

ORIGINALDecision No. 69820

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SCHALDACH TRUCK LINES, INC., for
authority to deviate from the pro-
visions of MRT No. 2 on certain
transportation of can ends.

Application No. 47403
(Filed March 11, 1965)

In the Matter of the Application of
FRANK'S TRUCKING, a corporation,
MORRIS DRAYING COMPANY, a corporation,
and ENCINAL TERMINALS, a corporation,
for an order authorizing departure
from the rates, rules and regulations
of Minimum Rate Tariff No. 2, pursuant
to the provisions of Section 3666 of
the Public Utilities Code, for the
transportation of can ends.

Application No. 47454
(Filed March 31, 1965)

LeRoy Hersh, for Schaldach Truck Lines, Inc.;
Handler, Baker & Greene by Daniel W. Baker, for
Morris Draying Company, Frank's Trucking, and
Encinal Terminals, applicants.

C. D. Gilbert, A. D. Poe and H. F. Kollmyer, for
California Trucking Association; Chas. H. Costello,
for Continental Can Co., Inc.; Gordon Larsen, for
American Can Company, interested parties.

R. J. Carberry and W. J. Kane, for the Commission
staff.

O P I N I O N

These applications were heard June 15, 1965, before Examiner Thompson at San Francisco on a consolidated record. They were submitted June 21, 1965 on the receipt of late-filed exhibits.

Applicants are highway permit carriers engaged in transporting cans and can ends among other things. Some of the applicants are highway common carriers of commodities other than cans and can ends. They here seek authority, under Section 3666 of the Public Utilities Code, to transport can ends in truckload quantities as

highway permit carriers at rates less than the established minimum rates, for California Packing Corporation (Cal-Pak), Continental Can Company (Continental), National Can Company (National) and American Can Company (American).

The issues herein relate to Items Nos. 200 and 240 of Minimum Rate Tariff No. 2 and interpretations of said items by the Commission's Transportation Division set forth in its Informal Ruling No. 127-B.^{1/} Applied to the issues of this proceeding, Item No. 200 of the tariff provides that highway carriers may meet the rates of railroads for transportation between railheads when such rates are lower than the otherwise applicable minimum rates; Item No. 240 provides that when the rail rates are applied there will be assessed an additional charge of two cents per hundred pounds for either loading or unloading except when the shipment is loaded into and unloaded from the carrier's equipment by the consignor and consignee with power equipment furnished and used without expense to the carrier and when no services are performed at carrier expense; and, Informal Ruling 127-B interprets the tariff items to mean that the exemption from the two-cent charge applies only when the shipment is loaded into the vehicles in position ready for movement over the highway and unloaded from the vehicles with power equipment without the physical assistance of any carrier employees. This interpretation also states that such

^{1/} From time to time in response to questions propounded by the public informal rulings are made by the Transportation Division setting forth what are deemed by the Division to be the correct application and interpretations of provisions of the minimum rate tariffs. Said rulings are tentative and provisional and are made in the absence of formal decisions on the subjects by the Commission. The rulings set forth the opinions of experts of the staff and are not binding upon the Commission in any formal proceeding relating to the same subject matters. The decision herein is not to be construed as adopting or rejecting the interpretations set forth in Informal Ruling No. 127-B as the subject matter therein is not here before the Commission for decision.

assistance as pushing pallets over rollers, or positioning them on the vehicles is physical assistance, whereas setting and tying of tarpaulins and affixing binder chains to secure the load to the vehicle are not. The informal ruling also states that fork lift trucks and electric or gas driven conveyer systems are power equipment.

Applicants transport cans for Cal-Pak, Continental, National and American. Cans are tendered to the carriers on pallets. Because of the nature of the commodity, they are moved by the carriers in large van-type trailers, and in order to load and manipulate the loaded pallets within the trailers the applicants have affixed rollers, similar to sets of roller conveyers, on the beds of the trailers. At the shippers' plants, except at Cal-Pak's plant at Fruitvale, fork lifts operated by the shippers' employees place the loaded pallets onto the rear end of the bed of the trailers and the pallets are pushed over the rollers by the carriers' employees toward the front until the trailer is full. The load is held in place by affixing a bar or angle iron against the rear pallets and tightening a cable led to the front of the trailer by a hand winch. The full loads of cans are very light, ordinarily weighing not much more than 16,000 pounds. Rail rates are not assessed for the transportation of cans so that the two-cent charge in Item No. 240 is not applicable.

