

ORIGINALDecision No. 84438

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Bayview Trucking, Inc.,
 for authority to charge less than
 minimum rates in Minimum Rate Tariff
 No. 2 for E.T. Industries, Inc., as
 provided in Section 3666 of
 Public Utilities Code.

Application No. 54301
 (Filed September 4, 1973;
 amended January 15, 1975)

Harold F. Culy, for applicant.
Sheldon Mitchell, for E.T. Industries, Inc;
James R. Foote, for Associated Independent
 Owner Operators; Arthur D. Maruna and
Herbert W. Hughes, for California Trucking
 Association; interested parties.

O P I N I O N

Applicant operates as a permitted carrier. By Decision No. 82112 dated November 13, 1973, applicant was granted interim authority pending hearing to depart from the minimum rates in Minimum Rate Tariff 2 (MRT 2) by charging 110 percent of Class 35.4 rates for the transportation of wheels, iron or steel, requiring or suitable for use with tires, without tires, in cartons, from Torrance to Benicia in truckload lots of not less than 45,000 pounds per unit of equipment for the account of E.T. Industries, Inc. (E.T.), Benicia. The wheels are described in Item 197592 Sub 2 of National Motor Freight Classification A-13 (NMFC), the distance from origin to destination is 448 constructive miles, and the applicable rate named in MRT 2 at the time the application was filed was \$1.14 per 100 pounds, minimum weight 30,000 pounds. The interim authority included conditions that the shipper shall load the carrier's equipment without expense to the carrier; that the carrier's driver only shall assist in unloading; and that for any unloading time in excess of two hours,

the rates provided in Item 145 of MRT 2 shall be assessed. The authority was extended to May 13, 1975 by Decision No. 82851 dated May 7, 1974. This decision stated that since no protest to the application had been received, a public hearing was not necessary. At the request of the California Trucking Association (CTA), the matter was reopened for public hearing by Decision No. 83074 dated July 2, 1974. The latter decision provided that Decision No. 82851 shall remain in effect. By the amendment filed January 15, 1975, applicant requests an additional deviation for the return movement of aluminum castings NOI, as described in Item 13220 Sub 1 of the NMFC, when unitized and strapped onto shipper-owned pallets for E.T. from the shipper's place of business in Benicia to the shipper's plant or its contract machine shops in Los Angeles, Gardena, or Torrance. The sought deviation rate for this movement is 75 percent of the authorized northbound rate and is subject to a minimum weight of 36,000 pounds per unit of carrier's equipment. This rate is subject to the following conditions: The shipper shall notify the carrier that the equipment will be used for a continuous round trip prior to or at the time of loading the northbound shipments; E.T. shall perform all loading and unloading of both the northbound and southbound shipments at no expense to the carrier; the carrier's driver shall be considered off duty after placing the semitrailer at E.T.'s warehouse at Benicia; the southbound load must be ready for departure no sooner than 10 or later than 14 hours after placement of carrier's semitrailers for unloading the inbound shipment.

Public hearing in the reopened proceeding was held before Examiner Arthur M. Mooney in San Francisco on October 24, 1974 and January 17, 1975. The matter was submitted on the latter date.

Following is a summary of the testimony presented by a traffic consultant on behalf of E.T.: He has a contract with E.T. to act as its traffic manager and traffic department for all of its national and international transportation needs. E.T. manufactures

aluminum and magnesium automobile, including sport car, wheels at its Benicia plant and ships them to all parts of the country and overseas. E.T. has purchased the plant of a competitor in Torrance who manufactures steel wheels. This plant is small. The warehouse facilities at the Benicia plant have been expanded, and all of the steel wheels not shipped directly to a customer are brought here for storage. Until the spring of 1974, castings of the cores for the wheels manufactured at the Torrance plant were purchased from subcontractors in the Los Angeles area. The Benicia plant had the capacity, equipment, and manpower to manufacture the cores. It was decided by the management of E.T. that they should be manufactured here and sent to the Torrance plant. One truckload of the cores are required for manufacturing the equivalent of four truckloads of steel wheels. All steel wheels are shipped without tires in cartons and more than the 45,000 pound minimum weight provided in the deviation for this commodity can be loaded on the carrier's equipment. Over 90 percent of the southbound castings are steel and most of the balance are aluminum. The castings are palletized for shipments, and although some of the shipments may be under 36,000 pounds, charges would be based on the 36,000 pound minimum weight provided in the deviation for this commodity. The castings would be power loaded and unloaded and the wheels would not be. The loading and unloading times for the castings would be about 45 minutes each and for the steel wheels would be several hours each. There are no commodity rates for either the northbound or southbound movements. The conditions to which the sought deviations would be subject are substantially more restrictive than those set forth in the NMFC for the commodities in issue. Applicant's past operations for E.T. have been satisfactory. E.T. performs its own transportation in the local Los Angeles area and from there to Oxnard and Ventura with proprietary equipment. Its primary business is manufacturing, and it prefers using for-hire carriers for its long-haul transportation.

