

ORIGINAL

Decision No. 67808

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. 333
(Filed March 25, 1964)
(Amendment filed July 30, 1964)

OPINION AND ORDER

By this petition, as amended, certain highway contract and radial highway common carriers seek exemption from the established minimum rates in connection with the transportation of shipments of wholesale drug supplies weighing 75 pounds or less between Sacramento and various points in northern California.¹

Petitioners state that they transport small shipments of wholesale drug supplies to various drug stores as an emergency service for Western Drug Supply, McKesson-Robbins, Inc., Brunswig Drug Company, and Flexco Pharmaceuticals, Inc., wholesale drug supply businesses located in Sacramento. The commodities transported consist principally of pharmaceutical supplies.

¹ The highway contract carriers are Richard J., Jack M. and Robert G. Lee, doing business as L & L Fast Freight; Harlan P. Levin and James W. Brown, doing business as Levin & Brown and as L & B Swift Express; Donald I. Burns, doing business as Burns Trucking; J. L. Stewart, doing business as Stewart's Service; and Loraine Berry. Richard J., Jack M. and Robert G. Lee and Harlan P. Levin and James W. Brown also hold radial highway common carrier permits. Orval R. Loveland, doing business as Best Way Trucking, is a radial highway common carrier.

Petitioners aver that much of the drug supply, because of its chemical nature, cannot remain out of refrigerated storage for more than a few hours without losing either its potency or effectiveness and such commodities require fast delivery service within the one day category. They have heretofore rendered and remain ready to continue to render such service. Assertedly, it is not economically feasible for the retail drug outlets to maintain large quantities of drug supplies as most of the small drug outlets are not capable of sustaining the required monetary investment.

Petitioners allege that the services provided for the wholesale drug distributors, as well as the community drug outlets, prior to the rate schedule changes promulgated by Decision No. 66453 were satisfactory to all concerned. They further allege that the rate schedule changes have made it economically impractical for the wholesale drug distributors to continue to use their services and said shippers have either terminated their contracts with them or have threatened to do so.

A copy of the verified petition was mailed to California Trucking Association. This organization, by letter dated August 12, 1964, protests the granting of the sought relief as an exemption and requests that the matter be set for public hearing. Decisions Nos. 67326 and 67619 dated June 3, 1964, and July 28, 1964, respectively, granted several carriers transporting small shipments of drugs relief from the minimum rates upon a showing similar to that made herein by petitioners. These authorities were granted as deviations and not as exemptions. Moreover, Order Setting Hearing dated August 11, 1964, in Case No. 5432, et al., covers this general subject.² Under the

² This proceeding concerns the question whether and under what circumstances the existing minimum rates are unsuitable or inappropriate for transportation service provided by certain parcel delivery and other carriers, and whether the exemption authorities granted to such carriers pursuant to Finding 14 in Decision No. 31606, 41 CRC 671, 724, as amended by Decision No. 52199 dated February 23, 1960, in Case No. 5432 (unreported) and as further amended, should be canceled or the extent to which they should be amended.

circumstances, the petition will be granted as a deviation from the minimum rates. California Trucking Association may submit whatever evidence it deems proper with respect to the carriers involved in that proceeding.

In the circumstances, it appears, and the Commission finds, that petitioners' operations are of a specialized nature differing substantially from those for which the established minimum rates were primarily designed and that the proposed charges are reasonable for the transportation services involved. A public hearing is not necessary. The petition, as amended, will be granted.

IT IS ORDERED that:

1. The carriers specified in Ordering Paragraph 2 hereof are hereby authorized to transport shipments of wholesale drug supplies, each weighing 75 pounds or less, for Western Drug Supply, McKesson-Robbins, Inc., Brunswig Drug Company and Floxco Pharmaceuticals, Inc., between the points designated in said Ordering Paragraph 2 at charges per shipment less than the established minimum charges per shipment but not less than the following:

Weight of Shipment (In Pounds)		Minimum Charge (In Cents)
Over	But Not Over	
0	25	150
25	50	200
50	75	250

2. The following carriers are hereby authorized to transport wholesale drug supplies as described in Ordering Paragraph 1 hereof between the points hereinafter designated:

(a) Richard J., Jack M. and Robert G. Lee between Sacramento and points in California within a radius of 100 miles of Grass Valley.

(b) Harlan P. Levin and James W. Brown between Sacramento and points in California within a radius of 150 miles of Stockton.

(c) Donald I. Burns between Sacramento and points in California within a radius of 150 miles of Marysville.

(d) James L. Stewart between Sacramento and points within a radius of 75 miles of said city.

(e) Orval R. Loveland between Sacramento and points in California within a radius of 150 miles of Stockton.

(f) Loraine Berry between Sacramento and points within a radius of 50 miles of said city.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 1st day of September, 1964.

Fredrick B. Holshoff
President
Wesley C. Sage
George H. Grover
William G. Givens

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.