

ORIGINALDecision No. 79133

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HOWARD JONES, Doing Business As)
 HOWARD JONES TRUCKING, under Section)
 3666 of the Public Utilities Code of)
 the State of California, for Autho-)
 rity to Charge Rates Less Than and/or)
 Different from Those Prescribed in)
 Minimum Rate Tariff No. 2 for the)
 Transportation of Tankage, Packing)
 House, Dry, in Bulk from Selma, Ca-)
 lifornia, to Fresno, California, for)
 the Account of PETERSON MANUFACTURING)
 CO., INC.)

Application No. 52751
 (Filed July 14, 1971)

OPINION AND ORDER

Howard Jones, doing business as Howard Jones Trucking, operates as a highway permit carrier and is engaged in the transportation of head bones, hoofs and viscera, containing a high percentage of feces, from the Diamond Meat Company at Selma, to the processing plant of Peterson Manufacturing Co., Inc., at Fresno, California. Applicant requests the Commission to (1) issue its order finding the subject waste materials are properly described in Item 560 of Exception Ratings Tariff 1 and, therefore, exempt from the Commission's otherwise governing minimum rates or (2) authorize applicant to charge \$35.00 per load for the movement in question which is lower than the charge resulting under the applicable minimum rates.

The subject material is transported, in bulk, on flat-bed trailers equipped with open bins that may be side-dumped. The power equipment used consists of a Diamond T tractor and an International tractor. Applicant explains that the number of shipments per day varies from two to four and averages three loads per day, five days

per week. The shipper performs the loading and the trailers are unloaded by side-dumping the open bins at destination. It is explained that the shipments weigh from 12,000 to 18,000 pounds each and average approximately 15,000 pounds per load.

The application states that a charge of \$35.00 per load is assessed for the movement in question. Said negotiated charge is predicated upon applicant's understanding that the material in question is a fertilizer, described in Item 560 of the Commission's Exception Ratings Tariff 1 as (1) "Tankage, garbage, dry, in bags, or in bulk," or (2) "Tankage, packing house, dry in bags, or in bulk."^{1/} A member of the Commission's staff has assertedly advised applicant that the transportation involved herein is not a fertilizer exempt from minimum rate regulation but is subject to the minimum class rates applicable to "Waste Materials, meat refuse" or "Tankage" as described in Items 195210 and 180630, respectively, of the National Motor Freight Classification A-12. The specific commodity descriptions and classification ratings contained in said items of the Classification are as follows:

Item 195210:

WASTE MATERIALS GROUP

Meat Refuse, non-edible, in bags or boxes,
or barrels with or without tops.

Less Truckload Class 77-1/2

Truckload Class 35

Minimum Weight 40,000 pounds.

^{1/} Under the provisions of Item 40 of Minimum Rate Tariff 2, fertilizers, as described in Item 560 of Exception Ratings Tariff 1, are exempt from the otherwise governing rates, rules and charges contained in the former rate tariff.

Item 180630:

Tankage, derived from meat refuse and produced by the dry-rendering method, in bulk form, in pressed cakes or otherwise, crude, dried, not ground, screened not blended, and not processed in any other respect beyond the original stage of manufacture, except for the removal of grease, as an ingredient for animal or poultry feeds or for fertilizer, or for any other purposes, in bags; also TL, in bulk.

Less Truckload Class 50

Truckload Class 35

Minimum Weight 45,000 pounds.

The application alleges that in the form in which the material in question is transported, it may be used as a fertilizer or dumped as garbage because of the high percentage of viscera and large fecal content. Applicant further explains that the consignee, Peterson Manufacturing Co., Inc., segregates, cooks, and renders the material involved. It is stated that there is an approximate 50 percent product loss as a result of such processing. The end products, applicant explains, are used partly as ingredients in animal or poultry feed and partly as an ingredient for fertilizer.

Applicant contends that in the event he is required to charge a Class 35 minimum rate for the 21-mile haul of the material involved herein, the consignee will cease to use the material which, in turn, would be disposed of by the shipper as garbage. Applicant requests, therefore, appropriate authority to transport the subject material at a charge of \$35.00 per load.

