

ORIGINAL

Decision No. 78298

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of CLARK TRUCKING SERVICE, INC.,  
for authority to deviate from  
MRT 14-A in connection with trans-  
portation to be performed for the  
RICE GROWERS ASSOCIATION OF  
CALIFORNIA. )

Application No. 52077  
(Filed July 28, 1970)

Eldon M. Johnson, Attorney at Law, for  
Clark Trucking Service, Inc.,  
applicant.  
Arthur D. Maruna, H. F. Kollmyer and  
A. D. Poe, for California Trucking  
Association, interested party.  
Jerome Parke and B. I. Shoda, for the  
Commission staff.

O P I N I O N

Decision No. 77657, dated August 25, 1970, granted interim authority to Clark Trucking Service, Inc. (Clark) to charge less than the established minimum rates for the transportation of paddy rice, in bulk, for Rice Growers Association of California (Rice Growers), subject to further review upon consideration of the evidence to be adduced at a public hearing. The temporary authority is scheduled to expire February 25, 1971.

Public hearing was held and the application submitted before Examiner Mallory at San Francisco on December 14, 1970. Evidence was presented by applicant's president and by a certified public accountant. California Trucking Association (CTA) and the Commission staff assisted in the development of the record through examination of applicant's witnesses. CTA and the staff took no position concerning the relief sought.

Clark's president testified that Clark has engaged in hauling rice for Rice Growers for 13 years. Clark hauls paddy rice (dry rice) from rice driers and storage facilities in Northern California to Rice Growers' milling facilities at West Sacramento, and also hauls wet rice from the fields to rice driers. The same equipment is used for both types of hauls. In this application Clark seeks authority to charge one-half cent less than the applicable minimum rates in Minimum Rate Tariff 14-A (MRT 14-A) for transportation of paddy rice to West Sacramento for distances of 50 constructive miles or less. Such transportation involves 26 points of origin. Clark also seeks to charge one-half cent less than the minimum rate on hauls from Rice Growers' mill at West Sacramento to its mill at Woodland.

Clark's president testified that the paddy rice is hauled in bottom-dump trailer equipment. Clark uses approximately 30 units of equipment, consisting of a tractor and two trailers, for the hauling of paddy rice for Rice Growers. Clark owns all the trailer equipment and two of the tractors used. Other tractors are furnished by independent-contractor subhaulers, who are paid 70 percent of the gross revenues earned by Clark for each shipment transported by them.<sup>1</sup> Subhaulers have been used in this manner for several years. The witness testified that the turnover in subhaulers has been small.

The certified public accountant testified concerning the cost estimates attached to the application. The witness stated that historical cost of equipment was based on the cost of Clark's newest

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<sup>1</sup> Item 20 of Minimum Rate Tariff 14-A provides that said tariff does not apply to the transportation services performed by independent-contractor subhaulers for overlying carriers. Therefore the compensation of such subhaulers is subject to agreement between the subhaulers and overlying carriers.

tractor, which is a rebuilt 1966 model. Labor costs were based on the Teamster's Union contract applicable to the hauling of agricultural products in the area. The accountant testified that he had no facts from which he could develop the costs of the underlying carriers employed for hauling paddy rice.

The accountant compared the costs of operation using Clark's equipment and a hired driver with revenues under proposed rates for representative hauls. In each case such revenues exceeded the estimated costs by amounts ranging from \$3.83 to \$10.10 per load. The witness also endeavored to show that Clark's revenues from operations, where the tractors are furnished by subhaulers, exceeded Clark's costs based on a payment of 70 percent of gross revenues to such subhaulers.

#### Discussion

Section 3666 of the Public Utilities Code requires that in order for the Commission to grant relief from minimum rates under that section, it must find that the proposed rates are reasonable. The Commission has consistently held that, in order to make such a finding, it must be shown that proposed rates will exceed the applicant carrier's costs of providing the service.<sup>2</sup> The record herein demonstrates that the rates will be compensatory insofar as hauls by Clark in its own equipment are concerned. Similarly, the record demonstrates that the proposed rates will be compensatory to Clark in the instances where subhaulers are used. However, the record does not show the specific costs of subhaulers, nor whether the compensation paid to the subhaulers exceeds their costs. It

<sup>2</sup> Karl A. Weber, 60 Cal. P.U.C. 59, The Paper Transport Co., 63 Cal. P.U.C. 690.

may be inferred that subhaulers' operations are compensatory from the following facts: Clark has consistently paid its "tractor-only" subhaulers on the basis of 70 percent of gross revenues on paddy rice hauls; and that generally the same group of subhaulers have been continuously employed by Clark over a period of several years. It is customary in the transportation of bulk commodities to employ subhaulers, and to base compensation to such subhaulers on a percentage of gross revenues.

