

Decision No. 86031

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DOLPHIN TRANSPORTATION, INC.,
a California corporation, for an
Order authorizing applicant to
deviate from certain minimum rates
on shipments transported for Fire-
stone Tire & Rubber Company,
pursuant to Section 3666 of the
Public Utilities Code of the
State of California.

ORIGINAL

Application No. 55807
(Filed July 14, 1975;
amended August 18, 1975
and March 3, 1976)

Murchison & Davis, by Fred H. Mackensen, for
applicant.
Don B. Shields, for Highway Carriers Association, and
Charles D. Gilbert and H. W. Hughes, for California
Trucking Association, interested parties.
George L. Hunt and Mark Wetzell, for the Commission staff.

O P I N I O N

Applicant operates as a radial highway common and highway contract carrier. Pursuant to the provisions of Section 3666 of the Public Utilities Code it seeks authority to charge less than the minimum rates for the transportation of certain commodities for the account of Firestone Tire & Rubber Company (Firestone) between specific origins and destinations in Northern California, on the one hand, and Southern California, on the other hand.

Specifically applicant seeks authority to assess Class 35.2 or Class 35.3 rates subject to minimum weights of 30,000 and 36,000 pounds, respectively.

By interim order in Decision No. 84943 dated September 30, 1975 the relief sought was granted on an interim basis until March 30, 1976, pending submission of actual cost evidence by applicant. The interim authority was extended by Decision No. 85652 and is presently scheduled to expire June 30, 1976.

On March 3, 1976 applicant filed its "Second Amendment to Application and Petition to Modify Decision."

Public hearing was held before Examiner O'Leary at Los Angeles on May 13, 1976 at which time the matter was submitted subject to the filing of late-filed Exhibit 3 and written closing statements by the parties.

The testimony of applicant's president and the traffic manager of Firestone's Salinas plant disclosed that the reason for the request and the description of the operation are as described in Decision No. 84943 and need not be repeated herein. The testimony of applicant's president disclosed that the elimination of the mixed shipment provision as proposed in the "Second Amendment to Application and Petition to Modify Decision" is not necessary. The adjustments to Appendix A of this decision in the commodity section more accurately depict how the commodities will be transported under the deviation authority. The president of applicant testified that more than 90 percent of the shipments contain tires, and since tires cannot be power loaded and power unloaded the shipments would be subject to the Class 35.2 rating rather than the Class 35.3 rating. The witness also testified that the rule requiring that the northbound tonnage not exceed 1/3 of the southbound tonnage provides applicant with a balanced operation in which there is a minimum amount of deadheading since most of its other transportation generally between the San Francisco Bay area and the Los Angeles area is northbound.

Exhibit 3 is a cost study covering the total revenue and expense of the movement at the rates authorized by the interim order for October, November, and December 1975. The exhibit discloses that the transportation at the proposed rates has been compensatory.

The California Trucking Association (CTA) urges that the application be denied because applicant's costs are deficient in that they fail to provide for a round-trip movement and there are no unusual circumstances or conditions that would justify a deviation. CTA also urges that should the relief be granted it be granted subject to the following:

1. If subhaulers or owner-operators are employed that they shall be paid no less than the rates authorized under this deviation.
2. That relief be granted only with respect to transportation under the Class 35.2 rating.
3. That relief be granted only for those shipments where a backhaul is provided or guaranteed by Firestone.

The arguments of CTA urging denial of the application are not convincing. If applicant were required to have a return shipment northbound from Firestone for each southbound shipment transported, it would encourage deadheading as the evidence shows that applicant's transportation pattern generally between the San Francisco Bay area and the Los Angeles area is predominately northbound. The limitation that northbound tonnage not exceed 1/3 of the southbound tonnage tends to balance applicant's operation. With respect to the conditions requested by CTA should the application be granted, the one regarding payments to subhaulers will be adopted since applicant has not presented any cost evidence for subhaulers, also the deviation will be limited to Class 35.2 rating since over 90 percent of the traffic moves at that rate. The requested condition that relief only be granted when a backhaul is provided will not be adopted for the reasons previously mentioned.

Findings

1. The circumstances that exist for applicant's transportation involved in this proceeding which are not present in the ordinary transportation of these commodities are a balanced operation and minimal deadhead mileage.

2. There is a cost saving directly attributable to applicant's transportation of the commodities involved.

3. The proposed rate is compensatory, reasonable, and justified.

The Commission concludes that the application should be granted to the extent set forth in the ensuing order. To the extent not granted the application should be denied. Since the interim authority granted by Decision No. 84943 and extended by Decision No. 85652 is scheduled to expire June 30, 1976, the effective date of this decision should be the date hereof.

O R D E R

IT IS ORDERED that:

1. Dolphin Transportation, 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 one year after the effective date of this order unless sooner canceled, modified, or extended by order of the Commission.

3. To the extent not granted herein Application No. 55807 is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 29th
day of JUNE, 1976.

President
William J. Lyons Jr.
Veronica L. Lyons
Robert B. Lyons
Commissioners

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

APPENDIX A
Page 1 of 2

Carrier: Dolphin Transportation, Inc.

Shipper: The Firestone Tire & Rubber Company.

Commodities: Rubber compound, noibn, in sheets or slabs,
partially cured or not cured.
Tires, rubber, pneumatic, and parts, viz.:
Tires, rubber (including tires
containing inner tubes, flaps, or
reliners).
Tire treads.
Tire tubes, rubber.
Fabric, belting, hose, or tire.
Rubber, crude, synthetic, or natural.
Chemicals used in processing of rubber compound.
In straight or mixed truckloads or in mixed
truckloads with one or more of the following
commodities:
Accelerators, rubber.
Adhesive, cement, noibn.
Bags or tubes, tire curing or vulcanizing,
rubber.
Cord, belting, hose or tire.
Labels, paper, noibn.
Molds, aluminum or steel, for shaping
rubber articles.
Paint, liquid, noibn.
Paper, noibn, not printed.
Printed matter, paper.
Rubber solvent, noibn.
Valves or parts, pneumatic tire.
Wire, iron, or steel, bronze coated
(steel bead wire).
Yarn, hose.

Between: The Firestone plant site near Salinas, California,
and San Francisco, So. San Francisco, Berkeley,
Newark, Oakland, Hayward, Santa Rosa, Burlingame,
San Jose, Watsonville, Gonzales, and Camphora, on the
one hand.

And: South Gate, California, and all points in Metropolitan
Zones 201 through 262, on the other hand.

APPENDIX A
Page 2 of 2

Rate: Minimum Rate Tariff 2, Class 35.2 distance rates in effect on June 30, 1976.

Minimum Weight: 30,000 pounds.

- Rules:
1. The total annual tonnage northbound shall not exceed $\frac{1}{3}$ of the total annual tonnage southbound. All northbound tonnage in excess of $\frac{1}{3}$ of the southbound tonnage shall be charged at regular MRT 2 rates.
 2. In the event subhaulers are engaged, they shall be paid no less than the rates authorized herein.
 3. All other provisions of Minimum Rate Tariff 2 shall apply.