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ORIGINAL

Decision No. 76516

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of AMERICAN TRANSFER CO., a corporation, for an order authorizing departure from the rates, rules and regulations of Minimum Rate Tariff No. 2, pursuant to the provisions of Section 3666 of the Public Utilities Code, for the transportation of glass flat, not bent, from Fresno, California, to a described area in southern California.	Application No. 51088 (Filed May 20, 1969)

Handler, Baker & Greene, by Daniel W. Baker, for applicant.
C. R. Looney, for PPG Industries, Inc.; Arthur D. Maruna, H. F. Kollmyer and Arlo D. Poe, for California Trucking Association; interested parties.
Joseph C. Matson and Mark Sepaspour, for the Commission staff.

O P I N I O N

American Transfer Co., a corporation, operates as a highway common carrier and as a highway permit carrier. By this application, it seeks authority to transport glass, flat, not bent, as described in Item No. 86730 of National Motor Freight Classification No. A-10, as a highway contract carrier for PPG Industries, Inc., from said shipper's plant in Fresno to various destinations in Los Angeles Metropolitan Zones 201 through 262 inclusive, as described in Distance Table No. 7, at a rate less than the applicable minimum rates set forth in Minimum Rate Tariff No. 2. Applicant does not operate as a certificated carrier between the origin and destinations involved herein. By Decision No. 75800, dated June 17, 1969, applicant was granted interim authority pending a hearing. The interim authority expires December 17, 1969.

Public hearing on the application was held October 8, 1969, in San Francisco, before Examiner Mooney. Testimony and exhibits in support of the application were presented by applicant's president, a member of a certified public accountant firm and the manager of Freight Rates of PPG Industries, Inc. A representative of the California Trucking Association and members of the Commission staff assisted in developing the record by cross-examination of the witnesses. There was no direct opposition to the granting of the application. However, both California Trucking Association and the staff pointed out that the cost and revenue data introduced in support of the sought rate included revenue from return hauls of unrelated traffic for other shippers. They asserted that in proceedings to depart from minimum rates, the Commission has considered revenue from return haul traffic only when it has been established that the backhaul movement is assured, is of long standing and is restricted to certain shippers. They requested the Commission to carefully consider whether the evidence in the instant proceeding shows the return traffic herein meets this test and urged that the aforementioned rule not be liberalized.

The facts and circumstances surrounding the transportation involved are set forth in detail in Decision No. 75800. The evidence presented herein establishes them to be factual. There is no need to repeat them.

The only issue which need be discussed herein is whether the cost and revenue data of record adequately support the sought authority. Specifically, we are concerned with the question raised by California Trucking Association and the staff regarding the use of backhaul revenue to offset deficiencies in revenue under the sought rate.

The sought rate which would apply from Fresno to Los Angeles Metropolitan Zones 201 through 262 is 38 cents per 100 pounds, minimum weight 50,000 pounds. This is the rail rate applying between said points. The truckload rates set forth in Minimum Rate Tariff No. 2 for the transportation of flat glass, as described above, from Fresno to the aforementioned zones vary from 60 to 69 cents per 100 pounds, minimum weight 40,000 pounds. Applicant's president testified that PPG Industries' Fresno plant and approximately 50 percent of said company's customers in the Los Angeles area are served by rail facilities; that under the alternative application provisions of Minimum Rate Tariff No. 2, the 38-cent rail rate can be assessed on shipments to said customers; that the rate relief is required for less than 50 percent of the shipments to the Los Angeles area; and that under the sought authority, the same rate would apply to all of the glass shipments.

Exhibit 2, a revenue and expense study presented by applicant's accountant, shows the results of applicant's experience under the sought rate for the period June 19, 1969 through August 15, 1969. During said period, deliveries were made to Los Angeles Metropolitan Zones 203, 219, 222, 226, 235, 251 and 246. The data shown therein is based on outbound and return haul revenues and round trip costs. The accountant testified that during the period covered by his study, there were backhaul shipments for approximately 65 percent of the glass shipments to the Los Angeles area. The average per round trip revenue, cost, net operating income and net operating ratio shown in Exhibit 2 are as follows:

OPERATING REVENUE	
Outbound Haul	$190.00
Return Haul	111.26
Total Operating Revenue	$301.26
OPERATING EXPENSE	
Direct Cost	$207.42
Indirect Cost (1)	34.02
Revenue Cost (2)	13.23
Total Operating Expense	$254.67
NET OPERATING INCOME	$ 46.59
NET OPERATING RATIO	84.5%

(1) Covers administration and overhead costs and is based on 16.4 percent of direct cost.

