

ORIGINAL

Decision No. 82180

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 and highway carriers relating to the transportation of petroleum and petroleum products in bulk (commodities for which rates are provided in Minimum Rate Tariff No. 6-A).

Case No. 5436
Petition for Modification
No. 144
(Filed August 1, 1973;
amended October 29, 1973)

Frank Loughran and Ann Pougalis, Attorneys at Law,
for Acme Transportation, Inc., petitioner.
Richard W. Smith and A. D. Poe, Attorneys at Law,
and H. Hughes, for California Trucking Association,
protestant.
R. Canham, by A. A. Wright, for Standard Oil
Company, intervenor in support of petitioner.
Richard N. Cooledge, for Pacific Intermountain
Express Company; Richard Fuller, for Arizona-
Pacific Tank Lines; W. J. Collinge, for Allyn
Transportation Company; James M. Cox, for C. F.
Tank Lines, Inc.; John Longmire, for Widing Trans-
portation, Inc.; and Edwin S. Acker, for Miles
Tank Lines; respondents.
J. L. Glovka, for the Commission staff.

O P I N I O N

Acme Transportation, Inc. (Acme), petitioner, is engaged in business as a petroleum irregular route carrier under a certificate of public convenience and necessity granted by the Commission. Petitioner seeks authority to depart from the rates in Minimum Rate Tariff 6-A (MRT 6-A) for the round-trip transportation of described petroleum products in bulk in tank trucks between defined points in northern California, on the one hand, and defined points in southern California, on the other hand.

Public hearing was held before Examiner Mallory at San Francisco on October 2 and 3, 1973. The matter was submitted subject to the filing of opening and closing briefs. However, on October 29, 1973, the petition was amended to modify the relief sought by raising the level of the proposed rates and limiting the territorial application of the proposed rates. Protestant California Trucking Association (CTA) then advised the Commission by letter dated October 30, 1973, that it had no objection to granting the relief sought as modified in the amendment to the petition filed October 29, 1973.^{1/} The filing of briefs was waived.

Evidence was adduced by petitioner's president and by the assistant manager of Traffic and Distribution Department of Standard Oil Company (Standard).

Petitioner's president presented cost information to support the level of the proposed rate. It was developed at the hearing that the cost study (Exhibit 144-3) failed to incorporate the current drivers' wages paid by Acme. The cost study was modified in late-filed Exhibit 144-6 to reflect current labor costs, which also required an upward adjustment in the level of the sought rate.

The testimony of petitioner's president and of the representative of Standard shows the following: Standard maintains a fleet of proprietary tank vehicles which are used to the largest extent possible. Standard has a significant amount of traffic on which it is possible to "marry" two tank truck loads, one load originating in the San Francisco Bay Area, and one load originating in the Los Angeles Metropolitan Area.^{2/} In order for for-hire carriers to continue to participate in such traffic it will be necessary for the rates for the round-trip service to be reduced,

1/ The CTA letter dated October 30, 1973 is included in the record as Exhibit 144-7.

2/ Occasionally loads originating in the San Diego Area are married with loads originating in the San Francisco Bay Area.

inasmuch as cost information covering both for-hire and proprietary transportation service as developed by petitioner and Standard indicate that the present minimum rates substantially exceed the round-trip costs of providing the service, and because the type of traffic involved herein is ideally suited for movement in proprietary vehicles by Standard.

The cost data submitted in support of the proposed rates show that the proposed rates will be compensatory on a round-trip basis, if all of the conditions imposed are met by the shipper.

Petitioner seeks relief from the long- and short-haul provisions of Section 460 of the Public Utilities Code. In support of this relief, the amended petition states as follows:

Petitioner is a common carrier and the proposed rate, if published, will become viable as a minimum rate for use by all carriers in the State. If the rate here proposed is permitted to apply intermediately at points other than those specified in the proposal, then, because of alternative application, they would become effective rates statewide. This is not in the public interest nor is it justified by transportation conditions. As stated, the rates here proposed are constructed and suited only to meet specific conditions of volume, cost, and two-way movement which exist between the points where the rate is specifically proposed to be made effective and not statewide. Its extension to additional intermediate points for the reason stated would negate the established minimum rate structure statewide and would thus be contrary to the public interest. The fourth section departure requested will permit the rate to apply only between points where conditions justify its use and will preserve the established minimum rate structure at other points where the same conditions do not exist.

