

ANV

Decision No. 84452

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of John T. Reed,)
President of Pacific Coast Tariff)
Bureau, for and on Behalf of)
A. W. REID DRAYING COMPANY,)
By virtue of Power of Attorney)
to said Pacific Coast Tariff)
Bureau, to Depart from the terms)
of the contract entered into pur-)
suant to Item No. 90 of Pacific)
Coast Tariff Bureau Tariff No.)
101, Cal. P.U.C. No. 36, as)
described herein.)

Application No. 55021
(Filed July 10, 1974)

OPINION AND ORDER

By this application, Pacific Coast Tariff Bureau (PCTB), seeks authority, on behalf of A. W. Reid Draying Company (Reid), to depart from the provisions of PCTB Local Freight Tariff No. 101, Cal.P.U.C. No. 36 (Tariff No. 101), by refunding to Federal Envelope Company (Federal) amounts paid for services not performed by Reid during a strike period.

Applicant states that Reid entered into a written contract with Federal on April 30, 1973, for the use of a 14-foot, 2-axle van, with driver under the yearly vehicle unit rates in Item 100 of Tariff No. 101 and continuous service was furnished by Reid to Federal up to and including June 11, 1974. Applicant alleges that Federal ceased normal operations on June 12, 1974, as its employees went on strike and it was precluded from utilizing the vehicle under contract from Reid. Applicant informed the Commission by letters that Reid was able to use its equipment previously dedicated to Federal in other revenue service during the entire period from June 16 to July 24, 1974, inclusive, and that Reid resumed operations at Federal on July 25, 1974.

Applicant declares that in Decision No. 67659 dated August 4, 1964, in Case No. 7783 (Petition for Modification No. 1), the Commission considered the publication of a rule in Minimum Rate Tariff 15 to govern the apportionment of charges for services that had been terminated.¹ In refusing to publish such a rule the Commission said:

"...In the circumstances where an inequitable situation may result from interruption or termination of a written agreement beyond the control of the parties to the agreement, relief from the tariff provisions may be sought from the Commission through the filing of formal pleadings appropriate to the circumstances."

Applicant states that Reid and Federal wish to waive the assessment of charges during the strike period as such assessment of charges has unreasonably burdened Federal and resulted generally in the double assessment of charges for the same piece of equipment by Reid. Applicant contends that, prior to the interruption of service, Federal notified Reid of the possibility of a strike by its employees and such advance notice enabled Reid to plan for alternate utilization of its equipment resulting in a loss of vehicle utilization time only from June 12 through June 15, 1974.

Table 1 below sets forth the detail of the calculations involved in determining the applicable tariff charges and permissible refund.

¹Tariff No. 101 is predicated on the provisions of Minimum Rate Tariff 15 and does not allow for cessation of charges during a strike situation.

A. 55021 - ANV

Table 1

Applicable Charges
In Tariff No. 101
For June, 1974

Base Rate	\$1,910.00	
(1) Mileage Charge	59.67	
	<u>1,969.67</u>	
3% Surcharge	59.09	
Total Charges - June, 1974		\$2,028.76

Charges Due Reid for Services
Performed in June of 1974:

(2) June 1, 1974 - June 11, 1974	\$ 655.76	
(3) June 12, 1974 - June 15, 1974	111.90	
(4) Mileage Charge	<u>61.46</u>	
Total Charges - June, 1974		829.12
Amount Refundable - June, 1974		<u>\$1,199.64</u>

Applicable Charges
In Tariff No. 101
For July, 1974

Base Rate	\$2,043.00	
(5) Mileage Charge	55.65	
(6) 1% Surcharge	<u>13.20</u>	
Total Charges - July, 1974		\$2,111.85

Charges Due Reid for Services
Performed in July of 1974:

(7) July 25, 1974 - July 31, 1974	\$ 486.45	
(5) Mileage Charge	55.65	
	<u>\$ 542.10</u>	
1% Surcharge	5.42	
Total Charges - July, 1974		547.52
Amount Refundable - July, 1974		<u>\$1,564.33</u>

Amount Refundable:

June, 1974	\$1,199.64	
July, 1974	<u>1,564.33</u>	
Total Amount Refundable		\$2,763.97

- (1) 442 miles at 13.5 cents per mile.
- (2) 7 days at prorated charge of \$93.68 per day based on a 21-day month (\$1,910.00 plus 3% surcharge of \$57.30 or \$1,967.30 divided by 21).
- (3) 3 days in which equipment without driver was furnished at \$37.30 per day, the prorated charge of \$93.68 per day minus \$56.38 per day. The deduction of \$56.38 per day is based on an 8-hour day at \$7.047 per hour (the base labor rate of \$6.620 per hour plus Workmen's Compensation Insurance of \$0.427 per hour).
- (4) 442 miles at 13½ cents per mile plus 3% surcharge.
- (5) 359 miles at 15½ cents per mile.
- (6) 1% of \$1,320.42, the sum of the vehicle unit charge of \$1,264.77 for 13 days at \$97.29 per day based on a 21-day month (\$2,043.00 divided by 21) and the mileage charge of \$55.65.
- (7) 5 days at prorated charge of \$97.29 per day based on a 21-day month (\$2,043.00 divided by 21).

In consideration of the specific circumstances involved in this application, the Commission finds that:

1. Reid entered into a written agreement with Federal on April 30, 1973, for the transportation of property in a 14-foot, 2-axle van, under the yearly vehicle unit rate provisions of Tariff No. 101 and performed services thereunder up to and including June 11, 1974. The agreement for the service involved herein is for the period, June 1, 1974, to and including July 31, 1974.

2. Federal experienced work stoppage of its employees during the period from June 12, 1974, to and including July 24, 1974.

3. Federal notified Reid prior to the interruption of service of the possibility of the strike by its employees and Reid was able to plan for alternate utilization of the equipment and driver for the period of June 16 through July 24, 1974, with only 3 days of non-revenue service from June 12 through June 15, 1974.

4. Reid did not employ a driver to serve Federal during the 3-day period in which the carrier's equipment was idle and assessment of the charges for the direct labor related cost elements described in Table 1 for such period would result in an inequitable situation under the meaning of Decision No. 67659.

5. Reid did not dedicate the involved equipment to Federal but utilized it in other revenue service during the entire period from June 16 to July 24, 1974, inclusive, and assessment of charges for such period would result in an inequitable situation under the meaning of Decision No. 67659.

6. A refund of \$2,763.97 by Reid to Federal is justified.

The Commission concludes that Application No. 55021 should be granted to the extent indicated in the ensuing order. A public hearing is not necessary.

IT IS ORDERED that Pacific Coast Tariff Bureau is authorized to have A. W. Reid Draying Company depart from the provisions of its Local Freight Tariff No. 101, Cal.P.U.C. No. 36, by remitting to Federal Envelope Company a sum not exceeding \$2,763.97.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 20th day of May, 1975.

Vernon L. Stevenson
President
William J. Gorman
Leonard Poirer
Robert Patterson
Commissioners