

**ORIGINAL**

Decision No. 75782

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of M. G. Marinelli, doing business as M & L TRUCKING COMPANY for extension of authority to deviate from the minimum yearly tonnage requirement for the transportation of iron or steel castings moving within and between Alameda, Albany, Berkeley, Emeryville, Oakland.

Application No. 51076  
(Filed May 15, 1969)

In the matter of the investigation into the rates, rules, regulations, charges, allowances and practices of all common carriers, highway carriers and city carriers, relating to the transportation of property in the City and County of San Francisco and the Counties of Alameda, Contra Costa, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma.

Case No. 5441  
Petition for Modification  
No. 164

OPINION AND ORDER

M. G. Marinelli (petitioner), doing business as M & L Trucking Company, was authorized, both as a highway common carrier and a city carrier,<sup>1/</sup> to observe a lower yearly tonnage requirement of 750 tons instead of the established minimum requirements of 1500 tons per year prescribed by the Commission in connection with the transportation of iron or steel castings between Alameda, Albany, Berkeley,<sup>2/</sup> Emeryville and Oakland.

1/ The less-than-minimum rate authority previously granted M. G. Marinelli under his city carrier permit expired as of November 13, 1968 upon the repeal of the City Carriers' Act (Cal. P.U.C. Resolution No. TS-011, dated October 15, 1968).

2/ Petitioner is a participating carrier in Pacific Motor Tariff Bureau, Inc., Local Freight Tariff No. 6-5, Cal. P.U.C. No. 5, of Leland C. Smith, Agent. The tariff provisions in question are published in Item No. 2040 of that tariff. The minimum rate provisions are set forth in Item No. 810 of Minimum Rate Tariff No. 1-B.

The current authority is scheduled to expire with June 21, 1969. Petitioner now seeks an extension of his existing authority.

As justification for the sought relief petitioner states that present transportation circumstances and conditions are substantially the same as those set forth in his prior request which justified the granting of the current authority. A review of the shipments of castings for 1968, petitioner explains, indicates that an extension of the reduced minimum yearly tonnage requirement is necessary. It is further alleged that there has been no appreciable change in his operations during the period in which the reduced minimum yearly tonnage requirement has been in effect.

The M & L Trucking Company's Balance Sheet and Income Statement, for year ending December 31, 1968, indicate that petitioner experienced an overall net operating loss of \$19,861.20. To what extent, if any, the current temporary minimum rate authority, which petitioner now seeks to have extended, either contributed to or, conversely, tended to alleviate petitioner's unfavorable 1968 results of operations is not disclosed.

The certificate of service shows that a copy of the verified application and petition was mailed to the California Trucking Association on May 13, 1969. The joint application and petition was listed on the Commission's Daily Calendar of May 16, 1969. No objection to the granting of the sought relief has been received.

The Commission finds that:

1. The transportation circumstances and conditions which justified the initial granting of the temporary authority involved has remained substantially unchanged.

2. The sought extension of time in which M. G. Marinelli, operating as a highway common carrier, may observe a lower yearly tonnage requirement of 750 tons to govern the rates named in Item 2040 of his tariff, in lieu of the minimum 1500 tons per year prescribed in Item 810 of Minimum Rate Tariff No. 1-B, has been shown to be justified by transportation conditions.

3. The sought extension of time in which to observe the lower yearly tonnage requirement referred to in paragraph 2 above, would be reasonable had it been shown that the sought relief, if granted, would be financially profitable.

4. Petitioner should be accorded further opportunity to demonstrate that he has and will experience profitable operating results under the rate proposal herein sought to be authorized for an extended period of time.

5. A public hearing is not necessary.

The Commission concludes that Petition for Modification No. 164 should be granted; and, in view of the recent repeal of the City Carriers' Act, Application No. 51076 should be dismissed. In order to give petitioner another opportunity to show that, under the existing rate authority, he has and will, if the requested extension of such authority is granted, experience profitable operating results; and, since the circumstance surrounding the transportation involved may change, the authority granted herein will be made to expire at the end of an additional six months period.

In view of the impending expiration date of petitioner's current authority and the time required for tariff notification, the order which follows will be made effective June 16, 1969.

IT IS ORDERED that:

1. M. G. Marinelli is hereby authorized to publish and file a minimum yearly tonnage requirement of 750 tons to govern the rates named in Item No. 2040 of his tariff as proposed in Case No. 5441 (Petition for Modification No. 164). The tariff provisions authorized herein shall be published to expire with December 31, 1969.

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

3. M. G. Marinelli is hereby authorized to depart from the long- and short-haul provisions of Section 460 of the Public Utilities Code to the extent necessary to exercise the authority granted herein.

4. The authority granted in ordering paragraph 1 above shall, on and after June 21, 1969, supersede the authorities granted by Decision No. 74209 of June 16, 1968, as amended by Decision No. 74500 of August 6, 1968, and shall expire with December 31, 1969.

5. Application No. 51076 is dismissed.

This order shall become effective June 16, 1969.

Dated at San Francisco, California, this 10<sup>th</sup> day of JUNE, 1969.

William S. Squires, Jr.  
President

A. W. Gatov  
Commissioners