

ORIGINAL

Decision No. 70475

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of JACK THOMPSON TRUCKING, INC.,)
a corporation, for authority to)
deviate from the rates, rules)
and regulations prescribed in)
Minimum Rate Tariff No. 2.)

Application No. 48001
Filed October 26, 1965

Bertram S. Silver and Martin J. Rosen, for
applicant.
Vaughan, Paul & Lyons, by John G. Lyons,
and W. E. Granger, for W. E. Granger
Trucking; and Russell Crouch, for "Russ"
Crouch Trucking, protestants.
C. D. Gilbert, H. F. Kollmyer and A. D. Poe,
for California Trucking Association,
interested parties.
Arthur F. Burns and Robert W. Stich, for the
Commission staff.

O P I N I O N

This matter was heard on December 16, 1965 and January 31, 1966, at San Francisco, before Examiner Mallory. It was submitted on the latter date.

Applicant, a highway contract carrier, seeks authority to charge rates 2 cents less than the applicable Class E rates in Minimum Rate Tariff No. 2 for the transportation of reinforced concrete pipe for Western Pipe Company (Western), from the plant of that company at Sacramento, to points and places within 100 constructive miles of Sacramento. Such rates are to apply only on truckload shipments of 40,000 pounds or more, loaded by Western's employees, and in volume movements of 100 tons or more transported to one destination area over a period of seven consecutive days or less.

Protestants allege that the pipe manufacturer for whom they perform transportation competes with Western; and that if

applicant is granted authority to charge less than minimum rates for Western, protestants will be required to lower their rates so that the manufacturer for whom they haul can continue to compete with Western in market areas which are common to both.

Evidence was presented by two officials of applicant and by a representative of Western. Applicant maintains terminals at Shafter and Sacramento. Applicant's Sacramento operations manager testified concerning the nature of the commodity, the type of service performed, the equipment used, and the facilities maintained in connection with the transportation here under consideration. Applicant's Shafter operations manager testified to the development of estimated costs of performing typical hauls of concrete pipe for Western, to financial data concerning applicant's overall operations, and to other transportation services performed by applicant. The evidence presented by these witnesses is to the following effect:

Applicant engages in the transportation of concrete pipe, fresh produce, and other commodities, in truckload quantities. It interchanges equipment between terminals at Shafter and at Sacramento as needed. Applicant owns 15 tractors and several trailer units. Twelve trailer units are flat-bed equipment suitable to the transportation of concrete pipe. All of the tractors and the 12 flat-bed trailer units can be made available, as needed, for the pipe transportation for Western.

The less-than-minimum rate authority sought herein is for transportation to a job site where a large amount of pipe is used. The service consists of transportation of pipe to the job site, unloading and stringing of it on the ground adjacent to where it will be placed underground. Separate charges are assessed for the labor and use of a fork-lift truck to unload and string the pipe.

Western loads the shipments by mechanical means in the order in which the pipe is to be unloaded and strung. Loading time averages one-half hour. Loading commences almost immediately after applicant's equipment arrives at Western's yard.

The pipe ranges in size from 18 to 96 inches, inside diameter, and comes in 10- or 12-foot lengths. Depending upon the size, full loads of pipe weigh between 41,700 and 50,100 pounds, averaging 45,940 pounds.

Applicant now has authority similar to that requested herein to transport concrete pipe for CEN-VI-RO Concrete Pipe Corporation, from Shafter to points and places within 180 constructive miles of Shafter (Decision No. 65689, dated July 9, 1963, in Application No. 45155). CEN-VI-RO and Western are affiliated companies.

