prescribed in Minimum Rate Tariff No. 15, for the transportation of animal feed for the account of SALYER GRAIN & MILLING CO. within a radius of 125 miles of Corcoran, California.	Application No. 46083 (Filed January 8, 1964)

William H. Kessler, for applicant.

J. C. Kaspar, J. X. Quintrall and A. D. Poe, for California Trucking Association, interested party.

Robert J. Carberry and Henry E. Frank, for the Commission staff.

O P I N I O N

This application was heard and submitted March 12, 1964, before Examiner Thompson at Fresno. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. There were no protests.

Applicant is primarily engaged in the business of marketing and distributing agricultural fertilizers. He conducts for-hire highway carrier operations under Radial Highway Common Carrier Permit No. 16-1359.[1/]

1/ At the time of the hearing applicant's permit authorized operations within a radius of 50 miles from point of operations. On April 7, 1964, pursuant to application filed by applicant, the Commission extended the authority to a radius of 150 miles.

Applicant transports animal feed between the plant of Salyer Grain and Milling Co. at Corcoran and various cattle feeding lots and ranches within 125 miles of Corcoran. In performing this transportation applicant furnishes only a tractor and driver. The animal feed is loaded by the shipper into trailers owned by Salyer. The trailers are equipped with mechanized unloading devices. In essence, applicant's service consists of moving the shipper's trailers.

He seeks authority herein to perform said transportation at a rate of 28 cents per round-trip mile. The rate is different from and lower in volume and effect than the minimum rates established for transporting animal feed and the minimum vehicle unit rates established in Minimum Rate Tariff No. 15. California Trucking Association and the Commission staff participated by cross-examining applicant's witnesses.

Applicant acquired three new diesel 3-axle tractors which are used in this operation. The plant of Salyer is open for applicant twenty-four hours each day and seven days each week. The three tractors are used in this service each weekday except for time out of service for normal maintenance and repair. At least one unit is operated on Saturdays, Sundays and holidays. There is a seasonal variation in traffic; however, the effect of this depends on whether the units are operated at night as well as during the daytime hours. The trailers are usually loaded to capacity by the shipper but this would be of little concern to applicant because he would receive the same compensation regardless of the tonnage hauled.

Applicant testified that unless the authority sought is granted, Salyer will transport the animal feed in proprietary operations. It already owns and services the trailers and if it is necessary to acquire tractors its capital investment would be something less than $50,000. According to applicant, Salyer is financially able to make that investment.

Applicant has shown that the services he performs in this transportation are less than those normally involved in the transportation of animal feed. He has shown also that the danger to his business is not from for-hire carriers but from the ability of the shipper to perform proprietary operations. We come now to the issue of whether the proposed rate is compensatory.

Exhibit 4 is a summary of all of the transportation performed by applicant for Salyer during the period June 10 through November 30, 1963. An accountant employed by applicant presented estimates of the cost per mile of performing the service based upon pro-forma profit and loss statements for the period June 10 through November 30, 1963 and for the months of December 1963 and January 1964. Those estimates are not suitable for this proceeding for several reasons: (1) they purport to show out-of-pocket costs only; (2) the running costs (tire, maintenance and fuel expenses) were based upon the new equipment being operated by applicant for three years whereas the depreciation expense was based upon their operation for 8 years; and, (3) many of the expenses were estimated from the miles operated in service which were calculated by doubling the "map mileages" between origins and destinations.

With respect to the matter of out-of-pocket costs, the Commission has consistently held that in proceedings brought under Section 3666 of the Public Utilities Code a showing that the proposed rate exceeds the full cost of performing the service is indispensable to a finding that the rate is reasonable, Karl A. Weber, (1962) 60 Cal. P.U.C. 59; Alves Service Transportation (1955) 54 Cal. P.U.C. 376. The accountant stated that applicant's trucking operation did not result in additional overhead expense to applicant. He pointed out that the shipper dispatches the trucks. In a Section 3666 proceeding the principal cost consideration is the cost savings directly attributable to the transportation involved and not to the ability of an individual carrier to operate at lower costs than other carriers similarly situated. There is little doubt from the evidence that any incremental overhead expense to the applicant as a result of this transportation is insignificant. The amount of additional work for employees, already employed in administration of his other businesses and enterprises, is small. The fact remains, however, that if applicant were engaged only in the business of transporting property for Salyer, he would incur overhead expenses in connection with that transportation.

The accountant stated that the equipment used by applicant in this operation was acquired new in 1963. There was very little recorded expense for maintenance and repair for that equipment. The accountant stated that it is his understanding that it is applicant's policy to replace his tractors when they are three years old or when they start to require repairs. He said that applicant has found that the savings in the cost of maintenance and repair is greater than the increased depreciation expense that results from the frequent turnover of equipment. It was for these reasons that he estimated the running costs (fuel, tires and maintenance) at 6.465 cents per mile. In calculating depreciation expense he assumed the service life of the vehicles to be 8 years. If the estimated running cost is valid the depreciation expense is substantially understated and if we consider the depreciation expense to be reasonable the running cost estimate is unreasonably low.

