

**ORIGINAL**

Decision No. 75731

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 LLOYD E. WILLIAMS, an individual, )  
 dba MOTHER LODE EXPRESS, for author- )  
 ity to deviate from minimum rates )  
 and charges, on shipments of drugs, )  
 etc., between Sacramento and )  
 Stockton, and Elk Grove, et al. )

Application No. 50896  
 (Filed February 18, 1969)

Sheldon Mitchell, for applicant.  
J. C. Kaspar, A. D. Poe and H. F.  
 Kollmyer, for California Trucking  
 Association; D. W. Ross, for  
 Brunswig Drug Co., interested  
 parties.  
B. I. Shoda, for the Commission staff.

O P I N I O N

Public hearing in this matter was held before Examiner Mooney in Sacramento on April 7, 1969, on which date the matter was submitted.

Lloyd E. Williams, an individual, doing business as Mother Lode Express, is authorized to operate as a highway contract carrier within a radius of 100 miles from Sacramento. By this application, he seeks authority to assess less than minimum rates on shipments of drugs, pharmaceuticals and merchandise weighing 70 pounds or less for four wholesale drug firms in Sacramento and Stockton to Elk Grove, Galt, Lodi, Plymouth, Sutter Creek, Jackson, Westpoint, San Andreas, Altaville, Murphys, Angels Camp, Sonora, and all intermediate points along the route connecting said locations. The proposed rates vary with the weight of the shipment and are as follows:  
 0 to 25 pounds \$1.80; over 25 to 50 pounds \$2.30; over 50 to 75 pounds \$2.80. Said rates would apply to all shipments not exceeding five pieces and would be subject to a released valuation of 50 cents

per pound. For shipments not meeting these conditions, minimum rates would be assessed.

Evidence was presented by applicant and by a representative of Brunswig Drug Co. Representatives of the California Trucking Association (C.T.A.) and the Commission staff participated in the development of the record.

Following is a summary of the evidence: Applicant operates a panel-type truck and has one employee; he transports newspapers for the Sacramento Bee once each day from Sacramento to Sonora; the newspapers are picked up at approximately 10:15 a.m.; applicant also transports frequent shipments of auto parts averaging not over 50 pounds per shipment for auto supply companies in Sacramento to various points involved herein; the round trip distance from Sacramento to Sonora via Stockton and return via the other points is approximately 180 miles; there are 11 other carriers who now have authority to transport small shipments at less than minimum rates for the four wholesale drug companies; none of the deviation authorities held by said carriers are subject to an expiration date; one serves some of the same points requested by applicant but does not give same-day service to all of said points and serves them at a different time of day than contemplated by applicant; the balance of the 11 carriers serve other areas; the sought rates are based generally on the rates assessed by the other carriers; the type of shipments involved would not move at minimum rates; 80 percent of the shipments would consist of drugs and pharmaceuticals and the balance would include other merchandise shipped by wholesale drug companies; most drugstores do not maintain a large and complete stock of all drugs; when a retail drugstore requires a particular item to fill a prescription, the need is

immediate and speed in delivery from the wholesale supplier is essential; also, many drugs require refrigeration to maintain their potency, and while such drugs are packed in dry ice for shipment and do not require refrigeration in transit, the speed with which delivery is made is important; applicant would provide the expedited type of service required; applicant does not now serve the four wholesale drug companies but has been assured by them that they will utilize his service if the sought authority is granted; applicant now serves the area in which the points in question are located each day; the drug companies would have their shipments ready for applicant immediately after he picked up the newspapers, and he would deliver both on the same trip; if the sought authority is granted, applicant will obtain additional revenue from the drug shippers which he is not now receiving.

The representative of C.T.A. stated that while equity supports the granting of the sought authority, his organization would object if the authority were not subject to a one-year expiration date. He argued that there is nothing in the record to support a permanent exemption and that the authority should be reviewed by the Commission at the termination of the one-year period to determine whether the facts and circumstances at that time would justify a further extension thereof. He also advocated that the Commission review the permanent authorities held by the other 11 carriers to determine whether they should be modified and made subject to an expiration date. No one else opposed the granting of the sought authority.

Based on a review of the evidence, we are of the opinion that the sought deviation should be granted. We do not agree with C.T.A. that the authority should be made subject to a one-year expiration date. The involved transportation differs substantially

from that for which the minimum rates were designed. Furthermore, it patently would be unjust to place a time limitation on the authority granted to applicant when no such restriction has heretofore been placed on similar relief granted to other carriers. With respect to the request by C.T.A. that the Commission review the authorities held by the 11 other carriers, they are not a party to this proceeding, and it would not be appropriate to consider such a request herein.

In the circumstances, the Commission finds that:

1. Applicant is presently transporting newspapers and small shipments of automotive supplies in the area to which the sought rates would apply.

2. The type of service which applicant will furnish under the proposal herein is different from that contemplated by the minimum rate order.

3. Operations under the proposed rates may reasonably be expected to be profitable.

4. The proposed rates are reasonable.

5. Similar authority to that herein sought, which has been granted to other carriers, has not been made subject to an expiration date.

6. The authority granted to applicant in the order which follows should, likewise, not be made subject to an expiration date.

We conclude that the application should be granted.

Applicant is placed on notice that although the authority which will be granted has not been made subject to an expiration date, said authority may be reviewed by the Commission at anytime and, for good cause, may be canceled or modified by further order of the Commission.

ORDER

IT IS ORDERED that Lloyd E. Williams, an individual, doing business as Mother Lode Express, is hereby authorized to transport shipments of wholesale drugs, drug supplies and merchandise handled by retail drugstores, each weighing 75 pounds or less, subject to a released valuation of 50 cents per pound and not exceeding five pieces, from Brunswig Drug Company, McKesson & Robbins Drug Company and Western Drug Supply at Sacramento and from Valley Wholesale Drug Co. at Stockton, on the one hand, to Elk Grove, Galt, Lodi, Plymouth, Sutter Creek, Jackson, Westpoint, San Andreas, Altaville, Murphys, Angels Camp, Sonora and all intermediate points along the route connecting said locations, on the other hand, at charges less than the established minimum charges per shipment but not less than the following:

<u>Weight of Shipment</u> (in pounds)		<u>Minimum Charge</u> (in cents)
<u>Over</u>	<u>Not Over</u>	
0	25	180
25	50	230
50	75	280

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

Dated at San Francisco, California, this 3rd day of JUNE, 1969.

William J. Williams  
President  
Association  
Commissioners