

Decision No. 81043

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of KINGS COUNTY TRUCK LINES)
for authority to charge less than the)
minimum rates heretofore established by)
the Commission, as authorized in Section)
3666 of the Public Utilities Code of the)
State of California.)

Application No. 53583
(Filed September 13, 1972;
amended November 8, 1972)

Roger Marken and Jack Ellingson, for applicant.
Michael M. Mitchell, for Arden Farms Company, and
J. C. Kasper, H. Hughes and A. D. Poe, Attorney at
Law, for California Trucking Association, interested
parties.
J. L. Glovka, for the Commission staff.

O P I N I O N

Kings County Truck Lines, a highway permit carrier, seeks authority to charge Arden Farms Company flat rates per round trip in lieu of the class rates, commodity rates, and refrigeration rates in cents per 100 pounds prescribed in Minimum Rate Tariff 2. This application was heard on a common record with Application No. 53584, in which applicant seeks somewhat similar authority in connection with transportation performed for Challenge Foods Corporation, on October 24, 1972 before Examiner Thompson at San Francisco and was submitted November 8, 1972 upon the filing of an amendment to the application and late-filed exhibits. There are no protests.

There are two distinct operations for which applicant seeks minimum rate relief: one which applicant calls the ice cream loop and the other which is called the cottage cheese loop. The ice cream loop involves the use of one two-axle tractor, four 24-foot refrigerated vans, and two dollies. The operation was described as follows: the driver, who is domiciled in Los Angeles, reports to work on Sunday at the Arden Ice Cream plant at 2101 South Los Angeles Street, Los Angeles, picks up a set of vans that Arden

employees have loaded with ice cream and transports the load to the Arden Ice Cream plant at San Leandro, drops off the loaded vans and picks up a set of empty vans that have been spotted previously; the driver takes a layover of eight hours and then proceeds with the empty vans to the Avoset plant at Gustine and assists in loading the vans with sterilized milk products; after the vans are loaded he proceeds to Arden's milk plant at 1900 West Slauson Avenue, Los Angeles, drops off the loaded vans and takes the tractor back to the ice cream plant where he goes off duty. While the driver is off duty, Arden employees unload the vans at the milk plant and move the empty vans to the ice cream plant where they are loaded by Arden employees; the next day, Tuesday, the driver reports to work at the ice cream plant and transports the loaded vans to San Leandro, drops off that set and picks up a different set of vans loaded with ice cream and takes them to the Arden plant at Fresno, assists in the unloading of the vans, and transports the empty vans to the Arden plant at Newman where he takes a layover of at least eight hours; during the driver's layover, Arden employees at Newman load the vans with butter or dry milk powder; the driver then takes the loaded vans to Arden's milk plant at Los Angeles, drops off the vans and takes the tractor to the ice cream plant where he goes off duty; Arden employees unload the vans and take them to the ice cream plant where they are loaded with ice cream by Arden employees while the driver is off duty; the driver then reports on Thursday and takes the loaded vans to Arden's plant in Fresno where he assists in unloading and then takes the empty vans to the Newman plant and takes a layover of eight hours; during his layover the vans are loaded with butter or dried milk powder and the driver transports the loaded vans to the milk plant at Los Angeles, drops off the vans, takes the tractor to the ice cream plant and goes off duty. While the driver is off duty, Arden employees unload the vans, take them to the ice cream plant and load them with ice cream so as to be ready for departure on Sunday. At certain times of the year the weekly routine may be varied to substitute an additional trip

from the Avoset plant at Gustine in the place of a load from Newman, but inasmuch as the distance between Newman and Gustine is only five constructive miles it would make very little difference in the cost of operation.

The ice cream loop operation provides for the total utilization of the equipment and the services of one driver with most of the loading and unloading being performed by Arden's employees. The movement of empty vans from the milk plant to the ice cream plant at Los Angeles is performed by Arden. The unusual nature of the operation enables the cost to be determined without difficulty. At the hearing, applicant presented a development of the cost which did not take into consideration increases in certain costs which were to become effective January 1, 1973. Applicant requested and was granted leave to file an amendment to its application and late-filed exhibits which would take into account the changes in cost factors. For the ice cream loop operation applicant proposes to charge Arden Farms Company \$1,398 per week, a result of three round trips per week at \$466 per trip. Late-filed Exhibit 8 shows the full cost of providing the service as \$433.88 per trip, or \$1,301.64 per week. The operation has unusual transportation characteristics and the proposed rate is compensatory.

The cottage cheese loop operation involves the total utilization of one two-axle tractor, seven 24-foot refrigerator vans, three dollies, and the services of two drivers domiciled at Tipton. The operation was described as follows: the northbound driver reports for duty at Arden's plant at Tipton and transports two vans, one laden with empty milk cases and supplies, such as empty cartons, and the other laden with various dairy products, to Arden's plant at Fresno where the van laden with dairy products is dropped off and another van containing empty milk cases is picked up; the driver then proceeds to the Arden plant at Newman where those vans are dropped off and another two which have been laden with cottage cheese and cream cheese are picked up; the driver takes those vans to the

Arden plant at Tipton and goes off duty; one of the vans is partially unloaded by Arden employees at Tipton, the southbound driver reports for duty and takes the vans to Arden's plant at Bakersfield where he assists in partial unloading and then on to Arden's milk plant at Los Angeles where those vans are dropped for the completing of unloading by Arden's employees. The driver then picks up two other vans that have already been loaded with various dairy products such as milk, sour cream dressings, yogurt, cream, citrus fruit juice, sterile toppings, cheese, butter, margarine, and salads; the driver takes those vans to the Bakersfield plant where he assists in the partial unloading of one van and reloading with empty milk crates and then proceeds to the Tipton plant where he goes off duty. While the drivers are off duty, Arden employees complete the unloading of dairy products from the van partially unloaded and reloads with empty milk crates so that when the northbound driver reports for duty there is awaiting him one van of dairy products loaded at Los Angeles and one van of empty milk cases which have been loaded at Bakersfield and Tipton.

