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Decision S4 12 019

DEC 5 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Atlas Freight Lines, Inc.,)
for authority under Section 3666 of the)
Public Utilities Code to deviate from)
Distance Table 8 (Case 7024), issued by)
the Public Utilities Commission, and to)
assess rates lower than those set forth)
in Transition Tariff No. 2 for the)
account of WESLOCK.)

Application 84-04-112
(Filed April 23, 1984)

David R. Peceimer, for Atlas Freight Lines,
Inc., applicant.
George L. Hunt, for the Commission staff.

O P I N I O N

By this application Atlas Freight Lines, Inc. (Atlas) requests authority to deviate from the provisions of Distance Table 8 (DT 8) and to assess rates lower than those contained in Transition Tariff (TT) 2 in connection with transportation performed for Weslock Corporation.

Atlas proposes to calculate mileages in connection with highway contract carrier services performed for the account of this single shipper in accordance with its Zip Code Mileage Guide (Mileage Guide). All shipments originate at Weslock's facility located at 13344 South Main Street, Los Angeles. The only commodity to be transported is "Locks, or lock sets, NOI, metal," as described in Item 95760 of the National Motor Freight Classification. Distances in the Mileage Guide are based upon average miles from Weslock's facility to specific zip code or zip code group areas. Atlas alleges that this constitutes a simplified method of calculating distances which substantially reduces both its and the shipper's costs incurred in rating and auditing freight bills. The five-digit Zip Codes and three-digit Zip Code Groups are derived from the National Zip Code Directory, published by the U. S. Postal Service.

The Commission's Transportation Division reviewed the application and requested that the matter be set for hearing because it believed the pleading contained insufficient information to warrant granting the request. Accordingly, a duly noted public hearing was held before Administrative Law Judge (ALJ) Lemke in Los Angeles on September 5, 1984, and the matter was submitted on that date.

Evidence

Atlas presented its case primarily through the testimony of its Traffic Manager, David Peceimer. Peceimer stated that the Commission by Decision (D.) 93766 in Order Instituting Rulemaking (OIR) 4, established General Order (GO) 147, which contains rules and regulations governing the implementation of the Commission's reregulation program for general freight and providing guidance for tariff and contract filings during the transition period from minimum rates to carrier-filed rates. Rule 2H of GO 147 provides that DT 8 shall be the mileage table for use in connection with distance rates applied by common and contract carriers of general commodities. The mileages set forth in Atlas' Mileage Guide, Peceimer alleges, are generally about the same as those set forth in DT 8; however, some individual mileages are higher, and some lower than those contained in DT 8. He stated that, on balance, the average variance in mileages between Atlas' Mileage Guide and DT 8 is only .4%. He emphasized that the mileages proposed here are for use solely in connection with Weslock, and are not for general application in transportation services performed for other shippers.

To the extent that mileages in Atlas' Mileage Guide produce distances less than those contained in DT 8, and, therefore, might result in lower rates than those contained in TT 2, Atlas also requests authority to depart from the rate levels contained in TT 2 on transportation performed for Weslock. Atlas' application contains a letter from Weslock stating that the shipper's monthly cost for having its freight bills audited is approximately \$1,000.

Staff participation consisted of cross-examination of Peceimer and of a written statement pointing out certain geographical phenomena which it believes should be considered in connection with Atlas' proposal. For instance, the staff noted that Atlas proposes to use a single mileage from Weslock's facility to an area which includes all destinations having the first three Zip Code numbers 923, which area the staff asserts consists of approximately 100 cities and communities arranged, alphabetically, from Adelanto (Zip Code 92301) to Yucaipa (Zip Code 92399). Staff notes that the 3-digit zip code area 923 covers a territory of approximately 35,000 sq. miles, stretching from Lake Arrowhead to Needles and from Twenty-Nine Palms to Baker. Atlas proposed the use of a single distance of 109 miles for this extensive Zip Code group area. Staff believes that there is no economic reason which would justify the use of a single mileage application to such a large area.