If the present deviation for the wheels is not extended and the sought deviation for the castings is not granted, it will consider either applying for commodity rates or using proprietary transportation for these movements. Because of the methods used for shipping the castings and wheels, neither are subject to loss or damage.

Following is a summary of the evidence presented by the executive vice president of applicant: For the seven months, May through November 1974, E.T. shipped 65 loads of steel wheels northbound, and the average number of loads per month exceeded nine and the average weight per shipment was 42,772 pounds. For the same period, the total number of shipments of castings southbound was 28, and this averaged four shipments per month with an average weight of 20,683 pounds per load. E.T. has informed applicant that it intends to increase production at its Torrance plant, and this would require a comparable increase in the production of castings at the Benicia plant. The contract machine shops do the lathe work on the castings. Presently, E.T. is using two of them. They are both located within three blocks of its Torrance plant. However, it is possible that in the future E.T. may use other shops in Torrance, Gardena, or Los Angeles. For this reason, the deviation for the castings is requested to each of these locations. The constructive distance from Benicia to both Torrance and Gardena is 448 constructive miles, and to those locations in Los Angeles within which the shops would most likely be located would be less. With the exception that on occasions equipment of an affiliated company might be used, all of the transportation under the deviations would be provided by applicant's equipment. All of the affiliated companies are now being merged into applicant, and this should be completed by mid-1975. Based on applicant's experience under the current deviation, the revenue for a shipment of wheels from Torrance to Benicia at the 45,000 pound minimum weight is \$416.47, the total expenses for such

a shipment is \$301.91, and the resulting profit and operating ratio are \$114.56 and 72.4 percent, respectively. For a round trip, which would include the southbound movement of castings at the sought deviation rate for this commodity, the round-trip revenue, based on the minimum weights for both commodities, would be \$666.60, the round-trip cost would be \$557.53, and the profit and operating ratio would be \$89.07 and 86.6 percent, respectively. The same basic data were used for developing the cost for the round-trip transportation as were used for the northbound wheel shipments. The equipment used for the wheel shipments is not assigned exclusively to this transportation. It is also used for other north and south transportation. If the conditions applying in connection with the deviation rates are not complied with, the applicable charges in MRT 2 will be applied. Likewise, MRT 2 charges would be assessed for any additional services not covered by the deviations.

Applicant has terminals in Sacramento, Modesto, and Los Angeles. It operates 110 semivans, 76 refrigerator trailer units, and 35 tractors. It also uses approximately 12 owner-operators for its refrigeration service which is not involved herein. For the period April through September 1974, its gross revenue was \$1,111,061, its total expenses were \$1,001,376, its profit before income taxes was \$108,685, and its operating ratio was 90.12 percent.

Applicant's representative, in his closing statement, asserted that the overall operations under the current deviation for wheels and the sought deviation for castings will be profitable and that the facts and circumstances justify the sought relief.

In his closing statement, the representative of CTA did not specifically object to the sought extension of the deviation for the wheels or the new deviation for the castings. However, he did express concern over the sought additional deviation. In particular, he questioned the propriety of a percent rate for the return movement when there is not always one for the inbound

shipments and there are no requirements regarding this, and the propriety of including Gardena and Los Angeles as destinations when the costs presented by applicant are for Torrance only.

Discussion

Subject to the additional condition that E.T. must furnish the applicant with at least one southbound shipment of castings for every four northbound shipments of wheels, we are of the opinion that the application, as amended, should be granted.

As we have heretofore held in our decision in the Application of Karl A. Weber (1962) 60 CPUC 59, in proceedings brought under Section 3666 of the Public Utilities Code a showing that the transportation to be performed at the proposed rate is compensatory is indispensable to a finding that the proposed rate is reasonable. The decision pointed out that the costs to be used in determining whether the revenue to be earned under the proposed rate is compensatory are the round-trip costs between origin and destination. Here, applicant's revenue and cost data showing a profit of \$114.56 for a shipment of wheels from Torrance to Benicia at the deviation rate and minimum weight is based on the one-way mileage from origin to destination and not the round-trip mileage. The deadhead costs shown in the original application for returning from Benicia to Torrance empty are \$116.28. There have been some increases in the costs on which this is based since the original application was filed. It is apparent, therefore, that the northbound deviation for the wheels standing by itself would not be compensatory. However, the evidence does show that a round trip of both the wheels and castings at the deviation rates would produce a profit of \$89.07, and with the condition requiring a return shipment of castings for every fourth northbound shipment of wheels, it can reasonably be inferred that the revenue for the entire operation under the two rate deviations will exceed the cost of providing the service and will be compensatory. Furthermore, it seems evident, based on applicant's

past experience, that the southbound shipments of castings will exceed the one in four provided for in the condition. According to applicant's Exhibit 2, the ratio of the southbound shipments of castings to the northbound wheel shipments for the seven months through November 1974 was approximately 1 to 2.3. Although the witness for E.T. testified that one truckload of castings is required to produce four truckloads of wheels, this certainly does not mean that there would be only one southbound shipment for every four northbound. In this connection, the witness also pointed out that in addition to the manufactured wheels shipped to Benicia for storage, many are shipped to customers in the southern California area in its own equipment. It is apparent therefore that, based on past experience, the southbound shipments will substantially exceed the one in four condition.

