

Decision No. 85167**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
TONY'S EXPRESS, INC. for authority  
to depart from the minimum rates,  
rules and regulations of Minimum  
Rate Tariff No. 2, pursuant to  
the provisions of Section 3666 of  
the Public Utilities Code for  
transportation for THE CLOROX  
COMPANY.

Application No. 55914  
(Filed September 3, 1975)

INTERIM OPINION

Applicant Tony's Express, Inc., a highway permit carrier, seeks to depart from the minimum rates named in Minimum Rate Tariff 2 (MRT 2) for transportation for The Clorox Company (Clorox) from Vernon to points within 160 miles therefrom.

The rates proposed for these services are identical to those authorized Mueller Truck Company (Mueller). The Mueller authority was originally granted by Decision No. 71075 dated August 2, 1966. This authorization has been modified and/or renewed annually since, the latest by Special Deviation Docket SDD No. 371.

According to the application Clorox has requested applicant to seek this authority because it desires to utilize a second carrier due to the marked expansion of the volume and types of traffic Clorox is shipping.

By letter dated October 1, 1975, the California Trucking Association (CTA) objects to the requested ex parte handling of this matter on the grounds that: "Any authority granted to Applicant would obviously work to decrease the tonnage and revenues accruing to Mueller Truck Co. Such consequences would obviously raise new questions concerning the current reasonableness of the Mueller deviation...."

Applicant responded to CTA by letter dated October 2, 1975, wherein it is argued that CTA's position is without merit as the "Applicant is presently providing Clorox with transportation for the considered traffic and the times which were developed and the costs incurred are those actually experienced in this service".

No response has been received from Mueller or Clorox, nor has any other party objected to granting the application.

CTA has a valid point. However, we do not believe the possibilities raised by CTA are "obvious". A hearing at this time would involve no more than speculation. This matter can be resolved only after adequate factual information is at hand which should reflect the effect this application may have on Mueller. We believe it appropriate therefore to authorize interim authority during which actual operating experience may be recorded, including the Mueller operation, and such data be then presented at public hearings for our consideration.

After consideration the Commission finds that the applicant should be authorized to depart from the rates, rules, and regulations of MRT 2 as requested in the application for an interim period during which actual operating data shall be recorded for presentation at a public hearing. We conclude that Application No. 55914 be granted to the extent provided in the following order.

INTERIM ORDER

IT IS ORDERED that:

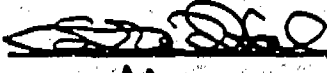
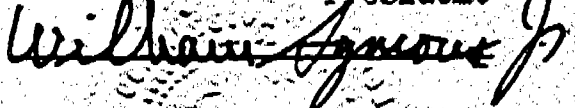


1. Tony's Express, Inc. is authorized to depart from the minimum rates set forth in Minimum Rate Tariff 2 by charging those rates set forth in Appendix A of this decision. This authority does not include any deviation from any rates, rules, or regulations except as specifically set forth in Appendix A.

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

3. A public hearing shall be scheduled on this application at a date to be set.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup>  
day of NOVEMBER, 1975.

  
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President  
  
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\_\_\_\_\_  
Commissioners

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

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Carrier: Tony's Express, Inc.

Shipper: The Clorox Company

Commodities: Sodium (soda) hypochlorite solution; cleaning compounds, laundry bleach, dry; animal litter, viz., chopped alfalfa pellets; and cooking ease, as described in Item 144800 of National Motor Freight Classification 100-A as oils, cooking or salad, liquid, NOI, in boxes; originating at Vernon, California, and pallets used in transportation destined to Vernon.

Rates: (In cents per 100 pounds)

For transportation otherwise subject to Minimum Rate Tariff 2 (See Notes).

Section A - These rates apply when power loaded and power unloaded:

| <u>Miles</u> |                 | <u>Minimum Weight</u><br><u>30,000 lbs.</u> | <u>Minimum Weight</u><br><u>40,000 lbs.</u> | <u>Minimum Weight</u><br><u>45,000 lbs.</u> |
|--------------|-----------------|---|---|---|
| <u>Over</u>  | <u>Not Over</u> | <u>Rate</u>                                 | <u>Rate</u>                                 | <u>Rate</u>                                 |
| 0            | 3               | 25.5  | 22.8  | 22.8  |
| 3            | 5               | 26.6  | 24.4  | 22.8  |
| 5            | 10              | 27.6  | 25.5  | 24.4  |
| 10           | 15              | 29.8  | 25.5  | 25.5  |
| 15           | 20              | 31.9  | 26.6  | 25.5  |
| 20           | 25              | 31.9  | 26.6  | 25.5  |
| 25           | 30              | 33.1  | 28.7  | 26.6  |
| 30           | 35              | 34.3  | 29.8  | 26.6  |
| 35           | 40              | 39.3  | 31.9  | 28.7  |
| 40           | 45              | 40.4  | 31.9  | 29.8  |
| 45           | 50              | 41.5  | 33.1  | 31.9  |
| 50           | 60              | 43.6  | 37.7  | 31.9  |
| 60           | 70              | 46.8  | 39.3  | 33.1  |
| 70           | 80              | 46.8  | 40.4  | 37.7  |
| 80           | 90              | 49.2  | 41.5  | 39.3  |
| 90           | 100             | 50.2  | 42.5  | 40.4  |
| 100          | 110             | 54.2  | 43.6  | 40.4  |
| 110          | 120             | 54.2  | 46.8  | 41.5  |
| 120          | 130             | 56.4  | 46.8  | 42.5  |
| 130          | 140             | 57.5  | 49.2  | 43.6  |
| 140          | 150             | 60.7  | 50.2  | 46.8  |
| 150          | 160             | 62.8  | 52.6  | 46.8  |

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Section B - These rates apply when power loaded but  
not power unloaded:

| <u>Miles</u> |                 | <u>Minimum Weight</u><br><u>30,000 lbs.</u> | <u>Minimum Weight</u><br><u>40,000 lbs.</u> | <u>Minimum Weight</u><br><u>45,000 lbs.</u> |
|--------------|-----------------|---|---|---|
| <u>Over</u>  | <u>Not Over</u> | <u>Rate</u>                                 | <u>Rate</u>                                 | <u>Rate</u>                                 |
| 0            | 3               | 30.5  | 28.4  | 28.4  |
| 3            | 5               | 31.6  | 29.4  | 28.4  |
| 5            | 10              | 32.7  | 30.5  | 29.4  |
| 10           | 15              | 34.8  | 30.5  | 30.5  |
| 15           | 20              | 36.9  | 31.6  | 30.5  |
| 20           | 25              | 36.9  | 31.6  | 30.5  |
| 25           | 30              | 39.0  | 33.9  | 31.6  |
| 30           | 35              | 40.1  | 34.8  | 31.6  |
| 35           | 40              | 44.3  | 36.9  | 33.9  |
| 40           | 45              | 45.4  | 36.9  | 34.8  |
| 45           | 50              | 46.5  | 39.0  | 36.9  |
| 50           | 60              | 48.7  | 43.3  | 36.9  |
| 60           | 70              | 51.8  | 44.3  | 39.0  |
| 70           | 80              | 51.8  | 45.4  | 43.3  |
| 80           | 90              | 55.0  | 46.5  | 44.3  |
| 90           | 100             | 56.0  | 47.6  | 45.4  |
| 100          | 110             | 59.2  | 48.7  | 45.4  |
| 110          | 120             | 59.2  | 51.8  | 46.5  |
| 120          | 130             | 61.4  | 51.8  | 47.6  |
| 130          | 140             | 62.5  | 55.0  | 48.7  |
| 140          | 150             | 65.7  | 56.0  | 51.8  |
| 150          | 160             | 67.8  | 58.2  | 51.8  |

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Notes:

Mileage to be computed as provided in governing Distance Table. Rates are subject to the provisions of Items 170, 171, 172, and 173 (Split Delivery) of Minimum Rate Tariff 2.

Section A rates apply when shipments are power loaded and power unloaded by the shipper and consignee; Section B rates apply when shipments are power loaded but not power unloaded; necessary equipment to be furnished and used without expense to the carrier. If loading or unloading time exceeds one hour, charges named in Item 145 of Minimum Rate Tariff 2 will apply.

Pallets will be returned free, provided that a like number of pallets are returned at the time of delivery. Shipments of pallets not complying with this paragraph will be subject to the rates in the applicable tariff.

Carrier to be free from any claims for shortage. Upon return of damaged merchandise, carrier is to be free from any claim for damage.

Rates to apply to shipments originating at the plant of The Clorox Company located at 4333 Bandini Boulevard, Vernon, California, and destined to points within 160 miles thereof, as indicated in the above mileage bracket column.