Staff asserts that a distance rate structure which permits the application of the same rate on a shipment of locks from Los Angeles to Lake Arrowhead as from Los Angeles to Needles is preferential to the more distant receiver and discriminates against the closer receiver.

In response to the staff's allegations concerning discrimination and preferential treatment of certain remote receivers of freight, Peceimer stated that this request is in connection with the carrier's contract operation, and it is not possible in this circumstance to discriminate against any party since Weslock is the sole shipper.

Exhibit 2 is a list of the zip code basing points designating the particular point within each zip code area and each 3-digit zip code group area to which mileages have been determined in developing Atlas' proposal.

Weslock's traffic manager, Jerry Greenly, stated that while the shipper pays about \$1,000 monthly for transportation rate

auditing services, only 10 to 12% of that cost is attributable to intrastate services performed by Atlas. He stated that although Weslock is the freight bill payer on transportation performed by Atlas in all instances, Weslock adds to its sales invoices the exact amount of freight charges assessed by Atlas.

In summary, under Atlas' proposal Weslock will generally pay the same, but sometimes a higher, and sometimes a lower cost, than it does under the system of mileage determination presently applicable. However, the freight revenue received by Atlas from its Weslock operation will be within .4% of that applicable under the rates named in TT 2.

Discussion

Atlas' application involves two different requests. First, it asks for authority to deviate from the rules and mileages contained in DT 8, in accordance with the provisions of Public Utilities (PU) Code § 3666.¹ This is appropriate because, even though DT 8 does not contain rates in the form of charges in dollars and cents, the term "rate," as used in the Commission's various minimum rate and transition tariffs, extends to the rules governing the charges. (See, e.g. the definition contained in Item 11 of TT 2). In addition, since the mileages in Atlas' Mileage Guide are sometimes less than those in DT 8, the resultant rates proposed by Atlas are also sometimes less than those named in TT 2, requiring cost justification under the provisions of GO 147. But the rate reductions are essentially incidental to and a concomitant of the mileage reductions set forth in Atlas' Mileage Guide.

¹ "If any highway carrier other than a highway common carrier desires to perform any transportation or accessorial service at a lesser rate than the minimum established rates, the commission shall, upon finding that the proposed rate is reasonable, authorize the lesser rate."

Atlas has submitted proposed rates and cost justification with its application. The cost data support the proposed rates. There is no dispute over the rate reduction portion of the application. The carrier's proposed rate format includes a 2,000 lb. rate scale as well as Any Quantity and 5,000 lb. rates. Its highest minimum shipment weight is 30,000 lbs., compared with 40,000 lb. and 50,000 lb. rate scales in TT 2.

Staff argues that the use of Atlas' Mileage Guide and rates will result in rate preference to prospective receivers of freight and will subject others to discrimination and disadvantage, in violation of Article XII, Section 4 of the California Constitution; that the proposal will establish unreasonable differences in rates between locations, also in violation of Article XII, Section 4; and that the proposal will result in rates which are preferential, discriminatory, and unreasonable, in violation of PU Code § 3666.

Staff's position is difficult to comprehend. Atlas' proposal consists of nothing more than group rates. The effect of group rates is that all shipments of like quantities are assessed the same, not different rates.

Atlas has determined mileages from Weslock to the geographic center of each Zip Code area and group. This will result in a consignee situated at a more remote part of a group paying the same charge as one located in the same group, but closer to the origin.

Since the revenues under the proposed rates are reasonably compensatory, we are unable to find that the proposal is unlawful merely because of the size of the groups to which the rates apply. Even though the freight charges paid by Weslock are passed on to the consignees, there is no evidence on this record of any potential undue disadvantage or preference.

