

Decision No. 82289

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
STEPHEN LIVERA and THOMAS ORNELLAS,)
individuals, doing business as a)
partnership under the fictitious)
name of COAST LINES, for authority)
to deviate from the minimum rates,)
rules and regulations of Minimum)
Rate Tariff No. 2, pursuant to the)
provisions of Section 3666 of the)
Public Utilities Code, for trans-)
portation performed for THE CLOROX)
COMPANY.)

Application No. 54151
(Filed July 3, 1973)

Handler, Baker & Greene, by Daniel W. Baker, Attorney
at Law, for applicants.
James R. Fraser, for The Clorox Company; and Ed Bill,
Herbert Hughes, and Arlo D. Poe, Attorney at Law,
for California Trucking Association; interested
parties.
Alan Silvius, for the Commission staff.

O P I N I O N

Applicants Stephen Livera and Thomas Ornellas, a partnership doing business as Coast Lines, are holders of a radial highway common carrier permit and a highway contract carrier permit recently transferred to them from Coast Drayage. Applicants request authority to charge less than the applicable minimum rates in the transportation of sodium hypochlorite solution and sodium hydroxide solution, cleaning compounds, animal litter (chopped alfalfa pellets), in bags, and laundry bleach (dry), when transported in mixed shipments with sodium hypochlorite solution, from the plants of The Clorox Company, Oakland

and San Leandro, California, to destinations in central and northern California, and empty pallets returning to those plants from destinations of the outbound movements. By Decision No. 81643 dated July 24, 1973 we authorized applicants on an interim basis to charge the less than minimum rates as requested by the application, subject to further review and consideration of evidence which may be adduced at a public hearing, which was subsequently held at San Francisco on November 5, 1973. No protests to the granting of the application were received.

Applicant Stephen Livera testified that he and his partner Thomas Ornellas recently acquired a substantial portion of the operations of Coast Drayage, including the above-described permits, trucks and tractors, trailers, various pieces of shop equipment, and the haul proposed herein to be undertaken. He asserted that their proposed operations in hauling the subject commodities are and will be identical in all respects to the operations of Coast Drayage; that the partners are former employees of Coast Drayage and that they were responsible for and did supervise such operations for Coast Drayage; and that the same former Coast Drayage drivers will drive in applicants' operations using the same equipment. The witness stated that the scale of rates proposed to be charged had its inception in Decision No. 75703 dated May 27, 1969 on Coast Drayage Application No. 50982 and was subsequently modified and extended to its present state by Order No. SDD-150 dated November 21, 1972 and Order No. SDD-179 dated May 22, 1973. In this application applicants originally requested that they be allowed to charge the same level of rates charged by Coast Drayage at the time applicants took over the operations, but at the hearing they amended their application to charge a slightly higher level of rates than those originally proposed. The rates and rules under which applicants propose to operate are set out in Appendix A attached hereto.

A motion was made at the hearing by the representative of the California Trucking Association for the inclusion of a rule requiring applicants to pay any subhaulers used in the operation no less than 85 percent of the rate. Applicant witness objected to the inclusion of such a rule stating that he depended on his own equipment to service the haul and employed subhaulers but rarely. The motion was denied by the examiner.

Applicants' accountant presented cost studies of applicants' operations and underlying details as justification for the charging of the proposed less than minimum rates. A survey of the results of the Clorox haul since the grant of the interim authority showed that applicants grossed \$5,257.25 for the period covered and had a net of \$230.52 for a 95.6 percent operating ratio. Under the slightly higher rates proposed at the hearing, applicants on the same hauls would have grossed \$5,368.83 and netted \$326.35 for a 93.9 percent operating ratio. Applicants' overall operations for the two months ended August 31, 1973 grossed \$207,331 for a net of \$24,830 for an operating ratio of 88 percent.

A copy of the application was served on the California Trucking Association and The Clorox Company. The application was noticed in the Commission's Daily Calendar of July 11, 1973. A representative of the Commission staff and a representative of the California Trucking Association assisted with the development of the record at the hearing.

