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Decision No. 81764

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HARTMANN BROS. FARM
ENTERPRISES, INC., for authorization
to deviate from Item 240 of Minimum
Rate Tariff No. 14-A.

Application No. 53635
(Filed October 11, 1972)

John Hartmann, for applicant.
J. C. Kaspar, Arlo D. Poe, Attorney at Law,
and Herbert W. Hughes, for California
Trucking Association, protestant.
Helen J. Dalby, for herself, interested
party.
B. I. Shoda, for the Commission staff.

O P I N I O N

Hartmann Bros. Farm Enterprises, Inc. seeks authority to deviate from the credit rule set forth in Item 240 of Minimum Rate Tariff 14-A (MRT 14-A).

Public hearing was held before Examiner O'Leary at Woodland on April 16 and May 21, 1973. The matter was submitted subject to the filing of written closing statements which have been filed by protestant and the Commission staff.

Item 240 of MRT 14-A provides that carriers may extend credit for transportation and accessorial charges for a maximum period of seven days after presentation of the freight bill to the debtor. The freight bill must be presented to the debtor within seven days after delivery of the shipment. Applicant seeks authority to extend credit to debtors for a period of thirty days.

Applicant's vice president testified that freight bills are always presented to debtors within seven days after delivery, but he has been encountering difficulty in collecting charges within the prescribed credit period of seven days.

Three of applicant's shippers testified that it is virtually impossible to pay freight charges within seven days because of the time-lag between harvesting, selling, and receipt of payment for their grain. It usually takes thirty days for the shippers to be paid for their grain.

Order Setting Hearing dated September 22, 1970 in Case No. 5432 (OSH 601) was issued, upon request of the Commission's Transportation Division, for the purpose of receiving evidence relative to the need to establish or revise rules concerning collection of charges, credit provisions, and payment of moneys due shippers on claims in the applicable minimum rate tariffs. It was also determined that evidence concerning OSH 601 should be heard on a common record with Order Granting Rehearing (Decision No. 77776 dated September 29, 1970) of Decisions Nos. 77668 and 77669 dated August 25, 1970 in Cases Nos. 5437 and 5670, respectively.

Subsequent to public hearings being held in these proceedings the Commission issued Decision No. 80088 on May 18, 1972. Ordering Paragraph 1 of Decision No. 80088 states:

"1. The Commission's Transportation Division staff shall conduct an accelerated enforcement and tariff compliance program, in Northern, Central and Southern California, for the purpose of attaining carrier compliance with outstanding minimum rate orders governing the collection of charges within prescribed tariff credit periods. Thereafter, the staff shall advise the Commission relative to:

- (a) The staff's evaluation of the credit rule violations disclosed pursuant to the aforementioned program, and

- (b) The changes in minimum rate tariff credit rules, if any, deemed necessary and justified to insure that said tariff rules are responsive to the present carrier-shipper (debtor) transportation requirements."

This application was filed as a result of a representative of the Commission's Transportation Division staff contacting applicant pursuant to the directive contained in Ordering Paragraph 1 of Decision No. 80088. To date the Commission's Transportation Division staff has not advised the Commission as directed by Ordering Paragraph 1 of Decision No. 80088.

Because recommendations for changes in minimum rate tariff credit rules may be forthcoming and because a grant of the authority sought herein would enable applicant to extend credit for a longer period of time than his competitors, thus giving him a competitive advantage, this application should be denied.

Based upon the evidence we find that the proposed deviation from Item 240 of Minimum Rate Tariff 14-A has not been shown to be reasonable or justified. The Commission concludes that the application should be denied.

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O R D E R

IT IS ORDERED that Application No. 53635 is denied.

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

Dated at San Francisco, California, this 21st day of AUGUST, 1973.

Vernon L. Sturgeon
President
William J. Lyons
William J. Lyons
William J. Lyons
Commissioners

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