

ORIGINAL

Decision No. 80621

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
OUT PATIENT SERVICES, INC., for an)
Order from the Commission exempting)
applicant, by name, from the provis-)
ions of Minimum Rate Tariff Numbers)
1-B, 2, 9-B and 19, when engaging in)
the specialized transportation of)
medical laboratory specimens and)
other medically related articles.)

Application No. 53340
(Filed May 18, 1972)

Laurence L. Moore, for applicant.
Arthur D. Maruna, Herbert W. Hughes and A. D. Poe,
Attorney at Law, for California Trucking
Association, protestant.
J. L. Glovka, for the Commission staff.

O P I N I O N

Out Patient Services, Inc., operates under a highway contract carrier permit authorizing statewide operations. Applicant transports various specimens and laboratory reports of the specimens between doctors and laboratories. By this application applicant seeks an order exempting it by name from the provisions of Minimum Rate Tariffs 1-B, 2, 9-B and 19.

Public hearing was held at San Francisco before Examiner O'Leary on August 23, 1972. The matter was submitted subject to the filing of late-filed Exhibit 5 which was filed on August 28, 1972.

The president of applicant testified that applicant engages in what is commonly known as a "courier service". This courier service involves the transportation in motor vehicles, such as automobiles, station wagons and three-wheeled motorcycles not exceeding a licensed weight of 4,000 pounds, of various medically-

oriented documents and articles which have no real or intrinsic value to outsiders. These articles are of very small size or weight and consist of human and animal specimens, contained in very small glass or plastic tubes and vials, of whole blood and blood serum for medical laboratory examination; individual units of human blood; small glass slides for microscopic tissue examination; urine and stool specimens; sputum, wound and other cultures; tissue samples for pathological medical examination; X-ray photographs; medical transmittal documents and documents reporting results of medical laboratory examinations; and specimen envelopes, laboratory test forms and transmittal containers furnished by medical laboratories to their clients. They are transported for various physicians, medical laboratories, hospital laboratories, X-ray laboratories and other similar medical institutions.

The president of applicant also testified that the transportation of medical specimens involves many unique and unusual factors. Specimens generally must be protected from exposure to undue heat. Many times they must be kept cooler than prevailing temperatures and, in some instances, must be kept in a frozen condition during the course of the transportation involved. For many types of laboratory tests, specimens must be collected from patients and delivered to the test-performing laboratories within relatively brief periods of time in order to prevent chemical breakdowns or alterations which would distort test results. This total time lapse can be as brief as from one to two hours. In order to live with such stringent time requirements, patients are instructed to be at physicians' offices or at medical laboratories at times just prior to the scheduled arrival times of courier-drivers. Some specimens must be protected from exposure to light. Accompanying many specimens of blood or blood serum are very small glass slides containing minute portions of blood for microscopic examination. For certain tests, only such slides are transported. To prevent breakage of these slides and small glass tubes containing

blood and blood serum, specimen envelopes, bags or other containers must be handled with care and attention.

The California Trucking Association (C.T.A.) is opposed to the granting of the application. It believes that it is time for the Commission to review the services performed by the so-called courier-carriers and establish minimum rates for their services. The C.T.A. also contends that the transportation of the laboratory reports might be in violation of certain statutes of the United States Government regarding the private carriage of mail. In support of this contention, C.T.A. submitted late-filed Exhibit 5 which is a reproduction of various statutes from the United States Code (18 USCA Secs. 1693-1697, 39 USCA Secs. 901-906) and interpretations thereof concerning the transportation of mail.

C.T.A. has previously taken the position that minimum rates be set for courier operations. In response to said position, the Commission previously stated in Decision No. 73585, dated April 20, 1971, in Application No. 51694 et al., "If CTA believes there is a certain level below which rates should not go as their brief indicates, it should come forward with such information in a proper petition for the establishment of minimum rate regulation." Since the issuance of Decision No. 73585, our position has not changed in this regard.

With respect to C.T.A.'s contention that the transportation of laboratory reports might be in violation of certain federal statutes, an analysis of the statutes and interpretations thereof submitted by C.T.A. in Exhibit 5 does not conclusively show that such transportation is in violation of the federal statutes. If C.T.A. believes the federal statutes prohibit the transportation of the laboratory reports by applicant, it should seek its remedy within the federal system, since its contention goes to the point of whether or not applicant can transport the reports at all rather than whether or not the relief sought in this application should be granted.

Based on the evidence the Commission finds that:

1. Applicant transports various medical and laboratory specimens for laboratory or medical examination and the resultant medical or laboratory reports.
2. Applicant utilizes motor vehicles not exceeding a licensed weight of 4,000 pounds.
3. The minimum rate provisions from which applicant seeks exemption are not appropriate minimum rates, rules and regulations for the type of service applicant provides.

Based upon the above findings, the Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that Out Patient Services, Inc., is exempted from observance of the rates and rules in Minimum Rate Tariff 1-B, Minimum Rate Tariff 2, Minimum Rate Tariff 9-B and Minimum Rate Tariff 19 in connection with the transportation of the following items, when transported in a vehicle not exceeding a licensed weight of 4,000 pounds: human and animal specimens; whole blood and blood serum; small glass slides for microscopic tissue examination; urine and stool specimens; sputum, wound and other cultures; tissue samples for pathological medical examination; X-ray photographs; medical transmittal documents and documents reporting

results of medical laboratory examinations; and specimen envelopes, laboratory test forms and transmittal containers furnished by medical laboratories to their clients.

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. Stinson
President
W. J. [illegible]
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Commissioners