

ORIGINALDecision No. 74913

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of MILLER MOVING & STORAGE CO., a California corporation, for authority to depart from the provisions of Minimum Rate Tariff No. 2 in the transportation of equipment and telephones for Pacific Telephone & Telegraph Company and Western Electric Company within the County of Monterey.

Application No. 50416
(Filed July 22, 1968)

Thompson & Hubbard, by Donald G. Hubbard, for applicant.

Floyd J. Silliman, for Maris Van & Storage, Inc.;

B. F. DePonte, for Felix Marsh Transfer;

Richard W. Smith, H. F. Kollmyer and A. D. Poe, for California Trucking Association, interested parties.

B. I. Shoda, for the Commission staff.

O P I N I O N

Miller Moving & Storage Co., a corporation, seeks authority as a highway contract carrier to depart from the established minimum rates for the transportation of telephone equipment, materials and supplies for Western Electric Company and The Pacific Telephone and Telegraph Company between points and places in Monterey County.

Public hearing was held and the matter was submitted before Examiner Mallory at Monterey on September 24, 1968. Oral and documentary evidence in support of the application was adduced by applicant's president. A competing carrier testified concerning the circumstances surrounding the transportation service performed by it for Western Electric Company in Monterey County. Other parties to the proceeding developed the record through cross-examination of the witnesses.

The specific authority sought was amended at the hearing, as follows:

"Authority to depart from Minimum Rate Tariff No. 2 in bidding and performing the Western Electric contract, provided that the same shall not be less than or computed other than as set forth in Items 330 and 340 of Minimum Rate Tariff No. 4-B."

Applicant's president testified as follows: Applicant seeks to apply the minimum hourly rates applicable to the movement of household goods, as set forth in Minimum Rate Tariff No. 4-B (MRT 4-B), because applicant feels that the applicable minimum rates in cents per 100 pounds and related accessorial charges as set forth in Minimum Rate Tariff No. 2 (MRT 2), are not compensatory for the type of service rendered by it to Western Electric Company. Applicant also desires to assess hourly rates because this is the basis of rates specified for the majority of the intercity transportation performed for Western Electric in a contract entered into by applicant and Western Electric.^{1/} Pursuant to said contract, applicant has been assessing hourly rates since the beginning date thereof.

Applicant's president presented in evidence Exhibits 2 through 18, which are comparisons of the charges under the minimum rates in cents per 100 pounds specified in MRT 2 with the actual charges assessed by applicant. In all instances, except one, charges were assessed on an hourly basis. The comparisons show that the charges on an hourly basis are well in excess of the charges based on the rates in cents per 100 pounds specified in MRT 2. The record shows, however, that applicant performs certain accessorial services

^{1/} Said contract was received as Exhibit 1. The terms of the contract began January 1, 1967 and terminate December 31, 1968.

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in addition to transportation for which specific charges are set forth in MRT 2.^{2/} The comparisons in Exhibits 2 through 18 do not show the applicable MRT 2 charges for such accessorial services.

Applicant contends that the only reasonable basis for computation of freight charges on service for Western Electric is an hourly rate, in view of the expedited service accorded to the shipper and the numerous accessorial services required to be performed. The rates proposed by applicant do not vary with the size of the equipment unit furnished, but do vary with the number of men furnished. The services performed require various sizes of vehicles and one to three helpers, depending upon the size and type of equipment transported and accessorial services rendered.

The president of a competing carrier testified that his company had performed similar transportation services for Western Electric under an oral contract. The charges which it assessed were also on an hourly basis. The witness indicated that his company plans to seek the contract now held by applicant, upon its termination. His company plans to file an application similar to the one herein, in order that it may have authority to deviate from the rates in MRT 2, should his company be the successful bidder. The witness also testified that another competing carrier, Felix Marsh Transfer, has authority from this Commission to transport shipments of telephone materials, supplies and equipment within Monterey County for Western Electric at the minimum hourly rates specified in MRT 4-B.^{3/} The

^{2/} The accessorial services include unpacking and uncrating, delivery to points at other than ground floor and the furnishing of help in addition to the driver. Applicant also furnishes an expedited delivery service, for which no accessorial service charges are provided in MRT 2.

^{3/} Decision No. 73672, dated January 30, 1968, in Application No. 49910. Said authority expires February 1, 1969.

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witness stated that he believed that all carriers in a position to bid on the Western Electric contract should be granted similar relief, upon application to the Commission.

The record shows that transportation requirements of Western Electric include the warehousing of parts and equipment; that there are few public utility warehouses in Monterey County; that household goods carriers generally operate as nonutility warehousemen for the storage of used household goods and effects; and that Western Electric has consistently dealt with household goods carriers in meeting its transportation and storage requirements in Monterey County.^{4/} When it initiated bidding procedures about two years ago, Western Electric requested certain household goods carriers operating in Salinas and Monterey to submit bids to cover the various services required by it, including furnishing of labor without trucking equipment for services within telephone company exchanges; the furnishing of equipment and labor for transportation within certain communities (city carrier operations); and the furnishing of equipment and labor for intercity movements of telephone equipment. The blank bid forms furnished to carriers to be used in preparing their bids provide for submission of rates for transportation at an hourly basis, except for local movement within cities or within four miles thereof.

