

ORIGINAL

Decision No. 85542

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of DART TRANSPORTATION SERVICE, a  
California corporation, to refund  
a portion of minimum rates pursuant  
to Section 3667 of the Public  
Utilities Code for Sears Roebuck &  
Co.

Application No. 56066  
(Filed November 12, 1975)

O P I N I O N

Dart Transportation Service (Dart), a California corporation and a contract carrier, requests authority pursuant to Section 3667 of the Public Utilities Code to refund \$66,207 to Sears Roebuck & Co. (Sears). The requested refund constitutes a portion of the charges accrued, assessed, and collected by Dart pursuant to annual vehicle unit rates under Minimum Rate Tariff 15 during a period employees of Sears were on strike and Sears was unable to utilize the service of Dart.

The requested refund is the amount of savings for drivers' wages, payroll taxes, compensation insurance premiums, and pension fund payments incurred by Dart due to the fact that Dart's drivers were idled during the Sears strike between Tuesday, August 19, 1975, and Friday, September 5, 1975.

The application shows that under the annual vehicle contract Sears was required to pay and did pay a total of \$113,736 for Dart's reserving the use of vehicles and drivers during that period for Sears. Dart computes its \$66,207 savings as follows:

<u>Date</u>	<u>Number of Drivers</u>	<u>Hours</u>
8/19	83	664
8/20	83	664
8/21	83	664
8/22	83	664
8/25	83	664
8/26	83	664
8/27	83	664
8/28	83	664
8/29	52*	416
9/2	34*	272
9/3	82	656
9/4	83	664
9/5	71*	568

Hours	7,888
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Less 8 holidays paid**	64
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7,824
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7,824 hours @ \$7.39 per hour	=	\$57,819.00
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Payroll taxes	=	3,382.00
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Compensation insurance @ 5.5%	=	3,130.00
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Unpaid pension - 1 week on 83 drivers @ \$22.00 per week	=	<u>1,826.00</u>
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Total Refund	\$66,207.00
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\* Idle drivers only.

\*\* Personal holiday under Teamsters contract paid.

The strike took place during the working days of August 19-22, 25-29, and September 2-5, 1975. Dart states that September 1 was a legal holiday and, under Dart's contract with the Teamster Union, all drivers involved were paid for this holiday. As such, this day is not included in the computation of the requested refund. Likewise, health and welfare payments have been excluded from the computations for the reason, under Dart's union contract, these fringe benefits are paid for the full month whenever a driver is employed at any time during the calendar month. All of the involved drivers worked in both August and September. Likewise, pension payments are made for

the entire week whenever a driver is employed at any time during the week. The computations include unpaid pension of one week for 83 drivers, covering the week of August 25-29. In other weeks some work was performed. Dart avers that the hours set forth in the above compilation are hours the drivers did not work and for which no wages were paid by Dart as the drivers did not cross the picket lines and, as such, did not report for work.

The Commission's Transportation Division staff reviewed the application and states that it believes the application is one which, in the absence of protest, may be granted by ex parte order. No protests to the application have been received.

After consideration the Commission finds that under the circumstances set forth in this application, the requested refund is justifiable. A public hearing is not necessary. The Commission concludes that the effective date of this order should be the date on which it is signed because there is no known opposition and there is no reason to delay granting the relief requested.

O R D E R

IT IS ORDERED that Dart Transportation Service may refund to Sears Roebuck & Co. \$66,207 of the amount paid to the former by the

latter as charges under the annual vehicle contract entered into pursuant to Minimum Rate Tariff 15 covering service between August 19, 1975 through September 5, 1975.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 9<sup>th</sup> day of MARCH, 1976.

William Sproull President  
Vernon L. Sturgeon  
U. Ross  
Robert A. Holmes Commissioners

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