Findings

1. Petition 144, as amended, seeks the establishment of round-trip rates for the movement of defined petroleum products in bulk in tank truck equipment between defined points in the San Francisco Bay Area and in the Los Angeles Metropolitan Area, which are lower than the applicable minimum rates for such transportation set forth in MRT 6-A.

2. The applicable minimum rates for such traffic reflect cost criteria based on less than the 100 percent load factor which would be achieved under petitioner's proposal.

3. The round-trip costs of operations are less under the conditions specified in petitioner's rate proposal than under operating conditions assumed in the development of the applicable minimum rates.

4. The cost data submitted by petitioner demonstrates that the round-trip rates proposed in the amended petition will exceed the estimated costs of providing the round-trip service under the conditions specified in petitioner's rate proposal; therefore, the proposed rates will be compensatory.

5. The type of traffic involved in petitioner's proposal is ideally suited to proprietary tank truck operations by the shipper; Standard, a shipper of substantial amounts of petroleum products within California, has a large fleet of proprietary vehicles available to perform such traffic; and unless lower rates than the present minimum rates are established, Standard is prepared to provide its service of this type with its proprietary vehicles. Therefore, lower rates than the existing minimum rates are necessary to retain the involved traffic to for-hire carriers.

6. Based on preceding findings, the proposed rates are justified by transportation conditions (Section 452 of the Public Utilities Code).

7. Relief from the long- and short-haul provisions of Section 460 of the Public Utilities Code is justified.

Conclusions

1. The petition, as amended, should be granted.

2. The authority granted should be limited to a one-year period as the cost and other transportation conditions surrounding the transportation may change at any time.

3. Long- and short-haul relief necessary to publish the proposed rates should be authorized.

O R D E R

IT IS ORDERED that:

1. Acme Transportation, Inc., a petroleum irregular route carrier, is authorized to publish and file in Western Motor Tariff Bureau, Inc., Local Freight and Express Tariff 18, Cal. P.U.C. 24, to expire December 15, 1974, rates for the transportation of petroleum and petroleum products in bulk in tank truck equipment as set forth, and subject to the conditions specified, in Appendix A attached hereto and made a part hereof.

2. Tariff filings required by the order herein shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public.

3. Acme Transportation, Inc. is authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to establish and maintain the rates authorized by the order herein.

4. The authority granted herein shall expire unless exercised within ninety days after the effective date of this order.

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

Dated at San Francisco, California, this 27th
day of NOVEMBER, 1973.

Samuel L. Stinson
President
William J. ...
...
...
Commissioners

APPENDIX A
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ACME TRANSPORTATION, INC.

RATES IN CENTS PER 100 POUNDS
Subject to Notes 1 and 2

<u>Commodity</u>	<u>Between</u>	<u>And</u>	<u>Rate</u>	<u>Min. Wt. In lbs.</u>
Petroleum and petroleum products as described in rate Groups A, B, C, D, or E of Item 41	All points located in Group 2 as described on Page 5 series	All points located in Group 6 as described on Page 7 series	57¢	53,500

NOTE 1: Applies only when the carrier picks up and transports in the same unit of equipment an outbound and a return shipment in accordance with the following provisions:

- A.1. Bill of lading covering initial shipment must be claused "Shipment Tendered Under Provisions of Item _____", and must indicate the point of pickup of the return shipment.
2. Return bill of lading must make reference to original bill of lading by shipping point, number, and date.
- B. Charges for both shipments must be payable by the same debtor.
- C. The return shipment must be available for carrier pickup immediately upon completion of delivery of the initial shipment and at the demand of carrier.

NOTE 2: A. The rate in this item is subject to the following route (route applies in either direction):
From Group 2 via U.S. Interstate Highway No. 80 to its junction with State Route No. 17, thence via State Route No. 17 to its junction with State Route No. 238, thence via State Route No. 238 to its junction with U.S. Interstate Highway No. 580, thence via U.S. Interstate Highway No. 580 to its junction with U.S. Interstate Highway No. 5, thence via U.S. Interstate Highway No. 5 to the intersection of U.S. Interstate Highway No. 5 and U.S. Interstate Highway No. 405; thence via U.S. Interstate Highway No. 405 to Group 6.

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- B. The rates provided in this item will have intermediate application from, to, or between points along the route named in Note 2, paragraph A, and points one actual highway mile from such route only between Castaic and points in Group 6 and between Livermore and points in Group 2.