

ORIGINALDecision No. 83890

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
FLOYD B. MILLER and SCOTT R. MILLER,
dba DAY & NITE DELIVERY SERVICE, a
partnership, for an order granting
an exemption from provisions of
Minimum Rate Tariff 2.

Application No. 55216
(Filed September 30, 1974)

O P I N I O N

Applicants hold a highway contract carrier permit authorizing the transportation of general commodities. Their principal customer is The Pacific Telephone and Telegraph Company.

Pursuant to Section 3666 of the Public Utilities Code, applicants here seek an exemption from the Commission's established minimum rates for the transportation of audit media, payroll checks, business records, tabulating cards, paper punch tapes, and printed material between points within 350 air miles of San Jose in vehicles of licensed weight of 4,000 pounds or less.

Applicants allege that since beginning business they have been providing transportation of the above commodities at rates set forth in Minimum Rate Tariff 2. Applicants further allege that several carriers who presently hold exemptions from the minimum rates are bidding to perform transportation for applicants' present customers. Since applicants are obligated to observe the rates published in Minimum Rate Tariff 2, they cannot presently submit bids which can successfully compete with those of exempted carriers who are free to bid less than the minimum rate.

This Commission has previously found in Decision No. 65794, 61 CPUC 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 application was listed on the Commission's Daily Calendar of October 1, 1974. No protests to the granting of the application have been received.

Findings

1. The transportation for which applicants herein seek exemption is similar to the transportation for which other carriers have been granted an exemption from the minimum rates.
2. The minimum rate provisions at issue herein are not appropriate minimum rates, rules, and regulations for the transportation for which exemption is sought herein.
3. A public hearing is not necessary.

Based on the above findings the Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that F. B. Miller and Scott R. Miller, doing business as Day & Nite Delivery Service, are exempted from observance of the rates, rules, and regulations in Minimum Rate Tariffs 2, 1-B, and 19 in connection with the transportation of audit media, payroll checks, business records, tabulating cards containing data, paper punch tapes, and printed material between points located within 350 air miles of San Jose when transported in vehicles of licensed weight of 4,000 pounds or less.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 30th
day of DECEMBER, 1974.

Thomas L. Stevenson
President
William J. Lyons
Thomas M. Han
Robert E. McFarland
Commissioners