

**ORIGINAL**Decision No. 83107

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
OSBORNE HIGHWAY EXPRESS, A California  
Corporation, for authority to deviate  
from the provisions of Minimum Rate  
Tariff Number 2 in connection with  
transportation of knocked-down  
fibreboard or pulpboard boxes for  
MacMILLAN BLOEDEL CONTAINERS INC.,  
under the provisions of Section 3666  
of the Public Utilities Code.

Application No. 54531  
(Filed December 24, 1973)

Eldon M. Johnson, Attorney at Law, for Osborne  
Highway Express, applicant.

Ed Bill and Herb Hughes, for California Trucking  
Association, interested party.

INTERIM OPINION

Osborne Highway Express is authorized to operate as a radial highway common and highway contract carrier for the statewide transportation of property governed by the provisions of Minimum Rate Tariff 2 (MRT 2). Applicant requests authority to deviate from the minimum rates established in MRT 2 when transporting boxes, fibreboard or pulpboard, corrugated, knocked down flat from Carson, California to points located within the San Francisco Territory as described in Item 270-3 of MRT 2, to Salinas, and to points in the counties of Santa Clara and Santa Cruz, for the account of MacMillan Bloedel Containers Inc.

Public hearing was held before Examiner Gagnon at San Francisco on March 4, 1974 at which time applicant moved for interim relief pending further adjourned hearing. The proceeding was continued to a date to be set subsequent to Commission decision concerning applicant's sought interim relief.

The transportation of boxes, fibreboard or pulpboard, corrugated, knocked down flat is subject to the Class 35, minimum weight 36,000 pounds, truckload rates named in MRT 2. Applicant seeks authority to assess the rates named in MRT 2 for the lower Class 35.2 truckload rating, subject to a minimum weight of 36,000 pounds per shipment. The proposed transportation would not be accorded multiple lot, split pickup, or split delivery accessorial services. All shipments are to be prepaid and no COD shipments would be accepted. Shipments are to be palletized, loaded by consignor and unloaded by consignee, without expense to applicant. One hour free time will be allowed for loading and unloading. Subject to other detailed modifications and restrictions, the otherwise governing provisions of MRT 2 would apply.

Applicant states that the shipper has recently expanded its production facilities at its new plant at Carson, California. Applicant is now enjoying all of shipper's northbound traffic. It is anticipated that the volume of movement under the sought authority will be 20-25 loads per week during the months of March through October. The traffic manager for applicant presented several rate statements in an effort to show the reasonableness of applicant's rate proposal. The traffic manager's Exhibit 4 indicates that under different billing arrangements the application of volume rail rates in combination with minimum truckload class rates, under the alternative application of common carrier rate provisions of MRT 2, would produce lower minimum charges than those resulting pursuant to the authority sought herein.

Applicant transports a substantial volume of traffic southbound from Ukiah into the Los Angeles area for the account of two other shippers unrelated to MacMillan Bloedel Containers Inc. The transportation is performed in carrier-owned trailers and driver-owned tractors. Applicant's northbound shipments for MacMillan Bloedel Containers Inc. constitutes a 100 percent backhaul for the aforementioned southbound traffic. The tractor drivers operate exclusively

for applicant and are considered to be "company drivers" owning their tractor equipment. A summary of the carrier-subcontractor agreement between applicant and its drivers is set forth in Appendix A.

For subhaul services applicant's tractor drivers would receive their established division of 65 percent of the proposed rate. Taxes, insurance, and other allied expenses will be borne by applicant. The tractor driver subhaul costs per mile, as developed by applicant, are considerably less than their anticipated revenue per mile earnings under the sought relief. It is understood that the entire fuel cost offset surcharges authorized by the Commission will be paid by applicant to its tractor drivers.

Applicant estimates that it will experience a 90 percent operating ratio under the sought authority. It is urged that the sought relief be granted for a temporary period in order to afford applicant an opportunity to develop additional operating cost and revenue data reflecting the results of actual operations under the deviation authority. The proposed interim relief would also prevent the potential diversion of traffic to proprietary operations.

