

Decision No. 82916**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 TRAILS TRUCKING, INC., a California
 corporation, for an Order authorizing
 Applicant to deviate from certain
 minimum rates on shipments transported
 for Nabisco, Inc., pursuant to
 Section 3666 of the Public Utilities
 Code of the State of California.

Application No. 54710
 (Filed March 5, 1974)

OPINION AND ORDER

Trails Trucking, Inc., a California corporation operating as a highway permitted carrier, requests authority to charge less than the established minimum rates provided in Minimum Rate Tariff 2 (MRT 2) for the transportation of bakery goods from Buena Park to Brisbane for Nabisco, Inc. Applicant desires to assess a rail rate applicable from Buena Park to San Francisco and intermediate rail points at Brisbane, named in Item 5510 of Pacific Southcoast Freight Bureau Tariff No. 300-A, in lieu of the otherwise governing higher minimum rate named in MRT 2.

Applicant states that it has transported bakery goods from Buena Park to Nabisco's former location at San Francisco for approximately nine years. It is understood that the point of origin at Buena Park and the former destination point at San Francisco are directly served by rail, and that applicant assessed the applicable rail rate under the alternative provisions named in Item 200 of MRT 2. While Nabisco's new location at Brisbane is located "off-rail" applicant desires to continue to assess the railhead-to-railhead rate it applied to the shipper's former rail location at San Francisco. In effect, applicant seeks authority to assess a railhead-to-railhead rate to an off-rail location which is lower than the otherwise applicable minimum rate named in MRT 2 and, in addition, waive the

off-rail linehaul minimum distance rate applicable under the alternative application of common carrier rate provisions of MRT 2.

Applicant states that the transportation from Buena Park to San Francisco has been profitable and that the cost of providing the transportation to Brisbane, a point intermediate to San Francisco, would be no greater than the cost to the former location. Applicant has also submitted copies of its latest financial statements in an effort to show that its overall operations are profitable.

In Major Truck Lines, Inc. (1970) 71 CPUC 447, 453, the Commission stated:

"A finding of reasonableness, as that term is used in Section 3666, contemplates something more than a determination that the rate will provide the carrier with something more than its cost of providing the service. In a proceeding to authorize a lesser rate than the established minimum rate the principal cost consideration is the cost savings directly attributable to the transportation involved and not to the ability of an individual carrier to operate at lower costs than other carriers similarly situated. (William E. Daniel, 63 Cal. P.U.C. 147.)

". . . Review of...decisions discloses that in instances when the authority has been granted there were circumstances and conditions attendant to the transportation not present in the usual or ordinary transportation... performed by highway carriers under the applicable minimum rates. Those circumstances involved such things as unusual or extraordinary conditions of tender or of delivery, transportation conditions under which the traffic was not available to... other for-hire carriers, the application of... the minimum rates was unduly restrictive to permit the traffic under consideration to move, the conditions of transportation were such that the application of the minimum rates would be excessive. . . ."

The transportation service performed by applicant for Nabisco, Inc. is typical of the general transportation performed by permitted carriers under the alternative application of combinations with common carrier rate provisions of MRT 2. While the

application attempts to show that the operations of Trails Trucking, Inc. are generally considered to be profitable, such a showing is not indicative of any pertinent cost savings directly attributable to the transportation service involved. It is clear that the sought authority would accord applicant an exclusive competitive advantage over other carriers who may wish to solicit Nabisco's traffic. Additionally, the sought authority constitutes a departure from the otherwise governing minimum rate structure of the Commission not justified by transportation conditions or otherwise shown to be reasonable. In the circumstances the sought ex parte authority should not be granted.

The Commission finds that the application does not state facts sufficient to constitute a cause of action to grant relief within the meaning of Section 3666 of the Public Utilities Code. It is concluded that Application No. 54710 should be dismissed.

IT IS ORDERED that Application No. 54710 of Trails Trucking, Inc. is dismissed.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 29th
day of MAY, 1974.

Vernon L. Sturgeon
President
William J. Lyons
Alfred J. [illegible]
[illegible]
Commissioners

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