

Decision No. 86432**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of COOL TRANSPORTATION for)
 authority to deviate from the)
 minimum rates, rules and regula-)
 tions of Minimum Rate Tariff)
 No. 2, pursuant to the provisions)
 of Section 3666 of the Public)
 Utilities Code.)

Application No. 56608
 (Filed July 9, 1976)

OPINION AND ORDER

By this application, Kenneth Cooley, doing business as Cool Transportation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of various commodities requiring frozen temperature control service for Packers Cold Storage, Inc., between Fullerton and various points in northern California.¹

The application is based on special circumstances and conditions detailed therein.

The application was listed on the Commission's Daily Calendar of July 12, 1976.

Bayview Trucking, Inc. (Bayview) protested the granting of the sought relief stating that: (1) the warehouse company is not the beneficial owner of the property due to the nature of the warehousing operation which provides for co-loading the property of various shippers, (2) there are interstate movements

¹ Dependent on the mixture of the commodities shipped the proposed rates in some instances would be slightly lower and in other instances slightly higher than the minimum rates. However, applicant's analysis of past movements of these commodities indicate the proposed rates would be approximately 5% lower than the minimum rates.

involved which are under the Interstate Commerce Commission jurisdiction, (3) the revenue and cost data are deficient and (4) subhaulers produce a majority of applicant's revenue. California Trucking Association also opposed ex parte consideration of the application stating Bayview's letter raises important questions bearing upon the propriety of the applicant's representations. However, (1) similar authority has been granted in the past,² (2) only rates applicable to shipments of an intra-state nature are requested, (3) revenue and expense data are sufficient to determine that the transportation involved may reasonably be expected to be profitable under the proposed rates and (4) since no costs are presented for subhaulers, if they are used they will be paid no less than the authorized rates.

In the circumstances, the Commission finds that applicant's proposal is reasonable. A public hearing is not necessary. The Commission concludes that the application should be granted as set forth in the ensuing order and the effective date of this order should be the date hereof because there is an immediate need for this relief.

IT IS ORDERED that:


1. Kenneth Cooley is authorized to perform the transportation shown in Appendix A attached hereto and by this reference made a part hereof at not less than the rates set forth therein.
2. The authority granted herein shall expire one year after the effective date of this order unless sooner cancelled, modified or extended by further order of the Commission.

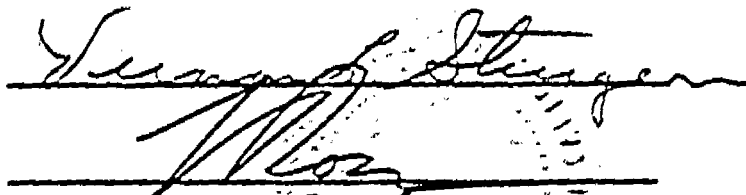
The effective date of this order is the date hereof.

² See Decision 85990 dated June 22, 1976, in Application 56486.

Dated at San Francisco, California, this 28th day of
September, 1976.

I dissent as to the
effective date being
the date hereof.
William L. Lyons Jr.


President




Commissioners

APPENDIX A

CARRIER: Kenneth Cooley, doing business as Cool Transportation

FOR: Packers Cold Storage, Inc.

Commodities requiring Frozen Temperature Control Services, in boxes or packages, as follows:

Bakery Goods NOI: or pies not requiring baking, frozen.
(Item 360 MRT 2)

Food, cooked, cured, preserved, or prepared, frozen NOI.
(Item 360 MRT 2)

Fruits or vegetables, fresh, cold pack, frozen, sweetened or not sweetened. (Items 73280 & 75340 NMF 100-C)

Juice, fruit, frozen.
(Item 320 MRT 2)

Milk or cream substitutes, other than milk, cream or milk solids, frozen. (Item 335.7 MRT 2)

Milk, cream or vegetable oil compounds (dessert toppings) aerated, with or without flavoring or other ingredients, frozen. (Item 335.7 MRT 2)

Pies, NOI, not baked, requiring baking, frozen.
(Item 74340 NMF 100-C)

Poultry, dressed or eviscerated or poultry parts, other than cooked, frozen. (Item 379 MRT 2)

Shrimp, NOI, frozen.
(Item 69870 NMF 100-C)

SECTION I

Rates: Except as provided in Section 2 below, the minimum rates and rules set forth in Minimum Rate Tariff 2 are applicable on commodities provided for herein and further excepting that Items 200 thru 241 of Minimum Rate Tariff 2 will not apply.

SECTION 2

APPLICATION OF RATES: When commodities requiring Frozen Temperature Control Service as named herein are transported by Kenneth Cooley, doing business as Cool Transportation, in straight or mixed shipments between Fullerton and various points in northern California, rates named in Minimum Rate Tariff 2 will be applicable subject to the following truckload minimum weights and class ratings and Notes 1, 2 and 3 below:

<u>TRUCKLOAD MINIMUM WEIGHT</u>	<u>CLASS RATING</u>
25,000 pounds	55
30,000 pounds	35
33,000 pounds	35.1
38,000 pounds	35.2

NOTE 1: Rate and minimum weight applies to each unit of carrier's equipment furnished. Unit of carrier's equipment means any motor truck or other self-propelled highway vehicle, trailer, semitrailer, or any combination of such highway vehicles operated as a single unit which may be lawfully operated over the public highway without special permit. Loading shall in no case exceed the maximum weight which may be lawfully transported per unit of carrier's equipment in accordance with existing highway and safety regulations via the route of movement.

NOTE 2: Shipments tendered may be stopped in transit for partial loading or partial unloading at intermediate points between origin and farthest point of destination at a charge of \$19.40 for each component part of the shipment including final delivery. The rate applicable to the shipment will be that named from origin to farthest point of destination via all other destination points.

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NOTE 3: Applicant has not indicated that subhaulers will be engaged nor have any costs of subhaulers been submitted. Therefore, if subhaulers are employed, they shall be paid no less than the rates authorized herein without any deduction for use of applicant's trailing equipment.

(END OF APPENDIX A)