Can ends (bottoms or tops) are shipped separately from cans. They, too, are shipped on pallets. Pallet loads of can ends are very heavy (approximately 12 to 14 pallet loads comprise a truckload weighing well in excess of 40,000 pounds). They are ordinarily transported by the carriers at the rail rates. In order to avoid the two-cent loading charge prescribed in Item No. 240, the shippers require the carriers to furnish flat-bed equipment so that the pallets may be placed in position on the vehicles ready for movement without assistance from the carriers' employees.

Recently Cal-Pak installed a power conveyer loading system at its plant in Fruitvale. At the loading docks there is a power conveyer system capable of handling 12 pallets at a time. There are short sections of portable gravity roller conveyers which can be affixed to the power conveyers and connected to the roller systems on the carriers' vehicles. With this system the pallets can be placed on the rear of the trailers without the necessity of using fork lift equipment. Either because of the system or because of working rules under labor agreements (the record is not clear on this point) the pallets cannot be pushed mechanically by Cal-Pak's power conveyers to the front end of the trailers. This requires either the assistance of carrier employees to push the pallets or some power device on the trailer to move the pallets into proper position within the trailer.

Schaldach Truck Lines, Inc. (Schaldach) does not have flat-bed equipment and because of the situation described above with respect to rates its participation in the transportation of can ends has been very small. It desires to obtain a greater share of that business. Cal-Pak desires to make more efficient use of its conveyer loading facility for shipping can ends but the loading charge (two cents cwt. for loading and two cents cwt. for unloading) makes it more economical to load the pallets by fork lift onto the carriers' flat-bed trailers. A representative of Cal-Pak informed Schaldach that it would like to tender shipments to it on the conveyer loading system if the loading charge could be eliminated or reduced.

Schaldach equipped one of its high-cube van-type trailers having rollers on the bed with electric power driven continuous lug chains about five feet long between and at the rear of each of the two lanes of rollers on either side of the trailer. Some test loads were made at Cal-Pak. The tests proved to be satisfactory to Schaldach and to Cal-Pak. The following is a description of the operation.

At Cal-Pak Schaldach's driver places a removable bulkhead into position in the trailer so as to position the front end of the load in order that the weight thereof will be properly distributed over the axles. He then takes an angle iron which is attached to a cable leading to a winch towards the rear of the trailer and places it on the floor of the bed against the forward bulkhead. The trailer is backed into Cal-Pak's loading dock so that the roller conveyers thereon are lined up with the conveyers on the trailer. The driver, standing on the loading dock at the rear of the trailer, operates a hand switch which activates the power conveyer on the dock causing the pallets to move onto the rollers in the trailer. With another hand switch he activates the power operated lug chain which moves the pallet about five feet forward into the trailer. The next pallet is loaded in the same manner and as the chain moves it forward in the trailer it pushes the previously loaded pallets towards the front. This operation is repeated until the trailer is fully loaded. The driver then takes a metal bar (angle iron) attached by a cable to the winch and places it at the rear of the end pallets. The electric motor is activated and the winch pulls the bar up tight to the pallets which in turn are pushed up tight to the forward bulkhead. In that manner the load is secured ready for movement over the highway. At destination the trailer is unloaded by operating the electric winch so as to pull the angle bar at the forward end of the trailer towards the rear. As the pallets reach the rear they move out of the trailer by gravity onto the receiver's platform over a roller extension which has been attached to the rear end of the trailer. The pallets are not touched by the driver or the employees of the consignee during the unloading process.

Other shippers (Continental, et al.) became interested in the Schaldach operation for transporting can ends in van-type trailers. Cal-Pak and the other shippers estimated that the tender of can ends for movement in van-type equipment has a value to them of one cent per 100 pounds. A representative of Continental testified that the Schaldach operation could save the consignors about \$1.80 per load but what is very important to Continental is that consignees prefer to receive can ends in roller van equipment because they have facilities to take the pallets onto their conveyer systems by gravity.

