

ORIGINALDecision No. 67710

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of:)
 BINSWANGER SERVICES, INC., a)
 California corporation, for authority)
 to charge less than minimum rates)
 pursuant to Section 3666 of the Public)
 Utilities Code, for the transportation)
 of lightweight aggregates, viz: clay,)
 burnt or calcined; sand, burnt shale;)
 shale, burnt or calcined, for)
 Susquehanna-Western, Inc.)

Application No. 45700

Filed August 21, 1963,
amended October 18, 1963,
and May 18, 1964.

R. Y. Schureman, for Binswanger Services,
 Inc., applicant,
E. O. Blackman, for California Dump Truck
 Owners Association, Inc., interested
 party;
W. H. Dillon, for California Trucking
 Association, interested party;
Russell Swendseid, for Ridgelite Products,
 protestant;
Eugene R. Rhodes, for Monolith Portland
 Cement Company, interested party;
Ralph J. Staunton, for the Transportation
 Division of the Commission's staff.

OPINION ON FURTHER HEARING

Binswanger Services, Inc., a highway contract carrier, transports certain lightweight aggregates for Susquehanna-Western, Inc., from San Clemente to various destinations within southern California. Pursuant to authority heretofore granted by Decisions Nos. 64149, 66077, and 66635, Binswanger has been, and is, charging lesser rates for said transportation than the rates which would otherwise apply as minimum under the provisions of the Commission's Minimum Rate Tariff No. 7. The present authority expires with August 31, 1964. Binswanger now seeks extension of said authority,

on a modified basis, for a further period of a year.

Public hearing on the requested extension was held before Examiner Abernathy at Los Angeles on May 18, 1964. Evidence was presented by Binswanger's president and by the manager of the Crestlite division of Susquehanna-Western. Representatives of the California Dump Truck Owners Association, Inc., of the California Trucking Associations, of Ridgelite Products, and of the Commission's staff participated in the development of the record.

The rates which Binswanger is authorized to charge at present are distance rates which are subject to a minimum charge of \$11.45 per hour of total round-trip time per load less one-half hour. They are subject to a further minimum charge per month equivalent to that amount which would enable Binswanger to realize an operating ratio of 92 percent for the month, or a profit of \$1,041.67 for the month, whichever is the greater (said operating ratio and profit to be computed before provision for income taxes).¹

According to testimony of applicant's president, experience under said rates has shown that the effective rate is the hourly rate which applies as a minimum charge. For this reason applicant seeks authority to compute its charges only on an hourly basis in the future (subject to the guaranteed operating ratio of

¹ These minimum charges reflect the provisions of applicant's agreement with Susquehanna-Western, Inc., whereby Susquehanna guarantees applicant an operating ratio of 92 percent, or a monthly profit of \$1,041.67 over the costs of service, whichever would result in greater earnings for applicant. "Costs of service", for this purpose, mean all necessary and reasonable costs which are incurred by Binswanger and which are applicable to the operations involved. Depreciation expense on trucking equipment is computed on a 5-year straight line basis. The amount to be charged for officers' salaries is \$800 a month.

92 percent or the monthly profit of \$1,041.67, whichever is the greater). The rate which applicant seeks to have authorized is \$10.25 per hour.

Cost evidence which was submitted in support of the sought rate shows a cost of \$10.02 per hour, exclusive of provision for profit, for the month of March, 1964. Were allowance included for sufficient profit to produce an operating ratio of 92 percent, the applicable rate on this cost basis would be about \$10.90 per hour.

Despite this showing of costs, and the rate that would apply thereon, applicant alleges that the sought rate of \$10.25 will be reasonable. Applicant predicted that within the near future it will be able to accomplish a substantial reduction in costs. This reduction would be attained through increased usage of applicant's equipment as a consequence of an increase in the number of shipments which applicant transports for Susquehanna-Western, Inc. This prediction was supported by the general manager of the Crestlite Division of Susquehanna-Western, Inc., who stated that for the first time since the initiation of operations at San Clemente about two years ago, Susquehanna's production of light-weight aggregates has only recently been brought to the point where the transportation of said aggregates can be performed with real efficiency. He forecast that his company's shipments in the future would be at a faster rate than that which has prevailed heretofore.

