

**ORIGINAL**

Decision No. 70791

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Ventura Transfer Company, a )  
California Corporation, for auth- )  
ority to charge less than minimum )  
rates pursuant to Section 3666 of )  
the Public Utilities Code, for the )  
transportation of Salt, crude, )  
dried or undried, in bulk, for )  
Leslie Salt Co. )

Application No. 47632  
(Filed June 2, 1965)  
(Amended December 29, 1965)

Phil Jacobson, for Ventura Transfer  
Company, applicant.  
A. D. Poe, J. C. Kaspar and W. A. Dillon,  
for California Trucking Association,  
interested party.  
Fred P. Hughes and George L. Hunt, for  
the Transportation Division of the  
Commission's staff.

O P I N I O N

Applicant, a California corporation, is engaged in the business of transporting property as a for-hire carrier under permits authorizing operations as a radial highway common carrier, a highway contract carrier, and as a petroleum irregular route carrier. By this application, as amended, it seeks authority, as a highway contract carrier, to transport bulk crude salt for the Leslie Salt Co. from Newark to destinations within Los Angeles Territory,<sup>1</sup> and to intermediate points, at a rate which is less than the applicable minimum rate under minimum rate orders of the

---

<sup>1</sup> Los Angeles Territory is an area which, in general, includes the City of Los Angeles and certain adjacent cities and communities. The territory is defined specifically in Item No. 270-3 of Minimum Rate Tariff No. 2.

Commission. More specifically, it seeks authority to perform said transportation at a rate of \$8.00 per ton (40 cents per 100 pounds), minimum weight 48,000 pounds per load, minimum tonnage 600 tons each 90 days. The applicable minimum rate is 55 cents per 100 pounds, minimum weight 40,000 pounds.<sup>2</sup>

Public hearing on the application was held in Los Angeles before Examiner Abernathy on December 1, 1965. The matter was taken under submission with the filing of an amended application on December 29, 1965.

Evidence in support of the application was presented by applicant's president, by a cost analyst for applicant, and by a district manager for the Leslie Salt Co. The evidence which was so presented is to the following effect:

Ventura Transfer Company specializes in the transportation of liquids and of dry, flowable materials in tank vehicles. A substantial portion of the tonnage which it transports moves from the Los Angeles area to the San Francisco Bay area. It is not always able to obtain loads for return movements of its vehicles. In a number of instances the vehicles are returned empty.

The Leslie Salt Co. maintains a salt-producing plant at Newark. It can use, and would like to use, applicant's services

---

<sup>2</sup> The rate of 55 cents per 100 pounds, minimum weight 40,000 pounds, is the rate which is set forth in Minimum Rate Tariff No. 2 as the minimum rate for the involved transportation. Under so-called alternative provisions of this tariff, lower rates which are maintained by common carriers by railroad for the transportation of salt from Newark to some locations within the Los Angeles area may be assessed by highway carriers when the transportation by the highway carriers is performed subject to the same terms and conditions which govern the rail rates.

for the transportation of its salt to destinations in the Los Angeles area. However, because of the competition of salt moving from foreign sources through Los Angeles Harbor into the Los Angeles area, the Leslie Salt Co. cannot avail itself of applicant's services if it has to pay the applicable minimum rate. At present, it ships its salt by rail to a central storage area in Los Angeles and reships by truck to other destinations in and about Los Angeles. The establishment of the sought rate of \$8.00 per ton would enable the salt company to cope with the foreign competition, and to make direct shipments to its accounts, thus eliminating need for its present storage facilities.

The proposed rate would be adequately compensatory for the transportation of salt in connection with return movements of applicant's vehicles from the San Francisco Bay area. Estimated revenues from the return haul would be about \$200.00 per load. Estimated costs of the services provided in the return movements are \$171.28. Thus, on an allocated cost basis, applicant would realize a profit of \$28.72 over the costs of the services involved. In another sense, the transportation for Leslie Salt Co. would be even more remunerative, since the revenue received therefrom would be mainly revenue from trips which are not producing revenue at the present time.

#### Discussion

This matter is brought before the Commission under Section 3666 of the Public Utilities Code:

If any highway carrier other than a highway common carrier desires to perform any transportation or accessorial service at a lesser

rate than the minimum established rates, the Commission shall, upon a finding that the proposed rate is reasonable, authorize the lesser rate.

In proceedings under Section 3666, a showing that the proposed rate is compensatory has customarily been required. Applicant's showing herein as to the compensatory nature of the proposed rate for transportation for the Leslie Salt Co. rests in part upon the fact that applicant's vehicles would be used for other transportation services in the northbound movements to the San Francisco Bay area. Applicant does not allege nor contend that in other circumstances the proposed rate would be compensatory.

Except where highway common carriage is affected, we have held heretofore in matters of this kind that unrelated traffic expected to be received from other shippers, but not assured and not directly involved in the proceeding, may not be used as a basis for establishing the reasonableness of a proposed less-than-minimum rate. In other words, in proceedings under Section 3666 of the Public Utilities Code, when authority to charge less than the minimum rates is sought on the ground that the proposed rate will be compensatory, there must be a showing that the revenue under the proposed rate will exceed the full cost of the transportation involved without relation to the backhaul of unrelated traffic.<sup>3</sup> Our conclusions are the same here. Since applicant's showing rests

---

<sup>3</sup> Paper Transport Company, 63 Cal. P.U.C. 690, 694; cf. Mitchell Bros. Truck Lines, 61 Cal. P.U.C. 422, 424.

For a proceeding in which highway common carriage is affected, see Decision No. 70426, dated March 8, 1966, in Application No. 47969, whereby W. F. Peters, a highway common carrier of general commodities in one direction and a permitted carrier of agricultural commodities in the reverse direction, was authorized to charge less than minimum rates on the agricultural commodities on a showing that said rates were essential to the retention of the permitted carrier traffic and that the permitted carrier operations, in turn, were essential to the maintenance of the highway common carrier service.

in part upon transportation services which are not related to those which applicant would perform for Leslie Salt Co. under the proposed rate, we find that the rate has not been shown to be reasonable, and conclude that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 47632, as amended, is denied.

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

Dated at San Francisco, California, this 1st day of JUNE, 1966.

Frederick B. Hill  
President  
George F. Brown  
Negotiator

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.