Subject to further review upon consideration of evidence which may be adduced at a further hearing, the Commission finds that applicant's rate proposal is reasonable and concludes that the requested interim relief should be granted.

INTERIM ORDER

IT IS ORDERED that:

1. Osborne Highway Express is authorized to transport boxes, fibreboard or pulpboard, corrugated, knocked down flat for MacMillan Bloedel Containers Inc. from and to the points and subject to the rates and conditions specified in Appendix A.
2. A further hearing shall be scheduled in this proceeding for the receipt of additional evidence.

3. To the extent not granted herein applicant's motion for interim relief pending further hearing is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 9th  
day of JULY, 1974.

Veronica L. Stinson  
President  
William J. Simon  
William J. Simon  
William J. Simon  
William J. Simon  
Commissioners

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Carrier: Osborne Highway Express.

Shipper: MacMillan Bloedel Containers Inc.

Commodity: Boxes, fibreboard or pulpboard, corrugated, knocked down flat.

Rate: Class 35.2, minimum weight 36,000 pounds per shipment,  
as provided in Minimum Rate Tariff 2.

From: Carson, California.

To: Points in the San Francisco Territory (as defined in  
Item 270-3 of Minimum Rate Tariff 2), Salinas, and points  
in the counties of Santa Clara and Santa Cruz.

Conditions:

1. Not applicable to multiple lot, split pickup, split delivery, or COD shipments.
2. Shipments must be prepaid.
3. Shipments are to be palletized and loaded by consignor and unloaded by consignee, with equipment furnished and utilized without expense to carrier, and with an allowance of one hour free time for loading and one hour free time for unloading. Excess loading and unloading time will be charged at the rates mentioned in Item 145 of Minimum Rate Tariff 2.
4. From and after October 1, 1974, rate shall apply only during those calendar months in which the shipper tenders to carrier not less than 75 truckloads of the commodity involved; or, in the alternative, rate shall apply during those months in which shipper tenders to carrier 100 percent the commodity moving by for-hire motor carrier from shipper's Carson facility to the territory and points involved.
5. Rate shall apply only when commodity is transported in carrier-owned trailers and by driver-owned tractors under existing subcontractor agreement (See Condition 8).
6. Northbound shipments from shipper's Carson facility under this rate authority must be performed immediately subsequent to a prior southbound shipment from Ukiah to the Los Angeles Territory (as defined in Item 270-3 of Minimum Rate Tariff 2) performed in carrier-owned trailers and driver-owned tractors under the existing subcontractor agreement.

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7. Subcontractor (driver-tractor) shall receive not less than 65 percent of the rate specified herein.
8. General provisions of Subcontractor Agreement are:
  - a. Carrier Provides:
    1. Trailers with all tires (fully licensed).
    2. All accessories for trailer, including U-boards, tie-down equipment, tarps.
    3. Full maintenance of trailing equipment.
    4. All administration and sales.
    5. Collection of all accounts receivable, with payment to subcontractor whether or not account is collected.
    6. Payment of all revenue taxes.
    7. Payment of all insurance premiums (with shared deductible), including:
      - Public liability and property damage
      - Fire and theft
      - Comprehensive
      - Bobtail
      - Cargo
  - b. Subcontractor (driver-tractor)
    1. Tractor (required to be sleeper equipped, with three hundred horsepower engine, 140" wheelbase, sliding fifth wheel, headrack, and 22" tubeless tires).
    2. Fuel (sold by carrier at cost from two keylock supplies).
    3. Maintenance on tractor.
    4. All tires on tractor.
    5. Tractor licenses.
    6. Driver.
9. Any revision of the subcontractor agreement which would change the terms of compensation to either carrier or subcontractor, except for Commission-authorized increases in rates and/or fuel pass-through increases, shall not apply to this rate authority unless such change is approved in advance by written order of the Commission.
10. To the extent not otherwise specifically provided herein the provision of Minimum Rate Tariff 2 shall apply.