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Decision No. 80254

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
TRANSPORTATION SERVICE CO. for an)
order to deviate from the rules and)
regulations of Minimum Rate Tariff)
No. 15.)

Application No. 53282
(Filed April 21, 1972)

OPINION AND ORDER

Transportation Service Co. operates as a contract carrier. It has contracted with Shasta Beverages to furnish service on an annual basis under the provisions of Minimum Rate Tariff 15 (MRT 15) for Shasta Beverages. Applicant states that since January 18, 1972, Shasta Beverages has been struck by its employees and accordingly applicant has been unable to render service as contemplated. The conditions of MRT 15 require that the full charges be assessed even though service is not provided.

Applicant seeks authority to charge Shasta less than that set forth in MRT 15 for the period of the strike, as applicant does not incur the labor expenses. Applicant states that Shasta is receiving no benefits, but under the tariff provisions is required to pay for services not rendered. Applicant seeks authority to bill Shasta \$726 per month for each two-axle tractor and \$822 per month for each three-axle tractor in lieu of the applicable charges set forth in MRT 15 for the duration of the strike.

MRT 15 does not provide for waiver or remission of all or part of the yearly vehicle unit rates when the service has been interrupted. In Decision No. 67659, dated August 4, 1964, in Case No. 7783, Petition for Modification No. 1, this was considered, but the Commission found that, instead of a general rule, relief from the tariff provisions should be sought by the filing of formal pleadings appropriate to the circumstances. Relief similar to that sought

here has been granted to other carriers under strike conditions. (See Decision No. 78661, dated May 11, 1971, in Application No. 52534.)

In consideration of the specific circumstances involved in this application, the Commission finds that:

1. Transportation Service Co., operating as a contract carrier, has contracted with Shasta Beverages since November 1, 1971, for the transportation of property under the provisions of MRT 15.

2. Since January 18, 1972, a strike at Shasta Beverages has prevented applicant from performing the services contracted for under the provisions of MRT 15.

3. Applicant has been billing, and collecting from, Shasta Beverages at the full rates set forth in MRT 15, even though such services were not available to the shipper. During this period applicant did not incur certain direct labor cost elements involved in the rates applicable under the MRT 15 rates.

4. To the extent that applicant would receive compensation under the rates in MRT 15 in excess of its direct labor costs, an inequitable situation would obtain within the meaning of Decision No. 67659.

5. Transportation Service Co. should be authorized under Section 3667 of the Public Utilities Code to assess Shasta Beverages charges of \$726 per month for each two-axle tractor and \$822 per month for each three-axle tractor in lieu of the charges set forth in MRT 15 from February 1, 1972 to the end of the strike.

The Commission concludes that Application No. 53282 should be granted. A public hearing is not necessary.

IT IS ORDERED that:

1. Transportation Service Co., is hereby authorized to bill Shasta Beverages the rate of \$726 per month for each two-axle tractor and \$822 per month for each three-axle tractor in lieu of the charges

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set forth in Minimum Rate Tariff 15 since February 1, 1972 until the end of the strike against Shasta Beverages.

The effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 18th day of JULY, 1972.

Vernon L. Stinson
President
William J. Quinn
J. J. Wilson
John W. ...
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Commissioners