

ORIGINAL

Decision No. 77348

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 WILLIAM L. ADAMS, doing business as  
 ADAMS TRUCKING CO.; BILLY R. ANDREWS  
 and SPENCER MORRISON, doing business  
 as A & M TRUCKING; CERTIFIED BUILDING  
 MATERIALS CO.; L.A. BUILDING MATERIAL  
 CO., INC.; MORGAN TRUCKING, INC.;  
 NEELY TRUCKING CO.; and THOMPSON  
 BUILDING MATERIALS, INC. for authority  
 to deviate from minimum rates pursu-  
 ant to Section 3666 of the Public  
 Utilities Code.

Application No. 50772  
 (Filed December 23, 1968)

Russell & Schureman, by Carl H. Fritze, for  
 applicants.  
 Munger, Tolles, Hills & Rickershauser, by  
Stefan M. Mason, for County Materials Co.,  
 Inc., protestant.  
A. D. Poe, J. C. Kaspar and W. A. Dillon, for  
 California Trucking Association; W. F.  
Swanson, for U.S. Gypsum Company; Loren D.  
Olsen, for Kaiser Gypsum Company; Richard  
B. Colby, for The Flintkote Company,  
 interested parties.  
George L. Hunt, for the Commission staff.

O P I N I O N

Applicants operate as highway permit carriers in Southern California. The transportation performed by applicants is primarily that of wallboard and related building materials from suppliers to building construction sites. They also perform a service known as stocking (to be described later). By this application, they seek authority to deviate from the accessorial charges set forth in Minimum Rate Tariffs Nos. 2 and 5 in connection with the stocking service.

Public hearing was held March 31, 1969, at Los Angeles before Examiner Turpen. After calling the hearing to order at 10 a.m., a recess was taken until 1 p.m. during which time the examiner and all the parties visited a building construction site in Orange County to

see the actual operation of stocking. Upon resumption of the hearing, witnesses described, for the record, the operations as observed.

The wallboard is delivered to the construction site and unloaded from the truck on the ground. The stocking team of two or more men along with a forklift, and sometimes a truck, take the required number of pieces of wallboard and place them in designated spots in the specified rooms of the buildings under construction. Applicants state that the stocking is a highly skilled operation requiring trained and specialized personnel.

The record shows that the transportation of the wallboard from supplier to the jobsite is paid for by the shipper, and that the stocking service is paid for by the building contractor. One of the applicants testified that they had been asked by the contractors to provide the trucking service so as to insure a more dependable schedule of delivery to meet construction schedules. Applicants state that at times stocking is performed by an applicant that did not perform the transportation, or that a particular applicant will perform the transportation but not the stocking. Also, stocking may be performed by other contractors who perform no transportation services and thus are not subject to regulation by the Commission. Also, according to the record, when the same applicant performs both the transportation and stocking, usually different personnel and equipment are used.

It is clear from the particular facts in this case that the operation of stocking is separate and distinct from the transportation of wallboard and related building materials to the jobsite.

In view of the evidence produced herein, the Commission finds that the stocking services as performed by applicants are not part of the transportation services also performed by applicants, and are thus not subject to the accessorial charges named in the minimum rate tariffs. We further find that such stocking services are a completely different service and in no way connected with the transportation of wallboard and other building materials handled by applicants and are not subject to the jurisdiction of the Commission.

In view of these findings, it is not necessary to discuss the arguments of the protestants to the application.

The Commission concludes that the authority sought by applicants is not necessary, and that therefore the application should be dismissed.

ORDER

IT IS ORDERED that Application No. 50772 is hereby dismissed.

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

Dated at San Francisco, California, this 4th day of JUNE, 1970.

William Lyons  
President

[Signature]

[Signature]

Commissioners

Commissioner VERNON L. STURGEON

Present but not participating.

*I will file a dissent.  
August*

A. W. GATOV, COMMISSIONER, Dissenting:

I dissent because the decision is unfair, unreasonable and improper and not supported by the record.

The majority's position is not only contrary to a legislative intent (if not mandate) as stated in Public Utilities Code Sections 3662 and 3666, but is totally inconsistent with the long-standing, sound regulatory principle which, with broad carrier and shipper support, this and other Commissions have uniformly followed.

Given a broad interpretation, the majority is virtually saying that the regulated function of a carrier is the movement of goods from one place to another, but only while the goods are on or in carrier's truck, rail car, vessel, airplane, etc. This primitive and simplistic concept has long been abandoned, and I am certain carriers and shippers alike will be appalled at the majority's conclusion that the subject movement of wallboard from truckbed to place of rest in various locations throughout a building under construction is not an accessorial service performed in connection with transportation.

If this were a simple little aberration it might be excused, but the implications are far-reaching because we regulate as service accessorial to transportation literally hundreds of operations much more sophisticated and complex than the relatively simple one of wallboard distribution.

The Commission should have asserted jurisdiction, set aside submission and entertained a petition for authority to assess charges for the operation on a board-foot basis.

If, however, it is the majority's desire to deregulate accessorial services generally, it should initiate an Order

Instituting Investigation into the whole field. If the findings and conclusions of such investigation warrant it, the Commission could then consider sponsoring legislation seeking to amend Sections 3662 and 3666.

  
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Commissioner

Dated at San Francisco, California,  
June 9, 1970.