

ORIGINAL

Decision No. 78950

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into the rates, rules, regulations, charges, allowances and practices of all common carriers, highway carriers and city carriers relating to the transportation of any and all commodities between and within all points and places in the State of California (including, but not limited to, transportation for which rates are provided in Minimum Rate Tariff No. 2).

Case No. 5432
Petition For Modification No. 651
(Filed May 10, 1971)

E. H. Griffiths and George B. Dill, for
James F. Oates, petitioner.
Arthur D. Maruna, H. F. Kollmyer, and
A. D. Poe, Attorney at Law, for
California Trucking Association; and
Edward J. Mauer, for General Delivery
Service; interested parties.
John F. Specht, for the Commission staff.

O P I N I O N

James F. Oates, an individual doing business as Bus Express Service, operates as a radial highway common carrier and as a highway contract carrier. Petitioner requests that he be granted an exemption from the minimum rates, rules and regulations set forth in Minimum Rate Tariff 2 to the extent described as follows:

"Shipments consisting of packages or articles weighing not to exceed 100 pounds and not exceeding 141 inches in combined length, width and height, longest measurement 85 inches or less, transported in vehicles weighing less than 4,000 pounds licensed weight, to or from the terminals of a "passenger stage corporation", as that term is defined in Section 226 of the Public Utilities Code of the State of California, located within San Francisco Territory as defined in Item No. 270-3 of Minimum Rate Tariff 2, when such shipments have a prior or subsequent movement via passenger stage service of a carrier exempted from minimum rates established by the Commission."

Public hearing was held and the matter submitted before Examiner Mallory at San Francisco on June 15, 1971. Evidence was presented by petitioner. Other parties developed the record through cross-examination of petitioner.

Petitioner's request was modified at the hearing to seek authority to depart from the minimum rates on shipments of 100 pounds or less transported to or from bus depots in San Francisco Territory (except within San Francisco) by assessing a charge of \$1.25 per shipment. Petitioner also modified its request in order that it may be authorized to bill its customers on a monthly basis. Representatives of California Trucking Association and the Commission staff indicated that they have no objection to the granting of such authority, if limited to a period of one year.

Item 150 of Minimum Rate Tariff 2 (MRT 2) contains the following charges (including Central Coastal Territory surcharge) for shipments of 100 pounds or less transported within San Francisco Territory:

<u>Weight of Shipment (In Pounds)</u>		<u>Minimum Charge</u>
<u>Over</u>	<u>But Not Over</u>	<u>In Cents</u>
0	25	410
25	50	495
50	75	565
75	100	625

Item 250 of MRT 2 provides that shipments must be billed within seven days after date of delivery.

The evidence presented by petitioner in support of the relief sought is as follows: Petitioner engages almost exclusively in the transportation of small shipments to or from bus depots. All such shipments have prior or subsequent movement in bus express service. Petitioner currently performs service within the City of San Francisco, and within and between the East Bay communities of Oakland, Emeryville, Berkeley, San Leandro and Hayward.^{1/} Petitioner limits his service to shipments of 100 pounds or less because 100 pounds is the maximum shipment weight handled by bus companies in intrastate express service.

Petitioner owns seven small walkin-type vans, each having a gross carrying capacity of about 1,000 pounds. At the present time three trucks are used in San Francisco, two trucks are used in the East Bay Area and two trucks are spares. Petitioner employs five drivers, three full-time and two part-time, and occasionally drives himself. Petitioner's vehicles are radio dispatched. Petitioner's wife handles telephone calls requesting service, and dispatches the vehicles from an office maintained in part of petitioner's residence.

^{1/} Petitioner seeks no rate relief for shipments transported within San Francisco, as it is his belief that costs of handling shipments within San Francisco are greater than elsewhere in the Bay Area.

Within the cities of Hayward and San Leandro, petitioner limits his service to transportation between bus depots and customers located within the same city because minimum rates have not been established for movements within those cities. Petitioner also considers that his operations within and between the communities of Oakland, Emeryville and Berkeley are not subject to minimum rates because of various exemptions contained in Minimum Rate Tariff 1-B, which governs such transportation. For the foregoing transportation services, petitioner now charges \$1.25 per shipment.

Petitioner asserts that the minimum charges in MRT 2 and in MRT 1-B are excessive for transportation of express traffic to and from bus depots in San Francisco Territory and that such traffic will not move at the minimum charges in said tariffs.

Petitioner alleges that his operations would be simplified and reductions in costs would result if he could pick up shipments in an Oakland industrial park located adjacent to the Oakland-San Leandro boundary and transport such shipments to San Leandro, rather than to Oakland, at the \$1.25 charge.

