

**ORIGINAL**

Decision No. 71217

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of C. W. Bundren, an individual doing business as C. W. Bundren Truck Company, a carrier as defined in Section 3911 of the Public Utilities Code and operating under the City Carrier's Act, to perform transportation services in the movement of paper, newsprint between points in the Los Angeles Drayage Area at rates less than the established minimum rates.

Application No. 47802  
(Filed August 12, 1965)

Karl K. Roos, for C. W. Bundren, applicant.

A. D. Poe, J. C. Kaspar, and W. H. Dillon, for California Trucking Association, interested party.

Ralph Staunton and C. R. L'Ecluse, for the Transportation Division of the Commission's staff.

O P I N I O N

C. W. Bundren, an individual doing business as a for-hire highway carrier, transports newsprint, in rolls,

- (a) From railroad docks in Los Angeles to the newspaper printing plant and to a warehouse of the Times-Mirror Publishing Company (Times-Mirror) in Los Angeles;
- (b) From said warehouse to said printing plant;
- (c) From said warehouse to the California Rotogravure Presses, North Hollywood, (a subsidiary of Times-Mirror);
- (d) From steamship wharves in Long Beach to Times-Mirror printing plant and warehouse.

The volume of the transportation which is so performed amounts to about 1,350 tons per working day. About 85 percent of this tonnage moves to the Times-Mirror printing plant from the railroad docks either directly or via the warehouse. The remainder is that which is transported to the California Rotogravure Presses from the warehouse or to Times-Mirror printing plant from the steamship wharves.

By this application Bundren seeks authority to assess a rate of  $11\frac{1}{2}$  cents per 100 pounds, minimum weight 30,000 pounds, for the transportation from the railroad docks to Times-Mirror printing plant or warehouse or from the warehouse to the printing plant. The rate would apply to transportation performed for the account of Times-Mirror. Currently, applicant's services are being performed for the shippers of the newsprint to Times-Mirror.

Public hearing on the application was held before Examiner Abernathy at Los Angeles on September 29, 1965. Evidence was presented by applicant, by his accountant and by an engineer for applicant.

At present applicant is computing his charges for the transportation services involved herein on the basis of the hourly rates which are set forth in Section 5 of Minimum Rate Tariff No. 5. Assertedly, under the procedures which he follows in performing said transportation services, it is impractical to make the time determinations needed for accurate application of the hourly rates. However, the weights of the shipments are readily obtainable. Hence, it would be relatively simple to compute

charges on a hundredweight basis.<sup>1</sup> Applicant states, moreover, that the computation of charges under the sought rate would provide his patrons with information which they need for projection of their transportation costs for budgeting and cost finding purposes.<sup>2</sup>

Allegedly, the sought rate of 11½ cents per 100 pounds is amply compensatory. According to figures which were submitted by applicant's accountant, applicant's financial results of operations under present rates for the 12 months through March, 1965, were as follows:

Financial Results of Operations  
Year Ending with March 1965

Revenues	\$794,680
Expenses	<u>690,845</u>
Net Operating Revenues*	\$103,835
Operating Ratio*	86.9%

\*Before provision for income taxes.

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<sup>1</sup> It appears that the alleged impracticalities of making the time determinations which are necessary in connection with the hourly rates stem mainly from the fact that under applicant's handling and transportation procedures there is commingling of the shipments from the several shippers. As a consequence, it is difficult to identify specifically, for purposes of correctly assessing the applicable charges against the individual shippers involved, the time spent on shipments or portions of shipments handled and/or transported on a commingled basis.

<sup>2</sup> In addition to the hourly rates which applicant is assessing, a rate of 14 cents per 100 pounds, minimum weight 20,000 pounds, is also available to applicant under the provisions of Minimum Rate Tariff No. 5. Applicant alleges, however, that said rate results in unreasonably high charges when applied to the shipments of newsprint of 30,000 pounds or more.

Had the sought rate been assessed during this period, the operating results would have been as follows:

Financial Results of Operations (Estimated)  
Under Proposed Rate  
Year Ending with March 1965

Revenues	\$779,716
Expenses	<u>690,845</u>
Net Operating Revenues*	\$ 88,871
Operating Ratio*	88.7%

\*Before provision for income taxes.

As a further measure of the profitability of the sought rate, applicant pointed out that the rate is the same as that which he is now assessing for the transportation of newsprint from Long Beach to Los Angeles and from Los Angeles to North Hollywood.<sup>3</sup> Both of these hauls are for one-way distances of about 27 constructive miles. The hauls which are involved herein are for one-way distances of about three constructive miles. Applicant states that except for the differences in distance, the hauls are identical. Hence, he argues, it is evident that the 11½-cent rate will be more remunerative for the hauls of about three miles than it is for hauls for the longer distances.<sup>4</sup>

<sup>3</sup> The transportation from Long Beach is performed under a tariff on file with the Interstate Commerce Commission. Minimum rates on a hundredweight basis have not been prescribed for the transportation to North Hollywood.

<sup>4</sup> The shorter hauls would not only entail lesser vehicle running costs -- those for fuel, tires, oil and repairs -- but also substantially lesser times per round trip. Consequently, costs which are usually considered to be a function of time, e.g., wages, insurance and certain taxes, would be less per round trip for the short hauls than for the longer hauls.

