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Decision No. 77824

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of LADS FURNITURE FREIGHT, INC.,
a corporation, for authority to
depart from the rates, rules and
regulations of Minimum Rate Tariff
No. 15, under the provisions of
City Carriers' Act and of the
Highway Carriers' Act.

Application No. 51993
(Filed June 25, 1970;
Amended September 16, 1970)

O P I N I O N

In this application, Lads Furniture Freight, Inc. (Lads), seeks authority as a highway permit carrier to refund to Sears, Roebuck & Company (Sears), a portion of the charges assessed for the month of April 1970, for transportation performed under vehicle unit rates set forth in Minimum Rate Tariff No. 15. During the period in question, applicant's operations were intermittently interrupted by a strike of its Teamster union employees.

The application, as amended, seeks to make refund to Sears in the same manner as Signal Trucking Service was authorized to refund transportation charges to Sears pursuant to Decision No. 77655, dated August 25, 1970, in Application No. 51932. The instant application indicates that the situation giving rise to the request for refund is identical to that described in Decision No. 77655, and that Lads seeks similar relief as was granted therein.

The application and amendment were served in accordance with Commission rules and notice of said filings appeared on the Commission's Daily Calendar. There are no protests. California Trucking Association has no objection to the relief sought.

The Commission finds:

1. Lads Furniture Freight, Inc., operating as a highway permit carrier, has for several years contracted with Sears, Roebuck & Co., at Los Angeles, for the transportation of property under the vehicle unit rate provisions of Minimum Rate Tariff No. 15. Such written agreements for service involved herein are for the period of April 1, 1970 to and including April 17, 1970.

2. During the period of April 1, 1970 to and including April 17, 1970, Lads experienced work stoppages caused by striking union teamster drivers in the immediate Los Angeles area. When such intermittent work stoppages occurred, Lads was unable to furnish drivers to operate its motor vehicle equipment assigned to Sears, Roebuck & Co. under written agreements as provided in Minimum Rate Tariff No. 15.

3. Applicant received compensation from Sears, Roebuck & Co. on the basis of the full vehicle unit rates for the transportation services set forth in the written agreements, even though such services were not available to the shipper at intermittent periods due to work stoppages sustained by applicant.

4. The direct labor-related cost elements included in the total driver cost factor underlying MRT 15 monthly vehicle unit rates involved herein but not actually experienced by applicant during the April 1970 work stoppages, amounts to \$4.41 per hour. Said amount includes the base driver labor rate of \$4.21 plus \$0.196 per hour for Workmen's Compensation Insurance.

5. Applicant's motor vehicle equipment leased to Sears, Roebuck & Co. was inactivated during the April 1970 intermittent strikes for a total of 120 hours less than the 168 hours per month per unit of equipment reflected in the MRT 15 vehicle unit rates.

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6. To the extent Lads would retain that portion of the compensation it received from Sears, Roebuck & Co. to cover the direct labor related cost of \$4.41 per hour for each of the 120 non-productive driver hours set forth in Finding 5 hereof, an inequitable situation would obtain within the meaning of Decision No. 67659, dated August 4, 1964, in Case No. 7783, Petition No. 1. (Unreported).

7. Lads Furniture Freight, Inc. should be authorized, under Section 3667 of the Public Utilities Code, to remit and Sears, Roebuck & Co. relieved of the burden of paying the sum of \$4.41 for each of the 120 contract hours applicant was unable to provide drivers to operate its leased equipment due to the April, 1970 teamster driver work stoppages. The resulting refund of \$529.20 has been shown to be fully justified.

The Commission concludes that Application No. 51993, as amended, should be granted. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. Lads Furniture Freight, Inc., is hereby authorized to remit to Sears, Roebuck & Co. a sum of \$4.41 for each of the 120 contract hours (168 hours per month per unit of equipment) applicant was unable to provide drivers to operate equipment on lease to Sears, Roebuck & Co. due to teamster driver strikes during the period April 1, 1970 to and including April 17, 1970. The amount of refund resulting under the order herein shall not exceed a sum of \$529.20.

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2. The authority herein granted shall expire unless exercised within thirty days after the effective date of this order.

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

Dated at San Francisco, California, this 14th day of OCTOBER, 1970.

[Signature]
Chairman
[Signature]
[Signature]
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Commissioners