

ORIGINAL

Decision No. 68218

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ACME TRANSPORTATION, INC., a corpora-)
 tion, for authority to depart from)
 minimum rates, rules and regulations)
 applicable in connection with certain)
 transportation to be performed for)
 COLLIER CARBON & CHEMICAL COMPANY.)

Application No. 46638
 (Filed May 15, 1964)
 (Amended August 10, 1964)

Berol, Loughran & Geernaert, by Frank Loughran,
 for applicant.

C. D. Gilbert, H. F. Kollmyer and A. D. Poe,
 for California Trucking Association, interested
 party.

B. I. Shoda and E.N. Jennings, for the Commission
 staff.

O P I N I O N

This application was heard and submitted August 21, 1964 before Examiner Thompson at San Francisco. Copies of the application and notice of hearing were served in accordance with the Commission's procedural rules. There are no protests.

Acme Transportation, Inc. is a highway common carrier, a petroleum irregular route carrier, a radial highway common carrier, and a highway contract carrier. Its primary business is the transportation of petroleum products. By this application it seeks authority under Section 3666 of the Public Utilities Code, to charge and collect less than the applicable minimum rate for the transportation of petroleum coke in bulk from Collier, a point three miles southeast of Rodeo on State Highway 4, to du Pont, California, a point one mile east of Antioch on State Highway 24. Applicant proposes to charge a rate of 8-3/4 cents per 100 pounds, minimum weight 45,000 pounds. The applicable minimum rate is 14 cents per 100 pounds. The transportation will be performed by applicant as a radial highway common carrier.

At the outset attention was directed to the fact that applicant holds authority as a highway common carrier to transport petroleum products in bulk between the points involved, Acme Transportation, Inc. (1949) 43 Cal. P.U.C. 559. Applicant's president testified that the company has never held itself out to the public to transport between fixed points or over a regular route any commodities other than liquid petroleum products requiring the use of tank truck equipment. Official notice was taken of applicant's tariffs which discloses that it does not maintain rates for the transportation of petroleum coke. The services for which applicant publishes rates cover only those relating to the transportation of liquid petroleum products in tank truck equipment.^{1/} Applicant has been transporting petroleum coke since November 1963. The rate it has been charging for the movement from Collier to du Pont is 14-3/4 cents per 100 pounds. The transportation is performed with a tractor and two hopper trailers. These trailers are the only equipment operated by applicant that can be used to transport petroleum coke in bulk.

The movement between Collier and du Pont has been for the account of E. I. du Pont de Nemours & Co. (hereinafter referred to as shipper). Shipper operates a plant at du Pont which was recently expanded for the purpose of manufacturing titanium dioxide. Petroleum coke, a waste residue of oil refining processes which has been treated and granulated, is used for fuel in the manufacturing operation. Shipper operates motor vehicle equipment in the transportation of some of its products and raw materials. It has notified applicant that unless a lower rate can be obtained it will move the traffic with its own equipment.

^{1/} On August 27, 1964, Acme Transportation, Inc. filed Application No. 46930 requesting amendment to its highway common carrier certificate to cover only liquid petroleum products.

The traffic supervisor of shipper testified that it operates truck equipment of its own at various places in California; that he is aware of the cost of operating such equipment, and, unless applicant can perform the transportation of petroleum coke from Collier to its plant at du Pont at the proposed reduced rate shipper will use its own equipment to service this haul.

Applicant presented an estimate of the cost of transporting petroleum coke in truckloads weighing 45,000 pounds from the plant of Collier Carbon & Chemical Company, located at Collier, to shipper's plant at du Pont. The estimated cost is \$35.37 per load. The estimate was made from data of forty loads transported by applicant. We find that the estimated cost reasonably reflects the actual cost to applicant of performing this transportation.

We find that:

1. Applicant has unequivocally held itself out to transport petroleum coke as a radial highway common carrier.
2. The proposed rate of 8-3/4 cents per 100 pounds, minimum weight 45,000 pounds, is compensatory.
3. The proposed reduced rate is necessary for applicant to retain this traffic.
4. The proposed rate is reasonable.
5. The cost factors may be different after one year.

We conclude that applicant should be authorized to charge and collect less than the established minimum rate, but not less than 8-3/4 cents per 100 pounds, minimum weight 45,000 pounds, for the transportation of truckload shipments of petroleum coke in bulk from Collier to du Pont and that such authority should be limited to a period of one year unless sooner modified, canceled or extended by the Commission.

O R D E R

IT IS ORDERED that:

1. Acme Transportation, Inc. is authorized to transport truckload shipments of petroleum coke in bulk from the plant of Collier Carbon & Chemical Company, located at Collier, to the plant of E. I. du Pont de Nemours & Co., at du Pont, at a rate less than the established minimum rate, but not less than 8-3/4 cents per 100 pounds, minimum weight 45,000 pounds.

2. The authority granted above shall expire November 1, 1965 unless sooner modified, canceled or extended by order of the Commission.

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

Dated at San Francisco, California, this 10th day of NOVEMBER, 1964.

Fredrick B. Holdoff
President
Arthur J. Hatcher
Charles W. Pease
William L. Bennett
Commissioners

As I understand it, the Commission regards it as implicit in Finding No. 1 that applicant has not held itself out as a highway common carrier with respect to the traffic in question. This results from the view ^{which} ~~that~~ the Commission has long held, that the two types of operation are mutually exclusive. On that basis, I concur in the opinion and order.
George L. Dwyer