

Decision No. 84273

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RICHARD M. BREIEN
and WALTER L. SILVA for authority
to deviate from the minimum rate
for the San Jose Metropolitan Zone
Group to San Francisco Metropolitan
Zone Group, per item 509, MRT 2
based on class 35 rating, per item
180650, NMFC A-13 and NMF 100-A and
further to eliminate the surcharge
from supplemental 75, MRT 2 and a
surcharge from California PUC decision
82453, interim fuel surcharge for
tallow truck transportation from
San Jose Meat Company to Royal Tallow
and Soap Division of the Darling-
Deleware Company, Inc., in San
Francisco. This authority is sought
under PUC 3666.

Application No. 55421
(Filed January 3, 1975)

Garry E. Stelow, Attorney at Law, for Richard M.
Breien and Walter L. Silva, applicants.
Charles D. Gilbert and H. W. Hughes, for California
Trucking Association, interested party.
Patrick O'Hanlon, for the Commission staff.

O P I N I O N

Applicants, Richard M. Breien and Walter L. Silva,
doing business as Beef Products Transport, a highway permit carrier,
request authority to deviate from the minimum rates prescribed in
Minimum Rate Tariff 2 (MRT 2) for the transportation of
tankage, in bulk, from San Jose Meat Company, Inc., San Jose to
Royal Tallow and Soap Division, Darling-Deleware Company, Inc.,
San Francisco (Royal Tallow).

The commodity involved currently is subject to a class 35 rating, minimum weight 40,000 pounds pursuant to Item 180650 (Tankage), of National Motor Freight Classification A-13. The current rate for this transportation is 49 cents per cwt as provided in Item 509, MRT 2 plus applicable surcharges.

Applicants propose a rate of 28-1/2 cents per cwt, subject to a minimum weight of 40,000 pounds.

Public hearing was held before Examiner Tanner on February 5, 1975 at San Francisco. Applicants' managing partner presented evidence in support of the relief sought.

The transportation in question is performed for Royal Tallow and accomplished by placing an open dump truck (leased from Royal Tallow) below a chute at the San Jose Meat Company's plant where the entrails and other scraps from slaughtered animals are placed during the day. At the end of the work day, applicants transport the load to the Royal Tallow plant in San Francisco where it is dumped into a pit. The empty vehicle is then returned to San Jose, placed under the chute for the next day's load.

The California Trucking Association had no objection to granting the authority sought, provided no change in the equipment lease was made.

Applicants have provided the transportation involved for some time in the past, believing it was not subject to the minimum rate orders. In June 1974, the Commission's Transportation Division made a routine audit of applicants' records, at which time applicants were apprised of the proper minimum rate and charge. Royal Tallow thereupon concluded that the minimum rate level was such that it would not be economically feasible to continue the transportation by a for-hire carrier. Applicants' services were canceled.

Exhibit 1 consists of an estimate of income and expenses and a copy of the equipment lease in effect prior to the cancellation of applicants' services.

The expenses for the equipment are based on actual expenses experienced from April through July of 1974, during which time the transportation in question was performed by applicants. The equipment is leased to applicants by Royal Tallow. The terms of the lease will be the same as those in effect prior to the cancellation. Labor costs are based on a salary of \$175.20 per week. No estimates for overhead or contingencies were included. The net income is estimated to be \$1,040 per month.

Applicants' primary interest is the transportation of livestock. The services subject to this application are supplemental to the primary business.

Findings

1. The favorable circumstances and conditions attendant to the transportation of the commodity involved in this proceeding are not generally present in the usual or ordinary transportation performed by highway carriers under the governing provision of MRT 2.

2. There is a cost saving directly attributable to applicants' transportation of the commodity involved.

3. The proposed rate is compensatory, reasonable, and justified.

Since conditions under which the service is performed may change at any time, the authority granted in the ensuing order will expire at the end of one year unless sooner canceled, modified, or extended by order of the Commission.

O R D E R

IT IS ORDERED that:

1. Richard M. Breien and Walter L. Silva are authorized to depart from the minimum rates set forth in Minimum Rate Tariff 2 by charging those rates set forth in Appendix A of this decision. This authority does not include any deviation from any rates, rules, or regulations except as specifically set forth in Appendix A.

2. The authority granted shall expire one year after the effective date of this order unless sooner canceled, modified, or extended by order of the Commission.

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

Dated at San Francisco, California, this 1st day of APRIL, 1975.

Vernon L. Stevenson President
William J. Smith
Samuel D. [unclear]
Leonard [unclear]
Commissioners

Commissioner ROBERT BATINOVICH

Present but not participating.

APPENDIX A

Commodity: Tankage as described in Item 180650,
National Motor Freight Classification A-13

From: San Jose Meat Company, Inc.,
11740 Berryessa Road,
San Jose, California

To: Royal Tallow and Soap Division,
Darling-Deleware Company, Inc.,
429 Amador Street
San Francisco, California

Rate: 28-1/2 cents per cwt.

Minimum
Weight: 40,000 pounds