

**ORIGINAL**

Decision No. 72212

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
H-P Produce Company, 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. 2 for the )  
transportation of freight, regard- )  
less of classification, from Fresno )  
to Yosemite Village, California, )  
for the account of YOSEMITE PARK & )  
CURRY CO. )

Application No. 48417  
(Filed April 21, 1966,  
Amended August 30, 1966)

William H. Kessler, for H-P Produce Company,  
applicant.  
Lewis Rodgers, for Fresno-Bass Lake Freight Lines,  
protestant.  
R. W. Smith, H. F. Kollmyer and Arlo D. Poe, for  
California Trucking Association, interested  
party.  
John W. Henderson and Robert W. Stich, for the  
Commission staff.

O P I N I O N

Applicant seeks authority, as a highway contract carrier, to charge less than the minimum rates on freight transported from Fresno to Yosemite Park & Curry Co. (Curry) and to Degnan Donohoe, Inc., both located at Yosemite Village in Yosemite National Park. Applicant proposes to charge a flat rate of 80 cents per 100 pounds, regardless of the classification rating or size of the shipment.

Public hearing on the application was held at Fresno on November 2, 1966, before Examiner Turpen. Applicant's manager testified in support of the application. Representatives of the California Trucking Association and of the Commission staff assisted in developing the record. Fresno-Bass Lake Freight Lines opposed the application.

Applicant's principal business is that of buying, selling and dealing in fresh fruit and produce. It sells and delivers fresh fruit and produce to Curry, transporting the merchandise in proprietary truck operation from Fresno to Curry's warehouse at Yosemite Village. As a highway contract carrier applicant transports general freight at the same time from Fresno consigned to Curry at Yosemite Village. Most of the freight is shipped collect, and transportation charges are paid by Curry. A small percentage is shipped prepaid and freight charges are paid by the respective shippers. The freight shipments are transported in the same vehicle with merchandise sold by applicant to Curry as space is available in the trucks.

Applicant arrived at its proposed rate of 80 cents per 100 pounds by dividing the total weight of for-hire shipments transported for two years into the revenue for such shipments under the minimum rates.

The record shows that of the total tonnage transported by applicant to Curry during the first nine months of 1966, for-hire traffic amounted to 68 percent and proprietary traffic to 32 percent. Applicant's manager introduced a statement of revenues and expenses for the same period. The expenses were calculated by taking the costs incurred in connection with the total hauls to Curry and allocating these costs between the for-hire traffic and the proprietary traffic based on the respective tonnage. The total costs were then allocated between the collect and the prepaid traffic by a similar method. The revenues shown are those applicable under the rates in Minimum Rate Tariff No. 2. The revenue on the traffic for which the authority is sought produced an average rate of 76.7 cents per 100 pounds, a few cents less than the sought rate. The exhibit showed that on the traffic here involved revenues amounted to

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\$16,141, and expenses amounted to \$13,352, resulting in an operating profit of \$2,789.

The Commission has consistently held in applications seeking deviations from the minimum rates that a showing that the proposed rates will exceed the costs of providing the service is indispensable to the requisite finding that the proposed rates are reasonable. We have also consistently held that such traffic must stand on its own. Applicant here, with no assurance that proprietary freight will always be available, is nevertheless relying on its proprietary operations to cut the cost of transporting the collect freight for Curry. Applicant has failed to show that its method of allocating costs between the two operations is proper. The expense figures submitted by applicant cannot be accepted as the actual cost of transporting the freight.

The Commission finds that applicant has not shown that the proposed rate will exceed the cost of providing the service and therefore has not sustained the burden of proof that the proposed rate is reasonable. We conclude that the application should be denied.

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O R D E R

IT IS ORDERED that Application No. 48417 is denied.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of MARCH, 1967.

[Signature]  
President

[Signature]

[Signature]

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Commissioners