The cottage cheese loop operation is continuous every week for six days a week resulting in 312 round trips per year. Applicant proposes to charge \$380 per round trip. The fully allocated cost of providing the service as of January 1, 1973 is estimated at \$363.93. Applicant proposes that the \$380 charge per round trip would be in lieu of the rates in cents per 100 pounds prescribed in Minimum Rate Tariff 2; in all other respects, such as the prescribed charges for accessorial services, the provisions of the minimum rate tariff would be applicable. The proposed rate will be compensatory.

In Major Truck Lines, Inc. (1970) 70 CPUC 447, the Commission stated that in an application brought under Section 3666 of the Public Utilities Code a finding that a proposed rate which is less than the applicable minimum rate is reasonable contemplates something more than a determination that the carrier will make a

profit from the transportation at the proposed rate. When Section 3666 authority has been granted there have been circumstances and conditions attendant to the transportation not present in the usual or ordinary transportation performed by common carriers or contemplated under the established minimum rates. In Major Truck Lines, Inc., it is also stated that in a proceeding to authorize a lesser rate than the established minimum rate the principal cost consideration is the cost savings directly attributable to the transportation involved and not to the ability of an individual carrier to operate at lower costs than other carriers similarly situated. In the instant case the transportation performed in the ice cream loop and in the cottage cheese loop are closely coordinated and integrated operations for a single shipper providing for the complete utilization of the services of the drivers and the equipment. The lower-than-normal costs attendant to the operations in large part are attributable to the activities of the shipper in loading and unloading freight and in moving vans between its plants while the applicant's drivers are off duty. While there are class rates and commodity rates in Minimum Rate Tariff 2 and in the tariffs of common carriers applicable to individual segments of the loop operations, there is no single rate applicable to the whole of the loop operations which, as conducted, are individual integrated transportation movements for a single shipper.

We find that the proposed rates are reasonable and that the relief sought should be granted.

O R D E R

IT IS ORDERED that:

1. Kinge County Truck Lines, a corporation, is authorized to charge Arden Farms rates different from and less than the established minimum rates, but not lower in volume or effect than the rates specified in Appendix A, attached hereto, for the transportation described in Appendix A.

2. The authority shall expire June 30, 1973 unless sooner extended, modified, or canceled by order of the Commission.

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

Dated at San Francisco, California, this 14th
day of FEBRUARY, 1973.

William L. Steyer
President
William J. Steyer - J.
William J. Steyer - J.
William J. Steyer - J.
William J. Steyer - J.
Commissioners

APPENDIX A
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KINGS COUNTY TRUCK LINES

Less than Minimum Rate Authority
for Transportation Performed for
Arden Farms

General Application:

The rates authorized herein are in lieu of the Class Rates in Section 2, the Commodity Rates in Section 3, and the Rates for Temperature Control Service in Items 185 through 187-3 of Minimum Rate Tariff 2. In all other respects the provisions of Minimum Rate Tariff 2 shall apply.

Ice Cream Loop Operation:

The rate of \$1,398 per week commencing Sunday through Saturday for a maximum of three trips as follows:

- Trip No. 1. From Arden Farms, Los Angeles to Arden Farms, San Leandro, thence to Avoset Food Corporation at Gustine and thence to Arden Farms, Los Angeles.
- Trip No. 2. Arden Farms, Los Angeles, to Arden Farms, San Leandro, thence to Arden Farms, Fresno, thence to Arden Farms, Newman, and thence to Arden Farms, Los Angeles.
- Trip No. 3. From Arden Farms, Los Angeles to Arden Farms, Fresno, thence to Arden Farms, Newman, and thence to Arden Farms, Los Angeles.
- Trip No. 3. (Alternate) From Arden Farms, Los Angeles to Arden Farms, Fresno, thence to Avoset Food Corporation, Gustine, and thence to Arden Farms, Los Angeles.

Cottage Cheese Loop Operation:

The rate of \$380 applies to transportation from Arden Farms, Newman, to Arden Farms, Los Angeles, with stops in transit at Tipton and Bakersfield for partial unloading, and thence from Arden Farms, Los Angeles, to Arden Farms, Newman, with stops in transit at Bakersfield, Tipton, and Fresno for partial unloading and loading.

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Equipment Limitations:

Equipment furnished by the carrier for the Ice Cream Loop operation shall not exceed one two-axle tractor, four 24-foot semi-trailers, and two dollies; and for the Cottage Cheese Loop operation shall not exceed one two-axle tractor, seven 24-foot semi-trailers, and three dollies.

Loading and Unloading:

All loading and unloading shall be performed by the shipper except that Kings County Truck Lines' driver may assist in loading or unloading at Avoset Food Corporation at Gustine and at Arden Farms at Fresno on the Ice Cream Loop operation; and driver may assist in loading and unloading at Bakersfield on the Cottage Cheese Loop operation.