(2) Covers insurance, B. E. Transportation Tax and P.U.C. Regulatory Fee, and is based on 4.39 percent of operating revenue.

It is apparent from the above table that the revenue from the outbound glass haul does not cover the cost of performing the round trip transportation and that for the round trip operation to be profitable, it is dependent on the availability of backhaul traffic.

With respect to the backhaul traffic from the Los Angeles area to Fresno, applicant's president testified that applicant is receiving six to eight shipments per week from Shell Chemical, one or two per day from Western Building, and has a number of other customers, including PPG Industries paint plant in Torrance, that are shipping one or more loads per month. He asserted that although applicant does not have written contracts with Shell Chemical or Western Building, it has firm commitments from them. The witness testified that during September 1969, the number of shipments transported by applicant from the Los Angeles area to Fresno exceeded the number of glass shipments transported for PPG

Industries to the Los Angeles area; that it was necessary at times to send empty equipment to the Los Angeles area to pick up a load; and that this favorable experience is continuing and may reasonably be expected to continue in the future. He stated that applicant is now transporting four to five shipments of glass per day for PPG Industries into the Los Angeles area.

Discussion

As pointed out by the California Trucking Association and the staff, the Commission, in less-than-minimum rate proceedings, has declined to consider revenue from backhaul traffic unless it has been clearly established by the record that the round trip operation would be profitable; that the revenues for the portion of the haul not involved in the sought deviation were assured; and that either the round trip transportation was performed for the same shipper, or if the return haul were for an unrelated shipper, said other shipper was a customer of long standing.[1/]

According to the evidence, the round trip operation has been, is now, and for the future may reasonably be expected to continue to be profitable. For the period covered by Exhibit 2 (June 19, 1969 through August 15, 1969), the average net operating income and net operating ratio for each of the round trips were $46.59 and 84.5 percent, respectively. The load factor for the return movement of the equipment transporting the glass to the Los Angeles area was 65 percent during this period. The return load factor, according to applicant's president, is currently 100 percent and will remain at this level for the future, and the profitability of the round trip operation has increased accordingly.

1/ Ragus Trucking, Inc., 66 Cal.P.U.C. 319 (1966).

It likewise has been established by the record that the revenues from the return haul portion of the transportation are reasonably assured for the future. Applicant presently transports four or five shipments of glass per day to the Los Angeles area for PPG Industries. The rate relief is required for the one-half of the shipments to the consignees that do not have rail facilities. This would average two or three shipments per day to said consignees. According to the evidence presented by applicant, Shell Chemical and Western Building are tendering and will continue to tender a like number of backhaul shipments or more per day to applicant; said shippers are established customers who have been using applicant's service from the Los Angeles area for more than a short period of time; and while applicant has no written contractual arrangements with said customers guaranteeing backhaul traffic, it has verbal commitments from them on which it can rely. There is nothing in the record to refute this. Furthermore, as stated by applicant's president, applicant is also receiving return haul traffic from other shippers, and the total of the return haul shipments available exceeds the total number of glass shipments, including the 50 percent for which no rate relief is required.

Findings and Conclusion

After consideration, we find that:

1. The transportation of flat glass for PPG Industries from Fresno to the Los Angeles market area at the sought rate plus return haul traffic has been, is now, and for the future may reasonably be expected to continue to be a profitable round trip operation for applicant.

2. The volume of traffic and character of movement of the transportation in issue represent attractive tonnage for applicant.

3. The sought less-than-minimum rate is just and reasonable for the transportation services and conditions involved.

We conclude that the sought authority should be granted. Inasmuch as the circumstances surrounding the transportation may change at any time, the authority will be limited to a period of one year.

O R D E R

IT IS ORDERED that:

1. American Transfer Co., a corporation, is authorized to transport glass, flat, not bent, as described in Item No. 86730 of National Motor Freight Classification No. A-10, for PPG Industries, Inc., from said shipper's plant in Fresno to said shipper's customers located in Los Angeles Metropolitan Zones 201 through 262 inclusive, as described in Distance Table No. 7, at a rate less than the minimum rate established in Minimum Rate Tariff No. 2, but in no event less than 38 cents per 100 pounds, minimum weight 50,000 pounds.

2. The authority granted herein shall, on and after December 17, 1969, supersede the authority granted by Decision No. 75800 and shall expire with December 17, 1970.

This order shall become effective December 17. 1969.

Dated at San Francisco, California, this 9th day of DECEMBER, 1969.

President

Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.