Petitioner testified that he formerly conducted service within San Jose and Santa Clara; that he attempted to confine his operations to service between customers and bus depots within the same city; but volume of traffic was not sufficient to do so.^{2/} If the sought authority is granted, petitioner will not have to limit his service to a single city, but can operate freely between Santa Clara and San Jose at the \$1.25 shipment charge. Petitioner proposes to initiate service at San Jose and Santa Clara if the petition is granted.

Petitioner presented analyses of the revenues and expenses for the services involved herein. The need for certain adjustments thereto were made apparent on the record, such as provision for

^{2/} No minimum rates have been established within San Jose or within Santa Clara.

depreciation expense on vehicles, salary for the services performed by petitioner and his wife, and rent for use of the portion of petitioner's residence used as an office. Petitioner's Exhibit 651-6 shows total costs of \$250.04 per day. These costs should be adjusted to include \$72.00 per day for the services performed by petitioner and his wife, \$2.00 per day for rent, and \$17.30 per day for depreciation on motor vehicle equipment. The foregoing amount for depreciation is premised on the purchase of 5 new vehicles at a cost of \$4,500 each. When new vehicles are placed in service, maintenance expenses are substantially reduced; therefore, the daily expense for maintenance should be reduced from \$10.64 to \$2.66. The foregoing produces total daily operating expenses of \$333.36 or \$11.91 per truck hour.

Exhibit 651-6 shows that 12 truck hours are used daily in performing East Bay service, resulting in a total daily cost of \$142.92. Average daily revenues for East Bay service under the proposed \$1.25 shipment charge is \$176.60. Thus, the revenue under the shipment rate proposed exceeds the corresponding expenses related to the transportation services involved.

Petitioner points out that the Commission found in J. S. Aaronson (Peninsula Delivery & Transport Co.), 58 Cal. P.U.C. 533 (1961) that the minimum rates in Minimum Rate Tariff 2 are not the reasonable minimum rates for parcel delivery service by carriers wholly engaged in conducting parcel operations. That decision also found whenever a highway permit carrier requests authority to depart from the established minimum rates in connection with its parcel delivery operations, the order granting relief should prescribe the minimum rates to be assessed.

The Commission finds:

1. Petitioner engages almost wholly in the transportation of shipments weighing 100 pounds or less to and from bus depots, in connection with shipments having a prior or subsequent movement by bus in an express shipment. The foregoing operations are parcel delivery operations.

2. The Commission has previously found in Aaronson (supra) that MRT 2 rates are not reasonable minimum rates for carriers engaged wholly in parcel delivery operations, and that orders of the Commission authorizing parcel carriers to deviate from minimum rates (Section 3666) should prescribe the rates to be assessed, rather than grant exemptions.

3. Petitioner's showing indicates that the proposed shipment charge of \$1.25 for service within San Francisco Territory (except within the City and County of San Francisco) will exceed the related costs of operations and will be compensatory.

4. Petitioner has shown that the shipment charge of \$1.25 will be reasonable for service between points in San Francisco Territory exclusive of service within the City and County of San Francisco.

5. Petitioner has shown that billing of shipments more frequently than once a month provides excessive costs per bill for parcel delivery operations of the type performed by petitioner, and petitioner should be authorized to bill its customers on a monthly basis.

The Commission concludes that petitioner should be authorized to deviate from minimum rates to the extent provided by the order which follows, and that such authority should be limited to a period of one year.

O R D E R

IT IS ORDERED that:

1. James F. Oates, an individual, is authorized as a highway permit carrier to deviate from the minimum rates set forth in Minimum Rate Tariffs 1-B, 2 and 19, to the following extent:

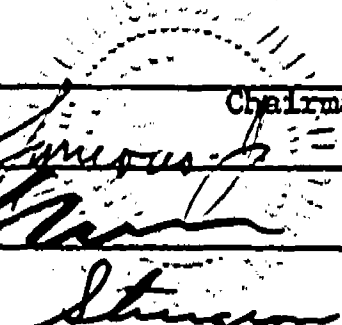
A. To assess a charge of \$1.25 per shipment for the transportation of shipments weighing 100 pounds or less between points within San Francisco Territory as described in Item 270.3 of Minimum Rate Tariff 2 (except points wholly within the City and County of San Francisco), in connection with property transported from or to a terminal of a passenger stage corporation and having a prior or subsequent movement as an express shipment.

B. To render freight bills for the transportation described in paragraph A, including transportation performed wholly within San Francisco, at billing periods not exceeding one month following the date the property is delivered.

2. The authority granted herein shall expire September 15, 1972, unless further extended by order of the Commission.

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

Dated at San Francisco, California, this 27th day of JULY, 1971.



Chairman
William J. ...

...

Vernon L. Stinson

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

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