

ORIGINALDecision No. 82140

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into the rates, rules, regulations, charges, allowances, and practices of all common carriers, highway carriers, and city carriers relating to the transportation of any and all commodities between and within all points and places in the State of California (including, but not limited to, transportation for which rates are provided in Minimum Rate Tariff No. 2).

In the Matter of the Investigation into the rates, rules, regulations, charges, allowances, and practices of all common carriers, highway carriers, and city carriers relating to the transportation of property within San Diego County (including transportation for which rates are provided in Minimum Rate Tariff No. 9-B.)

In the Matter of the Investigation into the rates, rules, regulations, charges, allowances, and practices of all common carriers, highway carriers, and city carriers relating to the transportation of property in the City and County of San Francisco, and the Counties of Alameda, Contra Costa, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma.

Case No. 5432
Petition for Modification
No. 766
(Filed September 21, 1973)

Case No. 5439
Petition for Modification
No. 190
(Filed September 21, 1973)

Case No. 5441
Petition for Modification
No. 277
(Filed September 21, 1973)

O P I N I O N

Petitioner Kevin W. De Spain, dba Continental Courier Service, requests that he be exempted by name from the provisions of Minimum Rate Tariffs 1-B, 2, 9-B, and 19 in connection with his permitted radial highway common carrier operations.

The petition shows that petitioner engages in what is commonly known as a "courier service" which involves the transportation in motor vehicles, such as automobiles and station wagons not exceeding a licensed weight of 4,000 pounds, which are not armored or protected, of various medically oriented documents and articles which have no real intrinsic value to outsiders. These articles are of very small size or weight and consist of human and animal specimens, contained in very small glass or plastic vials or tubes, of whole blood and blood plasma for medical laboratory examination; individual units of human blood; small glass slides for microscopic tissue examination; X-ray photographs; medical transmittal documents and documents reporting results of medical laboratory examinations; and specimen envelopes, laboratory test forms, and transmittal containers furnished by medical laboratories to their clients. They are transported for various physicians, medical laboratories, hospital laboratories, X-ray laboratories, and other similar medical institutions. The various courier services involved are unique as they are tailored to fit the needs of a particular customer. Petitioner asserts that it would be extremely difficult and impractical if not, in fact, impossible to comply with minimum rates, documentation, and billing regulations as set forth in the applicable tariffs, and that, if petitioner were somehow able to so conform with such provisions, his operating costs would be prohibitive. Petitioner's transportation operations are entirely of the courier type. Courier drivers are furnished printed manifest forms containing petitioner's name and address, date, chronological listing of all regular stops of

the route and spaces for courier drivers to write in irregular or will-call stops. Each individual courier route performs service for a variety of petitioner's customers. Charges are assessed for each stop made, whether or not there is anything to be picked up or to be delivered. Often there will be no pickup or delivery at regularly scheduled stops. To the extent practical, petitioner bills his customers at the month's end, after services are rendered for regularly scheduled stops. Frequently, petitioner's customers need items transferred on an emergency basis, such as special surgery instruments, dental drills, etc. This is billed along with the regular service at the end of the month.

Petitioner states that the transportation of medical specimens involves many unique and unusual factors. Specimens generally must be protected from exposure to undue heat. Many times they must actually be kept cooler than prevailing temperatures and, in some instances, must be kept in a frozen state during the course of transportation. For many laboratory tests, specimens must be collected from the patient and delivered to the test-performing laboratories within a relatively brief period of time in order to prevent chemical breakdowns or alterations which would distort test results. This total time-lapse can be as brief as one hour. In order to meet such stringent time requirements, patients are instructed to be at physician's office or at medical laboratories at times just prior to the arrival of courier drivers. Some specimens must be protected from exposure to light. Accompanying many specimens of blood or blood serum are very small glass slides containing minute portions of blood for microscopic examination. For certain tests only such slides are transported. To prevent breakage of these slides and small glass tubes containing blood and blood serum, specimen envelopes, bags, or other containers must be handled with care. It would be prohibitive, from a time and

cost standpoint, if it were necessary for all potentially breakable specimens to have to be so packaged as to prevent possible breakage in transit.

Petitioner contends that the exemption herewith requested is virtually identical, other than for the types of articles involved, to that requested from and granted by this Commission to numerous courier carriers in Decisions Nos. 65794, 65795, 65796, 65797, 65798, 76236, and most recently, Decision No. 80621.

The petitions were noticed in the Commission's Daily Calendar of September 24, 1973. A copy of the petition was served on the California Trucking Association. No objections were received to the granting of the petitions.

Our records disclose that petitioner's permit is limited to transportation which is subject to rates named in Minimum Rate Tariff 2. The permit is also limited to 350 miles of Chico, his address.

Based on the evidence, the Commission finds that:

1. Petitioner transports various medical and laboratory clinical materials and supplies, and medical or laboratory clinical reports.

2. Petitioner utilizes motor vehicles not exceeding a licensed weight of 4,000 pounds.

3. The minimum rate provisions in Minimum Rate Tariff 2 from which petitioner seeks exemption are not appropriate minimum rates, rules, and regulations for the type of service petitioner provides.

4. Petitioner has no motor carrier operating authority issued by the Commission for performing transportation under Minimum Rate Tariffs 1-B, 9-B, or 19 and thus, his petition requesting exemption from the rates and rules of those tariffs should be denied.

Based upon the above findings, the Commission finds that the Petition for Modification No. 766 in Case No. 5432 should be granted and the Petitions for Modification Nos. 190 and 277 in Cases Nos. 5439 and 5441, respectively, should be denied. A public hearing is not necessary.

C. 5432, Pet. 766 et al am

O R D E R

IT IS ORDERED that Kevin W. De Spain, dba Continental Courier Service, is exempted from observance of the rates and rules in Minimum Rate Tariff 2 in connection with the transportation of the following items, when transported in a vehicle not exceeding a licensed weight of 4,000 pounds: human and animal specimens, contained in glass or plastic tubes or vials, of whole blood and blood serum for medical laboratory examination; individual units of whole blood; glass slides for microscopic tissue examination; urine and stool specimens; sputum, wound, and other similar cultures; tissue samples for pathological examination; X-ray photographs; medical transmittal documents, and documents reporting results of laboratory examination; and specimen envelopes, laboratory test forms, and transmittal containers furnished by medical laboratories to their clients.

IT IS FURTHER ORDERED that Petition for Modification No. 190 in Case No. 5439 and Petition for Modification No. 277 in Case No. 5441 are denied.

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

Dated at San Francisco, California, this 20th
day of NOVEMBER, 1973.

William J. Sturgeon President
William J. Sturgeon
William J. Sturgeon
William J. Sturgeon
William J. Sturgeon Commissioners

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