

Decision No. 86220

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TRANS-AERO SYSTEMS CORPORATION for the authority to apply a maximum charge of Class 10.0 commodity rates and/or minimum charges as per MRT-2, Item 150 to the following items:

<u>Description</u>	<u>NMFC</u>
Hampers, Clothes,	
Wood Fibre	79500 Sub 1
Willow Ware	19770
Hassocks, Storage	79530 Sub 2

Application No. 56081
(Filed November 20, 1975)

The shipper for whom transportation is to be performed is Joy of California, a California corporation, located at 148 East Virginia Street, San Jose, California, 95112. Deviation authority is requested pursuant to the Public Utilities Code, Section 3666.

ORDER GRANTING LIMITED REHEARING OF DECISION NO. 85782

A petition for rehearing and/or reconsideration of Decision No. 85782 having been filed by the California Trucking Association on May 14, 1976, the Commission having considered each and every allegation of the petition is of the opinion that good cause for rehearing has been made to appear. We will grant rehearing and also interim authority to deviate from the minimum rates.

Petitioner argues that applicant's underlying costs were understated, that many basic expense items were not considered, and that the Commission erred in failing to consider the cost for backhaul in determining that the proposed rates were compensatory. An examination of the application shows that applicant's cost estimate indicates that the proposed service would be profitable, although the basis for the estimate is not entirely clear and it includes a number of computation errors. There is nothing on the record to show that applicant is intentionally trying to price its service below cost. The application clearly shows that applicant expects the service to be compensatory. In the past we have held that in determining a compensatory rate pursuant to Public Utilities Code Section 3666 round-trip costs must be considered. The statute, however, does not require consideration of round-trip costs, it only requires that the rate be reasonable, and we see no reason not to change our criteria for determining reasonableness when current transportation conditions no longer require adherence to past practices.

We feel that a practical approach to Section 3666 is best. Not all parties seeking deviations will know their costs prior to the deviation; not all truckers can afford the attorneys and accountants that petitioner implies are needed to prepare an adequate application requesting a minimum rate deviation; but we feel that truckers who in good faith are of the opinion that they can meet the test of reasonableness under Section 3666 should be given the opportunity under temporary authority to generate the kind of information that petitioner asserts is lacking here. Without actual operating information any hearing in this matter would be a battle of estimators to determine which side's estimates are better. We prefer to have actual cost data. We refuse to put ourselves in the position of holding that an applicant must support

its application with irrefutable cost data, but not authorize interim authority to obtain that data. Therefore, although we will grant rehearing in this matter, we will give applicant interim authority so that it may develop adequate data to support its application in the public hearing that will be held.

Therefore, IT IS ORDERED that:

1. Rehearing of Decision No. 85782 is hereby granted limited to the question of whether the requested authority by Trans-Aero Systems Corporation to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of the subject items from San Jose to points in the San Francisco and Los Angeles areas will result in rates that are reasonable. The limited rehearing shall be heard before such commissioner or examiner and at such time and place as may hereafter be designated.

2. The stay of Decision No. 85782 automatically imposed by the timely filing for rehearing is rescinded and the authority granted by Decision No. 85782 shall be made effective on the date hereof on an interim basis subject to a further hearing.

3. Trans-Aero Systems Corporation shall gather actual operating data including costs and revenues experienced under the authority granted by Decision No. 85782 such data to be presented at the

public hearing to be scheduled. The Executive Director is directed to cause appropriate notice of rehearing to be mailed at least ten days before such rehearing.

The effective date of this order is the date hereof.

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

I dissent
William J. Lyons Jr.
Commissioner

[Signature]
President

Vernon L. Sturgeon

Herbert Ross

Commissioners

Commissioner Robert Batinevich, being necessarily absent, did not participate in the disposition of this proceeding.