

Decision No. 69657

ORIGINAL

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 petroleum and
petroleum products in bulk (commod-
ities for which rates are provided in
Minimum Rate Tariff No. 6-A).

Case No. 5436
Petition for Modification
No. 70
(Filed June 3, 1965;
Amended July 23, 1965)

James S. Eddy, for Charles L. Gulley, Jr., petitioner.
J. W. Wiley, for Saelden Transportation Co.; and Bennie O. Johnson, for Miles & Sons Trucking Co.; respondents.
J. C. Kaspar, A. D. Poe and H. F. Kollmyer, for California Trucking Association; and John Louis Kuehner, for P. A. Buck, Douglas Oil Company; interested parties.
J. C. Matson and R. J. Carberry, for the Commission staff.

O P I N I O N

Charles L. Gulley, Jr., doing business as Chuck Gulley Road Oil Service, seeks authority as a petroleum contract carrier and city carrier to charge less than the established minimum rates for the transportation and spreading of asphalt and road oil from Sacramento to points within 100 miles of Sacramento.

Public hearing was held and the matter was submitted before Examiner Mallory at Sacramento on August 3, 1965. The petition and amendment were served and notice of hearing was given pursuant to the Commission's procedural rules. No one appeared in opposition to the relief sought.

Evidence in support of the relief sought was presented by petitioner and by his accountant. The evidence shows that petitioner owns a single piece of trucking equipment, a 1964 tank truck equipped for use in spreading road oil and liquid asphalt. The tank truck has

a maximum capacity of 17,000 pounds (2,250 gallons). Petitioner drives the tank truck and it is garaged at his home. Petitioner has no full-time employees. An accountant maintains petitioner's financial records and prepares his freight billings.

Petitioner has oral contracts with 12 construction firms for whom he provides transportation and spreading service (Exhibit 1). Road oil and asphalt are picked up from suppliers at Sacramento and Fair Oaks and are delivered and spread for road surfacing at locations within a radius of 25 miles from the points of pickup. Petitioner characterized his operation as the handling of "small jobs", often requiring the transportation and spreading of quantities less than the full capacity of his tank vehicle.

Minimum Rate Tariff No. 6-A provides a minimum weight of 23,250 pounds per shipment for road oil and asphalt transported in a tank truck. The tariff also provides a rate of 7 cents per gallon, minimum charge \$25.60, for the spreading of these commodities.^{1/}

Petitioner seeks to reduce the minimum weight per shipment for his operations to 17,000 pounds, and to reduce the minimum charge for spreading to \$11.40. According to the record, the sought minimum weight for computation of transportation charges and minimum charge for spreading would produce a total charge of \$25, applicable to hauls for distances of 20 constructive miles or less. Assertedly such amount is the lowest which will permit petitioner to operate profitably, on the one hand, and will permit petitioner to retain the business of road building contractors, on the other hand.^{2/}

^{1/} The current rate and charge for spreading were established effective May 8, 1965. Prior to that time the tariff provided a rate of 6½ cents and a minimum charge of \$23.45.

^{2/} The lowest total charge applicable under Minimum Rate Tariff No. 6-A is \$44.20.

Petitioner explained that, with the exception of an oil company, he is the only for-hire carrier in the area operating equipment suitable for jobs requiring only a small amount of asphalt or road oil; and that observation of the tariff minimums provides excessive charges for his services because shippers must pay for equipment capacity not available or used.

Petitioner's accountant testified concerning anticipated revenues, expenses and profit for a test period from services under the sought less-than-minimum rates. Revenues were estimated on the basis of the charges applicable to hauls of 20 miles or less. Inasmuch as petitioner operates his own vehicle, the accountant estimated driver's wage costs based on the scale set forth in collective bargaining agreements applicable in the Sacramento area. The record shows that the witness failed to use the current wage rate and did not include all of the wage costs applicable under such agreements. Other expenses were based on actual expenses incurred by petitioner in 1964. Assertedly no increase in these expenses will occur in 1965. After adjustment to driver's expenses to reflect current wage costs and the elimination of interest as an operating expense, the estimates developed by the accountant for the test period are as follows:

Anticipated Revenues, Expenses and Net
Operating Revenues (Before Income Taxes)
Under Sought Rates

Revenues	\$16,530
Expenses	<u>14,237</u>
Net Operating Revenues	\$ 2,293

The California Trucking Association (CTA) and the Commission staff participated in the proceeding through the examination of the witnesses. CTA did not oppose the granting of relief to petitioner. CTA urged, however, if the Commission determines that relief from minimum rates is justified, that such relief be limited to operations conducted from points of origin to points within 25 miles thereof, and that the authority be limited to transportation for the shippers with whom petitioner has oral contracts, as set forth in petitioner's Exhibit I. The Commission staff took no position.

It appears, and the Commission so finds, that the proposed minimum transportation weight provision and minimum spreading charge will result in compensatory rates and are needed to permit the free movement of asphalt and road oil to small street and highway paving jobs within the vicinity of Sacramento. We further find that the proposed rates are reasonable and consistent with the public interest.

The sought authority should be granted, but should be limited to operations conducted for persons or firms with whom petitioner has oral contracts, and should be limited to points within a radius of 30 miles of points of origin. The Commission customarily specifies in orders granting relief from the minimum rates the shippers for whom such service is to be performed. Petitioner's showing is limited to, and the evidence shows his operations are ordinarily conducted within, the mileage limitation specified above.

Inasmuch as the conditions under which the transportation will be performed may change at any time, the authority will be limited to a period of one year.

O R D E R

IT IS ORDERED that:

1. Charles L. Gulley, Jr., is hereby authorized to depart from the provisions of Minimum Rate Tariff No. 6-A in connection with transportation and spreading of road oil and asphalt in tank truck equipment between points within a radius of 30 constructive miles of Sacramento or Fair Oaks, for the persons and firms set forth in Appendix A hereof, by assessing transportation rates based upon a minimum weight of 17,000 pounds per shipment and by applying a minimum charge of \$11.40 in connection with spreading services. To all other extents, the provisions of Minimum Rate Tariff No. 6-A shall be applicable.

2. The authority granted herein shall expire on and after September 30, 1966.

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

Dated at San Francisco, California, this 8th day of SEPTEMBER, 1965.

Fredrick B. Hallock
President
George L. Brown
Commissioners
William L. Bennett

APPENDIX A

LOU BERINITI
9372 Orangevale Avenue
Orangevale, California

BERNARDO & BERNARDO
2661 Fair Oaks Blvd.
Sacramento, California

L. D. FOLSOM, INC.
914 Berry Street
Roseville, California

STAN GILBERT, INC.
2391 Fair Oaks Blvd.
Sacramento, California

HEAVY CONSTRUCTION
400 Del Paso Blvd.
Sacramento, California

LENZ CONSTRUCTION
8580 Elder Creek Road
Sacramento, California

LIDSTER & LAWSON
3230 - 27th Avenue
Sacramento, California

LUND CONSTRUCTION
4560 Auburn Blvd.
Sacramento, California

VAN GORDER CONSTRUCTION
1836 El Camino Avenue
Sacramento, California

WUNSCHER & SMALL, INC.
6247 Ross Avenue
Carmichael, California

WILLIAM GUENBERGER
6025 Windel Lane
Sacramento, California

ROEBBELEN CONSTRUCTION
2550 Valley Road
Sacramento, California