

ORIGINAL

Decision No. 81729

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PACIFIC STATES EXPRESS, INC., a
corporation, for authority to deviate
from the rates, rules, and regulations
of Minimum Rate Tariff No. 2 in the
transportation of sugar for the account
of California & Hawaiian Sugar Company
under the provisions of Section 3666 of
the Public Utilities Code.

Application No. 53669
(Filed October 30, 1972)

Roland Schmidt and Herbert E. White, for applicant.
Philip G. Blackmore, Jr., for California & Hawaiian
Sugar Co.; Guy Hancock, for Spreckels Sugar Co.;
and Arthur D. Maruna, H. Hughes, and A. D. Poe,
Attorney at Law, for California Trucking
Association; interested parties.
John F. Specht, for the Commission staff.

O P I N I O N

By this application, applicant seeks authority to assess rates five cents per 100 pounds less than the minimum rates for the transportation of sugar in packages, on shipments subject to minimum weights of 10,000 pounds or more, for California and Hawaiian Sugar Refining Corporation (C&H) from the shipper's refinery in Crockett to points within 350 constructive miles thereof and to return empty pallets to Crockett without charge. The authority was granted on an interim basis to expire June 19, 1973 by Decision No. 80884 dated December 19, 1972. The decision provided that the application would be set for public hearing for the receipt of evidence prior to the expiration date.

Public hearing was held before Examiner Mooney in San Francisco on May 18, 1973 and was submitted on that date subject to the receipt of a late-filed exhibit which has been received. In order to avoid any lapse of the interim authority prior to the receipt of the late-filed exhibit, it was extended to September 19, 1973 by Decision No. 81491 dated June 19, 1973.

Following is a summary of the evidence presented by applicant: The minimum class rates for sugar in Minimum Rate Tariff 2 subject to minimum weights of 10,000 pounds or more include an allowance of eight minutes per ton for loading as provided in Item 142 of the tariff. Under the proposal, all loading is performed by C&H with forklift equipment owned by it. There is no expense to applicant for this service. It drops off empty trailers and picks up loaded trailers for delivery. Approximately ten truckloads of sugar are shipped via applicant each day. The savings in loading costs to applicant under this arrangement for the first three months of 1973 exceeded the five cents per 100 pound allowance to C&H. Applicant has a heavy inbound movement of traffic to Richmond, and the C&H haul provides it with much needed backhaul traffic. The proposed rates are compensatory. Its operating ratio for the year 1972 was 91.7 percent.

California Trucking Association (CTA) objected to the granting of the authority unless it were restricted to transportation performed with applicant's own equipment only. Applicant's late-filed Exhibit 2 summarized all transportation performed by subhaulers under the interim authority. It showed that the bulk of the subhauling was performed by Central Coast Truck Service, Inc., an affiliated company, and that only a very minor portion thereof was performed by other companies. Also included in Exhibit 2 was a suggested amendment to the interim authority which would provide that compensation to subhaulers would be based on the applicable minimum rate without the five cent allowance. By letter dated June 18, 1973, CTA stated that it agreed with the suggested amendment, and, on the basis thereof, withdrew its objection.

Findings

1. The type of service which applicant will perform under the proposal herein is different from that contemplated by the minimum rate orders.
2. Operations under the proposed allowance and governing rules, as amended by late-filed Exhibit 2, may reasonably be expected to be profitable during the forthcoming year.
3. The proposed allowance and governing rules, as amended by late-filed Exhibit 2, are reasonable.

Conclusions

1. The application, as amended by late-filed Exhibit 2, should be granted.
2. Because the conditions under which the transportation is to be performed may change, the authority to be granted should be limited to a period of one year unless sooner canceled, modified, or extended by order of the Commission.
3. The order should be made effective on September 19, 1973, the date the interim authority expires.

O R D E R

IT IS ORDERED that:

1. Pacific States Express, Inc., a corporation, is authorized to depart from the minimum rates set forth in Minimum Rate Tariff 2, by charging rates five cents per 100 pounds less than the applicable class rates for the transportation of sugar, in packages, minimum weight 10,000 pounds per shipment, from California and Hawaiian Sugar Refining Corporation at Crockett to points not over 350 constructive miles from Crockett when shipper loads without expense to carrier and to return empty pallets to Crockett without charge, subject to the conditions and limitations set forth in Appendix A attached hereto and by this reference made a part hereof.

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

The effective date of this order shall be September 19, 1973.

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

Veran L. Styrum
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A
Page 1 of 2

Carrier: Pacific States Express, Inc.

Shipper: California and Hawaiian Sugar Refining Corp.

Commodity: Sugar, in packages.
Minimum Weight 10,000 pounds per shipment.

Rates: Class Rates named in Minimum Rate Tariff 2 applicable on shipments of sugar in packages weighing 10,000 pounds or more, less an allowance of 5 cents per 100 pounds when shipments are loaded by shipper without expense to carrier, subject to Notes 1 through 4.

Note 1: Rates named are subject to the Central Coastal Territory surcharges named in Supplement No. 75 to Minimum Rate Tariff 2, where applicable, also all other applicable provisions shown in Minimum Rate Tariff 2 will apply except that Items Nos. 200 to 240 and paragraph (a) of Item 45 will not apply.

Note 2: When palletized shipments of sugar are transported under rates named herein, the empty pallets, platforms, or skids may be transported to the point of origin of the palletized shipment without charge subject to the following terms and conditions:

- (1) Shipment must be loaded into carrier's equipment by the consignor and/or unloaded by the consignee with power equipment, furnished and used without expense to the carrier and when no services are performed at carrier's expense or by carrier personnel.
- (2) Shipper must indicate the number of pallets and weight thereof on bill of lading covering the loaded movement, and must show reference to the shipping document and date of shipment of the inbound movement on the outbound shipping document.
- (3) Shipper must indicate on shipping documents that palletized shipments were loaded directly onto trailers by power-loading equipment operated by personnel furnished by shipper; and/or receivers must show on carrier's delivery receipt that shipments were removed by power-loading equipment operated by personnel furnished by receiver.

APPENDIX A
Page 2 of 2

- (4) Carrier will assess applicable tariff charges on empty pallets under the following conditions:
 - (a) If consignee immediately upon receipt of shipment fails to provide carrier with up to a like number of pallets, either for a return movement, or loaded for a beyond move by carrier, or
 - (b) Tenders any empty pallets in excess of the number of loaded pallets transported by carrier on said shipment.
- (5) The constructive mileage from point of origin to point of destination of the shipment shall not exceed 350 constructive miles.
- (6) For the purpose of this authority, empty pallets, platforms, or skids shall be as described in Item No. 150370 (Sub 1), 150380, 150390 (Sub 2), or 150430 (Sub 2) of National Motor Freight Classification A-12; six inches or less in height or nested solid (as defined in Rule 110 of said classification), and of wood, metal, or wood and metal construction.

Note 3: The rates herein authorized shall not be applicable to any transportation Pacific States Express, Inc. is authorized to perform as a certificated highway common carrier.

Note 4: On any shipment where a subhauler is used to provide the services covered by this item, subhaulers will be compensated on the basis of the applicable minimum rate without the allowance provided herein. No deduction from subhauler revenues greater than that ordinarily applicable to carrier's regular subhauling arrangements shall be made.