

ORIGINAL

Decision No. 81975

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of McDANIEL-COSTA  
TRUCKING, INC., for deviation from  
collection charges provisions and  
for amendment to permit to operate  
as a radial common carrier.

Application No. 53743  
(Filed December 11, 1972)

Lobner & Bull, by Kneeland H. Lobner,  
Attorney at Law, for McDaniel-Costa  
Trucking, Inc., applicant.  
J. C. Kaspar, Herbert W. Hughes, and  
Arlo D. Poe, Attorney at Law, for  
California Trucking Association,  
protestant.  
Russell D. Corning, for the Commission  
staff.

O P I N I O N

McDaniel-Costa Trucking, Inc., applicant, is authorized as a radial highway common carrier to transport property subject to the rates, rules, and charges named in the Commission's Minimum Rate Tariff 2 (MRT 2). Applicant requests authority to deviate from the provisions governing the length of time carriers may extend credit for the payment of their freight charges as set forth in Item 250 of MRT 2.

Public hearing was held before Examiner Gagnon on June 19, 1973 at Sacramento. The petition was submitted subject to the filing of a closing statement by protestant and reply thereto by petitioner on or before August 10, 1973. The sought relief was opposed by the California Trucking Association and the Commission's Transportation Division staff.

Pertinent portions of the current credit provisions set forth in Item 250 of MRT 2 are:

- "(a) Except as otherwise provided in this rule, transportation and accessorial charges shall be collected by the carriers prior to relinquishing physical possession of shipments entrusted to them for transportation.
- "(b) Upon taking precautions deemed by them to be sufficient to assume payment of charges within the credit period herein specified, carriers may...extend credit in the amount of such charges...for a period of 7 days, excluding Sundays and legal holidays other than Saturday half-holidays. ...When the freight bill is not presented to the debtor on or before the date of delivery, the credit period shall run from the first 12 o'clock midnight following the presentation of the freight bill.
- "(c) Freight bills for all transportation and accessorial charges shall be presented to the debtors within 7 calendar days from the first 12 o'clock midnight following delivery of the freight."

Applicant seeks authority to deviate from the credit regulations prescribed in Item 250 of MRT 2 so that it may extend credit to the Cen-Vi-Ro Pipe Corporation for a period of 30 days, excluding Sundays and legal holidays other than Saturday half-holidays, in which to remit applicant's freight charges.

For the past ten years McDaniel-Costa Trucking, Inc. has been operating exclusively for Cen-Vi-Ro Pipe Corporation. This California shipper is a subsidiary of Raymond International, Inc., whose main office is located in Houston, Texas. Applicant explained that the sought authority to deviate from the governing credit provisions of MRT 2 is necessary because the Cen-Vi-Ro Pipe Corporation is unable to obtain the required authority and/or funds from its parent company in time to pay applicant's freight bills within the prescribed credit period. The controller for Cen-Vi-Ro

A. 53743 gl/am

Pipe Corporation testified in support of the sought relief. His testimony is summarized in a letter dated November 21, 1972, pertinent portions of which follow:

"TO WHOM IT MAY CONCERN

"Subject: Accounts Payable

"McDaniel-Costa Trucking has been doing hauling for us for over 10 years and there has never been any problems with service or payment. . . . I write this letter explaining our accounts payable procedure because according to P.U.C. we are not paying our bills on a timely basis. First, I should say that McDaniel payments have always gone out as fast as any payment we make, even if there are discounts involved.

"Let's take a typical shipment that went out on Wednesday, November 1, 1972 and follow it through the accounts payable until it is paid. We would receive this billing on Wednesday the 8th of November at 2:00 PM in our Stockton office. This item will be processed with all other A/P on Friday and forwarded to our home office in Lockeford to arrive on Monday, November 13th. It has now been approved, extensions checked, rate check, etc. and is ready for payment. This billing is now in the home office on Monday, but nothing will be done with it until Friday. On Friday we request funds for payment from our parent company. On Friday, November 17th this item will be included with all other accounts payable and a letter will be sent requesting funds for payment. If the funds are not available then it will not be paid, naturally, but let's say there isn't any delay and we do get the funds from Raymond International Inc. on Wednesday, November 22nd. The checks will then be typed and mailed out on Thursday or Friday and McDaniel could receive it on the 27th.

