

Decision No. 84740**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
OSBORNE HIGHWAY EXPRESS, a California
Corporation, for authority to deviate
from the provisions of Minimum Rate
Tariff Number 2 in connection with
transportation of knocked-down
fibreboard or pulpboard boxes for
MacMILLAN BLOEDEL CONTAINERS INC.,
under the provisions of Section 3666
of the Public Utilities Code.

Application No. 54531
(Filed December 24, 1973)

Eldon M. Johnson, Attorney at Law, for Osborne Highway
Express, applicant.

Ed Bill, Herb Hughes, and Charles D. Gilbert, for the
California Trucking Association, interested party.

O P I N I O N

Osborne Highway Express is authorized to operate as a permitted carrier for the statewide transportation of property governed by the provisions of Minimum Rate Tariff 2 (MRT 2). By Decision No. 83107 issued July 9, 1974 in this proceeding applicant was granted interim authority pending further adjourned hearing to depart from MRT 2 and transport boxes, fibreboard or pulpboard, corrugated, knocked down flat for MacMillan Bloedel Containers Inc. from and to the points and subject to the rates and conditions specified in Appendix A attached to the decision.

Further adjourned hearing was held before Examiner Gagnon at San Francisco on June 6, 1975 at which time the matter was submitted. The sought extension of applicant's interim authority is not opposed.

The production manager for the shipper's Carson plant testified in support of the sought relief. He explained that the shipper conducts a proprietary operation which due to existing labor agreements is largely restricted to the Southern California area. However, due to distressed economic conditions within the paper industry the production manager explained it was necessary to extend the proprietary operation to Northern California during the past year. It is understood that the shipper is very reluctant to continue the extension of its proprietary trucking into Northern California and has every intention of tendering this traffic to the for-hire services of applicant providing the sought authority is granted. Since the shipper does not have any movement of boxes into the San Francisco Territory it was agreed that application of the sought relief should be limited to movements from Carson to Salinas, Gilroy, Watsonville, and other points located within the counties of Santa Clara and Santa Cruz.

The president for Osborne Highway Express presented up-dated revenue and expense data demonstrating that not only is its overall operation profitable but that the traffic contemplated under the sought authority will be similarly compensatory. Except for the proposed modification of the points of destination the carrier's president stated that continuation of the authority granted by the interim order in Decision No. 83107 was satisfactory. ✓

Findings

1. The favorable circumstances and conditions attendant to the transportation performed by applicant for MacMillan Bloedel Containers Inc. are not generally present in the usual or ordinary transportation performed by highway carriers under the governing provisions of MRT 2.
2. Applicant's proposed continued application of the MRT 2 Class 35.2 rates, in lieu of the otherwise governing higher Class 35 minimum rates for the transportation of boxes, fibreboard or pulpboard, corrugated, knocked down flat has been shown to be compensatory, reasonable, and justified.

Conclusions

1. Application No. 54531 of Osborne Highway Express should be granted as modified by the order herein.
2. Since conditions under which the service is performed may change, the authority should be made to expire December 31, 1976.

O R D E R

IT IS ORDERED that:

1. Osborne Highway Express is authorized to depart from the minimum rates set forth in Minimum Rate Tariff 2 by charging the rates set forth in Appendix A of this decision.
2. The authority granted by this order shall expire December 31, 1976 unless sooner cancelled, changed, or extended by order of the Commission.
3. The Commission's interim order in Decision No. 83107 is rescinded concurrently with the effective date of this order.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th
day of AUGUST, 1975.

William J. Spence President
Richard L. Stedman
John
Robert D. ... Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

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Carrier: Osborne Highway Express.

Shipper: MacMillan Bloedel Containers Inc.

Commodity: Boxes, fibreboard or pulpboard, corrugated, knocked down flat.

Rate: Class 35.2, minimum weight 36,000 pounds per shipment as provided in Minimum Rate Tariff 2.

From: Carson, California.

To: Salinas, Gilroy, Watsonville, and other points in the counties of Santa Clara and Santa Cruz, except points within the San Francisco Territory.

Conditions:

1. Not applicable to multiple lot, split pickup, split delivery, or COD shipments.
2. Shipments must be prepaid.
3. Shipments are to be palletized and loaded by consignor and unloaded by consignee, with equipment furnished and utilized without expense to carrier, and with an allowance of one hour free time for loading and one hour free time for unloading. Excess loading and unloading time will be charged at the rates mentioned in Item 145 of Minimum Rate Tariff 2.
4. From and after the month of October, the rate shall apply only during those calendar months in which the shipper tenders to carrier not less than 75 truckloads of the commodity involved; or, in the alternative, rate shall apply during those months in which shipper tenders to carrier 100 percent of the commodity moving by for-hire motor carrier from shipper's Carson facility to the points involved.
5. Rate shall apply only when commodity is transported in carrier-owned trailers and by driver-owned tractors under existing subcontractor agreement (see Condition 8).
6. Northbound shipments from shipper's Carson facility under this rate authority must be performed immediately subsequent to a prior southbound shipment from Ukiah to the Los Angeles Territory (as defined in Item 270-3 of Minimum Rate Tariff 2) performed in carrier-owned trailers and driver-owned tractors under the existing subcontractor agreement.

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7. Subcontractor (driver-tractor) shall receive not less than 65 percent of the rate specified herein.
8. General provisions of Subcontractor Agreement are:
 - a. Carrier Provides:
 - (1) Trailers with all tires (fully licensed).
 - (2) All accessories for trailer, including U-boards, tie-down equipment, tarps.
 - (3) Full maintenance of trailing equipment.
 - (4) All administration and sales.
 - (5) Collection of all accounts receivable, with payment to subcontractor whether or not account is collected.
 - (6) Payment of all revenue taxes.
 - (7) Payment of all insurance premiums (with shared deductible), including:
 - Public liability and property damage
 - Fire and theft
 - Comprehensive
 - Bobtail
 - Cargo
 - b. Subcontractor (driver-tractor)
 - (1) Tractor (required to be sleeper equipped, with three hundred horsepower engine, 140" wheelbase, sliding fifth wheel, headrack, and 22" tubeless tires).
 - (2) Fuel (sold by carrier at cost from two keylock supplies).
 - (3) Maintenance on tractor.
 - (4) All tires on tractor.
 - (5) Tractor licenses.
 - (6) Driver.
9. Any revision of the subcontractor agreement which could change the terms of compensation to either carrier or subcontractor, except for Commission-authorized increases in rates and/or fuel pass-through increases, shall not apply to this rate authority unless such change is approved in advance by written order of the Commission.
10. To the extent not otherwise specifically provided herein the provisions of Minimum Rate Tariff 2 shall apply.