

ORIGINAL

Decision No. 82324

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
FINESSE DELIVERY SERVICE, INC., a
California corporation, for author-
ity to depart from certain rules and
regulations established by the Public
Utilities Commission of the State of
California.

Application No. 53915
(Filed March 23, 1973;
amended August 8, 1973)

In the Matter of the Application of
E.S.P. DELIVERY SERVICE, INC., for
authority to depart 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.

Application No. 54242
(Filed August 15, 1973)

Edward J. Marnell, for Finesse Delivery Service,
Inc., applicant in Application No. 53915.
Jerry L. Blakeslee, for E.S.P. Delivery Service,
Inc., applicant in Application No. 54242.
Handler, Baker & Greene, by Daniel W. Baker, Attorney
at Law, for Finesse Delivery Service, Inc. and
E.S.P. Delivery Service, Inc., applicants.
E. H. Griffiths, for James F. Oats, doing business as
Bus Express Service; Eldon M. Johnson, Attorney
at Law, for Ralph Adams, doing business as
Adams Delivery Service; R. C. Broberg, Arlo D.
Poe, Attorney at Law, and Herbert W. Hughes, for
California Trucking Association; and Warren L.
Perry, Attorney at Law, for Peninsula Parcel
Service; interested parties.
John L. Glovka, for the Commission staff.

O P I N I O N

Public hearing in these consolidated proceedings was held
before Examiner Porter in San Francisco on August 23, 1973 and the
matters were submitted.

Applicants are highway permit carriers which engage in the transportation of small shipments. In these applications they seek authority to depart from the established minimum rates for transportation of parcels weighing 100 pounds or less. In addition, Finesse Delivery Service, Inc. (Finesse) seeks authority to depart from the collection of charges rule in Minimum Rate Tariff 2 (MRT 2) on shipments weighing 100 pounds or less and to re-establish an exemption from minimum rates formerly granted to a predecessor company.

Evidence

Evidence in support of the relief sought was adduced by witnesses appearing for applicants. The witnesses testified that applicants specialize in the transportation of small shipments; that for parcel shipments of 50 pounds or less they assess the same level of rates as maintained by United Parcel Service; and that on parcel shipments over 50 pounds they assess the minimum charges in MRT 2. The witnesses pointed out that they compete with other parcel carriers that have received authority to assess parcel rates below the rates in MRT 2. The witnesses stated that the level of charges proposed in their applications herein are no lower than those authorized to Peninsula Parcel Service and San Francisco Parcel Service. The rate deviation authorizations granted to the aforementioned parcel carriers and to Rapid Radial Transport and Bus Express Service are scheduled to expire February 6, 1974. Applicants request that their rate deviations also be scheduled to expire on that date. ✓

Applicants stipulated that the authorities should be limited to overnight service and should not apply to shipments transported to or from bus depots which have prior or subsequent movement as express shipments, so as not to conflict with higher rates maintained by other parcel carriers for same-day service and for deliveries to or from bus depots. The foregoing stipulations removed any opposition to the granting of the relief sought.

Discussion

Decision No. 81566 dated July 3, 1973 in Case No. 5432 (Petition No. 722) ordered as follows:

"The Commission's position expressed in J. S. Aaronson (1961) 58 CPUC 533 is 'that henceforth, whenever any highway carrier requests authority to depart from the provisions of the established minimum rates, the order granting such relief should prescribe the minimum rates to be assessed by that carrier in lieu thereof.' Except as otherwise found to be fully justified and reasonable, this procedure is the current policy adhered to by the Commission whenever it considers granting minimum rate exemptions to parcel delivery carriers, other than highway common carriers, for shipments weighing 100 pounds or less."

The request of E.S.P. Delivery Service, Inc. in this proceeding is consistent with the policy expressed in Aaronson, as is the request of Finesse except as it relates to the reinstatement of an exemption granted to a predecessor company in Decision No. 67894 [(1964) 63 CPUC 375]. That authority was based on the finding that the predecessor company conducted retail parcel operations directly competitive with United Parcel Service (UPS) for which UPS had an exemption. Since that time the exemption to UPS has been rescinded and, in lieu thereof, UPS has been granted authority to transport retail store parcel delivery service at the specific rates set forth in its minimum rate deviation authority. The request to reinstate the prior exemption without specifying the rates that Finesse must charge is clearly contrary to the policy expressed in Aaronson and affirmed in Decision No. 81566, *supra*.

