

ORIGINAL

Decision No. 71385

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
DOSSEY TRUCKING, INCORPORATED, a)
corporation, under Section 3666 of)
the Public Utilities Code of the)
State of California, for authority)
to charge rates less than those)
prescribed in Minimum Rate Tariff)
No. 14-A for the transportation of)
animal or poultry feed from Fresno)
to various points of destination in)
California for the account of San)
Joaquin Valley Poultry Producers)
Association.)

Application No. 48266
(Filed February 23, 1966)

William H. Kessler, for Dossey Trucking, Inc.,
applicant.
C. D. Gilbert, A. D. Poe and H. F. Kollmyer,
for California Trucking Association; and
Ralph Hubbard, for California Farm Bureau
Federation, Interested parties.
Fred P. Hughes and J. C. Matson, for the
Commission staff.

O P I N I O N

Public hearing on this application was held at Fresno before Examiner Turpen on May 17, 1966.

Dossey Trucking, Incorporated (Dossey), operates as a highway contract carrier. Over 95 percent of Dossey's business is transportation performed for the San Joaquin Valley Poultry Producers Association (Producers). The record shows that several years ago when Producers decided to stop performing its own transportation, its drivers formed Dossey and purchased the tractors on time payments and entered into an agreement to lease the trailers from Producers at a rental of 15 percent of the revenue. Upon advice of its attorney, Dossey filed this application for approval of the arrangements by seeking authority to

charge less than the minimum rates under Section 3666 of the Public Utilities Code. On March 21, 1966, the Commission's Transportation Division staff filed a motion for dismissal of the application on the grounds that the proposed lease agreement would constitute, in fact, a refund to the shipper in violation of Section 3667 of the Public Utilities Code.

At the hearing applicant amended the application to seek authority to pay rental on the trailers at a rate of 19.4 cents per loaded mile instead of on a percentage of revenue basis. As a result of this amendment the representative of the Commission staff withdrew his motion of dismissal and the representative of the California Trucking Association withdrew its protest to the application.

Applicant's accountant introduced an exhibit showing the development of the proposed 19.4 cents per mile rental payment. The total rental payments to Producers, during the last two fiscal years, were divided by the total loaded miles operated, resulting in an average payment per mile of 19.382 cents. The apparent high cost per mile is largely accounted for by the fact that the trailers were operated an average of only 22 loaded miles per day over the 2-year period. This witness also introduced profit and loss statements for the two years that show the operations are compensatory. The witness also testified that Dossey bills and collects from Producers the full minimum rates and the trailer rent payments are separate transactions at the end of the month.

The chief accountant for Producers introduced an exhibit showing the cost of ownership to Producers for the trailer equipment leased to Dossey. The cost includes maintenance

and repairs, tires and tubes, depreciation, taxes and licenses, and insurance. This witness testified that Producers actually incurs these expenses. The exhibit shows that in each of the last two fiscal years, the expense to Producers of owning and maintaining the trailers exceeded the rental payments by Dossey by over \$4,000.

The record is clear, and the Commission finds that applicant does not now and does not intend to charge less than the minimum rates. We conclude that the authority as sought herein is not required and that the application should be dismissed.

Applicant is reminded that General Order No. 102-B requires that carriers that lease equipment have a bond on file with the Commission.

Attention is invited to Case No. 8481, the Commission's current investigation of vehicle leasing practices. Public hearing in that case is now scheduled for October 19, 1966, at San Francisco. The decision in that case may substantially affect the handling of proceedings like that now before us.

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IT IS ORDERED that Application No. 48266, filed by
Dossey Trucking, Incorporated, is dismissed.

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

Dated at San Francisco, California, this
4th day of OCTOBER, 1966.

E. J. [Signature]
President
George G. Hoover
Frederick B. Holbrook
[Signature]
[Signature]
Commissioners