Applicant, in its closing argument, urged that it be granted the relief sought and, also, that any qualified applicant should be authorized similar relief so that carriers in Monterey

^{4/} The household goods carrier participating in this proceeding stated that it believed that contracting with a single company to provide warehouse services of general commodities would not cause them to achieve public utility status.

County who desire to perform transportation for Western Electric would all be on the same competitive footing.

California Trucking Association urged in its closing argument that applicant be authorized the relief sought herein subject to an expiration date; and, in any subsequent application to continue the relief so granted, that applicant be required to make a specific cost showing of operations for Western Electric from which it can be determined whether the authorized rates have been profitable. CTA also urged that the Commission, in an appropriate proceeding, consider whether Western Electric's transportation requirements are of such a unique nature that hourly rates should be made the applicable minimum rates for services performed for it.

The Commission finds that:

1. Applicant is one of two highway permit carriers which are parties to written contracts to provide service for Western Electric Company within the County of Monterey.
2. The terms of applicant's contract call for the application of hourly rates, generally, for intercity transportation within said county.
3. The hourly rates applied by applicant pursuant to said contract, as set forth in Exhibit 1 herein, approximate the level of the applicable minimum hourly rates in Item No. 330 of Minimum Rate Tariff No. 4-B in effect at the time of the filing of the application (July 22, 1968).
4. The minimum rates in said Item No. 330 were increased, effective October 12, 1968, by approximately 3 to 3.5 percent (Decision No. 74678, in Case No. 5330, Petition No. 35).
5. The permit carrier, other than applicant, which performs transportation services under contract for Western Electric within

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Monterey County has been authorized to assess the minimum rates in Items Nos. 330 and 340 of MRT 4-B for such services (Decision No. 73672, supra).

6. Applicant requests that the authority sought herein, if granted, be applicable beyond the expiration date of December 31, 1968 of its current contract with Western Electric, so that it will be in a position to offer its services under a new contract on an hourly basis.

7. Minimum Rate Tariff No. 2 is the minimum rate tariff applicable to the intercity transportation services performed by applicant for Western Electric. Said tariff provides the following in Item No. 257:

"Except as otherwise provided in this tariff, rates or accessorial charges shall not be quoted or assessed by carriers based upon a unit of measurement different from that in which the minimum rates and charges in this tariff are stated."

8. The minimum rates in MRT 2 applicable to transportation services of applicant for Western Electric are rates in cents per 100 pounds.

9. An hourly rate, as sought to be applied, is a different unit of measurement from rates in cents per 100 pounds; therefore, specific authority is required to apply hourly rates in lieu of rates in cents per 100 pounds.

10. Although the rate comparisons furnished by applicant indicate on their face that charges assessed at hourly rates exceed the applicable minimum rates in cents per 100 pounds, said documents fail to show thereon the charges specified in MRT 2 for the accessorial services performed.

11. Applicant holds a household goods carrier permit, as well as a highway contract carrier permit.

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12. As warehousing is involved, and as there are few public utility warehousemen located in Monterey County, Western Electric has selected household goods carriers with warehouse facilities to perform the services required by it in Monterey County.

13. The proposed rates heretofore have been found reasonable for application to the transportation of uncrated used household goods and personal effects by household goods carriers.

14. The rates and charges which result from the application of minimum rates in Items Nos. 330 and 340 of MRT 4-B will be reasonable for transportation services performed by applicant for Western Electric.

15. Said rates will place applicant in a comparable competitive position with the carrier which has been authorized to apply the minimum rates in MRT 4-B to services performed for Western Electric Company.

The Commission concludes that:

1. Applicant requires authority to deviate from the rates set forth in MRT 2 in order to apply the minimum hourly rates in MRT 4-B for services provided for Western Electric.

2. The application should be granted to the extent provided in the order which follows.

3. In any subsequent application seeking to extend or modify the authority granted herein, applicant should be required to show by competent evidence that the rates sought to be applied exceed its costs of providing said service.

O R D E R

IT IS ORDERED that:

1. Miller Moving & Storage Co., a corporation, is authorized to quote and assess rates and charges in the units of measurement set forth in Items Nos. 330 and 340 of Minimum Rate Tariff No. 4-B and no lower than the rates and charges named in those items, in lieu of the minimum rates per 100 pounds specified in Minimum Rate Tariff No. 2, in connection with the transportation of property for The Pacific Telephone and Telegraph Company and Western Electric Company.

2. The authority herein granted shall expire with December 31, 1969.

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

Dated at San Francisco, California, this 6th day of NOVEMBER, 1968.

William J. Synovay, Jr.
President
Arthur E. Hill
William L. Beards
Augusta
Fred P. Morrissey
Commissioners