However, authorizing a system of mileage determination which includes basing points of the size contained in Atlas' proposal

constitutes a considerable departure from the system presently maintained for use in conjunction with our minimum rate tariffs, transition tariffs and approved common carrier tariffs. Therefore, we will grant this authority experimentally for a period of one year. Before renewal, we will require a showing by Atlas that the proposed system has resulted in operations and practices which are just, reasonable, and not unduly preferential. ✓

We stated in Order Setting Hearing (OSH) 40, Case 7024, that in Phase II of that proceeding we will consider whether to convert the present Metropolitan Zones and Described Extended Areas into zones coextensive with United States postal zip-code zones. It may be that Atlas' experience from use of its Mileage Guide in California will provide information for use by the staff in formulating its proposal in OSH 40.

The application will be granted. Since an immediate benefit is available to shipper and carrier, this decision should be effective today.

Findings of Fact

1. Atlas proposes to deviate from applicable mileages and rates in connection with the transportation of locks or lock sets from Weslock, located in Los Angeles, to various points and places throughout California, as a highway contract carrier.
2. Atlas proposes to assess distance rates based upon mileages contained in its Mileage Guide. Such mileages are generally equal to, but are sometimes more, and sometimes less, than those contained in the Commission's DT 8.
3. The average distances, and resultant rates, contained in Atlas' proposal are approximately .4% less than those contained in DT 8 and TT 2, respectively.
4. The rates proposed by Atlas, to the extent they are less than those contained in TT 2, are justified by the cost data furnished with the application, and are reasonable for the purposes

of the carrier's proposed operations for Weslock, and meet the provisions of GO 147.

5. Under Atlas' proposed mileage determination system, charges on like shipments will be the same to all points situated within the same zip code area or within areas taking the same first three zip code digits.

Conclusions of Law

1. Granting the application will result in rates which are just, reasonable, and nondiscriminatory.
2. The application should be granted.
3. Since transportation conditions may change, this experimental authority should expire in one year. Before being renewed, Atlas should provide information that the authority granted has resulted in operations and practices which are just, reasonable, and not unduly preferential.
4. There is an immediate opportunity for rate relief; therefore, the effective date of this order should be today.

O R D E R

IT IS ORDERED that:

1. Atlas Freight Lines, Inc., as a highway contract carrier, may depart from the provisions of Transition Tariff 2 and Distance Table 8 by assessing the rates and mileages set forth in Appendix A, in connection with the transportation of locks or lock sets performed for Weslock Corporation.
2. This experimental authority shall expire one year after the effective date of this order.

3. The application is granted as set forth above.

This order is effective today.

Dated DEC 5 1984, at San Francisco, California.

DONALD VIAL
President
VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
FREDERICK R. DUDA
Commissioners

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


Joseph E. Bedovita, Executive Director

APPENDIX A
Page 1

Carrier: Atlas Freight Lines, Inc., a highway contract carrier.

Shipper: Weslock Corporation.

Commodity: Locks or lock sets, as described in Item 95760 of the National Motor Freight Classification.

Conditions:

1. Rates and charges apply only from Weslock Corporation, 13344 South Main Street, Los Angeles.
2. Mileages applicable in connection with rates and charges contained in this appendix are those shown in the Zip Code Mileage Guide, shown on pages 7 and 8 of this appendix.

APPENDIX A
Page 2

MINIMUM CHARGES

| WEIGHT OF SHIPMENT IN POUNDS NOT OVER | MINIMUM CHARGE IN CENTS MILES TRAVELED | | | |
|---|---|----------------|----------------|-----------------|
| | <u>0 - 150</u> | <u>151-300</u> | <u>301-500</u> | <u>OVER 500</u> |
| 100 | 1405 | 1562 | 1719 | 1968 |
| 150 | 1695 | 2085 | 2305 | 2807 |
| 200 | 1972 | 2419 | 2661 | 3285 |
| 250 | 2255 | 2841 | 3126 | 3833 |
| 300 | 2451 | 3163 | 3479 | 4360 |
| 400 | 2930 | 3755 | 4130 | 5191 |
| 500 | 3333 | 4234 | 4657 | 6071 |
| Over 500 | 3679 | 4694 | 5163 | 6882 |

