

**ORIGINAL**

Decision No. 75291

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ILLINOIS-CALIFORNIA EXPRESS, INC.  
(operator of California Motor Ex-  
press), a corporation, for authority  
to increase certain rates and charges. )

) Application No. 50552  
) Filed September 17, 1968  
)

(Appearances are listed as Appendix A)

O P I N I O N

In this application, Illinois-California Express, Inc. (ICX) seeks authority to increase freight rates by canceling its split delivery tariff provisions applicable in connection with the transportation of commodities requiring temperature control service.<sup>1</sup>

Public hearings in the matter were held on November 12 and December 12 and 15, 1968 before Examiner Mallory in San Francisco. The matter was submitted on the latter date. There were several protests.

ICX operates as a highway common carrier for the transportation of general commodities, generally statewide. It also operates in interstate commerce between several midwestern and western states.

---

<sup>1</sup> Split Delivery Shipment means a shipment consisting of two or more component parts delivered to more than one destination, the composite shipment weighing (or transportation charges computed upon a weight of) not less than 5,000 pounds, said shipment being shipped by one consignor from one point of origin. The charges on a split delivery shipment are computed at the rate applicable to the total weight shipped, plus additional charges for each component part delivered.

Its intrastate operative authority was recently acquired, through lease from California Motor Transport Service (CMT).<sup>2</sup> The former J. C. Christensen Division of CMT, which specializes in the handling of commodities requiring temperature control service,<sup>3</sup> is now operated as a separate division of ICX. The rates of ICX applicable to the transportation of commodities subject to temperature control service are generally on the same level and subject to the same rules as the minimum rates set forth in Minimum Rate Tariff No. 2. That tariff provides that commodities accorded chilled temperature control service (higher than 32 degrees) and frozen temperature control service (32 degrees or less) shall be 5 percent and 10 percent, respectively, higher than the rates for the same commodities exclusive of temperature control service.

Applicant's Evidence

ICX's vice president in charge of traffic, its treasurer and its Oakland terminal manager testified in support of the relief sought. The vice president and treasurer testified concerning a consolidated income statement for ICX, and for its J. C. Christensen Division, for the month of July 1968 and for the second quarter of 1968. The latter statement shows that the J. C. Christensen Division incurred a net operating loss for the quarter of \$201,574 on operating revenues of \$1,305,982, whereas the entire ICX operations enjoyed a net operating profit of \$411,581 on operating revenues of \$11,142,220. During the month of July, the record shows,

---

<sup>2</sup> Decision No. 73609, dated January 9, 1968, in Application No. 49900, authorized the temporary lease of CMT operative rights to ICX, pending approval of the acquisition by the Interstate Commerce Commission. ICX began operations under said authority on January 28, 1968.

<sup>3</sup> Temperature Control Service means the protection from heat by the use of ice (either water or solidified carbon dioxide), by mechanical refrigeration, or by the release of liquefied gases.

the J. C. Christensen Division lost \$84,723. The vice president testified that he studied the traffic handled by the Division, in order to determine the cause of the operating losses sustained by it. He stated that said study indicated to him that the cost of moving each component part of a split delivery shipment is the same as the cost of moving a similar single shipment. He indicated that the rate accorded to a component part of a split delivery shipment is below that which would apply to the same component if handled as a single shipment.

The witness also prepared and presented an exhibit showing the revenues, and other data, for the transportation of split delivery shipments accorded temperature control service handled by ICX during the month of July 1968. The statement showed that actual revenues for July were \$83,243, and that revenues for the same traffic rerated as separate shipments would be \$108,424, or an increase of \$25,181 (30.2%). This increase in rates, however, is less than the deficit of \$85,234 assertedly incurred in the month of July by the Division. The witness asserted that even if the sought increase is granted, the operating deficit would be of such magnitude that ICX must derive additional revenues from other sources. The witness stated that ICX is contemplating that a general revenue increase will be sought on all refrigerated traffic "to bring the operation into a proper financial focus." Such proposal has not been finalized. The witness testified that before seeking a general increase, ICX desires to eliminate the split delivery privilege which, in this witness' opinion, is a special and unwarranted privilege.

