

Decision No. 82049

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOE N. FLORES, an individual, dba Flores Farms, to deviate from the rates as set forth in Minimum Rate Tariff No. 2 for the transportation of wooden grape stakes for KEM-KER TIMBER PRODUCTS of Visalia, California, under the provisions of Section 3666 of the Public Utilities Code.

Application No. 54110  
(Filed June 19, 1973)

Howard E. Meyers, for Joe N. Flores,  
applicant.  
A. D. Poe, Attorney at Law, Ed Bill, and  
Herb Hughes, for California Trucking  
Association, interested party.  
George L. Hunt, for the Commission staff.

O P I N I O N

Joe N. Flores, an individual doing business as Flores Farms, possesses a radial highway common carrier permit authorizing operations within a radius of 350 miles of Riverdale. He requests authority, as amended, to deviate from the applicable minimum rates in Minimum Rate Tariff 2 (MRT 2) for the transportation of wooden grape stakes between points within a radius of 350 miles of Riverdale for the account of Kem-Ker Timber Products of Visalia. Interim authorization as requested in the application was granted on August 21, 1973. The matter came on for hearing at Fresno before Examiner Pilling on August 22, 1973.

Applicable minimum rates for wooden grape stakes in bundles are governed by Item 160400, National Motor Freight Classification A-13 and are at Class 35, minimum weight 36,000 pounds. Applicant proposes to charge the rates based on the constructive mileages set

forth in MRT 2, Item 690, Lumber and Forest Products, List A, 50,000 pounds minimum weight.

Applicant's witness testified that the subject grape stakes move in prestrapped bundles which permit ease in forklift loading and unloading. Each bundle weighs approximately 5,000 pounds and 10 bundles make up a truckload. Shipments comprising as high as 30 truckloads have moved from Alameda. Since applicant received its radial highway common carrier permit in April 1973, applicant has handled many loads of the subject commodity. Applicant submitted detailed cost figures of its proprietary farm trucking operation and applied them to three typical hauls under the proposed operation: For a typical haul from Alameda to Hanford, a distance of 212 constructive one-way miles, under the proposed rates applicant will gross \$270 on a 50,000-pound load ( $.54 \text{ per cwt} \times 50,000$ ). Applicant estimates that its round trip fully allocated costs for performing such service is \$161.87, leaving it a net of \$108.13. A haul from Alameda to King City, 121 constructive miles, will cost applicant an estimated \$116.45 in round-trip expenses and net it \$108.55 on a gross revenue of \$225. For a haul from Hanford to San Joaquin, a distance of 47 one-way miles, applicant will gross a total of \$130 versus a round-trip cost of \$56.54 for a profit of \$73.46. Applicant's balance sheet shows that as of December 31, 1972 he had a net worth of \$701,279.

The witness for Kem-Ker Timber Products asserted that it expected to move approximately 25,500 tons of the subject commodity during the year 1973, the volume being directly dependent on the amount of grapes being planted. The volume is first ascertained by his company which then places a yearly order with its supplier in Malaysia, under an agreement to ship certain parts of the order at stated intervals and other parts when called for or as produced. After the order is placed Kem-Ker Timber Products will sell against the order and expected arrival dates. It may or may not have made sales against all or part of a part-order by the

time the part-order arrives at the pier at Alameda or Long Beach. If it has not made sales comprising the entire part-order shipment it will store the unsold portion at the pier, preferably, or at some other location and then will draw from storage as sales of the stored commodity are made. In other instances the part-order has been sold prior to its arrival so the part-order moves straight through from the steamship to inland destinations with a short stop on the pier for custom's clearance or to await transportation.

The representative of the California Trucking Association offered no objection to the particular level of the proposed rates but pointed out that applicant's cost study did not relate to the operation involved. Premised on the apparent through movement aspect of some of the shipments and shipper witness' lack of detailed knowledge as to the status, whether moving in intrastate or foreign commerce, of some of the moves, he questioned whether or not some of the proposed moves were within the jurisdiction of this Commission.

The representative for the staff offered no objection to the granting of the application, but stated that the authorization should be limited to one year's duration to conform to the practice of the Commission in authorizing deviations from minimum rates.

Concerning the question of whether or not all or part of the proposed moves will be subject to our jurisdiction or that of the Interstate Commerce Commission, it is apparent that the circumstances of the moves determine whether they are within our jurisdiction and therefore properly radial highway common carrier moves. Applicant and its supporting shipper are admonished not to take our granting of this application as relieving them of the responsibility of the good faith determination of the exact status of each of the moves before shipments are undertaken and of whether or not applicant possesses the appropriate operating authority to move the shipment.

After consideration the Commission finds and concludes that applicant's cost evidence will be reasonably related to the proposed relatively uncomplex operation; that the proposed rates are reasonable and compensatory; that the application should be granted for a period not to exceed one year from the effective date of this order; and that Interim Decision No. 81771 dated August 21, 1972 should be canceled.

O R D E R

IT IS ORDERED that:

1. Joe N. Flores, doing business as Flores Farms, is authorized to charge less than the applicable minimum rates in Minimum Rate Tariff 2 for the transportation of wooden grape stakes between points within a radius of 350 miles of Riverdale for the account of Kem-Ker Timber Products as more specifically set forth in Appendix A attached hereto and by this reference made a part hereof.

2. The authority granted herein shall expire one year from the effective date of this order.

3. The authority granted in Decision No. 81771 dated August August 21, 1973 is canceled.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 30th day of OCTOBER, 1973.

Vernon L. Sturges  
President  
William Synovis, Jr.

[Signature]  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Carrier: Joe N. Flores, doing business as Flores Farms.

Shippers: Kem-Ker, Inc. and Kem-Ker Timber Products, both of Visalia.

Commodity: Wooden grape stakes in bundles.

Rates:

Section 1

The minimum rates and rules set forth in Item 690, Lumber and Forest Products, List A, 50,000 pounds minimum, Minimum Rate Tariff 2, are applicable subject to the conditions provided in Section 2 herein.

Section 2

Application of Rate:

The rates set out in Section 1 herein will apply only on shipments of the subject commodity moving between points within 350 miles of Riverdale.

Note 1: Each unit of carrier's equipment used to transport commodities moving under the provisions of this section shall be subject to a minimum weight of not less than 50,000 pounds.

Note 2: The provisions of this section apply only on prepaid shipments, the transportation charges for which are paid by Kem-Ker, Inc., or Kem-Ker Timber Products.

Note 3: One hour free time will be allowed for loading and one hour free time will be allowed for unloading of shipments. Whenever the elapsed time between commencement and completion of loading and unloading exceeds one hour, additional charges for delay time in excess of one hour shall be assessed as provided for in Item 145 of Minimum Rate Tariff 2.

Note 4: The shipper shall load the shipment, and the consignee shall unload the shipment.