

Decision No. 77834

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Herbert L. Bales and George E. Cain, Partnership, for authority to deviate from Item No. 250 of Minimum Rate Tariff No. 2.

Application No. 51873  
(Filed May 4, 1970)

John L. Feeney, for applicants.  
J. C. Kaspar, A. D. Poe and H. F. Kollmyer,  
for California Trucking Association,  
interested party.  
B. I. Shoda, for the Commission staff.

O P I N I O N

Public hearing in this matter was held in Willows on August 20, 1970, before Examiner Fraser. California Trucking Association and the Commission staff were represented at the hearing. Both recommended that the application be denied.

Applicants' evidence consisted of the testimony of Herbert L. Bales, who testified for the partnership. No exhibits were placed in evidence. Bales testified that applicants operate out of Williams, California, with 10 tractors and 7 flatbed semi-trailers. They hold a radial highway common carrier permit which authorizes statewide operation and usually haul drilling rigs and well equipment between the dealers, storage yards and drilling sites. They promptly bill the shippers involved, but payment is sometimes delayed for 30 days, or more. He testified they have been advised that the shippers mail all bills received to a distant central office, where the bills are processed and paid. The delay in payment develops during this extended payment procedure. He requested that the Commission authorize payment up to

a 45-day period to conform to the shippers' system of payment.<sup>1/</sup>  
He further testified that he hopes the extended period of payment will be made applicable to all of the shippers he provides with service, so there will be no preferred customers.

Neither of the other appearances presented evidence; both requested that the application be denied. The representative from the California Trucking Association emphasized that the application was filed to eliminate a possible inconvenience to some shippers, which cannot be particularized because of the failure of the shippers to testify; that other carriers who perform the same service have never requested this privilege and it must be therefore inferred that their shippers are complying with all of the requirements of the tariff. Finally, that it seems evident the shippers involved could arrange with a local bank or other agent to make the payments within the period specified in the tariff. The staff representative argued that applicants will have an unfair advantage over their competitors if they obtain the requested authority. He noted that the advantage would be the extended credit period which applicants have requested for all their shippers. He further argued that requests of this type should be based on necessity, not merely convenience; and that any authority requested should be limited to specifically named shippers. California Trucking Association and Commission staff representatives both agreed that the conflict should be resolved by requiring the shippers to observe the minimum rate tariff requirements.

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<sup>1/</sup> Item No. 250, para. (b), in Minimum Rate Tariff No. 2, provides that carriers may extend credit for a period of 7 days, excluding Sundays and legal holidays other than Saturday half-holidays.

Discussion, Finding and Conclusion

The application should be denied. The involved shippers did not testify and we, therefore, cannot determine the degree of inconvenience. In addition, it is obvious that an order which authorizes all shippers served by a particular carrier to disregard a tariff item would establish a precedent and nullify the item. All shippers would use the carrier to take advantage of the authority and other carriers would have to seek the same privilege to compete. It is difficult to visualize a reason sufficiently grave to justify this type of blanket authority.

Based upon the evidence, we find that compliance with tariff items cannot be excused to satisfy a shipper's convenience.

We therefore conclude that the applicants have not established that the authority they seek is warranted and that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 51873 is hereby denied.

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

Dated at San Francisco, California, this 20<sup>th</sup> day of OCTOBER, 1970.

[Signature]  
Chairman  
[Signature]  
[Signature]  
[Signature]  
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.