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ORIGINAL

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of KINGS COUNTY TRUCK )  
LINES for authority to charge less )  
than the minimum rates heretofore )  
established by the Commission, as )  
authorized in Section 3666 of the )  
Public Utilities Code of the State )  
of California. )

Application No. 54468  
(Filed November 27, 1973)

INTERIM OPINION AND ORDER

Kings County Truck Lines, a corporation, operates as a highway contract carrier and radial highway common carrier. By this application it requests emergency ex parte authority, pending hearing, to charge less than the otherwise governing minimum rates prescribed in Minimum Rate Tariff 2 for shipments of ice cream from Buena Park to Hayward for the account of Lucky Stores Inc. Applicant also seeks authority to deviate from the provisions of Minimum Rate Tariff 2 with respect to shipments of several other commodities when transported as either part of a northbound shipment of ice cream or as a back-haul movement subsequent to an outbound shipment of ice cream.

Applicant states that Lucky Stores Inc. has just completed construction of a new ice cream plant in Buena Park and shipments of ice cream to cold storage facilities in Hayward are scheduled to commence on December 10, 1973. Unless the sought relief is authorized, the traffic will be diverted to shipper's proprietary service.

The round-trip per shipment charges proposed to be assessed in lieu of the rates prescribed in Minimum Rate Tariff 2 are:

1. Northbound: Ice cream, Buena Park to Hayward

Southbound:

- (a) Cheese and lunch meat, San Leandro to Buena Park  
Round-trip charge - \$509
- (b) Sugar, Crockett to Buena Park  
Round-trip charge - \$536
- (c) Soap, Union City to Buena Park  
Round-trip charge - \$504
- (d) Canned goods, Oakland to Buena Park  
Round-trip charge - \$501

2. Northbound: Household chemicals, Pico Rivera to San Leandro

Southbound:

- (a) Cheese and lunch meat, San Leandro to Buena Park  
Round-trip charge - \$500
- (b) Sugar, Crockett to Buena Park  
Round-trip charge - \$530
- (c) Soap, Union City to Buena Park  
Round-trip charge - \$502
- (d) Canned goods, Oakland to Buena Park  
Round-trip charge - \$511

3. Northbound: Boxes, fibreboard, other than corrugated,  
knocked down flat, City of Industry to  
San Leandro

Southbound:

- (a) Cheese and lunch meat, San Leandro to Buena Park  
Round-trip charge - \$506
- (b) Sugar, Crockett to Buena Park  
Round-trip charge - \$536
- (c) Soap, Union City to Buena Park  
Round-trip charge - \$508
- (d) Canned goods, Oakland to Buena Park  
Round-trip charge - \$518

For the proposed operation applicant intends to employ three 3-axle diesel tractors and four 45-foot refrigerated vans. Drivers are to be domiciled at Tulare.

Under the proposed operation, drivers will pick up refrigerated vans loaded with ice cream by Lucky Stores Inc. employees, transport the vans to Select Union Foods Company, 26 West A Street, Hayward, assist in unloading, and proceed to one of the following points for loading and thereafter return to Lucky Stores Inc., 6565 Knott Avenue, Buena Park:

1. Lucky Stores Inc., 1701 Marina Boulevard, San Leandro.
2. C & H Sugar Co., 830 Loring Avenue, Crockett.
3. Gerber Foods Co., 9401 San Leandro Street, Oakland.
4. Plex Chemical Co., 1205 Atlantic Street, Union City.

On those occasions when ice cream volume is not sufficient to support three loads of ice cream northbound, the driver will drop the van loaded with products from shipping points as shown above at Lucky Stores Inc., 6565 Knott Avenue, Buena Park, and proceed to either Weyerhaeuser Company, 13400 East Nelson Street, City of Industry, and transport boxes, fibreboard, other than corrugated, knocked down, to Lucky Stores Inc., 1701 Marina Boulevard, San Leandro; or household chemicals from T-Chem Products, 4800 South Gregg Road, Pico Rivera, to Lucky Stores Inc., 1701 Marina Boulevard, San Leandro.

Loading and unloading at Lucky Stores Inc., 6565 Knott Avenue, Buena Park, are to be performed by employees of Lucky Stores Inc. Drivers of applicant are to assist in unloading and loading at all other points with the following conditions:

For the proposed operation applicant intends to employ three 3-axle diesel tractors and four 45-foot refrigerated vans. Drivers are to be domiciled at Tulare.

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Loading and unloading at Lucky Stores Inc., 6565 Knott Avenue, Buena Park, are to be performed by employees of Lucky Stores Inc. Drivers of applicant are to assist in unloading and loading at all other points with the following conditions:

1. One hour free time unloading at Select Union Foods Company, Hayward.
2. One hour free time unloading at Lucky Stores Inc., San Leandro.
3. One hour free time loading at Lucky Stores Inc., San Leandro; or C & H Sugar Company, Crockett; or Gerber Foods Co., Oakland; or Plex Chemical Co., Union City.

Time in excess of free time will be assessed at rates provided in Item 145 of Minimum Rate Tariff 2.

Applicant has submitted financial and related cost data to show the compensatory nature of the proposed charges. The following circumstances and conditions are also relied upon by applicant as justification for the sought relief:

1. The ice cream plant in Buena Park will manufacture ice cream for all the retail outlets of Lucky Stores Inc. to substantiate the movement of traffic embraced in this application.
2. The rate proposed is reasonable for the service rendered and will return to applicant its full cost of rendering the service, plus a reasonable profit.
3. Applicant is informed by the shipper that in the event the relief is granted, it will utilize the services of applicant.
4. Applicant further believes that unless relief is authorized, shipper will divert traffic to its proprietary service and a substantial volume of traffic will be lost that neither this applicant nor any other for-hire carrier will in the future enjoy.

The verified application shows that a copy thereof was mailed to the California Trucking Association on November 24, 1973. The application was listed on the Commission's Daily Calendar for November 28, 1973. The requested emergency ex parte relief, pending subsequent hearing, is not opposed.

Subject to further review upon consideration of evidence which may be adduced at a public hearing, the Commission finds that the proposed rates and charges are reasonable. The Commission concludes that applicant's requested emergency relief, pending hearing, should be granted.

IT IS ORDERED that:

1. Kings County Truck Lines, a corporation, is granted temporary authority to transport ice cream and related products for Lucky Stores Inc. from and/or to the points set forth in the opinion herein, subject to the rates, charges, conditions, and restrictions also specified in said opinion.

2. A public hearing shall be scheduled in this proceeding for the receipt of evidence relative to Application No. 54468 and full disposition thereof.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 18th  
day of DECEMBER, 1973.

William Lyons Jr. President  
[Signature]  
[Signature] Commissioners

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

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