

Decision No. 84468**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of John C. Dias and Mary B. Dias, co-partners, doing business as J & M Transportation Company, for authority to deviate from the minimum rates on the return of empty pallets in a 75 actual mile radius of Arcata, California, for the account of Welco Wood Products of Arcata, pursuant to Section 3666 of the Public Utilities Code.

Application No. 55382
(Filed December 16, 1974)

O P I N I O N

Applicants operate as a highway permit carrier. By this application, they seek authority to transport empty pallets without charge within a radius of 75 actual miles of Arcata for Welco Wood Products of Arcata (Welco). The sought authority would be restricted to transportation wherein the empty pallets are returning from an outbound payload of lumber for Welco and applicants pick up a full payload of lumber from the shipper. The minimum rates for this transportation are set forth in Minimum Rate Tariff 2.

The application states as follows: Applicants transport lumber for Welco within a 75 mile radius of Arcata. When they obtained this account, the lumber was loaded on bottom boards and stickers which did not have to be returned, and the trip times for hauls from Crescent City and from Orick to Arcata were six and three hours, respectively. At applicants' request, Welco palletized the loads. This reduced the trip time for each haul by one hour and resulted in a substantial cost savings for applicants. Because only seven pallets are involved per trip, the pallets represent a

significant investment by Welco for applicants' benefit, the local hauling rates for lumber are high, and there are no other return movements for these short trips, applicants and Welco have agreed that there should be no charge for returning the pallets. Welco will obtain its own equipment and do its own hauling if the authority is not granted. As of September 30, 1974, applicants had assets of \$170,900, liabilities of \$101,100, and a net worth of \$69,800, and their net profit for the first nine months of 1974 after taxes was \$16,750.

We are of the opinion that the application should be granted. Section 3666 of the Public Utilities Code requires a finding that a less-than-minimum rate is reasonable as a condition precedent to the granting of authority to charge such a rate. That a rate is reasonable is established by a showing that it is compensatory. Obviously the transportation of the empty pallets standing by itself would not be compensatory. However, this is part of a round-trip movement which includes an outbound payload of lumber at applicable minimum rates. We have consistently held that where each segment of the round-trip transportation is assured and is for the same shipper, revenue from the return trip may be considered in determining whether a sought deviation is compensatory. (See Major Truck Lines (1970) 71 CPUC 447, Devine & Sons Trucking (1967) 67 CPUC 441, and Ragus Trucking (1966) 66 CPUC 319.) According to the application, the revenue from the round-trip transportation would be compensatory. Furthermore, the arrangements between applicants and Welco differ from those contemplated by the minimum rates. In the circumstances, the sought deviation is reasonable.

A copy of the application was furnished to the California Trucking Association. The application was listed on the Commission's Daily Calendar. No objection to the granting of the application has been received.

Findings

1. Welco has obtained pallets at its cost for the benefit of applicants in transporting lumber shipments for it within 75 miles of Arcata.

2. The use of pallets for the lumber shipments has reduced the trip times for applicants and has resulted in significant savings in their operating costs.

3. Other than the return of the empty pallets, applicants have no backhaul freight for the palletized lumber shipments they transport for Welco.

4. The transportation of the palletized lumber shipments at applicable minimum rates, together with the return of the empty pallets to Welco at no additional charge, is a compensatory operation for applicants.

5. Applicants' proposal is reasonable and justified.

6. The circumstances and conditions herein are not those contemplated by the minimum rates.

Conclusion

1. The application 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. John C. Dias and Mary B. Dias, doing business as J & M Transportation Company, are authorized to depart from the minimum rates in Minimum Rate Tariff 2 to the extent set forth in Appendix A 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 shall be twenty days after the date hereof.

Dated at San Francisco, California, this 28th
day of MAY, 1975.

William Symons, Jr. President
Leonard Ross
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Robert Batimovich, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Carrier: John C. Dias and Mary B. Dias, doing business as J & M Transportation Company.

Shipper: Welco Wood Products of Arcata.

Commodity: Empty pallets.

Rate: No charge.

Service Area: Transportation within a radius of 75 actual miles of Arcata, California.

- Note 1. The empty pallets must be returning from an outbound payload of lumber transported by the carrier for the shipper.
- Note 2. The shipper must tender to the carrier a full payload of lumber at the time the pallets are returned.