

Decision No. 80609**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 RUSSELL T. PHILLIPS, an individual,
 for authority to charge at a rate less
 than those prescribed in Minimum Rate
 Tariff 2, for the transportation of
 meat, fresh and frozen for Armour and
 Company from Dixon, California to the
 Los Angeles area, pursuant to Section
 3666 of the Public Utilities Code.

Application No. 53242
 (Filed March 29, 1972)

Michael J. Stecher, Attorney at Law, of Silver &
 Rosen, for applicant.
Arthur D. Maruna, H. Kollmyer and A. D. Poe,
 Attorney at Law, for California Trucking
 Association, interested party.
J. L. Glovka, for the Commission staff.

O P I N I O N

Russell T. Phillips (Phillips) requests authority pursuant to Section 3666 of the Public Utilities Code to charge less than the minimum rates prescribed in Minimum Rate Tariff 2 for the transportation of fresh meat in refrigerated units between Dixon, California and the Los Angeles area for Armour and Company (Armour).

Public hearing was held on June 22, 1972 before Examiner O'Leary at Fresno. The matter was submitted upon the filing of Exhibit No. 10 which was filed on June 27, 1972. Evidence was presented through applicant's manager, Armour's transportation pricing manager and the transportation manager of Armour's plant, located at Dixon. Representatives of California Trucking Association (CTA) and the Commission staff cross-examined applicant's witnesses. CTA also presented late-filed Exhibit 10.

Applicant transports fresh and frozen meat from Armour's plant at Dixon to approximately eleven destinations in the Los Angeles vicinity. The mechanics of the operation are as follows: Applicant

spots two empty trailers at Armour's plant in Dixon and then picks up two trailers which have been loaded by Armour personnel and transports the meat to the destinations specified in the Los Angeles area. Applicant also furnishes Armour with a tractor which is operated by Armour personnel to move the trailers during the loading process.

Applicant seeks authority to assess the following rates for the above described transportation: \$1.09 per hundred weight on fresh meat not requiring temperature control, \$1.14 per hundred weight on fresh meat requiring temperature control and \$1.20 per hundred weight on frozen meat. All rates are subject to a minimum weight of 30,000 pounds. Applicant also proposes that the provisions of MRT 2 will apply except that the surcharge set forth in Supplement 83 will not be applicable to the charges computed on the sought rates and the rates for temperature control service set forth in items 185 to 187-3 would not be applicable.

In order to show that the proposed rates will be compensatory, applicant's manager presented costs of conducting the operation from origin to each of the various destination points in the Los Angeles vicinity. The destinations of the shipments are located in metropolitan zones 202, 204, 220, 229, 234, 235, 244, 252 and 254. The projection of revenues, expenses and resultant profit as presented by applicant is set forth in the following table:

<u>Destination M.Z.</u>	<u>Revenue^{1/}</u>	<u>Cost^{2/}</u>	<u>Profit</u>
202	\$410.97	\$219.45	\$191.52
204	410.97	219.45	191.52
220	410.97	235.40	175.57
229	410.97	236.50	174.47
234	410.97	236.50	174.47
235	410.97	236.50	174.47
244	410.97	246.40	164.57
252	410.97	243.65	167.32
254	410.97	246.40	164.57

^{1/} Revenue computed at \$1.14 x 30,000 lbs. plus a provision for split delivery of \$66.12 plus \$2.85 surcharge.

^{2/} Cost based upon 55 cents per mile from origin to destination (one way).

The manager of applicant testified that when returning from the Los Angeles area applicant almost always has a return load either in the form of a subhaul or a shipment from an account other than Armour. Applicant estimates that the revenue from such transportation averages \$225 per load.

The transportation pricing manager of Armour testified that Armour commenced hauling meat on a proprietary basis from Dixon to Los Angeles and that if the deviation is not granted, Armour will invest in two more trucks and all hauls from Dixon would be proprietary. The transportation manager of Armour's Dixon plant testified that he estimates 960,000 pounds per month would be tendered to applicant at the proposed rates.

Neither the CTA nor the Commission staff object to the granting of the sought authority.

If the return loads are assured, the proposed rates would be compensatory.

Based on the evidence adduced the Commission finds that:

1. The revenue and cost data submitted by applicant are based upon the movement from origin to destination only.
2. The proposed rates would be compensatory with the return loads from the Los Angeles area.
3. When returning from the Los Angeles area applicant almost always has a return load either in the form of a subhaul or a shipment from an account other than Armour.
4. The proposed rates have been shown to be reasonable within the meaning of Section 3666 of the Public Utilities Code under the circumstances set forth in the preceding opinion.

The Commission concludes that the application should be granted. As conditions may change, the authority will be made to expire at the end of one year unless sooner canceled, modified or extended by order of the Commission.

O R D E R

IT IS ORDERED that:

1. Russell T. Phillips is authorized to perform transportation for Armour and Company at rates less than the minimum rates set forth in Minimum Rate Tariff 2 to the extent set forth in Appendix A, attached hereto and by this reference made a part hereof.

2. The authority herein granted shall expire one year after the effective date of this order unless sooner canceled, changed or extended by order of the Commission.

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

Dated at Los Angeles, California, this 17th day of OCTOBER, 1972.

Vernon L. Sturgeon
William Lyons Jr.

J. P. DeLoe Jr.

Thom Thum

Ed Stal

APPENDIX A

(Rates are stated in cents per 100 pounds)

Carrier: Russell T. Phillips

Shipper: Armour and Company

Commodities: Meat, carcass, part carcasses, primal and fabricated cuts, fresh and frozen.

Origin: Armour and Company, Dixon

Destinations: Metropolitan Zones 202, 204, 220, 229, 234, 235, 244, 252, and 256.

Rates: 1.09 when transported fresh without temperature control.
1.14 when transported fresh with temperature control.
1.20 when transported frozen with temperature control.

Notes:

1. The rates of 1.14 and 1.20 are intended to include refrigeration service without additional charge.
2. All of the foregoing rates are subject to a minimum weight of 30,000 pounds.
3. In all other respects the rates and rules in Minimum Rate Tariff 2 shall apply.