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RATES IN CENTS PER HUNDRED POUNDS

| <u>MILES NOT OVER</u> | <u>AQ</u> | <u>2,000 LBS.</u> | <u>5,000 LBS.</u> | <u>10,000 LBS.</u> | <u>20,000 LBS.</u> | <u>30,000 LBS.</u> |
|---------------------------|-----------|-------------------|-------------------|--------------------|--------------------|--------------------|
| 3 | 645 | 581 | 223 | 155 | 88 | 75 |
| 5 | 654 | 589 | 231 | 159 | 93 | 76 |
| 10 | 664 | 598 | 236 | 164 | 95 | 81 |
| 15 | 670 | 603 | 244 | 169 | 101 | 83 |
| 20 | 677 | 609 | 250 | 172 | 106 | 86 |
| 25 | 683 | 615 | 254 | 175 | 108 | 88 |
| 30 | 687 | 618 | 261 | 178 | 111 | 89 |
| 35 | 693 | 674 | 263 | 182 | 112 | 93 |
| 40 | 699 | 629 | 267 | 187 | 116 | 95 |
| 45 | 707 | 636 | 273 | 190 | 124 | 99 |
| 50 | 709 | 638 | 280 | 195 | 125 | 101 |
| 60 | 718 | 646 | 289 | 201 | 130 | 106 |
| 70 | 726 | 653 | 294 | 205 | 135 | 108 |
| 80 | 735 | 662 | 304 | 212 | 142 | 114 |
| 90 | 743 | 669 | 310 | 217 | 148 | 117 |
| 100 | 752 | 677 | 319 | 222 | 155 | 123 |
| 110 | 760 | 684 | 326 | 228 | 160 | 128 |
| 120 | 766 | 689 | 332 | 233 | 165 | 134 |
| 130 | 774 | 697 | 335 | 237 | 170 | 137 |
| 140 | 780 | 702 | 343 | 243 | 175 | 141 |
| 150 | 788 | 709 | 348 | 252 | 181 | 143 |
| 160 | 795 | 716 | 355 | 258 | 186 | 150 |
| 170 | 804 | 724 | 360 | 264 | 191 | 155 |
| 180 | 811 | 730 | 366 | 268 | 196 | 159 |
| 190 | 818 | 736 | 370 | 276 | 201 | 164 |

RATES IN CENTS PER HUNDRED POUNDS (CONT'D.)

| <u>MILES NOT OVER</u> | <u>AQ</u> | <u>2,000 LBS.</u> | <u>5,000 LBS.</u> | <u>10,000 LBS.</u> | <u>20,000 LBS.</u> | <u>30,000 LBS.</u> |
|---------------------------|-----------|-------------------|-------------------|--------------------|--------------------|--------------------|
| 200 | 825 | 743 | 375 | 281 | 210 | 166 |
| 220 | 835 | 752 | 383 | 289 | 218 | 177 |
| 240 | 845 | 761 | 393 | 297 | 226 | 184 |
| 260 | 856 | 770 | 402 | 304 | 235 | 191 |
| 280 | 868 | 781 | 409 | 311 | 244 | 199 |
| 300 | 878 | 790 | 415 | 317 | 253 | 208 |
| 325 | 890 | 801 | 426 | 324 | 266 | 213 |
| 350 | 903 | 813 | 437 | 334 | 277 | 223 |
| 375 | 915 | 824 | 448 | 343 | 289 | 235 |
| 400 | 927 | 834 | 459 | 353 | 299 | 237 |
| 425 | 946 | 851 | 473 | 361 | 311 | 243 |
| 450 | 958 | 862 | 484 | 372 | 317 | 253 |
| 475 | 970 | 873 | 494 | 379 | 325 | 261 |
| 500 | 987 | 888 | 508 | 391 | 335 | 266 |
| 525 | 1000 | 900 | 520 | 400 | 343 | 276 |
| 550 | 1013 | 912 | 538 | 406 | 353 | 283 |
| 575 | 1027 | 924 | 546 | 419 | 366 | 289 |
| 600 | 1043 | 939 | 557 | 430 | 377 | 294 |
| 625 | 1056 | 950 | 571 | 436 | 383 | 302 |
| 650 | 1074 | 967 | 584 | 446 | 393 | 307 |
| 675 | 1086 | 977 | 595 | 455 | 402 | 317 |
| 700 | 1103 | 993 | 609 | 466 | 413 | 324 |
| 725 | 1116 | 1004 | 622 | 477 | 423 | 334 |

