

Decision No. 82345

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of U. S. MESSENGER & DELIVERY SERVICE INCORPORATED for an order from the Commission exempting applicant, by name, from the provisions of Minimum Rate Tariffs No. 1-B, 2, and 19 when engaging in the specialized transportation of checks, drafts, money orders, securities, transit items, sales audit items, business records, audit media, tabulation cards, data processing materials, legal documents, printed or reproduced documents on data and related items.

Application No. 54221
(Filed August 3, 1973)

Silver, Rosen, Fischer and Stecher, by Michael J. Stecher, Attorney at Law, for applicant.
Marvin Handler, Attorney at Law, for Loomis Courier Service, Inc.; Loughran, Berol and Hegarty, by Marshall C. Berol, Attorney at Law, for MDS Courier Services, Inc.; and Arthur D. Maruna, Herbert W. Hughes, and A. D. Poe, Attorney at Law, for California Trucking Association; protestants.
J. L. Glovka, for the Commission staff. ✓

O P I N I O N

U. S. Messenger & Delivery Service Incorporated, a California corporation, holds a radial highway common carrier permit authorizing transportation within a radius of 350 miles of San Francisco for general commodities including operations named in Minimum Rate Tariffs 1-B and 19 (MRTs 1-B and 19). ✓

Pursuant to said authority the carrier transports checks, drafts, money orders, securities, transit items, sales audit items, business records, audit media, tabulation cards, data processing materials, legal documents, printed or reproduced documents on data, and related items. In addition, applicant's contract carrier permit

covers the State of California on general commodities including operations named in MRTs 1-B and 19. ✓

Applicant seeks an exemption from the rates contained in MRTs 1-B, 2, and 19 in connection with what is commonly known as a "courier type" service, involving the transportation of documents and articles used daily in business but which are not intrinsically valuable. Such transportation is performed in motor vehicles with a licensed weight under 4,000 pounds such as automobiles, station wagons, and panel trucks of the type normally used in a delivery service. ✓

Public hearing was held before Examiner O'Leary at San Francisco on October 23 and 24, 1973. The matter was submitted on the latter date.

The president of applicant testified that applicant conducts what he describes as a messenger service and a courier service. The courier service for which it here seeks an exemption from the minimum rates was initiated in August 1973. Applicant is presently serving three accounts in its courier service. The president of applicant admitted that it is not assessing the minimum rates for such service.

Applicant alleges that the courier service it performs is identical with that performed by other carriers which have been granted exemptions from minimum rates.^{1/}

Applicant further alleges that unless the sought relief is granted it will not be able to compete with those carriers which have been granted exemptions.

^{1/} American Courier Corporation and MPA Courier Corporation in Decision No. 76236, 70 Cal. PUC 203; Armored Transport, Inc., Brinks Incorporated, California Intercity Armored Car Service, Inc., Loomis Armored Car Service, Inc. of California, Loomis Armored Transport, Inc., United Clearings, Inc., and Valley Armored Transport, Inc. in Decision No. 65794, 61 Cal. PUC 260.

The transportation applicant provides for two of its customers, namely, United California Bank and Decimus Corporation, is similar to the service performed by other carriers who have been granted exemptions from the minimum rates. The transportation performed for the third account, namely, I.B.M. Corporation, consists of the transportation of computer parts, accessories, and blank tabulation cards.

Protestants Loomis Courier Service, Inc. and MDS Courier Service, Inc. urge that the application be denied because applicant, by instituting a courier service in which it does not assess the minimum rates prior to obtaining an exemption therefrom, has diverted traffic from carriers who presently have exemptions and has demonstrated a lack of fitness.

The California Trucking Association is opposed to the granting of the application and is of the opinion that a need for minimum rate regulations for courier service has been demonstrated and that the Commission should, upon its own initiative, prescribe minimum rates for the involved transportation.

This Commission has previously found in Decision No. 65794, 61 Cal. PUC 260:

"In view of these and other dissimilarities between petitioners' services and those which are subject to the minimum rate provisions in issue herein, we find that said minimum rate provisions are not appropriate minimum rates, rules and regulations for the armored car and courier services which petitioners provide."

The Commission takes official notice that as a result of a study conducted by the Commission's Transportation Division staff applicant was reprimanded and fined for violations of the Commission's minimum rate orders. In view of this we do not believe applicant should be denied the exemption applied for as advocated by protestants Loomis Courier Service, Inc. and MDS Courier Service, Inc. especially in view of the fact that we have previously found that minimum rate provisions are not appropriate for courier type service.

If there is a need for minimum rates for courier type service as is advocated by the California Trucking Association, it should come forward with such information in a proper petition for the establishment of minimum rates.

The service performed by applicant for I.B.M. Corporation is not the type of service envisioned in a courier type service as described in Decision No. 65794. While exemptions have been granted for the transportation of tabulation cards such exemption was not intended to apply to the transportation of blank tabulation cards, that is, tabulation cards not containing data thereon.

Findings

1. The transportation which U. S. Messenger & Delivery Service Incorporated performs for United California Bank and Decimus Corporation in its courier type service is similar to the transportation for which other carriers have been granted an exemption from the minimum rates.

2. The transportation which U. S. Messenger & Delivery Service Incorporated performs for I.B.M. Corporation is not similar to the transportation for which other carriers have been granted an exemption from the minimum rates.

3. The minimum rate provisions at issue herein are not appropriate minimum rates, rules, and regulations for the courier type transportation described in Finding 1.

Based on the above findings the Commission concludes that the application should be granted in part and denied in part.

O R D E R

IT IS ORDERED that:

1. U. S. Messenger & Delivery Service Incorporated is exempted from observance of the rates, rules, and regulations in Minimum Rate Tariff 2, Minimum Rate Tariff 1-B, and Minimum Rate Tariff 19 in connection with the transportation of checks, drafts, money orders,

A. 54221 lmm

securities, transit items, sales audit items, business records, audit media, tabulation cards containing data, data processing materials, legal documents, and printed or reproduced documents on data when transported in a vehicle not exceeding a licensed weight of 4,000 pounds.

2. To the extent not granted herein, Application No. 54221 is denied.

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

Dated at San Francisco, California, this 15th day of BANUDDV, 1974.

Vernon L. Spurgeon
President
William J. Symons
M. J. ...
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Commissioners