

Decision No. 84066**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 GEORGE C. BLAKE TRUCKING, INC., a
 California corporation, for authority
 to deviate from minimum rates pursuant
 to Section 3666 of the Public
 Utilities Code.

Application No. 55056
 (Filed July 22, 1974;
 amended August 26, 1974)

Russell & Schureman, by Carl H. Fritze, Attorney
 at Law, for applicant.

David P. Christianson, Attorney at Law, for Ocean
 Salt Company and MHC Trucking; and James R.
Steele, for Leslie Food, Division of Leslie
 Salt Company; protestants.

R. C. Broberg and H. W. Hughes, for California
 Trucking Association; Frank A. Riehle, Jr.,
 Attorney at Law, for Pacific Salt & Chemical
 Company; Geoff Cross, for Bulk Transportation;
 and Donald R. Swortwood, for Western Salt
 Company; interested parties.

George L. Hunt and Mark Wetzell, for the Commission
 staff.

O P I N I O N

Applicant seeks authority to assess less than the minimum rates set forth in Minimum Rate Tariff 2 for the transportation of bulk salt in dump truck equipment from the plant sites of Pacific Salt & Chemical Company (Pacific) at or near Trona to various destinations located within 300 constructive miles of the aforementioned plant sites.

Public hearing was held before Examiner O'Leary at Los Angeles on October 21 and 22, 1974. The matter was submitted on November 19, 1974, the date written closing statements were filed.

Applicant presented evidence through its president, its accountant, and the president of Pacific. Applicant's president testified that applicant has been performing transportation for Pacific for 20 years. Pacific accounts for approximately 30 percent of its business. He also testified that Pacific asked that the application be filed and has been informed that Pacific is prepared to resort to proprietary carriage if it must continue to pay the minimum rates.

Applicant's accountant prepared a cost study (Exhibit 4) covering movements to fourteen destinations. On its face the cost study discloses that the transportation would be compensatory. However, careful analysis of the study discloses that applicant's costs are understated as to depreciation, licenses, and insurance. In each instance the costs were computed on the one-way mileage rather than on round-trip mileage. Additionally, the cost-per-mile factor for depreciation is drastically understated. To arrive at the cost per mile for depreciation the accountant divided the annual depreciation cost of \$12,000 by the annual estimated mileage for the transportation in question, 106,000 miles, and arrived at an erroneous cost-per-mile factor of 1.13 cents per mile. The correct cost-per-mile factor based on applicant's formula is 11.3 cents per mile. Correcting these deficiencies, the cost study discloses that the transportation at the proposed rates to 13 of the 14 destinations would result in a loss.

The president of Pacific testified that, because of its location at Trona, it is unable to utilize the rates set forth in Item 728.5 of Minimum Rate Tariff 2, and therefore is unable to compete on an equal basis with competitors who are able to utilize the rates set forth in Item 728.5. No other evidence was presented

that unusual circumstances exist in the transportation which are not present in the ordinary transportation of this commodity.

During the course of the hearing a question arose as to whether under the provisions of Item 210, Minimum Rate Tariff 2, the rates in Item 728.5 could be used in combination with a rail common carrier rate to destinations not served by rail facilities. Informal Ruling 73-A of the Commission's Transportation Division deals with a similar problem in connection with the transportation of lumber. Informal Ruling 73-A states:

"It has been asked whether the rates in Item No. 690 or the rates in Item No. 710 of Minimum Rate Tariff No. 2 are applicable as the off-rail factor in developing alternative rates under Item No. 210 of the tariff, in connection with a shipment of lumber transported by a highway permit carrier from a point of origin in northern California to a point of destination within 150 constructive miles of Metropolitan Zone 229 (central Los Angeles), when the rail-rate factor applies from northern California to a team track within the 150-mile area.

"Item No. 210 specifies that rates provided in Minimum Rate Tariff No. 2 may be used in combination with common carrier rates by adding to the common carrier rate applying from point of origin to any team track the rate provided in Minimum Rate Tariff No. 2 for the distance from the team track to point of destination. The only commodity rates in Minimum Rate Tariff No. 2 applicable on lumber for the distance from a team track to a point of destination, both of which are within the 150-mile area, are those provided in Item No. 710. The rates in Item No. 690 will not apply to transportation between points for which rates are provided in Item No. 710." (Emphasis supplied)

Since Item 728.5 contains no prohibition from using the rates contained therein in combination with common carrier rates, the rates in Item 728.5 may be used in combination with rail common carrier rates provided all the terms of Item 728.5 are complied with from the railhead over which the combination is made to final destination.

This Commission has consistently held in applications seeking deviations from minimum rates that a showing that the proposed rates will exceed the costs of providing service is indispensable to the requisite finding that the proposed rates are reasonable. (Re Paper Transport (1964) 63 CPUC 690.)

The fact that a shipper cannot utilize certain rates because of its location standing alone even if the proposed rates are compensatory is not sufficient to justify a deviation from the minimum rates. The proper way to correct such a situation is to file an appropriate petition for modification of the minimum rates.

The Commission finds that applicant has not shown that the proposed rates will exceed the cost of providing service, nor that unusual circumstances exist in its transportation which are not present in the ordinary transportation of this commodity, and therefore has not sustained its burden of proof that the proposed rates are reasonable and concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 55056 is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 11th day of FEBRUARY, 1975.

I abstain:

Edith: Commissioner

Vernon L. L. L.
President

William
Leonard
Commissioners