APPENDIX A
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LOS ANGELES AND ORANGE COUNTY METROPOLITAN AREA
MINIMUM CHARGES AND ANY QUANTITY RATES,
SUBJECT TO NOTES 1 AND 2 ON PAGE 6

| <u>WEIGHT IN POUNDS NOT OVER</u> | <u>MINIMUM CHARGE IN CENTS</u> |
|--------------------------------------|------------------------------------|
| 25 | 1007 |
| 50 | 1217 |
| 75 | 1392 |
| 100 | 1405 |
| 150 | 1695 |
| 200 | 1966 |
| 250 | 2255 |
| 300 | 2451 |
| 400 | 2930 |
| 500 | 3194 |
| 600 | 3497 |
| 700 | 3812 |
| 800 | 4120 |
| 900 | 4423 |
| OVER 900 | 4738 |

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LOS ANGELES AND ORANGE COUNTY METROPOLITAN AREA
MINIMUM CHARGES AND ANY QUANTITY RATES
SUBJECT TO NOTES 1 AND 2 (CONT'D.)

| <u>MILES NOT OVER</u> | <u>ANY QUANTITY RATES IN CENTS PER HUNDRED POUNDS</u> |
|---------------------------|---|
| 5 | 315 |
| 10 | 324 |
| 15 | 333 |
| 20 | 341 |
| 25 | 350 |
| 30 | 359 |
| 35 | 368 |
| 40 | 377 |
| 45 | 386 |
| 50 | 394 |

NOTE 1: Applies only on shipments destined to Zip Groups 900, 902, 903, 904, 905, 906, 907, 908, 910, 911, 912, 913, 914, 915, 916, 917, 918, 926, 927, 928

NOTE 2: Will not apply on shipments destined to Zip Codes: 90265, 91023, 91301, 91310, 91320, 91321, 91350, 91351, 91355, 91360, 91361, 91362, 91701, 91710, 91711, 91720, 91730, 91739, 91743, 91752, 91759, 91760, 91761, 91762, 91763, 91764, 91786, 92624, 92625, 92629, 92630, 92651, 92653, 92672, 92675, 92676, 92677, 92678, 92690, 92691, 92692, 92693

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ZIP CODE MILEAGE GUIDE

FROM: ZIP CODE 90061

TO: ZIP GROUPS 902 THRU 961

| | <u>90061</u> | | <u>90061</u> | | <u>90061</u> |
|-----|--------------|-----|--------------|-----|--------------|
| 902 | 11 | 925 | 62 | 949 | 431 |
| 903 | 12 | 926 | 34 | 950 | 359 |
| 904 | 18 | 927 | 34 | 951 | 374 |
| 905 | 11 | 928 | 30 | 952 | 369 |
| 906 | 18 | 930 | 72 | 953 | 339 |
| 907 | 12 | 931 | 108 | 954 | 466 |
| 908 | 12 | 932 | 163 | 955 | 710 |
| 910 | 29 | 933 | 123 | 956 | 415 |
| 911 | 23 | 934 | 198 | 957 | 515 |
| 912 | 21 | 935 | 173 | 958 | 415 |
| 913 | 39 | 936 | 237 | 959 | 494 |
| 914 | 30 | 937 | 245 | 960 | 594 |
| 915 | 26 | 939 | 337 | 961 | 607 |
| 916 | 26 | 940 | 402 | | |
| 917 | 33 | 941 | 418 | | |
| 918 | 21 | 943 | 393 | | |
| 920 | 122 | 944 | 405 | | |
| 921 | 122 | 945 | 399 | | |
| 922 | 151 | 946 | 409 | | |
| 923 | 109 | 947 | 409 | | |
| 924 | 65 | 948 | 418 | | |

