

ORIGINALDecision No. 69454

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 car-)
 riers relating to the transportation of) (Case No. 5432
 any and all commodities between and) (Petition for Modification
 within all points and places in the State) (No. 383)
 of California (including, but not limited) (Filed May 25, 1965;
 to, transportation for which rates are) (Amended June 11, 1965)
 provided in Minimum Rate Tariff No. 2).)

OPINION AND ORDER

By this petition Carl K. Sparks, doing business as Aero Special Delivery and Messenger Service, seeks exemptions from the minimum rates and regulations named in Minimum Rate Tariff No. 2, applicable to all packages or parcels weighing less than 100 pounds when transported in motorcycles or motorcycles equipped with sidecars. Petitioner is presently doing business as a parcel and special messenger service for-hire carrier under City Carrier Permit No. 38-6344 and Radial Highway Common Carrier Permit No. 38-6343. Service is rendered between points within the Counties of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa and Marin.

Petitioner explains that his fleet of equipment consists of 15 bicycles for messenger boy service, and 12 motorcycles with sidecars. ^{1/} Deliveries by bicycles are confined to business houses

^{1/} Only that portion of petitioner's operations involving self-propelled motor vehicular equipment is subject to the regulatory provisions of Minimum Rate Tariff No. 2.

located within the financial district of San Francisco, or within 15 blocks thereof. Petitioner alleges that he has received repeated requests from various shippers to establish rates competitive with the rates assessed by other parcel delivery carriers, such as United Parcel Service.

Petitioner is of the opinion that the service performed under his permitted authority is a class of carriage that was not intended to come within the purview of the Commission's outstanding minimum rate orders. In support of this allegation petitioner relies on Finding 14, Decision No. 31606 in Case 4246 (41 CRC 671) wherein several parcel delivery carriers were exempted from the Commission's minimum rate order.^{2/} Petitioner further contends that his service is similar, or identical, to that performed by the aforementioned Finding 14 parcel delivery carriers, as well as the service being rendered under the recent minimum rate exemptions granted Finesse Delivery Service by Decision No. 67894, dated September 22, 1964, in Case No. 5432 (63 Cal. P.U.C. 375).

Copies of the verified petition were mailed to the California Trucking Association. The trucking association has informed the Commission that it has no objection to the handling of this matter on an ex parte basis as requested by petitioner in view of the restrictions added to the sought relief as subsequently amended.

The Commission has previously found that the minimum rates in Minimum Rate Tariff No. 2 are not the minimum reasonable rates for parcel delivery service by carriers wholly engaged in conducting parcel delivery operations. (J. S. Aaronson, 1961, 58

^{2/} Superseded by Decision No. 52199, dated November 7, 1955, in Case No. 5432 (Unreported).

Cal. P.U.C. 533, 536.) Item 40 of Minimum Rate Tariff No. 2 also exempts from the minimum rates therein, when the distance between point of origin and point of destination does not exceed 35 constructive miles, certain retail shipments as described below:

"Shipments weighing 100 pounds or less when delivered from retail stores or retail warehouses where the property has been sold at retail by a retail merchant, or when returned to the original retail store shipper via the carrier which handled the outbound movement."

It is also the Commission's announced policy (J. S. Aaronson, supra) that whenever a carrier requests authority to depart from the provisions of the established minimum rates, the order granting such relief should prescribe the minimum rates to be assessed by that carrier in lieu thereof.

In the instant proceeding, petitioner has not presented for approval a proposed schedule of minimum rates for his services. An adequate showing has been made, however, justifying the basic relief sought. In view of the highly restricted nature of the relief sought and as it may reasonably be expected that petitioner was not informed of the foregoing Commission procedure, due to his restricted scope of application, we are of the opinion that petitioner, in this instance, should not be placed at a disadvantage by being precluded from enjoying the sought relief otherwise found to be justified.

In the circumstances, it appears, and the Commission so finds that the sought relief, as amended, should be granted for a period of about one year. Within that time petitioner will have an ample opportunity to file a petition requesting continued authority to depart from the established minimum rates and setting forth the minimum rates he desires to assess in lieu thereof. In

view of the foregoing, we conclude that Petition for Modification No. 383 should be granted. A public hearing is not necessary.

IT IS ORDERED that:

1. Carl K. Sparks, an individual, doing business as Aero Special Delivery and Messenger Service, is authorized to charge, collect, and assess rates and charges different from the minimum rates and charges set forth in Minimum Rate Tariff No. 2 for the transportation of shipments weighing less than 100 pounds, when such transportation is rendered with motorcycles or motorcycles equipped with sidecars, from, to or between points located within the Counties of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, and Marin.

2. The authority granted herein shall expire September 1, 1966 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 27th day of July, 1965.

Fredrick B. Halachoff
President
George L. Hoover
Augustin

Commissioners

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

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