

Decision No. 82040**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 Margarita DeRose and Robert DeRose, )  
 dba DeRose & Son, for authority to )  
 deviate from Minimum Rate Tariff )  
 No. 2 for transporting strawberry )  
 plants shipped by Driscoll Straw- )  
 berry Associates, pursuant to )  
 Section 3666 of Public Utilities )  
 Code. )

Application No. 53629  
 (Filed October 10, 1972)

Harry O. B. Farris, Attorney at Law, for applicants.  
Marvin Handler, Attorney at Law, for Hawkey  
 Transportation, Inc., protestant.  
J. C. Kaspar, Arlo D. Poe, Attorney at Law, and  
 Herbert W. Hughes, for California Trucking  
 Association, interested party.  
Russell D. Corning, for the Commission staff.

O P I N I O N

Margarita DeRose and Robert DeRose, doing business as DeRose & Son, seek authority to assess rates less than the established minimum rates for the transportation of rooted strawberry plants, in burlap bags, for Driscoll Strawberry Associates from nurseries where they are grown in Red Bluff and McArthur, to Driscoll's plant in Watsonville where the plants are prepared for distribution and replanting.

By interim order in Decision No. 80697 dated October 31, 1972, the relief sought was granted on an interim basis until April 30, 1973, when it expired. Decision No. 80697 also ordered that a public hearing be scheduled for the receipt of evidence. Public hearing was held on July 18, 1973 before Examiner O'Leary at Watsonville.

The interim order authorized applicants to assess charges of \$324.15 from Red Bluff to Watsonville and \$375.45 from McArthur to Watsonville. At the hearing applicants amended the application by increasing the proposed charges to \$329.55 from Red Bluff to Watsonville and to \$386.25 from McArthur to Watsonville. The proposed charges were computed by utilizing the applicable minimum rates in Minimum Rate Tariff 2 for a 27,000 pound shipment plus applicable surcharge.

One of the applicants testified that the plants are loaded at beds from which they are dug and the weights of the shipments will vary from 24,000 pounds to 34,000 pounds depending upon the condition of the ground when the plants are dug. If the ground is dry, less dirt will cling to the roots resulting in lighter loads than if the ground is moist and more dirt clings to the roots. Applicant desires to assess the applicable minimum rates for the shipments based on a weight of 27,000 pounds regardless of the weight of the shipments.

Applicants' cost study, which is part of Exhibit 1, did not contain any provisions for the costs of oil, depreciation, workmen's compensation, drivers' vacations, and indirect expenses. The cost study was further deficient in that certain costs contained therein were not based upon performance factors but rather on estimates by one of the applicants.

This Commission has previously held in applications seeking deviations from minimum rates that a showing that the proposed rates will exceed the costs of providing the service is indispensable to the requisite finding that the proposed rates are reasonable. We are unable to determine from applicants' showing whether or not the proposed rates will exceed the costs of providing the service because of the deficiencies in applicants' cost study.

Based on the evidence adduced, the Commission finds that:

1. The cost data submitted by applicants does not accurately reflect the cost of the transportation.
2. It can not be determined from the evidence whether or not the proposed rates will exceed the cost of providing the service.
3. The proposed rates have not been shown to be reasonable within the meaning of Section 3666 of the Public Utilities Code.

The Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 53629 is denied.

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

Dated at San Francisco, California, this 24th day of OCTOBER, 1973.

Vernon L. Stinson  
President  
William J. Symons  
H. H. H. H. H.  
John M.  
Edward  
Commissioners