APPENDIX A
Page 8ZIP CODE MILEAGE GUIDE

FROM: ZIP CODE 90061

TO: ZIP CODES 90001 THRU 90089

| | | | | | |
|-------|----|-------|----|-------|----|
| 90001 | 7 | 90025 | 23 | 90049 | 28 |
| 90002 | 3 | 90026 | 16 | 90056 | 18 |
| 90003 | 10 | 90027 | 16 | 90057 | 16 |
| 90004 | 20 | 90028 | 20 | 90058 | 7 |
| 90005 | 20 | 90029 | 16 | 90059 | 3 |
| 90006 | 16 | 90031 | 12 | 90061 | 3 |
| 90007 | 10 | 90032 | 18 | 90062 | 10 |
| 90008 | 10 | 90033 | 12 | 90063 | 12 |
| 90010 | 20 | 90034 | 18 | 90064 | 23 |
| 90011 | 10 | 90035 | 23 | 90065 | 21 |
| 90012 | 16 | 90036 | 20 | 90066 | 18 |
| 90013 | 12 | 90037 | 10 | 90067 | 23 |
| 90014 | 12 | 90038 | 16 | 90068 | 22 |
| 90015 | 12 | 90039 | 16 | 90069 | 20 |
| 90016 | 10 | 90040 | 14 | 90071 | 16 |
| 90017 | 16 | 90041 | 21 | 90073 | 23 |
| 90018 | 10 | 90042 | 18 | 90077 | 31 |
| 90019 | 20 | 90043 | 10 | 90089 | 10 |
| 90020 | 20 | 90044 | 10 | | |
| 90021 | 12 | 90045 | 15 | | |
| 90022 | 16 | 90046 | 16 | | |
| 90023 | 7 | 90047 | 10 | | |
| 90024 | 23 | 90048 | 20 | | |

(END OF APPENDIX A.)

constitutes a considerable departure from the system presently maintained for use in conjunction with our minimum rate tariffs, transition tariffs and approved common carrier tariffs. Therefore, we will grant this authority experimentally for a period of a year. Before renewal, we will require a showing by Atlas that the proposed system has resulted in operations and practices which are just, reasonable, and not unduly preferential.

We stated in Order Setting Hearing (OSH) 40, Case 7024, that in Phase II of that proceeding we will consider whether to convert the present Metropolitan Zones and Described Extended Areas into zones coextensive with United States postal zip-code zones. It may be that Atlas' experience from use of its Mileage Guide in California will provide information for use by the staff in formulating its proposal in OSH 40.

The application will be granted. Since an immediate benefit is available to shipper and carrier, this decision should be effective today.

Findings of Fact

1. Atlas proposes to deviate from applicable mileages and rates in connection with the transportation of locks or lock sets from Weslock, located in Los Angeles, to various points and places throughout California, as a highway contract carrier.

2. Atlas proposes to assess distance rates based upon mileages contained in its Mileage Guide. Such mileages are generally equal to, but are sometimes more, and sometimes less, than those contained in the Commission's DT 8.

3. The average distances, and resultant rates, contained in Atlas' proposal are approximately .4% less than those contained in DT 8 and TT 2, respectively.

4. The rates proposed by Atlas, to the extent they are less than those contained in TT 2, are justified by the cost data furnished with the application, and are reasonable for the purposes

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Galen Lucker, authorizing him to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in Appendix PSC-1326, to transport passengers and baggage.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in his tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

3. Prior to initiating service to any airport, applicant shall notify the airport authority involved. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by both this Commission and the airport authority involved.

4. Applicant is authorized to begin operations on the date that the Executive Director mails a notice to applicant that he has evidence of insurance on file with the Commission and that the California Highway Patrol has approved the use of applicant's vehicles for service.