The accountant applied certain unit costs to miles operated in order to estimate certain expenses (fuel costs for example). The mileages that he used were not the actual operating miles. He determined the mileages by doubling the distances shown on highway maps between origin and destinations of all trips made by applicant. That method does not give consideration to the miles operated by the vehicles from applicant's garage or terminal to the Salyer plant or to any mileage operated in connection with fueling, servicing or maintaining the vehicles. The evidence show, however, that applicant's place of business is near the Salyer plant so that the amount of non-revenue miles operated is very small.

In this type of proceeding the applicant has the burden of showing that the proposed rate is compensatory. If we consider only the estimates made by the accountant, a proper showing has not been made. There are, however, special circumstances in this proceeding that require us to give further consideration to this matter. The commodity involved is animal feed destined to livestock feeding lots and ranches. The area served is an agricultural community. The services performed by applicant are not the same as those normally performed by for-hire carriers and are somewhat less than those considered by the Commission in establishing commodity rates for the transportation of grain and animal feed. There is no competition from other for-hire carriers. It is the policy of the State, to be pursued by the Commission, to establish such rates as will promote the freedom of movement by carriers of the products of agriculture, including livestock, at the lowest lawful rates compatible with the maintenance of adequate transportation service (Section 3661 of the Public Utilities Code).

Minimum Rate Tariff No. 15 provides rates which more closely reflect the type of service performed by applicant. The prevailing wage rate of drivers of trucks hauling agricultural commodities in the area served by applicant is substantially less than the wage rate reflected in the minimum rates. Exhibit 4 shows that the revenue at the proposed rates for shipments transported during a six months' period was $40,659 and the revenue for such transportation at the rates in Minimum Rate Tariff No. 15 was $49,929. $3,932 of the latter relates to charges for excess time at premium wage rates (overtime) which the prevailing wage rate paid by applicant does not include. Giving consideration to the low wage rate prevailing in the area, a comparison of the revenue figures indicates that the transportation may be compensatory. We therefore will consider the cost estimates made by the accountant and adjust them to reflect reasonable running costs and a reasonable provision for administrative expense.

The adjusted estimates are summarized below:

Estimated Revenue and Expenses (Adjusted)
Of Transportation Performed by William E. Daniel
For Salyer Grain & Milling Co. For Periods Shown.

	June 10, 1963 to November 30, 1963, inc.	December 1963 and January 1964
Mileage Operated:	145,228	80,000
Revenue:	$40,659	$22,121
Expenses:		
Drivers' Wages	10,182	5,880
Payroll Taxes	675	401
Comp. Insurance	487	281
Taxes & Licenses	1,398	768
Insurance	863	287
Depreciation	2,335	1,360
Running Costs (1)	17,427	9,600
Administrative (2)	4,004	2,229
Total Expense	37,371	20,806
Income	3,288	1,315

(1) Running Costs include fuel and oil expense, tire expense and maintenance and repair expense. They were estimated by applying a unit cost of 12 cents per mile as indicated in cost estimates in proceedings in Case No. 5432 leading to the establishment of Minimum Vehicle Unit rates in MRT-15.

(2) Administrative expense includes all indirect expense and is calculated by taking 12 percent of the total of the direct expenses. This ratio was found to be reasonable for yearly vehicle unit rate cost estimates in Decision No. 65072 dated March 12, 1963 in Case No. 5432, 60 Cal. P.U.C. 624 at 630.

We find that the proposed rate is compensatory and is reasonable for the transportation services involved. We conclude that the authority sought should be granted. Because transportation conditions are subject to change the authority should be limited for a period of one year.

ORDER

IT IS ORDERED that:

1. William E. Daniel, an individual, is authorized to charge and collect rates less than the applicable minimum rates, but no lower in volume or effect than 28 cents per round-trip mile, for the transportation of animal feed for Salyer Grain and Milling Co. between the plant of said company located at Corcoran, on the one hand, and points and places within a radius of 125 miles from said plant, on the other hand, subject to the following conditions:

   (a) Shipments shall be transported in trailers owned by Salyer Grain and Milling Co. and such trailers shall be equipped with mechanical unloading devices;

   (b) Shipments shall not be accepted unless tendered in said trailers loaded by the shipper.

2. The authority granted in paragraph 1 hereof shall expire July 31, 1965, unless sooner modified, extended or canceled by the Commission.

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

Dated at San Francisco, California, this 21st day of July, 1964.

Frederick B. Holoboff, President

Peter E. Mitchell

Everett C. McKeage

George G. Grover

William M. Bennett

Commissioners