With the conditions involved and the method of handling the transportation, the service herein differs from that contemplated by the minimum rates. As to CTA's concerns regarding the southbound deviation, the condition requiring one such shipment for every four northbound shipments removes any uncertainty regarding the deviation, and although the southbound cost is based on transportation destined to Torrance, the cost differences, if any, for such shipments destined to Gardena or Los Angeles would be de minimis.

The proposed deviation for the cores in the amendment to the application refers to aluminum castings only. Since both aluminum and iron or steel cores will be shipped, the deviation for the cores will specify both types of castings.

Findings

1. The type of service applicant would perform under the proposal herein is different from that contemplated by the minimum rates generally.

2. Applicant has been and is now transporting steel wheels from Torrance to Benicia for E.T. at the deviation rate for this commodity, and castings, both steel and aluminum, from Benicia to Torrance at the applicable minimum rates.

3. With the condition that E.T. must tender at least one southbound shipment of castings for every four northbound shipments of wheels, the revenue to be derived from the overall operations under the two deviation rates will exceed the cost of providing the service. ✓

4. Applicant has been transporting and reasonably may be expected to continue to transport one shipment of castings southbound for every 2.3 shipments of wheels transported northbound.

5. With the condition referred to in Finding 3, the deviation rates are compensatory, reasonable, and justified.

Conclusions

1. With the condition that E.T. shall tender to applicant at least one southbound shipment of castings for every four northbound shipments of wheels, the application, as amended, should be granted as set forth in the ensuing order.

2. As conditions may change, the authority will be made to expire one year after the effective date of this order unless sooner canceled, modified, or extended by order of the Commission.

O R D E R

IT IS ORDERED that:

1. Bayview Trucking, Inc. is authorized to depart from the minimum rates in Minimum Rate Tariff 2 to the extent set forth in Appendices A and B attached hereto.

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 is the date hereof.

Dated at San Francisco, California, this 13th
day of MAY, 1975.

Vernon L. Stinson
President
William J. Symon Jr.
Stanley J. ...
...
Robert ...
Commissioners

APPENDIX A

Carrier: Bayview Trucking, Inc.

Consignor: E.T. Industries, Inc.

Point of Origin: The plant of E.T. Industries, Inc. at Torrance.

Consignee: E.T. Industries, Inc.

Destination: The distribution plant of E.T. Industries, Inc. at Benicia, California.

Commodity: Wheels, iron or steel, requiring or suitable for use with tires, without tires, in cartons, subject to Item 197594 of the National Motor Freight Classification naming attachments at the same rate.

Rate: 110 percent of Class 35.4 in Minimum Rate Tariff 2.

Minimum Weight: 45,000 pounds per unit of carrier's equipment.

Note 1. Shipper shall load carrier equipment without expense to carrier.

Note 2. Carrier shall furnish driver only to assist unloading. Excess unloading time over two hours shall be charged at rates provided for in Item 145 of Minimum Rate Tariff 2.

Note 3. For every four loads transported under the provisions of this appendix, E.T. Industries, Inc. must tender to carrier at least one backhaul of the commodities listed in and in accordance with the provisions of Appendix B.

APPENDIX B

Rate and rules of application for return payload under transportation in a continuous round trip with a northbound shipment under the provisions of Appendix A.

Commodity: Aluminum castings NOI, NMFC 13220 Sub 1, and iron or steel castings NOI, NMFC 104790 Sub 2, when unitized and strapped on to shipper owned pallets.

Consignor: E.T. Industries, Inc., Benicia, California.

Origin: E.T. Industries, Inc., plant or warehouse, Benicia, California.

Consignee: E.T. Industries, Inc. contract machine shop or E.T. Industries, Inc. plant.

Destination: Los Angeles, Gardena, or Torrance, California.

Rate: 75% of the northbound rate in Appendix A.

Minimum Weight: 36,000 pounds per unit of carrier's equipment.

Rules of Application:

1. Prior to, or at the time of, loading the northbound shipment, E.T. Industries, Inc. shall notify carrier that the equipment will be utilized for a continuous round-trip movement.
2. E.T. Industries, Inc. shall perform loading and sealing of carrier equipment at the Torrance plant without cost to carrier.
3. E.T. Industries, Inc. at the Benicia plant warehouse shall unload the inbound shipment without expense or assistance on the part of carrier.
4. Carrier's driver shall be considered off duty after placing semitrailer at E.T. Industries, Inc. warehouse.
5. E.T. Industries, Inc. shall reload unitized cargo on shipper's pallets for the southbound movement without expense or assistance on the part of carrier and affix shipper seals to carrier's equipment.
6. The southbound trip must be ready for departure no sooner than 10 hours, or later than 14 hours after placement of carrier's semitrailers for unloading the inbound shipment.
7. Unloading at destination of the southbound shipment shall be accomplished by the consignee without assistance or expense on the part of carrier.