ICX's Oakland terminal manager testified concerning the manner in which split deliveries of temperature controlled

commodities are handled. The witness prepared an exhibit containing analyses of several split delivery shipments, as to origin, destination, and number of component parts. He also prepared an exhibit showing a listing of groups of separate shipments tendered at one time to ICX. The witness testified that, uniformly, shippers who make multiple single shipments to various destinations in a single day require that all of the traffic be picked up at one time, as such shippers do not want separate pickups for individual shipments. The witness stated that it is very seldom that the carrier is called upon to pick up a single less-than-truckload shipment, as its customers normally make multiple shipments which are ready for pickup at one time. The witness stated that, insofar as pickups are concerned, multiple single shipments and split delivery shipments are handled in the same manner. The witness also described the physical handling of several split delivery shipments. It was the witness' contention that each individual component part of a split delivery shipment involves an amount of handling at least equivalent to that involved if each had moved as a separate shipment. The witness also pointed out the rating of split delivery shipments may be more difficult than the rating of single shipments.

Protestants' Evidence

A total of 14 witnesses testified in opposition to the proposed cancellation of split delivery privileges on temperature controlled commodities.<sup>4</sup> Each of the witnesses indicated that split delivery service is an essential marketing tool in the distribution

<sup>4</sup> The witnesses represented the following organizations: McCoy Meat Company, Anderson, Clayton & Company Foods Division, Armour and Company, Leo's Quality Foods, California Department of General Services, Foremost Foods Co., Pacific Dairy & Poultry Association, Swift & Company, Corn Products Company, Standard Brands, Inc., Kraft Foods, and Dubuque Packing Company.

of the commodities shipped by or for the organization which he represented. Several of the witnesses presented evidence to show the amount of increases which would occur if the proposal herein were granted.

Several of the witnesses testified concerning the service available to them by for-hire motor carriers. It appears from this testimony that ICX is one of a limited number of highway common carriers authorized by this Commission to transport general commodities that also engage in the transportation of commodities requiring temperature control service. Also, it appears that ICX has broader operative rights than any of the competing highway common carriers which provide temperature control service. The testimony also indicates the following: Highway permit carriers that engage in temperature control service tend to limit their services to single shipments, generally of truckload quantities; shippers, with few exceptions, feel that they are receiving good service from ICX, and that ICX generally furnishes equipment when ordered; and, in some instances, competing highway common carriers have refused to furnish equipment when requested to do so. Representatives of meat packers testified that their companies now have fleets of refrigerated trucking equipment for local service, and in some cases for interstate service. Said fleets could be enlarged to conduct the services now performed by for-hire carriers.

Those protestants who felt there are limited alternate means of transportation available to them (other than ICX) were mainly concerned with the magnitude of the increases which would result from the proposal herein. The protestants who felt they have adequate alternative refrigerated transport service available to them opposed the application mainly on the ground that if ICX is

authorized to discontinue split delivery service; competing for-hire carriers promptly would seek the same authority. They believe that the problems described by ICX witnesses with respect to split delivery shipments and as to revenue deficiencies are industry-wide and should be met on an industry-wide basis.

Some of the protestants urged that the sought authority be denied on the assertion that ICX had not sufficiently explored all the possible alternatives, including a general rate increase for refrigerated transportation service.

A witness for Armour and Company suggested, as an alternative to applicant's proposal, that charges be established similar to those maintained by motor carriers on fresh meats and packinghouse products in interstate commerce. The so-called peddler service charges proposed by Armour would be higher than the additional charges now provided for the handling of component parts of split delivery shipments. The witness stated that proposal was made to show the sincerity of Armour in maintaining a healthy for-hire motor carrier industry. The witness stated that, on the other hand, if costs of for-hire carriage become excessive, private carriage would be the next step contemplated by Armour.

#### Discussion

The record herein demonstrates that there is a great variation in the number of component parts of split delivery shipments handled by ICX. A typical example is a split delivery shipment weighing 34,442 pounds and consisting of 71 component parts, originating at South San Francisco, with deliveries at several points between Rio Vista and Redding. On this shipment truckload rates were applied. If split delivery service was not accorded, any-quantity rates or minimum charges would be applicable to several of the component parts. The charges as a split delivery shipment.

were \$768.73. As individual shipments, the charges would be \$1,196.13, or an increase of \$427.40 (55.6 percent).

On the other hand, split delivery shipments consisting of only two or three component parts were handled by ICX. The increase in charges would be 7.4 percent on a typical split shipment consisting of three component parts, weighing 66,060 pounds, from Oakland to Metropolitan Zone 236 (\$552.06 as a split shipment, \$592.08 as separate shipments).

The proposal herein will cause increases in rates to shippers of split delivery shipments by various amounts ranging from 6 percent to as much as 70 percent, depending upon the number of component parts, the distance between the first point and last point of destination, and whether truckload or less-than-truckload rates are applicable to the split shipment.