From its experience in transporting cans and from the test loads of can ends, Schaldach is convinced that the operation will be profitable. It therefore filed Application No. 47403 which seeks authorization to deviate

"from the provisions of Paragraph (1), Item No. 240, MRT No. 2, and alternatively permit the assessment of one (1¢) cent per hundred for loading and unloading services when:

- a. Transportation is performed in special trailing equipment of applicant (power-rollered), and
- b. Transportation is performed for the account of California Packing Corporation, Continental Can Co., National Can Co., and American Can Co. from their shipping facilities in Alameda and Contra Costa counties, and
- c. When all deliveries are made within 150 miles from point of origin."

Applicant's vice president testified that the reason for the 150-mile limitation in (c) above, is that the loading and unloading costs diminish in significance as factors in the cost per mile of transporting shipments for distances over 150 miles.

Frank's Trucking, Morris Draying Company and Encinal Terminals presently enjoy most of the business of transporting can ends from the shippers involved herein. As mentioned above, they transport shipments of can ends on flat-bed equipment. They also transport cans for which they use high-cube van-type trailers

equipped with rollers. That equipment is not equipped with power rollers as is Schaldach's. They wish to continue to enjoy the traffic, and the transportation performed in flat-bed equipment has been satisfactory to them. To that extent they are opposed to the Schaldach application. In recognition of the fact that the shippers desire to ship can ends in roller van equipment, and in order to maintain their present positions with respect to this traffic, they filed an application seeking the same authority sought by Schaldach except that in their application paragraph (a) reads:

"Transportation is performed in vehicles equipped with rollers or power operated rollers, and. . . ."

These applicants assert that the operation they will conduct will be the same as that proposed by Schaldach except that the driver, instead of pushing a button to have the pallets mechanically moved forward or rearward in the truck, will push the pallets forward by hand and will pull them off by hand. Test loads were made by applicants which were satisfactory to the shippers and to applicants. Counsel for Frank's, et al., stated that if the Commission finds that the power feature is necessary in order to find that the proposed one-cent charge is reasonable, the applicants desire that they be granted the authority restricted to power rollers and they will equip their trailers with devices similar to that installed by Schaldach. They assert, however, that whatever savings in time or labor costs which result from the power rollers is offset by the additional expense of the installation.

The applications contemplate transportation being performed from the shippers' plants in Alameda and Contra Costa Counties to any point within 150 miles of said plants. These applications are not the type usually and ordinarily brought under Section 3666. Reduced to simple terms, applicants request authorization to load, transport and unload can ends in van-type equipment at a rate one cent per 100

pounds higher than the rate that may be lawfully assessed for transporting them on flat-bed equipment, when power loaded and unloaded by the consignor and consignee. According to the expert opinion of the Commission staff the sought authority is three cents per 100 pounds lower than the minimum rate established by the Commission for such transportation on van-type equipment which is loaded and unloaded by the carrier. It must be noted that the van-type trailers are being utilized by applicants for transportation of cans from the shippers to the points of destination involved herein.

The record shows that loading cans onto flat-bed equipment by the shippers with power operated fork lifts takes from 30 to 45 minutes. During the time that shipper employees are loading the vehicle, the driver is continuously engaged in tying down the tiers of pallets being loaded by the shipper. In the Schaldach operation at Cal-Pak the loading operation required between 8 and 20 minutes. During that period of time the driver is continuously engaged in operating the power loading devices on the shipper's dock and on the carrier's trailer. The loading of van trailers equipped with rollers not operated by power where the shipper places the pallets on the end of the trailer with a fork lift and the pallets are then pushed forward into the vehicle by the driver takes between 30 and 40 minutes. During that time the driver is actively engaged in pushing the pallets.

The difference in the cost of acquiring a flat-bed trailer and of acquiring a van-type trailer equipped with rollers but not equipped with the power operated lug chain device was estimated to be approximately \$1,775. The cost of installing the power device on Schaldach's equipment was stated to be about \$700. None of the applicants presented any estimate of the cost of providing the service between any of the points involved herein, nor did they attempt to

show the operating results of transporting can ends in the manner described herein at the proposed rate. Schaldach asserted that the savings in labor costs resulting from the faster time of loading and unloading, together with the revenue which would be derived from the proposed one-cent rate would more than offset the depreciation expense of the power loading device and the added depreciation expense of operating the van-type equipment.

