

ORIGINAL

Decision No. 77242

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of H-P PRODUCE COMPANY, a corpora-
tion, under Section 3666 of the
Public Utilities Code of the State
of California, for authority to
deviate from the provisions of
Item No. 255 of Minimum Rate
Tariff No. 2 in connection with
the transportation of freight from
Fresno to Yosemite Village,
California, for the account of
YOSEMITE PARK & CURRY CO.

Application No. 51840
(Filed April 23, 1970)

OPINION AND ORDER

H-P Produce Company, a corporation, conducts operations pursuant to a highway contract carrier permit. By Decision No. 74883 dated October 29, 1968, in Application No. 50550, it was authorized to deviate from the shipping document provisions of Minimum Rate Tariff No. 2^{1/} when transporting property for the Yosemite Park & Curry Co. (Curry) from Fresno to Yosemite Village located in Yosemite National Park. The authority expired November 1, 1969.

^{1/} Sections 1(e) and 2(f) of Item No. 255 of the tariff require that the shipping documents issued by the carrier describe the property constituting the shipment in terms of the Governing Classification, Exception Ratings Tariff or as provided in the minimum rate tariff. In lieu of such descriptions, applicant was authorized to describe articles rated "Class 100 or lower" on the shipping document issued to cover certain Curry shipments as "Merchandise Rated Class 100 or Lower." For the transportation of articles so described, applicant was authorized to assess the Class 100 rates applicable to the respective weight of such merchandise. Whenever articles rated higher than Class 100 were received for the account of Curry, such articles were described, rated and charged for according to the provisions of the governing minimum rate tariff.

By this application, authority is sought to reestablish said deviation from the shipping document provisions of Minimum Rate Tariff No. 2 in connection with the aforementioned transportation for the same shipper for a period of one year. Applicant requests that the matter be processed and determined as quickly as possible inasmuch as the 1970 tourist season has already commenced.

The facts and circumstances recited in Decision No. 74883, supra, indicate that applicant transported general commodities from Fresno to the warehouse of Curry at Yosemite Village. The majority of the merchandise was shipped "collect" and transportation charges thereon were paid by Curry. The proposed description of shipments would not only save billing time and expense but the resulting freight charges would exceed those otherwise applicable under Minimum Rate Tariff No. 2. The proposed relief was limited to Curry traffic received during a single day by its agent or representative at Fresno who, in turn, consolidated such traffic and tendered it to applicant at its Fresno terminal, with a single bill of lading, as a volume collect shipment for subsequent delivery to Curry at Yosemite Village. Applicant was the sole purveyor of shipments of produce to Curry and the latter demanded that applicant transport, in for-hire service, all merchandise obtained from other suppliers for shipment from Fresno to Yosemite Village. Curry received the preponderance of all merchandise consumed or sold in Yosemite National Park and there was no common carrier service available between Fresno and the Park.

Applicant alleges that the same circumstances and conditions outlined in Decision No. 74883, supra, now exist and that the same monetary savings would accrue mutually to the benefit of the shipper and itself as carrier and would not be adverse to the public interest.

The certificate of service shows that a copy of the application was served on California Trucking Association and Fresno-Bass Lake Freight Lines on April 21, 1970. The application was listed on the Commission's Daily Calendar of April 24, 1970. California Trucking Association has informed the Commission by letter that it believes that the original circumstances have been altered through action of the carrier alter ego (Hobbs-Parson Produce operations) and that the Commission order may have been exceeded. Said letter does not question the propriety of the sought deviation from the documentation requirements. No other protests have been received.

It appears, and the Commission finds that the proposed deviation from the documentary requirements of Minimum Rate Tariff No. 2 is reasonable. A public hearing is not necessary. The Commission concludes that the sought authority to deviate from said documentation requirements should be granted.

Applicant is placed on notice that the authority granted herein is limited to the requested deviation from the provisions of paragraphs 1(e) and 2(f) of Item 255 of Minimum Rate Tariff No. 2 only. It in no way authorizes applicant or any alter ego affiliate of applicant to perform any services, including the consolidation of shipments, for Curry that are not specifically authorized by applicable tariffs.

In view of the urgency of the requested authority, it will be made effective on the date hereof.

IT IS ORDERED that:

1. H-P Produce Company, a corporation, operating as a highway contract carrier, is hereby authorized to deviate from the provisions governing the issuance of shipping documents as named in Sections 1(e) and 2(f) of Item No. 255 of Minimum Rate Tariff No. 2 when transporting

property for Yosemite Park & Curry Co. from Fresno to Yosemite Village in Yosemite National Park, subject to the following conditions:

- a. All articles included in the shipment rated Class 100 or lower shall be described on the shipping document as "Merchandise Rated Class 100 or Lower."
- b. "Merchandise Rated Class 100 or Lower" shall be subject to the Class 100 rates, applicable to the respective weight of such merchandise, named in Minimum Rate Tariff No. 2.
- c. All merchandise rated Class 100 or lower, consigned to Yosemite Park & Curry Co. at Fresno, will be consolidated by its agent or representative each day and tendered to applicant at its Fresno terminal, with one bill of lading, as a single collect shipment for subsequent delivery to Yosemite National Park.

2. The authority granted herein is limited to that described in paragraph 1 and does not authorize applicant or any alter ego affiliate of applicant to perform any services, including the consolidation of shipments, for Yosemite Park & Curry Co. that are not specifically authorized by applicable tariffs.

3. The authority granted herein shall expire one year after the effective date hereof.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 19th day of MAY, 1970.

William Squaw Jr.
President

Augustine

[Signature]

[Signature]

Vernon L. Stinger
Commissioners