From the record herein, it appears clear that the transportation service accorded to split delivery components of refrigerated commodities is similar to the service accorded by ICX to individual shipments of the same size as the component parts of the split delivery shipment.<sup>5</sup> The pickup portion of the service is the same for multiple shipments tendered at one time as for split delivery shipments of the same number of components. This indicates that there is little savings in cost to ICX in handling split delivery shipments as compared to single shipments of the same size.

The record herein does not contain the necessary data to fully substantiate that the rates of ICX for handling split delivery shipments are below its costs of service. The only evidence bearing

---

<sup>5</sup> There may be less terminal handling of split delivery shipments consisting of larger sized components delivered to points in the same destination area.

on this point is ICX's operating statements, which show an operating loss for refrigerated transport service. From this, we can only conclude that the rates for all refrigerated shipments are in need of adjustment; not specifically those for split delivery service.

The record indicates that ICX has generally endeavored to furnish refrigerated equipment when requested, and has transported all refrigerated commodities offered to it. The record also shows that ICX performs an essential service to that portion of the public requiring refrigerated transport service. It is also clear that absent ICX's service, there would not be sufficient highway common carrier refrigerated transport service to adequately serve the public needs. It appears incumbent that the refrigerated transport services of ICX be continued at their present level. Thus, an increase in rates appears necessary.

We believe that ICX has not fully determined all the reasons for its revenue deficiencies in the handling of refrigerated commodities. Operations in this field have been conducted by ICX only since January of 1968. The record does not indicate whether its predecessor's refrigerated transport services were operated at a profit or loss. Granting of the application herein would not cause ICX's refrigerated service to be operated at a profit. It would, however, reduce its operating deficit.

We believe that relief should be accorded applicant in this proceeding, although we do not believe that split delivery is the major factor causing applicant's revenue deficiencies in connection with its refrigerated transport service. The record shows that the handling accorded split delivery shipments consisting of many small component parts does not differ materially from the handling accorded several small individual shipments. With respect to the split deliveries containing many small components, we believe

it to be unreasonable to require the carrier to maintain lower charges for split delivery service than for individual shipments of similar weight as such components. On the other hand, there appears to be some saving in terminal handling, billing and dispatching costs in connection with the handling of split deliveries consisting of a limited number of larger-sized components by ICX. We cannot determine with any degree of exactness on this record where the borderline falls between reasonable and unreasonable practices. So that the carrier will be relieved of performing the most costly types of split delivery services, we conclude that ICX should be permitted to publish rules limiting split delivery shipments to those weighing 10,000 pounds or more and containing not more than five split deliveries and, further, that the points of delivery of all component parts must be within 50 constructive miles of the initial point of delivery. Such authority should provide substantial relief to the carrier, without the complete elimination of applicant's split delivery service on refrigerated commodities.

The foregoing authority, while different from that proposed by Armour, would have a somewhat similar effect. Armour's proposal would increase the additional charge for each component to a point where it would be more economical to ship small components as separate shipments.

#### Findings and Conclusions

We find as follows:

1. ICX acquired, through lease from CMT, a certificate of public convenience and necessity authorizing the transportation of general commodities, generally statewide. Service by ICX under said certificate began January 28, 1968.

2. ICX operates its intrastate temperature control transportation services as a separate division.

3. Said division incurred operating losses of \$201,574 during the second quarter of 1968, and \$84,723 during the month of July 1968. ICX's consolidated income statements for the same periods indicated operating profits of \$411,581 and \$190,695, respectively.

4. During the month of July 1968, ICX transported 399 split delivery shipments, weighing 6,476,366 pounds. The total revenue on said shipments was \$83,243.14. If the component parts of said split delivery shipments were rerated as separate shipments, the revenue would have been \$108,424.16, an increase of \$25,181.02, or 30.2 percent.

5. A revenue increase of \$25,181 for July 1968, which would result from the proposal herein, would not eliminate the operating deficit for that month of \$84,723. Operations for ICX's temperature control transportation service would continue to be operated at a deficit should the application herein be granted.

6. Applicant requires an increase in revenue for its temperature control service operations.

7. The handling accorded the component parts of split delivery shipments of refrigerated commodities is similar, in most respects, to the handling accorded separate shipments of comparable size. There are few economies redounding to ICX in the handling of split delivery shipments, as compared to similar single shipments.

8. Under tariff provisions now maintained by ICX, lower rates are accorded to components shipped as split delivery shipments, as compared with similar single shipments.

9. The increase in rates which would result from the proposal herein varies according to the number of components in the split delivery shipment, the total weight of the split shipment, and the weights of the individual components. Said increases would fall

within a range of 6 to 70 percent. The higher percentage of increase would apply to split delivery shipments containing the greatest number of component parts.