We recognize that labor costs comprise the substantial portion of the full cost of conducting highway carrier operations. The evidence shows that the power loading and unloading device installed by Schaldach reduces the time for loading and unloading substantially. There is no indication in the record concerning the cost of maintaining the power device or of the reasonable service life of such equipment. It is reasonably apparent, however, that the additional expenses attributable to the power devices would not exceed the savings in labor costs which result from the reduced time required for loading and unloading the cargo.

As stated above, the expense of operating roller equipped, van-type trailers is greater than the expense of operating flat-bed equipment. To determine the additional cost per load resulting from the greater fixed costs, it is necessary to determine the annual use factor of the equipment in hours and also the difference in the annual depreciation expense of the van-type trailer and the flat-bed trailer. These data are not of record herein. Keeping in mind that the van-type trailers are used for transporting cans, it is probable that the annual use factor hours of such trailers would be a large amount. The evidence is sufficient to provide a reasonable inference that the revenue which would be derived from the proposed one-cent rate is sufficient to offset the higher fixed costs of operating the van-type equipment.

Such showing, however, does not conclusively prove that the proposed operations would be compensatory, it merely shows that the operating results of transporting can ends in van-type equipment at the proposed rate would be no less favorable than the result of transporting the commodity in flat-bed trailers. The testimony of all of the witnesses leaves no doubt that the traffic here involved is considered by the carriers to be highly desirable. Two of the applicants who also presently transport can ends on flat-bed trailers stated that such transportation has been profitable. While the showing made by applicants is not the type of presentation ordinarily required by the Commission in proceedings brought under Section 3666 of the Public Utilities Code, because of the special circumstances in this case, the evidence as a whole is sufficient to support the finding that the proposed rate is compensatory.

The special circumstances referred to above include: the method of loading and unloading pallets of can ends described herein is highly efficient for the carrier, the consignor and the consignee, and it is desirable that new and improved methods of transportation be encouraged and promoted; experience in transporting can ends under the improved method of loading and unloading should provide them with data from which the results of such operations can be more accurately ascertained. These results should be presented in any application for extension of this authority.

We find:

1. Applicants are actively engaged in the transportation of cans and can ends and compete with each other and others for the traffic of the shippers named herein.

2. The loading and unloading of can ends on pallets into and from van-type equipment equipped with rollers, either power operated or not power operated, in the manner described in this opinion is more efficient than the loading and unloading of flat-bed equipment with power operated fork lifts by the shipper and consignee.

3. The loading and unloading of van-type equipment in the manner proposed by applicants results in a more efficient use of carrier equipment than the loading and unloading of flat-bed equipment by the shipper and consignee with power operated fork lifts.

4. The operation of the van-type equipment described herein results in a somewhat higher cost than the operation of flat-bed equipment.

5. The use of van-type equipment described herein is of greater value to the shipper than the use of flat-bed equipment.

6. The proposed charge of one cent per 100 pounds reasonably reflects such added cost to the carrier and the added value of the service to the shipper.

7. The rate proposed by applicants is reasonable.

We conclude that the applications should be granted. The Frank's et al. proposal encompasses the Schaldach proposal; therefore the authorities shall be granted as proposed in Application No. 47454.

In accordance with the Commission's policy in granting authorities pursuant to Section 3666 of the Public Utilities Code the authorities granted herein will expire after one year.

O R D E R

IT IS ORDERED that:

1. Schaldach Truck Lines, Inc., Frank's Trucking, Morris Draying Company and Encinal Terminals, each a corporation, are authorized to charge and assess a rate lower than the minimum rate established in Item No. 240 of Minimum Rate Tariff No. 2, but not less than a rate of one cent per one hundred pounds, for the combined services of loading and unloading shipments of metal can ends (bottoms or tops) transported under the provisions of Items Nos. 200, 210, 220 or 230 of Minimum Rate Tariff No. 2 from the shipping facilities of California Packing Corporation, Continental Can Company, American Can Company and National Can Company in Alameda or Contra Costa Counties to points within one hundred fifty miles of point of origin in vehicles equipped with rollers or power operated rollers.

2. The authorities granted herein shall expire November 1, 1966 unless sooner extended, canceled or modified by order of this Commission.

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

Dated at San Francisco, California, this 19th day of OCTOBER, 1965.

Frederic B. Halaloff President
George H. Grover
Augustin
William V. Bunn

 Commissioners

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