It is evident from the record in this matter that neither applicant's nor Susquehanna's objective herein is the approval of a basis of charges which does not return the costs of service plus a reasonable profit. It is also evident that insofar as the sought

rate of \$10.25 is concerned, the justification therefor rests in part on Susquehanna's guarantee of a monthly profit to applicant of \$1,041.67 or an operating ratio of 92 percent, whichever is the greater. Thus, in effect, what applicant seeks is approval of a "cost plus profit" arrangement.

Applicant's proposal in this matter is similar to one which the Commission considered in an earlier phase of this same proceeding. In its decision the Commission held that the costs of service plus a guaranteed profit do not constitute a "rate" which may be authorized under the provisions of Section 3666 of the Public Utilities Code (Decision No. 66635, dated January 14, 1964).

The evidence shows that a lesser rate than that applicable under the provisions of Minimum Rate Tariff No. 7 would be reasonable for the transportation in question. As previously stated, applicant reported that for the month of March, 1964, its costs of service were \$10.02 per hour before provision for profit. This figure was developed on the basis of costs which include interest expense, a non-operating expense item. Elimination of the interest expense would reduce the hourly cost figure to \$9.69 per hour. Other adjustments of a contrary nature might also be made in this cost figure, since the evidence indicates additional infirmities in the cost development. Nevertheless, taking into consideration the increasing tonnage which applicant expects to transport during the coming year, we are of the opinion that further adjustments in the

cost figure of \$9.69 per hour would be mainly offsetting. We find that said cost figure is a reasonable representation of applicant's costs of service for the purposes of this proceeding.

In the determination of what constitutes a reasonable minimum rate for applicant's services, attention must also be given to the margin of profit to be allowed. The margin of profit which is reflected in applicant's calculations - - that represented by an operating ratio of 92 percent - - appears higher than necessary for minimum rate purposes. On various occasions heretofore rates which would produce an operating ratio of 93 percent have been approved as reasonable minimum rates. Moreover, under recently established federal income tax rates, of which official notice is hereby taken, it appears that an operating ratio of 94 percent would produce about the same level of profit (after income taxes) as was formerly realized under an operating ratio of 93 percent. Expansion of applicant's costs (exclusive of interest expense) to include provision for profit as reflected by an operating ratio of 94 percent would result in a rate of \$10.30 per hour. We find that said rate is a reasonable minimum rate for the services which applicant performs for Susquehanna-Western, Inc. Said rate will be authorized for the coming year subject to change either upon the Commission's own order or upon further order in response to further request and showing by applicant.

O R D E R

IT IS ORDERED that:

1. Binswanger Services, Inc., is authorized to transport lightweight aggregates, viz., clay, burnt or calcined; sand, burnt shale; shale, burnt or calcined, from the plant of Susquehanna-Western, Inc., at San Clemente to points of destination within the Counties of Orange, Los Angeles, Imperial, Riverside, San Bernardino and San Diego at a rate of \$10.30 per hour.

2. The authority herein granted shall be subject to the conditions which are set forth in Appendix 'A' attached hereto and by this reference made a part hereof.

3. 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 September 1, 1964.

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

Fredrick B. Holoboff
President

George T. Grover
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Appendix 'A' to Decision No. 67710

Conditions governing the transportation of
lightweight aggregates by Binswanger Services, Inc.,
for Susquehanna-Western, Inc.

1. The transportation shall be performed in dump truck equipment as defined in Item No. 10 of Minimum Rate Tariff No. 7 of the Commission.
2. The legal carrying capacity of the equipment used shall be approximately 27 tons of lightweight aggregates (as designated in Ordering Paragraph No. 1 of this Decision) per unit of equipment used. Unit of equipment: tractor, semi-trailer and trailer, or truck and trailer.
3. For the purposes of applying the hourly rate authorized by this decision, the hours, including fractions thereof, shall be computed from the time that the carrier's equipment reports for service pursuant to the shipper's order to the time of return to carrier's terminal after completion of the last trip under shipper's order.

Note: Allowances may be made for delays due to failure of carrier's equipment or due to time taken out for meals.

4. The authority herein granted shall not apply in connection with any transportation performed under any subhauling arrangements.

(End of Appendix)