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Decision No. 85664

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
for the purpose of considering and)
determining minimum rates for)
transportation of any and all)
commodities statewide including,)
but not limited to, those rates)
which are provided in Minimum Rate)
Tariff 2 and the revisions or)
reissues thereof.)

Case No. 5432
Petition for Modification
No. 864
(Filed June 30, 1975;
amended July 28, 1975)

In the Matter of the Investigation)
for the purpose of considering and)
determining minimum rates for)
transportation of general commod-)
ities within San Diego County as)
provided in Minimum Rate Tariff)
9-B and the revisions or reissues)
thereof.)

Case No. 5439
Petition for Modification
No. 255
(Filed June 30, 1975;
amended July 28, 1975)

Braxton B. Walker, for Eileen Walker, petitioner.
Knapp, Stevens, Grossman & Marsh, by Wyman C. Knapp,
Attorney at Law, for Pacific Messenger Service;
and Charles D. Gilbert and H. W. Hughes, for
California Trucking Association; protestants.
George L. Hunt, for the Commission staff.

O P I N I O N

Eileen Walker, doing business as Walker B. Express, operates as a highway contract carrier. By these petitions, as amended, she seeks an exemption from the minimum rates in Minimum Rate Tariffs 2 and 9-B (MRTs 2 and 9-B) in connection with the transportation in "courier type" service of various medically oriented documents and articles, electronic resistor equipment and parts thereof, and bank documents and related articles.

By interim order in Decision No. 84896 dated September 10, 1975 petitioner was exempted from observance of the rates and rules in MRTs 2 and 9-B in connection with the transportation of the following commodities when transported in a vehicle not exceeding a licensed weight of 4,000 pounds:

- (a) Laboratory tests of human blood, specimens, X-ray photographs, medical transmittal documents and documents reporting blood plasma, medical laboratory examinations and specimen envelopes, very small glass or plastic vials or tubes, small glass slides for microscopic tissue; and
- (b) Checks, drafts, money orders, data processing documents, legal documents, sales audit items, business records and statements, tabulation cards, securities, and reproduced documents or data.

Decision No. 84896 also ordered public hearing to be scheduled for receipt of evidence in connection with petitioner's request for exemption from MRTs 2 and 9-B for transportation of electronic resistor equipment and articles and component parts.

Public hearing was held before Examiner O'Leary at San Diego on January 29, 1976 at which time the matters were submitted.

Evidence submitted by petitioner discloses that firms desiring to utilize her services for the transportation of electronic resistor equipment enter into a contract with petitioner which provides for a fixed monthly charge or no less than the charges listed in Harding's Freight Service Local Parcel Tariff No. 1 (Harding's Tariff). The witness for petitioner testified that in no event would the charges under the contract be less than those set forth in Harding's Tariff.

The parties stipulated that Harding's Freight Service holds a certificate of public convenience and necessity from this Commission authorizing operations as a highway common carrier. They further stipulated that Harding's Tariff is on file with this Commission.

Item 200 of MRT 2 and Item 110 of MRT 9-B provide for the application of common carrier rates in lieu of the rates provided in MRTs 2 and 9-B when such common carrier rates produce a lower aggregate charge for the same transportation.

It is apparent from the evidence adduced that petitioner is assessing rates at least the same as those set forth in Harding's Tariff which is authorized for the reasons set forth above. It is also apparent that petitioner does not need an exemption from the minimum rates set forth in MRTs 2 and 9-B as long as she assesses and collects rates no less than those set forth in Harding's Tariff.

On February 23, 1976 petitioner's highway contract carrier permit was transferred to Braxton Bragg Walker, dba Walker's Express.

Braxton Bragg Walker, dba Walker's Express (Walker), is placed on notice that MRT 2 and MRT 9-B set forth rules with respect to collection of charges (Item 170 MRT 9-B and Item 250 MRT 2) and unit of measurement for quotation and assessment of charges (Item 260 MRT 9-B and Item 257 MRT 2). Should those rules or any other rules set forth in MRT 2 or MRT 9-B be incompatible with the services provided by Walker, an application should be filed requesting he be authorized to depart from the rules to the extent necessary. Any application so filed should set forth in detail the rules he proposes in lieu of the rules set forth in MRT 2 and MRT 9-B.

Findings

1. Petitioner's highway contract carrier permit was transferred to Braxton Bragg Walker on February 23, 1976.

2. By interim order in Decision No. 84896 dated September 10, 1975 petitioner was exempted from observance of the rates and rules in MRTs 2 and 9-B in connection with the transportation of the following commodities when transported in a vehicle not exceeding a licensed weight of 4,000 pounds:

- (a) Laboratory tests of human blood, specimens, X-ray photographs, medical transmittal documents and documents reporting blood plasma, medical laboratory examinations and specimen envelopes, very small glass or plastic vials or tubes, small glass slides for microscopic tissue; and
- (b) Checks, drafts, money orders, data processing documents, legal documents, sales audit items, business records and statements, tabulation cards, securities, and reproduced documents or data.

3. Petitioner and her successor Walker assess rates at least the same as those set forth in Harding's Freight Service Local Parcel Tariff No. 1 in the transportation of electronic resistor equipment and articles and component parts.

4. Harding's Freight Service holds a certificate of public convenience and necessity authorizing operations as a highway common carrier.

5. Item 200 of MRT 2 and Item 110 of MRT 9-B provide for the application of common carrier rates in lieu of the rates provided in MRTs 2 and 9-B when such common carrier rates produce a lower aggregate charge for the same transportation.

6. Walker does not require an exemption from the minimum rates in MRTs 2 and 9-B for electronic resistor equipment.

The Commission concludes that the interim order in Decision No. 84896 should be made final and to the extent not granted by Decision No. 84896 Petitions for Modification Nos. 864 and 255 in Cases Nos. 5432 and 5439, respectively, should be denied. The authority granted in Decision No. 84896 should be transferred to Braxton Bragg Walker, dba Walker's Express, as soon as possible; therefore, the effective date of this order should be the date hereof.

O R D E R

IT IS ORDERED that:

1. The interim authority set forth in Decision No. 84896 is hereby made final.

2. To the extent not granted by Decision No. 84896 Petitions for Modification Nos. 864 and 255 in Cases Nos. 5432 and 5439, respectively, are denied.

3. Ordering Paragraph 1 of Decision No. 84896 is amended by substituting the name Braxton Bragg Walker for Eileen Walker.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 13th
day of APRIL, 1976.

President
William J. ...

Thomas L. Sturgeon

W. ...

Robert ...
Commissioners

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