

Decision No. 69500

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
A & A TRANSPORT CO., INC., a)
corporation, for authority to)
deviate from the rates, rules and)
regulations prescribed in Minimum)
Rate Tariff No. 2.)

Application No. 47637
(Filed June 3, 1965)

Silver & Rosen by Thomas R. Kerr, for applicant.
Vaughan, Paul & Lyons by John G. Lyons, for the
Union Ice Company; and R. W. Smith, A. D. Poe
and H. F. Kollmyer, for California Trucking
Association, interested parties.
Joseph C. Matson, for the Commission staff.

O P I N I O N

This application was heard and submitted July 9, 1965 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.

Applicant is a radial highway common carrier. It seeks authority to transport truckloads of ice in the future for Union Ice Company (Union) from Watsonville and Salinas to Firebaugh, Mendota, Coalinga and Huron at the same basis of rates it has assessed Union in the past. The question of whether the rates assessed were lower than the minimum rates established by the Commission is an issue in Case No. 7981, Commission Investigation of A & A Transport Co., Inc., which at the time of hearing herein was under submission for decision.

Applicant and Union contend that the rates that have been assessed are lawful; however, in order to meet the possibility that the Commission may conclude otherwise, this application

was filed for authority to charge the same basis of rates in the future, and more particularly during the melon harvest in San Joaquin Valley which was to have commenced during the last week of July. In order to understand the matters raised in the application, it is necessary to be cognizant of transportation that has been performed and of the contentions of the Commission staff in Case No. 7981. Our discussion of these matters is not to be construed as findings or conclusions on the issues in Case No. 7981. The issue for determination here is whether the proposed rates are reasonable for the future; the issue in Case No. 7981 whether the respondent charged and collected rates lower than those prescribed by the Commission as minima for transportation performed in the past.

Union, among other things, manufactures ice at plants in Firebaugh and Huron. It sells ice at these locations and also at its storage facilities at Los Banos, Mendota and Coalinga in connection with the icing and precooling of melon shipments. During the peak of the melon harvest the plant facilities at Firebaugh and Huron cannot produce sufficient ice to meet the demand. Union supplements its ice at the aforementioned plant and storage facilities from ice manufactured at its plants in Watsonville and Salinas. Applicant has been engaged by Union to transport the ice from the plants at Watsonville and Salinas to Union's facilities mentioned above.

The large demand for ice in the entire general area involved during the melon harvest, together with the day-to-day fluctuating requirements of each facility in the area, has made it necessary that Union closely supervise the distribution of ice to its facilities. Each facility reports its ice requirements

at least twice per day (and in many instances more frequently) to the manager of the Firebaugh plant. It is his responsibility to arrange for the distribution of the ice manufactured at Firebaugh, Euron, Watsonville and Salinas among the various facilities. The manager testified that the wide fluctuation in ice requirements among the facilities during the melon season makes it necessary for him to make or change plans for distribution almost hourly. He said the logistics problem will not permit him to make plans for the distribution of ice as much as six hours in advance. It requires about five hours for a motor carrier to transport ice from Watsonville or Salinas to Firebaugh. The manager stated that he knows that a large volume of ice is going to be needed at one or more of the facilities under his supervision but he does not know five hours in advance which of the facilities it will be. For that reason, Union and applicant have a special arrangement whereby the manager obtains information from the Watsonville and Salinas plants each day concerning which of the plants is better able to provide ice and informs applicant at Los Banos. Applicant dispatches trucks to the selected plant to pick up a full truckload of ice and to take the truck to the Firebaugh plant for instructions for delivery and to make the delivery according to those instructions. Upon obtaining the instructions at Firebaugh the driver prepares the shipping document showing the transportation of ice from the Watsonville or Salinas plant to the ultimate point of destination. After making the delivery the driver returns to applicant's terminal at Los Banos for instructions as to whether he should proceed to Watsonville or Salinas, or be relieved by another driver who will take over the truck. In some instances the driver will be

relieved from duty and replaced at the Los Banos terminal while en route with a truckload from Salinas to Firebaugh. During the peak of the season applicant's trucks are in operation 24 hours a day.

Applicant charges, and collects, the minimum rate prescribed by the Commission for transportation of ice in truckloads from Watsonville or Salinas, as the case may be, to the ultimate point of destination. There are two theories why such rates may not be applicable to the movements in question. One is that the movement from origin to ultimate destination is two separate shipments because tender is made at origin by the shipper with instructions to deliver at Firebaugh and then a new tender is made at Firebaugh with instructions to deliver to the ultimate destination point. Another is that if the movement were to be considered one shipment, the shipper has directed the routing of that shipment via Firebaugh and therefore the rates to be assessed must be those for a routing via Firebaugh. This theory results in higher rates for shipments to Coalinga and Huron because the shortest constructive mileage to those points from the origin points is computed via King City and San Lucas rather than via Los Banos and Firebaugh. We make no findings or conclusions regarding the correctness of either of those theories.