Findings

1. The Commission has heretofore found that the rates set forth in Minimum Rate Tariff 2 are not the reasonable minimum rates for parcel delivery service by carriers wholly engaged in parcel delivery operations (Finesse Delivery Service (1964) 63 CPUC 375, 379).

2. The policy of the Commission as set forth in J. S. Aaronson (1961) 58 CPUC 533, is that whenever any highway carrier requests authority to depart from the provisions of the established minimum rates for parcel delivery service, the order granting such relief should prescribe the minimum rates to be assessed by that carrier in lieu thereof. That policy was recently affirmed in Decision No. 81566 dated July 3, 1973 in Case No. 5432 (Petition No. 722).

3. Applicants seek to establish rates for parcel delivery service of shipments weighing 100 pounds or less as set forth in Exhibit 1 in Application No. 54242, subject to the stipulations recited in the preceding opinion. Said proposal conforms to the policy enunciated in Aaronson.

4. The request of Finesse to reinstate an exemption for retail store parcel delivery service granted to its predecessor in Decision No. 67894 (63 CPUC 375) does not conform to the policy expressed in Aaronson for the reasons stated in the preceding opinion.

5. Applicants request that the sought rate deviations expire on February 6, 1974, which is the expiration date of rate deviations granted to competing parcel carriers. Due to the proximity of that date the authorities will instead be granted to expire at the end of the year. Consideration will be given to maintaining competitive rate relationships as the other competing parcel carriers seek extensions of their deviation authorities.

Conclusions

The applications should be granted to the extent provided in the following order. To the extent not granted therein the applications should be denied.

O R D E R

IT IS ORDERED that:

1. Finesse Delivery Service, Inc. and E.S.P. Delivery Service, Inc. are authorized to transport shipments weighing 100 pounds or less

A. 53915, 54242 lmm * *

at the rates and subject to the conditions set forth in Appendix A attached hereto and made a part hereof.

2. The authority granted herein shall expire December 31, 1974, unless sooner changed or extended. ✓

3. Except to the extent provided in Ordering Paragraphs 1 and 2 hereof, Applications Nos. 53915 and 54242 are denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 8th day of JANUARY, 1974. ✓

Vernon L. Sturgeon
President
William L. Quinn
William L. Quinn
William L. Quinn
William L. Quinn
Commissioners

APPENDIX A
Page 1 of 4

FINESSE DELIVERY SERVICE, INC.
E.S.P. DELIVERY SERVICE, INC.

Rates and Charges for Transportation
of Packages or Parcels (See Notes)

- Schedule 1 - Rates for packages weighing up to 50 pounds.
- Schedule 2 - Rates for packages weighing from 50 to 100 pounds.
- Schedule 3 - Points in Zones 1 and 2 to be served under the rates set forth in Schedules 1 and 2.

Notes:

1. The rates in this appendix do not apply to transportation of shipments weighing 100 pounds or less within San Francisco Territory (as described in Minimum Rate Tariff 2) consisting of property transported to or from a terminal of a passenger stage corporation and having a prior or subsequent movement as an express shipment.
2. The rates in this appendix apply only when the released or declared value is 50 cents per pound or less, and the maximum value per package or article is \$100 or less.
3. The provisions of Item 250 - Collection of Charges are not applicable to rates set forth in this appendix.
4. Shipments transported under the rates in this appendix are subject to all provisions of Minimum Rate Tariff 2, except as provided herein.
5. The rates in this appendix do not apply to same-day service.
6. The rates set forth in Schedules 1 and 2 apply between points in the zones described in Schedule 3. No service is performed between Zones 1 and 2.