In W. Doran (Diamond Service), 65 Cal. P.U.C. 628, 634, we found that compensation to subhaulers based on the overlying carrier's total costs, less the costs of the services not to be undertaken by the overlying carrier, would provide a test of the reasonable compensation to the subhaulers. Using the haul from Giusti Ranch to West Sacramento as an example, the following appears to be the portion of Clark's total operating costs which would be incurred for the services performed by a "tractor-only" subhauler:

<u>Revenue to Subhauler</u> .....	\$38.64
<u>Expenses</u>	
Wages .....	21.33
Fixed Costs (68 miles @ 4.48¢ per mile)	3.05
Running Costs (68 miles @ 16.81¢ per mile)	11.43
Subtotal .....	35.81
Gross Revenue Expenses (4.77% of above) ..	1.71
Total .....	37.52

On the basis of the foregoing tabulation, it appears that compensation to subhaulers based on 70 percent of the gross revenue under the proposed rates will exceed the corresponding cost burden associated with the services to be performed by subhaulers. It thus appears that Clark will be no better off financially from the employment of subhaulers than if the entire service was performed with Clark's equipment and union drivers. Therefore, Clark will gain no

undue advantage over competing carriers by the employment of such subhaulers on hauls for which relief from minimum rates is sought herein. As indicated in Major Truck Lines, Inc. (Decision No. 77767, dated September 22, 1970, in Application No. 51685) under Section 3666, a finding of reasonableness involves the weighing of considerations of the regulatory purpose of the Highway Carriers' Act, as set forth in Section 3502, in addition to a determination that the proposed rates are compensatory.

Findings and Conclusions

We find as follows:

1. The transportation services to be performed for Rice Growers by Clark will be compensatory when full units of Clark's equipment are used.
2. Clark will perform the proposed transportation service for Rice Growers largely with trailer equipment owned by it and with tractors and drivers furnished by independent-contractor subhaulers.
3. The compensation to be paid by Clark to such subhaulers based on 70 percent of gross revenues will exceed the value of the related operating expenses shifted from Clark to said subhaulers. No unreasonable advantage will be obtained by Clark by the employment of "tractor-only" subhaulers under such conditions.
4. In view of the foregoing findings, the rates proposed in the application will be reasonable.

We conclude that the application should be granted for a further period of one year, subject to the restriction that tractor-only subhaulers be paid not less than 70 percent of the gross revenue for each haul under the proposed rates.

O R D E R

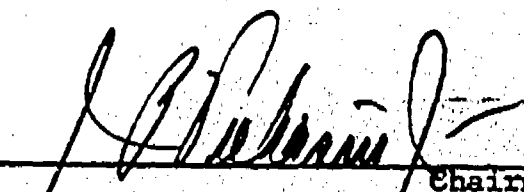
IT IS ORDERED that:

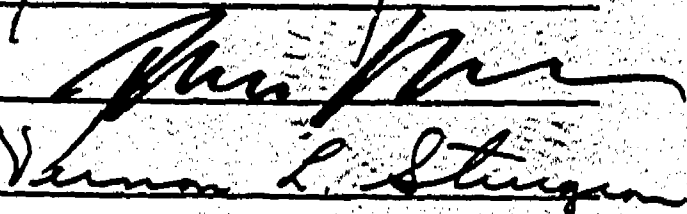
1. Clark Trucking Service, Inc., a corporation, is authorized to transport paddy rice for Rice Growers Association of California from and to the points set forth in Appendix A, attached hereto, at rates less than the established minimum rates, but not less than those set forth, and subject to the conditions specified, in said Appendix A.

2. The authority granted herein supersedes that granted by Decision No. 77657, and shall expire one year after the effective date of this order unless sooner canceled, modified or extended by order of this Commission.

The effective date of this order is February 25, 1971.

Dated at San Diego, California, this 9<sup>th</sup> day of FEBRUARY, 1971.

  
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Chairman

  
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Vernon L. Sturgeon

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Commissioners

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

APPENDIX A  
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## CLARK TRUCKING SERVICE, INC.

Commodity: Paddy Rice, in bulk.

To: Rice Growers Association of California  
West Sacramento.

	<u>Rate in Cents</u> <u>Per 100 Pounds</u>
From: Giusti Ranch & Warehouse, Robbins	11.5¢
Hamatani Eros., Dingville	11.5
Arthur James, Robbins	11.5
Rice Growers Association of California (Merrit Storage), Merrit	8.5
Montna Drier, Dingville	11.5
S & S Warehouse Co., East Nicolaus	10.5
Rice Growers Association of California (Mill-Wood), Woodland	9.5
Sacramento River Warehouse Millers Landing	13.5
T. B. Sills, Riego	8.5
Sohrakoff Brothers, Wheatland	12.5
H. A. Bennett, near Verona	9.5
J & C Bennett, near Verona	9.5
CBC Warehouse Co., Woodland	9.5
Collins and Story, Robbins	11.5
County Line Warehouse Co., Hershey	13.0
El Centro Storage Co., near Sankey	8.5
Elverta Storage Co., near Elverta	8.0
Erdman Drier, Boyers Landing	13.5
Erle Drier, near Olivehurst	13.5
Freeman Drier, Lincoln	10.5
J. Sopwith, near Elverta	8.5
Sunset Rice Drier, Woodland	9.5
Sutter Basin Co-op, Knights Landing	10.5
Tyndall Warehouse Co., Inc., Tyndall	12.5
Van Dyke Rice Drier, near Pleasant Grove	10.5
Woodland Warehouse Co., Woodland	9.5

APPENDIX A  
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CLARK TRUCKING SERVICE, INC.

Commodity: Paddy Rice, in bulk.

To: Rice Growers Association of California  
Woodland--RGA

Rate in Cents  
Per 100 Pounds

From: Rice Growers Association of California  
West Sacramento ..... 9.5¢

Minimum Weight: 48,000 pounds per unit of equipment.

When the transportation service is performed by subhaulers, using the subhauler's tractor and Clark's trailers, such subhaulers shall be paid not less than 70 percent of the gross revenue for each haul.

In all other respects, the provisions of Minimum Rate Tariff 14-A will govern the transportation services involved in Application No. 52077.