In support of the sought relief a statement showing the operating revenues and expenses of Howard Jones Trucking for the 1970 calendar year is attached to the application as Exhibit A. The statement shows that applicant's entire operations for 1970 were conducted at a profit. It is explained that the carrier's entire operations for 1970 consisted of transportation of raw green hides for the account of Union Hide - Valley Co. and the subject

material for the account of Peterson Manufacturing Co., Inc. Exhibit A shows applicant's total operating revenues and expenses for 1970 and the allocation thereof as between the carrier's movement of green hides and the traffic involved in this proceeding. No other hauling was performed by Howard Jones Trucking during 1970 and to date the two aforementioned movements constitute applicant's total traffic. The exhibit further indicates that applicant's two hauling accounts are profitable, reflecting operating ratios in the 73-78 percent range. Applicant notes that since the movement in question has been assessed a freight charge of \$35.00 per load, the granting of this application will have no effect upon the carrier's current operating experience.

From the information before us it is apparent that the transportation in question involves the movement of meat refuse as described in Item 195210 of the National Motor Freight Classification A-12. In this connection it will be observed that the processing of this waste material by the consignee, as explained in the application, comes within the description for Tankage, derived from meat refuse and to be used as an ingredient for animal or poultry feeds or for a fertilizer, as described in Item 180630 of the Classification. The meat refuse transported by applicant is not, in the form in which it is shipped, a fertilizer as described in Item 560 of Exception Ratings Tariff 1 and, therefore, is subject to the governing provisions of Minimum Rate Tariff 2. Applicant's requested authority to deviate from said minimum rate regulations for a period of one year is a prerequisite to the carrier's efforts to assess a \$35.00 per load charge for the transportation in question.

It is alleged that the public interest does not require a public hearing of this matter and applicant requests the required sought relief be granted ex parte. The certificate of service shows

that a copy of Application No. 52751 was mailed on July 14, 1971 to the California Trucking Association and the California Farm Bureau Federation. Said application was also listed on the Commission's Daily Calendar for July 16, 1971. No protests have been received relative to the sought ex parte relief.

The Commission finds that:

1. Howard Jones, doing business as Howard Jones Trucking, is engaged in the transportation of meat refuse, in bulk, on flat-bed trailers equipped with open bins, from the Diamond Meat Company at Selma to the Peterson Manufacturing Co., Inc., processing plant at Fresno, California.

2. Applicant's transportation service is performed with tractor and flat-bed equipment equipped with open bins. Loading of shipments is performed by consignor and unloading is accomplished by side-dumping of open bins at destination.

3. Applicant transports two to four (average three) shipments of meat refuse per day, five days per week for the account of Peterson Manufacturing Co., Inc., from Selma to Fresno. Said shipments weigh from 12,000 to 18,000 pounds and average approximately 15,000 pounds per load.

4. Applicant has demonstrated that his assessed freight charge of \$35.00 per load for the transportation of meat refuse from Selma to Fresno, in lieu of the otherwise governing minimum rates, is reasonable.

The Commission concludes that Application No. 52751 should be granted as set forth in the order herein. 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. Howard Jones, doing business as Howard Jones Trucking, is hereby authorized to transport meat refuse, in bulk, on flat-bed

trailers equipped with open bins, for the Peterson Manufacturing Co., Inc., from the Diamond Meat Company at Selma to the processing plant of Peterson Manufacturing Co., Inc., at Fresno, California, subject to the following conditions and restrictions:

- a. A charge of \$35.00 shall be assessed for each shipment (load) transported.
- b. Carrier shall be tendered not less than two loads per day for each five working days per week; said number of loads to average not less than three loads per day for each five-day week.
- c. Each load of meat refuse shall weigh not less than 12,000 pounds and average not less than 15,000 pounds per load for the total number of loads transported per five-day week.
- d. The flat-bed trailers equipped with open side-dump bins shall be loaded by consignor and side-dumped at destination.
- e. The material transported shall be restricted to Waste Materials, viz: Meat Refuse, non-edible, as described in the governing National Motor Freight Classification.

2. Howard Jones Trucking shall retain and preserve copies of its freight bills relative to the transportation performed hereunder, subject to the Commission's inspection, for a period of not less than three years from the dates of issuance.

3. The authority herein granted shall expire with October 1, 1972.

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

Dated at San Francisco, California, this 8th
day of SEPTEMBER, 1971.

[Signature]
Chairman
William Symons, Jr.
[Signature]
Vernon L. Sturgeon
[Signature]
Commissioners