

Decision No. 83768**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
 into the rates, rules, regulations,)
 charges, allowances, and practices)
 of all common carriers and highway)
 carriers relating to the transpor-)
 tation of petroleum and petroleum)
 products in bulk (commodities for)
 which rates are provided in Minimum)
 Rate Tariff 6-B).

Case No. 5436
 Petition for Modification
 No. 181
 (Filed November 1, 1974;
 amended November 6, 1974)

O P I N I O N

Acme Transportation, Inc. (Acme), petitioner, is engaged in business as a petroleum irregular route carrier under a certificate of public convenience and necessity granted by the Commission. By Decision No. 82180 dated November 27, 1973 in Case No. 5436, Petition for Modification No. 144, as amended, Acme was authorized to publish less-than-minimum rates of 57 cents per 100 pounds, minimum weight 53,500 pounds, in each direction, for the round-trip transportation of described petroleum products in bulk in tank trucks between defined points in northern California, on the one hand, and defined points in southern California, on the other hand. The authorized rates were increased to 59 cents per 100 pounds in accordance with percentage increases authorized by the Commission. The published rates and authority are scheduled to expire with December 15, 1974.

By this petition, as amended, authority is sought to increase the above common carrier rates to 63 cents per 100 pounds and to publish and file the increased rates for a one-year period from December 15, 1974.

The petition, as amended, states as follows: Petitioner has moved a substantial amount of traffic under the currently authorized round-trip rates which apply only when the shipper provides the carrier with both an inbound and outbound movement at the time service is requested. The rates otherwise applicable apply to single movements in one direction, and the costs on which they are based relate to the operation of equipment which returns empty. The shipper whose traffic Acme has been moving under the presently published rates has informed petitioner that if this type of rate is not continued, it will increase its proprietary fleet and move the traffic in issue on its own equipment. The conditions which justified the current rates continue to exist. The rates proposed herein are just and reasonable.

The cost data set forth in Exhibit IV to the petition show that the proposed rates will be compensatory on a round-trip basis, if all of the conditions imposed are met by the shipper.

Petitioner seeks relief from the long- and short-haul provisions of Section 460 of the Public Utilities Code. In support of this relief, the petition, as amended, states as follows:

"Petitioner is a common carrier and the proposed rate, if published, will become viable as a Minimum Rate for use by all carriers in the State. If the rate here proposed is permitted to apply intermediately at points other than those specified in the proposal, then, because of alternative application, they would become effective rates statewide. This is not in the public interest nor is it justified by transportation conditions. As stated, the rates here proposed are constructed and suited only to meet specific conditions of volume, cost, and two-way movement which exist between the points where the rate is specifically proposed to be made effective and not statewide. Its extension to additional intermediate points for the reason stated would negate the established minimum rate structure statewide and would thus be contrary to the public interest. The fourth section departure requested will permit the rate to apply only between points where conditions justify its use and will preserve the established minimum rate structure at other points where the same conditions do not exist."

The certificate of service shows that a copy of the petition and amendment were mailed to the California Trucking Association and various carriers on November 1 and 6, 1974, respectively. The petition and amendment were listed on the Commission's Daily Calendar on November 4 and 7, 1974. No objections to the granting of the petition, as amended, have been received.

Findings

1. Petitioner has moved substantial traffic under the currently published round-trip rates for the movement of defined petroleum products in bulk in tank truck equipment between defined points in the San Francisco Bay Area and in the Los Angeles Metropolitan Area, which rates are scheduled to expire December 15, 1974.

2. Petition 181, as amended, seeks authority to continue and increase the round-trip rates.

3. The sought rates are lower than the applicable minimum rates for such transportation set forth in Minimum Rate Tariff 6-B.

4. The applicable minimum rates for such traffic reflect cost criteria based on less than the 100 percent load factor which would be achieved under petitioner's proposal.

5. The round-trip costs of operations are less under the conditions specified in petitioner's rate proposal than under operating conditions assumed in the development of the applicable minimum rates.