Findings

1. Rates at a lower level than those sought have been previously approved for the proposed operation when conducted by applicants' predecessor company.

2. Under the requested deviation applicants intend to conduct operations substantially similar to those conducted by the predecessor company between the same points, with the same drivers and equipment, for the same shipper, and under the same conditions.

3. Applicants were primarily responsible for and actually did supervise the operations which they propose to conduct hereunder.

4. Operations under the proposed rates and governing rules may reasonably be expected to be profitable during the forthcoming one-year period.

5. The proposed rates and governing rules are reasonable.

6. Since transportation conditions may change, the authority granted herein should be made subject to an expiration date of one year from the effective date of this order.

7. The interim authority dated July 24, 1973 granted by Decision No. 81643 should be canceled.

Conclusion

The application should be granted in the manner set forth in the ensuing order.

O R D E R

IT IS ORDERED that:

1. Stephen Livera and Thomas Ornellas, a partnership doing business as Coast Lines, are authorized to transport the commodities between the points hereinabove described at rates different from the established minimum rates but not less than those set forth and subject to the conditions specified in Appendix A attached hereto and by this reference made a part hereof.

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

3. The interim opinion and order dated July 24, 1973 in Decision No. 81643 is canceled.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 3rd
day of JANUARY, 1974.

Vernon L. Stevens
President

William J. Quinn Jr.

[Signature]

[Signature]
Commissioners

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

APPENDIX A
Page 1 of 2

Stephen Livera and Thomas Ornellas, doing business as Coast Lines, are authorized to assess the charges hereinafter set forth for the transportation of sodium hypochlorite solution and sodium hydroxide solution, cleaning compounds, animal litter (chopped alfalfa pellets), in bags, and laundry bleach (dry), when transported in mixed shipments with sodium hypochlorite solution, from the plants of The Clorox Company, Oakland and San Leandro, California, to destinations in central and northern California, and empty pallets returning to said plants from the destinations of the outbound movements.

The rates and rules below are deviations from those in Minimum Rate Tariff 2. Other than the described deviations, the rates and rules in that tariff will be applicable to the involved transportation.

Commodity: Sodium hypochlorite solution; and sodium hydroxide solution, cleaning compounds, animal litter (chopped alfalfa pellets), and laundry bleach (dry), when transported in mixed shipments with sodium hypochlorite solution.

From: The plants of The Clorox Company at Oakland and San Leandro, California.

To: Points in central and northern California within 250 miles of Oakland, California.

Rates: (Minimum weight for each outbound movement of a unit of equipment shall be 40,000 pounds.)

<u>MILEAGE</u>			<u>RATES*</u>	<u>MILEAGE</u>			<u>RATES*</u>
<u>Over</u>	<u>But Not Over</u>			<u>Over</u>	<u>But Not Over</u>		
0	5	27-1/2		90	100	43	
5	10	28		100	110	44	
10	15	29		110	120	46	
15	20	29-1/2		120	130	47	
20	25	30		130	140	49	
25	30	30-1/2		140	150	51	
30	35	31-1/2		150	160	53	
35	40	32-1/2		160	170	54	
40	45	34		170	180	55	
45	50	35		180	190	57	
50	60	36		190	200	59	
60	70	39		200	220	61	
70	80	40		220	240	63	
80	90	41		240	260	65	

*Cents per 100 pounds.

APPENDIX A
Page 2 of 2

Notes:

- (1) Mileage to be computed as provided in governing Distance Table.
- (2) Rates shall be subject to provisions of Item 170 (Split Delivery) of Minimum Rate Tariff 2.
- (3) Rates shall only apply to palletized shipments which are power loaded at origin plants by the shipper.
- (4) Pallets will be returned free of charge, provided that a like number of pallets are returned at time of delivery. Shipments of pallets not complying with this paragraph will be subject to rates in Minimum Rate Tariff 2.
- (5) Carrier will be free from any claims for shortage. Upon return of damaged merchandise, carrier is to be free from any claim for damage.
- (6) When a helper is used at destination to unload a shipment, carrier will be reimbursed for such expense by shipper at the rate of \$9.65 per man per hour.