

Decision No. 85415**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 GUTHMILLER TRUCKING, INC., a
 California Corporation, for authority
 to provide a reasonable truckload
 classification for the transportation
 of "plastic popcorn packing material"
 by deviation and departure from the
 provisions of Minimum Rate Tariff
 Number 2, pursuant to the provisions
 of Section 3666 of the Public
 Utilities Code.

Application No. 55839
 (Filed July 29, 1975)

O P I N I O N

Guthmiller Trucking, Inc. is a highway permit carrier. It seeks authority under Section 3666 of the Public Utilities Code to charge a class rate, different from and less than, the class rates established as minimum by the Commission for the transportation of plastic popcorn packing material^{1/} for Free-Flow Packaging Corporation from South San Francisco to points in the Los Angeles Territory, and certain other cities in southern California south of, and including, Santa Maria and Bakersfield. On September 2, 1975 applicant, in response to a request from the Commission's staff, filed a supplemental statement of data which is included in this record as Exhibit 1. On October 22, 1975 applicant filed a pleading requesting the Commission to take official notice of Supplement 14 to National Motor Freight Classification 100-B. We do so.

^{1/} The article is an expanded plastic material somewhat resembling popped corn which is used as an interior packing for the protection of other articles shipped in a carton or box. Its function is similar to excelsior.

The circumstances involved in this application are somewhat unusual for a matter brought under Section 3666 of the Public Utilities Code. The plastic popcorn is a relatively new type product, the function of which is a filler to be placed in shipping containers to protect other articles from being damaged. It has a low intrinsic value, around 75 cents per pound, which is a necessary element for a packing material. It is also extremely light and bulky, with a weight density of less than one pound per cubic foot, which is also a necessary element for a packing material. A fully laden truck and trailer or two semitrailers in a train (set of doubles) can hold a net weight of only between 2,000 and 2,200 pounds with the lading having a market value of approximately \$1,500. Prior to 1973 the article moved by motor carrier at a Class 100 rate, minimum weight 10,000 pounds. In 1973 the National Motor Freight Traffic Association, Inc. placed a new item (157465) in its Classification establishing a rating of Class 500, any quantity, with no lower rating for truckload lots. Under that rating a truckload of 2,000 pounds from South San Francisco to Los Angeles would have a transportation charge of \$716.75, or nearly 50 percent of the market value of the lot. At the same time, a truckload of bricks weighing 48,000 pounds between the same points would have a transportation charge of \$444.45. It is also possible, and very probable, that the transportation of a truckload of packaged articles which are protected in their shipping containers by plastic popcorn, and in which the protective material may constitute as much as one-fourth the bulk of the lading, may have a lower transportation charge between the same points.

Following the filing of this application, and on September 27, 1975, Item 157465 was canceled. In the underlying proceeding before the Interstate Commerce Commission that led to the cancellation, applicant discerns an indication that a rating of

Class 400 may be established in the Classification. Free-Flow Packaging Corporation has informed applicant that the commodity could not be moved by for-hire carrier from its plant to southern California at rates based on Class 400.

Applicant desires that the Commission provide for reasonable truckload classification ratings for the transportation of plastic popcorn material under which the commodity may be moved by for-hire carrier. Until such determinations can be made, it requests the Commission to authorize it to transport the commodity for Free-Flow Packaging Corporation from the latter's plant at South San Francisco to the southern California points at a truckload rating of Class 92.5, minimum weight 10,000 pounds, subject to a minimum charge at the rate applicable between the plant and Los Angeles. Data appended to the application show that the transportation at the proposed rate would be compensatory.

In Major Truck Lines, Inc. (1970) 71 CPUC 447, the Commission discussed at some length the circumstances under which a rate which is less than the established minimum rate may be found to be reasonable and be authorized by the Commission. In that decision we stated that where the conditions of transportation would make the application of the minimum rates excessive and the traffic is available to other for-hire carriers under the same circumstances it has been the policy of the Commission to establish commodity minimum rates for such transportation so that all interested carriers will have equal opportunity to compete for the traffic. It is readily apparent that there are no unusual circumstances of tender or transportation involved here. The only unusual thing involved is the commodity itself. It is also readily apparent that the commodity cannot bear the high freight charges for truckload movements from the plant to southern California. Under the policy recited in Major the appropriate action would be to establish minimum commodity rates or exception

ratings under which the traffic can move. The difficulty here, however, is that applicant is not in the position to assemble data of all circumstances of the movement of the commodity by all carriers between all points, let alone the southern California points with which it is particularly concerned. With the existing workload of our staff, and the numerous other matters demanding much greater priority, we are in no position to direct our staff to initiate studies in this matter. Yet, the obvious anomaly regarding the application of the ratings to the transportation does not warrant postponement of any relief until the best of all possible solutions can be obtained.

This application was filed on July 29, 1975. Notice of the filing was made in accordance with the Commission's procedural rules. No protests from any carrier or from any other person have been received. California Trucking Association has informed the Commission that it is interested in the matter and desires to be served with copies of pleadings, notices, communications, and decision in the proceeding. We are unable to perceive any injury or disadvantage to any carrier or shipper that will result from granting the sought relief in the form requested, namely, as an authorized departure under Section 3666.

We find the proposed rates are reasonable. The application should be granted. A public hearing is not necessary.

O R D E R


IT IS ORDERED that:

1. Guthmiller Trucking, 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 or rules except as specifically set forth in Appendix A.

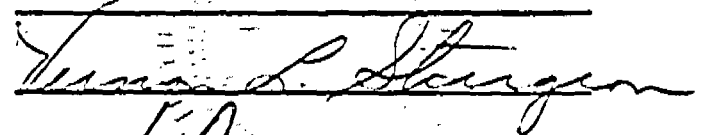
2. The authority granted shall expire one year after the effective date of this order unless sooner canceled, modified, or extended by order of the Commission.

The effective date of this order shall be twenty days after the date hereof.

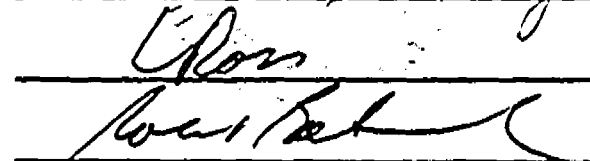
Dated at San Francisco, California, this 3rd
day of FEBRUARY, 1976.



President



Commissioner



Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Guthmiller Trucking, Inc.

Shipper: Free-Flow Packaging Corporation.

Commodity: Plastic popcorn packing material.

Origin: Shipper's facility at 1404 San Mateo Avenue,
South San Francisco, California.

Destinations: (1) Points in the Los Angeles Territory, as
described in Item 270-3 of Minimum Rate
Tariff 2;
(2) Santa Maria;
(3) Bakersfield;
(4) Santa Barbara;
(5) Santa Ana;
(6) San Bernardino; and
(7) San Diego.

Authority: To establish a truckload classification at
Class 92.5 for a truckload minimum of 10,000
pounds, with the rate for Santa Maria,
Bakersfield, and Santa Barbara destinations
to be no lower than the Los Angeles Territory
destination rate.

Conditions: (a) Shipments must be prepaid.
(b) Proposed rate shall apply only during those
months in which shipper tenders to carrier
100 percent of the involved commodity
moving by for-hire motor carrier from
shipper's facility at South San Francisco
to the involved destinations.
(c) To the extent not otherwise specifically
provided, the provisions of Minimum Rate
Tariff 2 shall apply.