6. The cost data submitted by petitioner demonstrate that the round-trip rates proposed in the petition will exceed the estimated costs of providing the round-trip service under the conditions specified in petitioner's rate proposal; therefore, the proposed rates will be compensatory.

7. The type of traffic involved in petitioner's proposal is ideally suited to proprietary tank truck operations by the shipper, and the shipper, whose traffic petitioner has moved on a round-trip

basis under the presently published rates since they became effective, has informed it that unless rates lower than the minimum rates are continued, it will increase its proprietary fleet and move this kind of traffic in its own equipment. Therefore, lower rates than the existing minimum rates are necessary to retain the involved traffic to for-hire carriers.

8. Based on the preceding findings, the proposed rates are justified by transportation conditions.

9. Relief from the long- and short-haul provisions of Section 460 of the Public Utilities Code is justified.

Conclusions

1. The petition, as amended, should be granted.
2. The authority granted should be limited to a one-year period as the cost and other transportation conditions surrounding the transportation may change at any time.
3. Long- and short-haul relief necessary to publish the proposed rates should be authorized.

O R D E R

IT IS ORDERED that:

1. Acme Transportation, Inc., a petroleum irregular route carrier, is authorized to publish and file in Western Motor Tariff Bureau, Inc., Local and Joint Freight and Express Tariff 18, Cal. P.U.C. 24, to expire December 15, 1975, rates for the transportation of petroleum and petroleum products in bulk in tank truck equipment as set forth, and subject to the conditions specified, in Appendix A attached hereto and made a part hereof.

2. Tariff filings required by the order herein shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public.

3. Acme Transportation, Inc. is authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to establish and maintain the rates authorized by the order herein.

4. The authority granted herein shall expire unless exercised within ninety days after the effective date of this order.

The effective date of this order shall be December 9, 1974.

Dated at San Francisco, California, this 26th
day of NOVEMBER, 1974.

Vernon L. Stevenson
President
William J. Lyons
John J. [illegible]
Robert E. [illegible]
Commissioners

APPENDIX A
Page 1 of 2

ACME TRANSPORTATION, INC.

RATES IN CENTS PER 100 POUNDS
Subject to Notes 1 and 2

<u>Commodity</u>	<u>Between</u>	<u>And</u>	<u>Rate</u>	<u>Min. Wt. In lbs.</u>
Petroleum and petroleum products as described in rate Groups A, B, C, D, or E of Item 41	All points located in Group 2 as described on page 5 series	All points located in Group 6 as described on page 7 series	63¢	53,500

NOTE 1: Applies only when the carrier picks up and transports in the same unit of equipment an outbound and a return shipment in accordance with the following provisions:

- A.1. Bill of lading covering initial shipment must be claused "Shipment Tendered Under Provisions of Item _____", and must indicate the point of pickup of the return shipment.
2. Return bill of lading must make reference to original bill of lading by shipping point, number, and date.
- B. Charges for both shipments must be payable by the same debtor.
- C. The return shipment must be available for carrier pickup immediately upon completion of delivery of the initial shipment and at the demand of carrier.

NOTE 2: A. The rate in this item is subject to the following route (route applies in either direction):
From Group 2 via U.S. Interstate Highway No. 80 to its junction with State Route No. 17, thence via State Route No. 17 to its junction with State Route No. 238, thence via State Route No. 238 to its junction with U.S. Interstate Highway No. 580, thence via U.S. Interstate Highway No. 580 to its junction with U.S. Interstate Highway No. 5, thence via U.S. Interstate Highway No. 5 to the intersection of U.S. Interstate Highway No. 5 and U.S. Interstate Highway No. 405; thence via U.S. Interstate Highway No. 405 to Group 6.

APPENDIX A
Page 2 of 2

- B. The rates provided in this item will have intermediate application from, to, or between points along the route named in Note 2, paragraph A, and points one actual highway mile from such route only between Castaic and points in Group 6 and between Livermore and points in Group 2.