This application is filed pursuant to Section 4015 of the Public Utilities Code which reads as follows:

"If any carrier desires to perform any transportation or accessorial service at a lesser rate than the established minimum rates, the commission shall, upon finding that the proposed rate is reasonable and consistent with the public interest, authorize the lesser rate."

A principal consideration as to whether a rate is reasonable within the meaning of this section is whether the rate is compensatory. On this question the evidence is clear that for the total services involved, as performed for the account of Times-Mirror, the sought rate is, and will be adequately compensatory. From this standpoint the record shows that the rate is reasonable.

In connection with whether the rate is consistent with the public interest, it should be pointed out that the minimum rate provisions from which deviation is sought constitute an established and known basis of stabilized rates, charges and regulations for the transportation of property. In considering whether the sought deviation should be authorized, the Commission must weigh the asserted inconveniences which may result from applicant's use of the minimum rate provisions against the public benefits which result from the maintenance of stabilized transportation charges.

As previously indicated herein, the principal objective of applicant's proposal to assess charges on a hundredweight basis

is a simplification of his billing procedures.<sup>5</sup> The Commission has previously held in matters of this kind that the fact that the carrier's convenience would be served by a deviation from the minimum rate provisions is not sufficient reason for a finding that the proposed rate is consistent with the public interest. We reaffirm this holding with respect to deviations which may have a substantial impact upon the minimum rate structure. Nevertheless, we are also of the opinion that there are instances where carrier convenience is sufficient basis for a finding that a sought deviation from the minimum rates is in the public interest.

It is in the public interest that carriers conduct their operations as efficiently as possible. Minimum rate deviations to this end should be permitted if the probable impact upon the minimum rates in general is only slight at the most.

In this regard it should be noted that the commodity -- newsprint, in rolls -- which is involved in this matter does not appear to be a commodity of widespread movement. Although the movement is substantial in volume, the movement itself appears to be limited mainly to printing establishments.

Insofar as the rate for which authorization is sought is concerned, it appears that although the rate would constitute a deviation from the hourly rates it may be also regarded as a partial extension of the hundredweight basis of rates which Minimum Rate Tariff No. 5 already provides in Item No. 340 for

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<sup>5</sup> Applicant's further purpose -- the supplying of his patrons with budgeting and cost finding information -- apparently is in response to requests made upon applicant in 1963. The record does not show what the current needs of the patrons are in this respect.

the transportation of newsprint and certain other commodities. The effect of the authorization would be the establishment of a rate in cents per 100 pounds which would result in charges which, for the transportation of shipments of newsprint in quantities of 30,000 pounds or more, are slightly higher than the charges which apply to the same shipments under the hourly rates.<sup>6</sup> The charges which would apply per shipment under the sought rate would be more predictably certain as to amount than under the hourly rates inasmuch as charges under the hourly rates are subject to time variables which cannot be ascertained with certainty until the transportation has been actually performed.

Inasmuch as it appears that the involved transportation is limited in scope, and inasmuch as it also appears that the charges under the sought rate would be more certain and at a higher level than under the hourly rates, we find that authorization of the sought rate would not materially nor adversely affect the maintenance of the known and stabilized basis of charges which the minimum rates provide.

Upon consideration of the record in this matter we find that, to the extent hereinafter specified, a rate of 11½ cents per 100 pounds, minimum weight 30,000 pounds, is and will be reasonable and consistent with the public interest for the transportation

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<sup>6</sup> It may be that authorization of the sought rate for newsprint may give rise to a question whether the needs of commerce require the establishment of rates subject to a minimum of 30,000 pounds for other of the commodities named in Item No. 340 of Minimum Rate Tariff No. 5. Whether, and the extent that, Minimum Rate Tariff No. 5 should be generally revised is being considered in Case No. 6322. Attention to said question may be given in connection with such considerations.

of paper, newsprint, in rolls, for the account of the Times-Mirror Publishing Company. The rate will be authorized. In accordance with Commission policy in matters of this kind, the authority will be scheduled to expire in one year, subject to sooner cancellation or modification or to extension by further order of the Commission.

O R D E R

IT IS ORDERED that:

1. Subject to the provisions of Notes 1 and 2 herein, C. W. Bundren is authorized to assess a rate of 11-1/2 cents per 100 pounds, minimum weight 30,000 pounds per load, for the transportation of paper (newsprint), in rolls, for the account of the Times-Mirror Publishing Company,

- a. From railroad docks located at 8th and Alameda Streets and at 2650 Washington Boulevard, Los Angeles, to the printing plant of the Times-Mirror Publishing Company in the area bounded by First and Second Streets and Spring Street and Broadway, Los Angeles;
- b. From said railroad docks to the warehouse of the Times-Mirror Publishing Company at 1361 Factory Place, Los Angeles; and
- c. From said warehouse to said printing plant.

NOTE 1: Rate includes loading of applicant's vehicles at railroad docks and unloading of said vehicles at the printing plant of Times-Mirror Publishing Company. It does not include loading and unloading of applicant's vehicles at the warehouse of Times-Mirror Publishing Company.



Note 2: Rate does not include applicant's supplying of mechanical unloading equipment for the unloading of applicant's vehicles at the warehouse and printing plant of Times-Mirror Publishing Company.

2. The authority herein granted shall expire one year after the effective date of this order unless sooner canceled or modified or extended by further order of the Commission.

3. This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 36<sup>th</sup> day of AUGUST, 1966.

[Signature]  
President  
George F. Grover  
[Signature]

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.