

ORIGINAL

Decision No. 78899

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
M AND M TRANSFER COMPANY, a Cali-)
fornia corporation, for an order)
authorizing it to deviate from cer-)
tain minimum rate tariffs.)

Application No. 52697
(Filed June 16, 1971)

OPINION AND ORDER

M and M Transfer Company, a corporation, operating as a radial highway common and highway contract carrier, seeks authority to quote rates and assess charges based on units of measurement different from those prescribed in several of the Commission's governing minimum rate tariffs.¹ Applicant's sought relief is restricted to the following traffic:

1. Commodities, the transportation of which, because of size or weight, require the use of special equipment, and commodities not of unusual size or weight when their transportation is incidental to the transportation by applicant of commodities which by reason of size or weight require special equipment.

2. Pipe and tubing, and pipe and tubing fittings and supplies and materials required for the installation of pipe or tubing when the transportation of such pipe or tubing, fittings and supplies and materials required for installation of pipe or tubing is incidental to the transportation of pipe and tubing.

3. The entire contents of a plant or warehouse from an old location to a new location which include the transportation of some articles which, because of their size or weight, require the use of

¹ The tariffs involved are: Minimum Rate Tariff 1-B (East Bay Drayage), Minimum Rate Tariff 2 (Statewide General Commodities), Minimum Rate Tariff 9-B (San Diego Drayage), and Minimum Rate Tariff 19 (San Francisco Drayage).

special equipment, together with all other items involved in the same move which are not of such character.

Applicant states that it is in direct competition with Asbury System, Bigge Drayage Co., Dealers Transit, Inc., Owl Truck Company and Progressive Transportation Company. These competing carriers have been previously granted all or part of the identical authority sought herein by applicant.² According to applicant, in almost every case, the freight charges resulting under the sought relief are in excess of the charges resulting under the otherwise governing minimum rates. Applicant is agreeable, however, to making the requested authority subject to the restriction that, in no event, shall the freight charges resulting under said sought authority be less than that produced under the applicable minimum rates.

A substantial portion of applicant's transportation service requires the use of specialized equipment and highly trained personnel. Such services consist of so-called "heavy hauling", pipeline transportation and, on occasion, the movement of the entire contents of an industrial plant or warehouse. The heavy hauling service performed by applicant requires the use of special equipment and the use of highly and specially trained personnel, because of the size or weight of the commodities involved, normally not required by carriers engaged in the transportation of general commodities. Special equipment such as heavy duty forklifts and cranes are used to load and unload. Rigging services performed and the use of special equipment furnished by applicant constitute an integrated part of much of the heavy hauling services. Under the existing minimum rates applicant contends these services are not adequately recompensed because the time involved in rendering the entire service and the use of

² Bigge Drayage Co. (Decision No. 76940, in Application No. 51666), Dealers Transit, Inc. (Decision No. 76868, in Application No. 51660), Progressive Transportation Company (Decision No. 76793, in Application No. 51601). Authority granted to Asbury System and Owl Truck Company expired August 31, 1970 and September 5, 1970, respectively.

specialized equipment constitute essential factors concerning a determination of adequate compensation. Because of the nature of the transportation and service, a computation of charges on a hundredweight basis is not efficient, possible or realistic. Therefore, the transportation charge is normally quoted on a lump sum basis for the job, such as on a per load basis or an hourly basis. In addition, heavy hauling frequently involves commodities which, although not themselves requiring the use of special equipment, are so incidental to the items requiring the use of special equipment as to be inseparable from them insofar as the determination and collection of transportation charges are concerned.

Generally, the pipe hauling services rendered by applicant involve the movement of pipeline pipe to the jobsite and the stringing of the pipe along the route of the pipeline. This type of service requires the use of special equipment, special pipe unloading and stringing equipment and highly trained personnel. The factors for determining the transportation charge for these services are the terrain, transportation equipment, unloading equipment, number of loads and time involved. On the basis of these factors, the total charges are estimated, converted into a rate per piece of pipe or per foot and then submitted as such on a bid to the contractor. Pipeline contractors determine their total bid for an entire pipeline job by requiring carriers to compute their bids on the basis of per piece or per foot and then such bids are added to develop a total bid. Also, this type of service requires the transportation of pipe and tubing fittings and materials and supplies which are incidental to the transportation and required for the installation of pipe and tubing.