Applicant did not present evidence of the cost of performing the service. Its theory of the case is that because the Union plant at Firebaugh is directly intermediate on the recognized feasible route between the origin points and the ultimate destinations, its cost of operation is not increased substantially by having its driver stop at the plant for

instructions, particularly so because, if he did not stop there, the driver would stop at its terminal at Los Banos (only 30 miles from Firebaugh) en route. Applicant reasons that unusually efficient and favorable loading and unloading conditions at the Union plants and facilities 24 hours a day provide it with an unusually efficient operation and therefore its costs of operation are not greater than those considered by the Commission in the establishment of said rates.

Under ordinary circumstances we would not accept this theory as a showing under Section 3666 of the reasonableness of the proposed rates. The following facts, however, are matters which require consideration:

1. It is the policy of the State, to be pursued by the Commission, to establish rates which will provide the freedom of movement of agricultural products.
2. Ice provided by Union is necessary to ensure the safe transportation of melons.
3. Union and applicant are and were of the opinion that the rates assessed are lawful and the possibility that such rates might be unlawful is an issue in Case No. 7981, which was pending at the time of submission of this application.
4. Under the Commission staff's theory in Case No. 7981, the movements should be rated as two separate shipments and the amount of undercharges would be approximately \$3.70 per ton of ice.
5. The selling prices of Union's ice range from \$7.65 per ton to \$8.80 per ton.

6. It was anticipated that the 1965 melon harvest would commence during the last week of July.
7. Commitments for the marketing of melons, the transportation of melons and the icing and precooling of shipments of melons have been made and are being made for the 1965 harvest season and such commitments have been made on the basis of the prices of ice stated above.
8. The demands for ice at the facilities in San Joaquin Valley during the melon harvest cause a logistics problem to Union which is reasonably met through the coordination of supply at Firebaugh.
9. The route via Pacheco Pass traversed by applicant from Salinas and Watsonville to Huron and Coalinga is a normal routing between said points and is a necessary routing for applicant in that changes of drivers in this 24-hour daily operation must take place at Los Banos.
10. It is reasonable to believe that applicant did not have a full opportunity to prepare the detailed cost analysis ordinarily required by the Commission in applications brought under Section 3666 of the Public Utilities Code.
11. The evidence showing the efficient manner in which the ice is tendered, transported and delivered clearly establishes that if such cost analysis had been presented, it would have shown that rates substantially less than the minimum rates for transportation

from Salinas and Watsonville to the San Joaquin Valley points plus \$3.70 per ton would be compensatory.

Due consideration of the aforementioned factors leads to the conclusion that public policy requires that the melon harvest should be permitted to move without undue restriction, that a change in the method of distributing ice at this time could result in an undue restriction of the freedom of movement of the 1965 melon harvest, and that to require applicant at this time to assess charges of \$3.70 per ton over those named in Minimum Rate Tariff No. 2 for the direct movement of ice from origin to ultimate destination would necessarily result in a change in Union's method of distributing ice.

We find that the proposed rates are reasonable.

Applicant stated that it is not concerned with the form of the relief (that is, whether it takes the form of specifying the individual rates to be assessed or is in the form of authority to depart from the documentation rules). Applicant merely wishes to be able to charge and collect the minimum rates specified for direct hauling between the points involved for the operation described herein. The minimum rates are changed from time to time; therefore we believe that the form of the authority should be as set forth in the following order.

The 1965 melon harvest is not of long duration. In view of the circumstances, the authority herein granted should expire December 31, 1965. If applicant contemplates engaging in such transportation during the 1966 harvest, and if it believes that departure from the minimum rates will be necessary to move the

traffic, it should file an application as early as possible and be prepared to support that application with an analysis of the cost of performing the service based upon its experience during the 1965 harvest.

Because of the nearness of the peak of the melon harvest the authority should be made effective this date.

O R D E R

IT IS ORDERED that:

1. A & A Transport Co., Inc., a corporation, is authorized to charge and collect the rates specified in Minimum Rate Tariff No. 2, and in effect at the time of transportation, for the shortest constructive mileages specified in Distance Table No. 5 between the points at which ice is loaded and unloaded for operations conducted by it in the transportation of ice in truckloads for Union Ice Company from the plants of said company at Watsonville and Salinas to the plants and facilities of said company at Firebaugh, Mendota, Coalinga and Huxon, where applicant uses the general route from origin through Hollister, Los Banos and Firebaugh to destination, with stop in transit at Union Ice Company plant at Firebaugh for instructions concerning delivery to ultimate destination.

2. Applicant is authorized to depart from the provisions of Item 255 of Minimum Rate Tariff No. 2 (Issuance of Shipping Documents) to the extent necessary to permit it to receive shipments of ice at Salinas and Watsonville tendered on a shipping document directing applicant to receive instructions at the Union Ice Company plant at Firebaugh regarding the point at which delivery is to be made.

3. The authority granted herein shall expire December 31, 1965 unless sooner canceled, modified or extended by order of the Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 3rd day of AUGUST, 1965.

Frederick B. Holdhoff
President

Augusta
William L. Brund

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.