APPENDIX A
Page 2 of 4Schedule 1Rates (In Dollars and Cents per Package)

Weight (Lbs.)	Within Zone 1	Within Zone 2	Weight (Lbs.)	Within Zone 1	Within Zone 2
1	\$.43	\$.44	26	\$1.43	\$1.69
2	.47	.49	27	1.47	1.74
3	.51	.54	28	1.51	1.79
4	.55	.59	29	1.55	1.84
5	.59	.64	30	1.59	1.89
6	.63	.69	31	1.63	1.94
7	.67	.74	32	1.67	1.99
8	.71	.79	33	1.71	2.04
9	.75	.84	34	1.75	2.09
10	.79	.89	35	1.79	2.14
11	.83	.94	36	1.83	2.19
12	.87	.99	37	1.87	2.24
13	.91	1.04	38	1.91	2.29
14	.95	1.09	39	1.95	2.34
15	.99	1.14	40	1.99	2.39
16	1.03	1.19	41	2.03	2.44
17	1.07	1.24	42	2.07	2.49
18	1.11	1.29	43	2.11	2.54
19	1.15	1.34	44	2.15	2.59
20	1.19	1.39	45	2.19	2.64
21	1.23	1.44	46	2.23	2.69
22	1.27	1.49	47	2.27	2.74
23	1.31	1.54	48	2.31	2.79
24	1.35	1.59	49	2.35	2.84
25	1.39	1.64	50	2.39	2.89

APPENDIX A
Page 3 of 4

Schedule 2

Rates for Packages Weighing From 51-100 Pounds

Within Zone 1

Packages weighing 51 to 69 pounds:

44 cents per package plus 4 cents per pound.

Packages weighing 70 to 100 pounds:

44 cents per package plus 4.2 cents per pound.

Within Zone 2

Packages weighing 51 to 100 pounds:

44 cents per package plus 5 cents per pound.

APPENDIX A
Page 4 of 4Schedule 3

<u>City</u>	<u>Zone No.</u>	<u>City</u>	<u>Zone No.</u>	<u>City</u>	<u>Zone No.</u>
Agnew	1	Hillsdale	1	San Bruno	1
Alameda	1	Irvington	1	San Carlos	1
Alamo	2	Kensington	1	San Jose	1
Albany	1	Kentfield	2	San Francisco	1
Alum Rock	1	Lafayette	2	San Francisco	
Alviso	1	Larkspur	2	Airport	1
Antioch	2	Livermore	2	So. San Francisco	1
Ashland	1	Los Altos	1	San Leandro	1
Avon	2	Los Altos Hills	1	San Lorenzo	1
Atherton	1	Los Gatos	1	San Mateo	1
Bayshore	1	Marin City	2	San Pablo	2
Belmont	1	Marin Wood	2	San Quentin	2
Belvedere	2	Martinez	2	San Rafael	2
Benicia	2	Menlo Park	1	San Ramon	2
Benicia Arsenal	2	Millbrae	1	San Ramon Village	2
Berkeley	1	Mill Valley	2	Santa Clara	1
Berryessa	1	Milpitas	1	Sarasap	2
Brentwood	2	Mission San Jose	1	Saratoga	1
Brisbane	1	Monte Sereno	1	Sausalito	2
Burlingame	1	Moraga	2	Shore Acres	2
Cambrian Park	1	Moffett Field	1	Stanford University	1
Campbell	1	Monte Vista	1	Sunnyvale	1
Castro Valley	1	Mountain View	1	Sunol	2
Centerville	1	Napa	2	Terra Linda	2
Clayton	2	Newark	1	Tiburon	2
Colma	1	Niles	1	Treasure Island	1
Concord	2	Novato	2	Union City	1
Corte Madera	2	Oakland	1	Vacaville	2
Crockett	2	Oakley	2	Vallejo	2
Cupertino	1	Orinda	2	Walnut Creek	2
Daly City	1	Pacheco	2	Warm Springs	1
Danville	2	Pacifica	1	Westlake	1
Davis	2	Palo Alto (East)	1	Woodside	1
Decoto	1	Palo Alto	1		
Diablo	2	Permanente	1		
Dixon	2	Piedmont	1		
Dublin	2	Pinole	2		
El Cerrito	1	Pittsburg	2		
El Sobrante	2	Pleasant Hill	2		
Emeryville	1	Pleasanton	2		
Evergreen	1	Port Chicago	2		
Fairfax	2	Presido (S.F.)	1		
Fairfield	2	Redwood City	1		
Foster City	2	Rheem Valley	2		
Fremont	1	Richmond	1		
Greenbrae	2	Rodeo	2		
Hayward	1	Ross	2		
Hercules	2	Sacramento	2		
Hillsborough	1	San Anselmo	2		