With reference to a determination of the transportation charges for the contents of an industrial plant or warehouse from one location to another, the weight of the commodities transported is not considered as much as is the time. This service involves a time consuming process utilizing special loading and unloading

equipment and accessorial services with reference to removal and setting up of such facilities. This operation also involves the transportation of not only articles which, because of their size or weight, require the use of special equipment, but other smaller and lighter items which are not of such character. Because of the particular nature of this type of transportation, charges should be computed on a lump sum or time basis.

In the event the application is granted, applicant agrees to retain and preserve copies of its freight bills subject to the Commission's inspection for a period of not less than three years from the date of issuance thereof; and each copy of its freight bills shall have attached thereto a statement of the charges which would have been assessed if the minimum rates had been applied and the full information necessary for accurate determination of the charges under the minimum rates.

It is alleged that many customers and potential customers have requested applicant to haul the commodities herein involved and charge on the basis of units of measurements different from those stated in the governing minimum rate tariffs. By reason of the fact that M and M transfer Company does not have the same authority to assess charges as does its competitors, applicant claims to have lost business and does not enjoy an equality of competitive opportunity for the transportation involved. It is alleged to be in the public interest to grant the sought authority so that applicant may depart from the units of measurement contained in the aforesaid minimum rate tariffs, and thereby improve its service to the shipping public and enjoy a fair and equitable competitive position in the transportation of the commodities herein involved. ✓

The certificate of service shows that copies of the application were mailed to the Highway Carriers Association and the California Trucking Association on June 16, 1971. The application was also listed on the Commission's Daily Calendar of June 21, 1971. No objection to the granting of the application has been received.

The Commission finds that:

1. Applicant engages in transportation of a specialized nature requiring the use of specially designed or constructed equipment and the performance of accessorial services not ordinarily encountered by carriers engaged in the transportation of general commodities.

2. In order to perform the specialized transportation involved herein, applicant is required by the nature of the service or the needs of the shipper to quote and assess rates in units of measurements different from those provided in the Commission's minimum rate tariffs for the transportation of general commodities.

3. Applicant proposes to assess charges no less than those applicable under the otherwise governing minimum rates and accessorial charges and to keep such records as will show that said minimum rates have been protected in all instances.

4. The authority requested by applicant has been previously granted to carriers in direct competition with applicant for the specialized traffic involved herein.

5. The proposal by applicant to assess charges in units of measurement different from those provided in the otherwise governing minimum rate tariffs has been shown to be reasonable and in the public interest.

The Commission concludes that Application No. 52697 should be granted. A public hearing is not necessary. Inasmuch as circumstances may change, the authority granted herein will be limited to a period of approximately one year.

IT IS ORDERED that:

1. M and M Transfer Company, a corporation, is hereby authorized to quote and assess rates and accessorial charges based upon a unit of measurement different from that in which the minimum rates and charges are stated in Minimum Rate Tariff 1-B, Minimum Rate

Tariff 2, Minimum Rate Tariff 9-B and Minimum Rate Tariff 19 with respect to the following transportation services:

- a. Commodities, the transportation of which because of size or weight, require the use of special equipment, and commodities not of unusual size or weight when their transportation is incidental to the transportation by applicant of commodities which by reason of size or weight require special equipment.
- b. Pipe and tubing and pipe and tubing fittings and supplies and materials required for the installation of pipe or tubing when the transportation of such pipe or tubing fittings and supplies and materials required for installation of pipe or tubing is incidental to the transportation of pipe or tubing.
- c. The entire contents of a plant or warehouse from an old location to a new location which include the transportation of some articles which because of their size or weight require the use of special equipment, together with all other items involved in the same move which are not of such character.

2. The freight charges assessed under the authority granted in ordering paragraph 1 hereof shall not be less than those which have been assessed had the rates and accessorial charges stated in the applicable minimum rate tariff been applied.

3. M and M transfer Company shall retain and preserve copies of its freight bills, subject to the Commission's inspection, for a period of not less than three years from the dates of issuance thereof; and each such copy of its freight bills shall have attached thereto a statement of the charges which would have been assessed if the minimum rates had been applied and the full information necessary for accurate determination of the charges under the minimum rates.

4. The authority herein granted shall expire with September 3, 1972.

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

Dated at San Francisco, California, this 10th day of AUGUST, 1971.

[Signature]
Chairman
[Signature]
[Signature]
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Commissioners