

Decision 84 05 019

MAY 2 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Charro Transportation, a corporation,)
Complainant,)
vs.)
Rich Ladeira Trucking,)
Defendant.)

Case 83-08-08
(Filed August 15, 1983)

O P I N I O N

On February 11, 1983 Rich Ladeira, dba Rich Ladeira Trucking (Ladeira), a cement carrier, filed Rate Reduction (RR) 1382 for authority to charge less than the rates of competing motor carriers for truckload shipments of bulk cement from the Kaiser plant in Permanente, California, to a facility known as McPhail's in San Rafael. Notification appeared in the Commission's Transportation Calendar on February 14, 1983. Since no protests were received, the rate reduction (from 49.5¢ to 46¢/cwt.) became effective on March 13, 1983.

On August 15, 1983 this complaint was filed by Charro Transportation Company (Charro) which holds competitive authority as a cement carrier. The complaint alleges that the reduced rate is noncompensatory. A comparison of complainant's cost estimate with that used by Ladeira in RR 1382 is set forth in the table in the discussion section.

Complainant did not offer any justification for its failure to protest within 30 days after notification.

Ladeira answered, placing all differences between two cost estimates in issue. He also filed a motion to dismiss. The motion

contended that the complainant's allegations had already been informally investigated and rejected by the Commission staff. He alleged that his is a small "ma and pa" operation which cannot sustain the costs of litigation. He also asserted that only 71 loads¹ had been transported under the reduced rates, producing net revenues of only \$1,510.17.

Finally, Ladeira alleged that McPhail's would not patronize complainant even if the rate relief were rescinded.

The motion demands that the complaint be dismissed without evidentiary hearing on the following grounds:

1. Lack of standing.
2. Failure to allege facts sufficient to justify relief.
3. Granting an evidentiary hearing would be inequitable to defendant in light of his limited resources and the small amount of revenue at issue.
4. Granting a hearing would frustrate the public policy which requires more flexible rate setting.

The assigned Administrative Law Judge requested our Transportation Division to conduct an on-the-road check of defendant Ladeira's claimed time estimates.

Discussion

After performing this check, the staff concluded that RR 1382 time estimates were slightly understated. A comparison of the claims and staff observed data is set forth below:

¹ As of September 2, 1983.

<u>Item</u>	<u>Ladeira</u>	<u>Charro</u>	<u>Staff</u>
Mileage*	226	226	181
Loading Time	0.5 hr.	0.5 hr.	0.35 hr.
Unloading Time	1.0	1.0	1.0
Travel Time	3.5	4.52	4.25
Delay**	<u>0.25</u>	<u>0.33</u>	<u>0.18</u>
	5.25	6.35	5.78
Revenue	\$248.40	\$248.40	\$248.40
Costs			
Equipment	15.80	19.11	17.40
Labor	93.40	112.98	102.83
Running	<u>97.36</u>	<u>97.36</u>	<u>77.95</u>
Total Direct	206.56	229.45	198.20
Indirect	20.57	22.85	19.74
Gross Revenue		<u>8.83</u>	
Total Cost	227.13	261.13	217.94
Net	21.27	(12.73)	30.46

(Red Figure)

* Staff used the actual miles travelled while RR 1382 used constructive mileages taken from DT-8. Constructive mileages between Antioch - San Rafael - Permanente include a factor for bridge tolls. This traffic flow pattern was executed in the "free" flow direction on all bridges.

** Staff disregarded an observed 0.18-hour-on-the-road delay; the equipment and labor cost estimates have therefore been increased to allow for this delay.

Both parties applied a factor derived from Ladeira's cost study (based on actual miles) to a constructive mileage from Distance Table 8. This produced an unrealistically high estimate for running costs. The staff corrected for this error. The resulting saving, nearly \$20, is more than enough to offset all of the net loss which Charro alleged would result from the reduction.

A copy of the staff's report was placed in the formal file and a copy served on complainant and defendant. Complainant replied that it merely wished to point out the deficiencies in the rate reduction application to the staff.

We can therefore conclude that even if complainant were able to prove every fact alleged and to rebut the staff's time figure, the rate would still be compensatory.

Findings of Fact

1. Complainant's calculations of running cost should have been based on actual, not constructive, mileage.
2. Correcting for this mistake produces a return more than sufficient to offset the alleged revenue deficiency.
3. The reduced rate is compensatory.

Conclusions of Law

1. There is no material triable issue of fact.
2. A summary order should be rendered against Charro, without evidentiary hearing.

O R D E R

IT IS ORDERED that this complaint is denied.

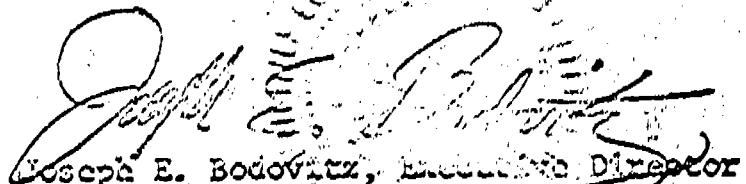
This order becomes effective 30 days from today.

Dated MAY 2 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. CREW
DONALD VIAL
WILLIAM T. BACLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director