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ORIGINAL

Decision No. 82776

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
N.P.D.S. INC., a California
corporation, for authority to
depart from certain minimum rates,
rules, and regulations established
by the Public Utilities Commission
of the State of California.

Application No. 54397
(Filed October 23, 1973;
amended January 31, 1974
and February 21, 1974)

O P I N I O N

Applicant is a highway permit carrier engaged in the transportation of small shipments within the Los Angeles Basin Territory. It here seeks authority to depart from the established minimum rates for transportation of parcels weighing 100 pounds or less.

The application states that applicant's business consists of transporting a great number of packages, the majority of which weigh 52 pounds. It is not feasible to charge the minimum rate as provided in Minimum Rate Tariff 2 (MRT 2) because applicant's competitors have or are able to obtain exemption from the said minimum rates and are or will be charging lower rates for said transportation.

Applicant alleges that the rates set forth in MRT 2 were not designed for local deliveries of items here involved; that the rates in MRT 2 are greater than can be borne by the shipper involved and greater than may be assessed by applicant in light of its competitors who now enjoy or will enjoy a distinct economic rate advantage in that they are or will be free to assess rates which are agreeable between themselves, on the one hand, and the shippers, on the other hand, because of their having obtained or obtaining in the future an exemption from charging the prescribed rates in MRT 2 on shipments weighing less than 100 pounds. It is this competition that applicant is attempting to meet in order to retain its existing traffic.

A summary of the Commission's policy relative to minimum rate exemptions and/or departures as enunciated in J. S. Aaronson (1961) 58 CPUC 533 follows:

"The ultimate issue herein is whether the petitioner should be exempted from the requirements of Minimum Rate Tariff 2. A granting of such exemption presupposes that the established minimum rates are not suitable, reasonable, or proper for the operations by petitioner. . . . We have found that minimum rates in Minimum Rate Tariff 2 are not the minimum reasonable rates for parcel delivery service by carriers wholly engaged in conducting parcel delivery operations and, hence, have exempted carriers operating solely as parcel delivery carriers from said minimum rates. . . . Exemptions were first granted in 1939 by Decision No. 31606. Those carriers granted exemptions were common carriers maintaining tariffs naming the rates they assessed. Since that time, exemptions have been granted to highway permit carriers who do not maintain schedules of rates. Ordinarily the operating permits of those carriers have been restricted to the transportation of shipments not exceeding 100 pounds... It appears that such restriction is not sufficient to restrict the operation to a parcel service at parcel rates.

" . . . We are of the opinion 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. In the case of a parcel delivery carrier, the establishment or approval of minimum parcel rates to be assessed by it will remove the possibility of any abuse of the exemption granted." (Emphasis supplied.)

The minimum rate exemption sought by applicant fully conforms with the criteria prescribed in the Aaronson decision.

The certificate of service shows that copies of the application were served upon United Parcel Service, Inc., San Francisco Parcel Service, Inc., and the California Trucking Association. The application, amended application, and amendment thereto were listed on the Commission's Daily Calendar of October 25, 1973, February 5, 1974, and February 26, 1974, respectively. No protests or request for public hearing have been received.

The Commission finds that:

1. The rates set forth in MRT 2 are not suitable, reasonable, or proper for the package delivery service performed by N.P.D.S., Inc.
2. The sought exemption from the otherwise governing provisions of MRT 2 for the transportation of shipments weighing 100 pounds or less at rates and charges not less than those specified in Appendix A hereof has been shown to be justified.
3. The minimum rate exemption as proposed by N.P.D.S., Inc. fully conforms with the criteria prescribed in J. S. Aaronson (1961) 58 CPUC 533.
4. A public hearing is not necessary.

The Commission concludes that the application should be granted as provided by the order herein. Since transportation conditions might change, however, the minimum rate exemption to be authorized by the order which follows should be made subject to an expiration date of December 31, 1974.

O R D E R

IT IS ORDERED that:

1. N.P.D.S., Inc. is authorized to transport shipments weighing 100 pounds or less between points located within the Los Angeles Basin Territory, as described in Minimum Rate Tariff 2, Item 270, at rates less than and different from the otherwise governing minimum rates but not less than the rates, rules, and charges set forth in Appendix A attached hereto and by this reference made a part hereof.

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2. The authority granted herein shall expire on December 31, 1974 unless sooner modified or canceled by order of the Commission.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 23rd day of APRIL, 1974.

Vernon L. Stenger
President
William J. Symons Jr.
[Signature]
[Signature]
[Signature]
Commissioners

APPENDIX A

Minimum Rates To Be Charged By
N.P.D.S., Inc.

Application

These rates are applicable to the transportation of shipments weighing 100 pounds or less between points within the Los Angeles Basin Territory as described in Minimum Rate Tariff 2, Item 270.

Rules

Maximum weight per package, 100 pounds.

Maximum size per package, 108 inches in length and girth combined.

Minimum charge for a package measuring over 84 inches in length and girth combined will be equal to the charge for a package weighing 34 pounds.

C.O.D. delivery, an additional charge of 65 cents each.

Address correction, an additional charge of 65 cents each.

Rates In Dollars Per Package Or Parcel

<u>Weight Not to Exceed</u>	<u>Rate</u>	<u>Weight Not to Exceed</u>	<u>Rate</u>	<u>Weight Not to Exceed</u>	<u>Rate</u>
2 lbs.	\$.50	36 lbs.	\$1.77	70 lbs.	\$3.70
4 lbs.	.55	38 lbs.	1.86	72 lbs.	3.79
6 lbs.	.62	40 lbs.	1.95	74 lbs.	3.88
8 lbs.	.70	42 lbs.	2.04	76 lbs.	3.97
10 lbs.	.78	44 lbs.	2.13	78 lbs.	4.06
12 lbs.	.84	46 lbs.	2.22	80 lbs.	4.15
14 lbs.	.90	48 lbs.	2.32	82 lbs.	4.24
16 lbs.	.97	50 lbs.	2.40	84 lbs.	4.33
18 lbs.	1.05	52 lbs.	2.89	86 lbs.	4.42
20 lbs.	1.12	54 lbs.	2.98	88 lbs.	4.51
22 lbs.	1.19	56 lbs.	3.07	90 lbs.	4.60
24 lbs.	1.27	58 lbs.	3.16	92 lbs.	4.69
26 lbs.	1.35	60 lbs.	3.25	94 lbs.	4.78
28 lbs.	1.41	62 lbs.	3.34	96 lbs.	4.87
30 lbs.	1.50	64 lbs.	3.43	98 lbs.	4.96
32 lbs.	1.59	66 lbs.	3.52	100 lbs.	5.05
34 lbs.	1.68	68 lbs.	3.61		