10. ICX, to some points, provides the only highway common carrier service available in connection with the transportation of refrigerated commodities. In other instances, ICX provides the only reliable highway common carrier service available to shippers of temperature controlled commodities. ICX's temperature control transportation service is essential to that portion of the public which does not have other reliable for-hire services available to it.

11. In consideration of the preceding finding and finding 5, complete discontinuance of split delivery service by ICX would not be reasonable, and is not justified.

12. The findings made herein concerning the handling accorded split delivery shipments and the economics thereof relate solely to traffic handled by ICX's J. C. Christensen Division, and are not to be construed as relating to any other carrier or type of traffic.

13. In view of findings 4 through 11, a limitation on the amount of split delivery service required to be performed by ICX in accordance with the following tariff rule will be reasonable:

"Split delivery shipments of commodities accorded temperature control service (or mixed shipments of said commodities with other commodities) shall consist of not more than 5 component parts, the composite shipment shall weigh (or transportation charges must be computed on) not less than 10,000 pounds, and the points of delivery of all component parts shall be within 50 constructive miles of the initial point of delivery."

14. Under the tariff rule set forth in the above finding, ICX's revenue for the 339 shipments described in finding 4 would be increased by approximately \$12,500 or 15 percent. ICX's operating deficit for the month of July 1968, for its J. C. Christensen

Division would be reduced to approximately \$72,250, if said rule had been in effect during that period.

15. Increases in rates resulting from the establishment by ICX of the tariff rule set forth in the preceding finding are justified.

The Commission concludes that ICX should be authorized to publish the tariff rule set forth in finding 13 above; to the extent that relief from the long- and short-haul provisions is necessary to publish such rule, such relief is justified and should be granted; and applicant should be authorized to make said publications on ten days' notice. In all other respects, the application should be denied.

O R D E R

IT IS ORDERED that:

1. Illinois-California Express, Inc., is authorized to publish and file the tariff rule set forth in finding 13 of the preceding opinion, in connection with the transportation of commodities accorded temperature control service.

2. Tariff publications authorized to be made as a result of the order herein shall be filed not earlier than the effective date of this order and may be made effective not earlier than ten days after the effective date hereof on not less than ten days' notice to the Commission and to the public.

3. In establishing and maintaining the rules authorized hereinabove, applicant is authorized to depart from the long- and short-haul provisions of Section 460 of the Public Utilities Code. Schedules containing the rule published under this authority shall make reference to this order.

4. The authority granted herein shall expire unless exercised within ninety days after the effective date of this order.

5. Except to the extent provided in ordering paragraphs 1 and 2 hereof, Application No. 50552 is denied.

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

Dated at San Francisco, California, this 4<sup>th</sup> day of FEBRUARY, 1969.

William Lynous, Jr.  
President

August

Paul P. Monussey

Glenn M. ...

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

Frank Loughran, for Illinois-California Express, Inc., applicant.

Charles C. Miller and C. J. Van Duker, for Dubuque Packing Company; Carl E. Nall and Herman Godliebsen, for Pacific Dairy and Poultry Association; Lloyd K. Hoffman, for State of California, Department of General Services; E. R. Chapman, for Foremost Foods Company; Norman D. Sullivan, for Sheed Bartush Foods, Inc.; D. R. Ranche, for Standard Brands, Inc.; Marshall Moss, for the McCoy Meat Company; M. T. Blanton and J. C. Wheeler, for Anderson, Clayton & Company Food Division; W. T. Hill, for Corn Products Company; G. C. Willis, for Kraft Foods; Roy Bell, for Mutual Citrus Products Company; John E. Wilson, for Ralston Purina Company; William H. Rudge, for Swift & Company; James S. Bowman and Earl E. Balla, for Leo's Quality Foods; H. R. Schuette, for Armour and Company, protestants.

Jack Ellingson, T. W. Curley and Louis J. Seely, for Kings County Truck Lines; R. E. Ellis, by J. E. MacDonald, for California Motor Express; George F. Clover, for Market Express; John McSweeney by R. E. MacDonald, for Delta Lines, Inc.; Tony Doyle, for Pacific Vegetable Oil Corporation; Robert D. Stout, for Swift & Company; Richard W. Smith, H. F. Kollmyer, and A. D. Poe, for California Trucking Association; John A. Ehrlich, for Johnson & Johnson; and D. H. Marken, for Traffic Managers Conference of California, interested parties.

B. I. Shoda and Robert W. Stich, for the Commission staff.