Estimated costs of transporting concrete pipe from Sacramento to four typical job locations were presented. These estimates and the revenues to be received under the proposed rates are compared in the following table:

TABLE 1

<u>From Sacramento To</u>	<u>1-Way Constr. Mileage</u>	<u>Estimated Total Cost Per Trip</u>	<u>Revenue Per Trip Under Sought Rates</u>
Del Rio Sewer District	10	\$30.13	\$ 55.00
Elk Grove	15	31.92	57.00
Yuba City	50	51.40	74.80
Crows Landing	110	77.58	101.20

The cost data were developed from the books and records of applicant for the year 1964. Assertedly, if 1965 records were used, the resulting estimated costs would be no less favorable than those based upon data for 1964.

A representative of Western testified in support of the application. He stated that Western has used the services of applicant, exclusively, for approximately 3 years. Prior to that time Western used its own equipment to transport its pipe. The witness

stated that Western had asked applicant to file this application as it believed that lower rates are necessary in order for Western to compete with concrete pipe manufacturers who transport all or part of their pipe in their own equipment. The witness asserted that he believed that lower transportation costs would result if proprietary trucking operations were initiated by Western, and that such course would be considered by Western if the authority sought herein is not granted.

Counsel for protestant Granger endeavored to show, based upon revenue reductions calculated from the number of tons of pipe transported during 1964 to the locations shown in applicant's cost study, that if the relief sought were granted, applicant would have operated at a substantial net loss for the year 1964. No direct attack was made upon applicant's cost showing specifically related to pipe hauls.

Discussion. Findings and Conclusions

Applicant's cost estimates were developed on certain averages which are not related solely to the pipe hauling involved herein. For example, fixed costs for equipment were developed from data relating to applicant's entire fleet, and certain operating, overhead and supervision costs also are related to applicant's entire operations. Applicant's equipment is nearing the age where several units may need to be replaced at a substantial increase in cost. It appears, however, that there is a sufficient margin between the level of the proposed rates and the estimated costs amply to cover any doubtful areas in applicant's cost developments.

Protestant Granger's argument that the reduction in rates proposed herein, if in effect in 1964, would have caused applicant to incur an even greater net loss for that period, at first impression would seem to cast some doubt on applicant's showing. However,

accepting applicant's cost showing relating to its pipe transportation, we must conclude that applicant's unfavorable operating results for 1964 resulted not from its pipe hauling, but from some other transportation. Moreover, applicant's profit and loss statement for 1965 (Exhibit 2) shows that operations were conducted at a profit for that period, as indicated by an operating ratio of 95.07 percent, and a net income of \$18,877.

No showing was made by protestants to support their argument that the granting of the application would require that they seek similar relief for transportation on behalf of a competing shipper.

Upon consideration of the record, the Commission finds:

1. The estimated operating costs for the transportation services here in issue, as set forth in Table 1, are reasonable for the purposes of this proceeding.
2. The proposed rates, subject to the conditions specified in the order which follows, will be compensatory and reasonable.
3. No unlawful discrimination will result by the granting of the authority requested herein.

The Commission concludes that the application should be granted to the extent provided in the order which follows, and such authority should be limited to a period of one year.

O R D E R

IT IS ORDERED that:

1. Jack Thompson Trucking, Inc., is hereby authorized, as a highway contract carrier, to transport reinforced concrete pipe for Western Pipe Company, from that company's plant at Sacramento, to points and places within a radius of one hundred constructive miles of Sacramento, at rates two cents less than the applicable Class E

rates set forth in Minimum Rate Tariff No. 2, subject to the following conditions:

- a. The minimum weight per unit of equipment shall be 40,000 pounds;
- b. Shipments shall be loaded by Western Pipe Company's employees;
- c. This authority applies only to volume movements of one hundred tons or more, transported in a period of seven consecutive days or less, to a single job site or destination area. (Exception to Item No. 85 of Minimum Rate Tariff No. 2.)
- d. Split delivery service will not be accorded.
- e. In all other respects the provisions of Minimum Rate Tariff No. 2 will apply.

2. The authority granted herein shall expire one year after the effective date of this order.

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

Dated at San Francisco, California, this 22nd day of MARCH, 1966.

Frederick P. Holloff
President
George J. Hoover
Commissioners