". . . We are set up to make payments two times a month. One week in the month (first week) no accounts will be paid, because the people who handle this department are doing closing work. One week in the month the funds are not available because we have not received the payments from our customers. Thus we can not make payments. In any case we are just set up to make payments on the 10th and 25th of the

month. Any payment other than on these dates will require special handling, and as previously stated, the fastest would be 27 days. There are items which come in just after our cut-off which would run 45 days until payment, but the average percentage of payables are paid as soon as possible which is approximately 30 days."

This proceeding is one of several filings generated by the recent accelerated enforcement and tariff compliance program instituted by the Commission's Transportation Division staff pursuant to Decision No. 80088 dated May 8, 1973 in Case No. 5432 (OSH 601) et al. The purpose of such a program was to first obtain carrier compliance with outstanding minimum rate orders governing the collection of charges within the prescribed credit period as a prerequisite to a subsequent evaluation concerning the propriety of existing Commission credit regulations.

The controller for Cen-Vi-Ro Pipe Corporation explained that the established procedure for processing local billings through the out-of-state headquarters of the parent company did not permit him to remit payment of applicant's freight charges within the credit period established by the Commission. He stated that although changes in accounting procedures would permit compliance with the present MRT 2 credit rule, it would entail revision of company policies which were undesirable because of the resulting inconvenience and possible added expense to the shipper.

The opposition of the California Trucking Association to the sought relief is summarized in a closing statement filed on July 16, 1973. Protestant notes therein that the Commission has already addressed itself to many of the issues involved herein in prior decisions:

1. Re Hobbs Trucking (1970), 70 CPUC 699, 704.

"The duty of a carrier to collect transportation charges within the time limits prescribed by the various minimum rate tariffs is an effective way of preserving the minimum rate schedule. The shipper must not be allowed to gain any advantage

including the advantage that he would gain from the free use of the carrier's money, as a result of the shipper withholding prompt payment."

2. Re Decision No. 76624 (1969) in Case No. 8935.

"The staff presented evidence that the carrier had failed to collect payments from shippers within the time periods prescribed...and has thereby extended credit beyond the allocated time...

"Respondent testified as to his efforts to collect the transportation charges. The respondent was not successful, due to the fact that the shippers have either gone bankrupt or unable to pay at this time.

"This situation points out the necessity of strict observance of all tariff rules adopted by this Commission for the protection of the shipping public and carriers."

3. Re Decision No. 77834 (1970) in Application No. 51873.

"Based upon the evidence, we find that compliance with tariff items cannot be excused to satisfy a shipper's convenience."

Protestant contends that approval of the sought relief, in addition to being inconsistent with prior related decisions of the Commission, would also be inconsistent with the objectives of the existing review of the credit regulations contemplated by Decision No. 80088 and the principles enunciated therein. Protestant also directs attention to the fact that Commission staff audits of the credit practices of carriers, initiated pursuant to Decision No. 80088, reveals that a majority of shippers and carriers are in compliance with the credit regulations set forth in the various minimum rate tariffs of the Commission.

The trucking association also requests the shipper (and its employees and officers) be placed on notice that "continued non-compliance with the Commission's credit rules, either with applicant or any other California carrier, will place him in jeopardy of Commission action for willful violation of the Commission's regulations (see Chapter 11 of the Public Utilities Act and Article 10, Chapter 3 of the Highway Carriers Act)."

The Commission's Transportation Division staff also registered its opposition to the sought relief since it was predicated solely upon the convenience of the shipper.

Findings

1. Authority to extend credit beyond the time period currently prescribed in Item 250 of Minimum Rate Tariff 2 is sought by applicant solely as an accommodation to the shipper.

2. The inter-corporate accounting procedures observed by the shipper are self-serving and do not reflect acceptable accounting methods for the prompt payment of its transportation charges. Accounting procedures are readily available to the shipper involved which would permit the payment of applicant's freight charges within the established credit period.

3. Applicant's freight charges are, in the first instance, due upon the carrier's delivery of shipment. The extension of credit, under the existing provisions of Minimum Rate Tariff 2, constitutes a financial service to the shipper by applicant for which no charge is currently provided in the tariff.

4. The requested authority to deviate from the Commission's current credit regulations set forth in Minimum Rate Tariff 2 has not been shown to be reasonable or otherwise justified.

Under the circumstances, it is concluded that applicant has not established that the sought relief is warranted and that its application therefor should be denied.

A. 53743 gl

O R D E R

IT IS ORDERED that Application No. 53743 is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10th  
day of OCTOBER, 1973.

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President  
William J. Sturgeon  
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Commissioners

Commissioner Vernon L. Sturgeon, being  
necessarily absent, did not participate  
in the disposition of this proceeding.