

Decision 88 05 016 MAY 11 1988

ORIGINAL

MAY 11 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Beard Land Improve- )  
 ment Company, a California )  
 corporation, for an order of the )  
 Commission extending the geographic )  
 area adjacent to the City of Modesto )  
 within which transportation of )  
 property is exempt from rate )  
 regulation as provided in Appendix A )  
 to D.82-06-091 as amended. )

Application 88-03-003  
 (Filed March 1, 1988)

OPINION

Applicant Beard Land Improvement Company requests that the Commission extend the geographic area adjacent to the City of Modesto within which transportation of property is exempt from rate regulation. The current area was defined by Appendix A to Decision (D.) 82-06-091 dated June 15, 1982, as amended. This request seeks inclusion of the entire Beard Industrial District. Notice of the filing of the application appeared in the Commission's Daily Calendar of March 7, 1988 and in the Commission's Transportation Calendar of March 8, 1988. The application shows that copies of the application were mailed to various highway carriers associations, the Teamsters Union, California Manufacturers Association, and others. No protests to the application have been received.

Applicant is the developer of the Beard Industrial District, a 2,000-acre industrially zoned area located mostly outside of the boundaries of the City of Modesto. Throughout the Beard Industrial District there are over 120 industrial plants, warehouses, business offices, and other similar facilities for the following companies, among others: Campbell Soup, Co., Del Monte Corporation, E & J Gallo Winery, General Foods Distribution, Georgia Pacific Corporation, Gerber Products Co., The B. F.

Goodrich Co., International Paper Co., RJR Nabisco, Inc., National Can Corporation, S & W Fine Foods, Inc., Tri-Valley Growers, Weyerhaeuser Co., and Whirlpool Corporation. Approximately 24 companies have facilities located within the Beard Industrial District west of Riverside Drive, which is within the Modesto city limits, while approximately 26 companies have facilities located therein east of Riverside Drive, which is outside the city limits and outside the exempt rate zone.

By D.51544 dated June 7, 1955, the Commission added the City of Modesto and the adjacent territory then known as the East Modesto Industrial District to its list of areas exempt from rate regulation on the theory that, since the transportation characteristics of traffic within both areas was the same, all such transportation should be accorded like treatment. (At that time the East Modesto Industrial District consisted of that portion of the Beard Industrial District located west of Riverside Drive.)

Consequently, an anomalous situation was created in which part (but not all) of the Beard Industrial District is in an area within which the transportation of property is exempt from rate regulation. This means that, for purely historical reasons, companies on the east side of Riverside Drive pay different rates than companies on the west side for the transportation of goods to an identical point within the City of Modesto or within the boundaries of the Beard Industrial District west of Riverside Drive. Applicant believes that there is no reason to distinguish between companies located on west side, as opposed to the east side, of Riverside Drive because the transportation characteristics of the traffic throughout the entire Beard Industrial District are substantially the same. Under these circumstances, applicant believes all companies located within the Beard Industrial District should be accorded the same rate exempt treatment.

Furthermore, applicant believes that the extension of the Modesto rate exempt zone to include all of the Beard Industrial

District will not have a substantial adverse impact on any carriers. This is so because many of the companies located east of Riverside Drive currently ship goods within Modesto and the Beard Industrial District using their own company trucks. By extending the Modesto rate exempt zone, these shippers would benefit from the creation of another competitive transportation option for their local shipments.

Applicant submits that this application is consistent with the Commission's current reregulation policy, set forth in D.86-04-045 and D.86-12-102.

Applicant requests the entire deletion of the territorial description under the heading "Modesto and Vicinity" in Section 5 of Appendix A of D.82-06-091 as amended and the replacing it with the following:

"MODESTO, ALSO THE TERRITORY BOUNDED AS FOLLOWS:

"Beginning at the junction of Dry Creek and the Tuolumne River; thence southerly and easterly along the Tuolumne River to its intersection with the eastern boundary of the Santa Fe Railroad Tracks; thence northerly along the eastern boundary of the Santa Fe Railroad Tracks to their intersection with Yosemite Boulevard; thence westerly along Yosemite Boulevard to its intersection with Grand Street; thence southerly and westerly along Grand Street to its intersection with Dry Creek; and thence southerly along Dry Creek to the point of beginning."

#### Findings of Fact

1. Applicant requests that the entire Beard Industrial District adjacent the City of Modesto be included within an area within which the transportation of property is exempt from rate regulation as provided in Appendix A to D.82-06-091 as amended.

2. The Beard Industrial District consists of a 2,000-acre industrially zoned area partially within and partially without the City of Modesto.

3. There are over 120 industrial plants, warehouses, business offices, and other similar facilities in the district.

4. Approximately 24 companies have facilities located within the Beard Industrial District within the City of Modesto and 26 companies have facilities located in the district outside the city.

5. Companies within the district outside the city pay different freight transportation rates than companies within the district within the city for the transportation of goods to an identical point within the city or within the boundaries of the district.

6. The Beard Industrial District is commercially a part of the City of Modesto.

7. Including the Beard Industrial District outside the City of Modesto rate exempt status will not have an adverse impact on highway carriers.

8. A public hearing is not necessary.

Conclusions of Law

1. The entire Beard Industrial District should be accorded the same rate exempt treatment as accorded that part of the district which is within the City of Modesto.

2. The application should be granted.

ORDER

IT IS ORDERED that the territorial description under the heading "MODESTO AND VICINITY" in Section 5 of Appendix A of Decision 82-06-091 is deleted in its entirety and in lieu thereof the following description is inserted:

MODESTO, ALSO THE TERRITORY BOUNDED AS FOLLOWS:

Beginning at the junction of Dry Creek and the Tuolumne River; thence southerly and easterly along the Tuolumne River to its intersection with the eastern boundary of the Santa Fe Railroad Tracks; thence northerly along the eastern boundary of the Santa Fe Railroad

Tracks to their intersection with Yosemite Boulevard; thence westerly along Yosemite Boulevard to its intersection with Grand Street; thence southerly and westerly along Grand Street to its intersection with Dry Creek; and thence southerly along Dry Creek to the point of beginning.

This order is effective today.

Dated MAY 11 1988, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL  
FREDERICK R. DUDA  
C. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

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

  
Victor Weiss, Executive Director

District will not have a substantial adverse impact on any carriers. This is so because many of the companies located east of Riverside Drive currently ship goods within Modesto and the Beard Industrial District using their own company trucks. By extending the Modesto rate exempt zone, these shippers would benefit from the creation of another competitive transportation option for their local shipments.

Applicant submits that this application is consistent with the Commission's current reregulation policy, set forth in D.86-04-045 and D.86-12-102.

Applicant requests the entire deletion of the territorial description under the heading "Modesto and Vicinity" in Section 5 of Appendix A of D.82-06-091 as amended and the replacing it with the following:

"MODESTO, ALSO THE TERRITORY BOUNDED AS FOLLOWS:

"Beginning at the junction of Dry Creek and the Tuolumne River; thence southerly and easterly along the Tuolumne River to its intersection with the eastern boundary of the Santa Fe Railroad Tracks; thence northerly along the eastern boundary of the Santa Fe Railroad Tracks to their intersection with Yosemite Boulevard; thence westerly along Yosemite Boulevard to its intersection with Grand Street; thence southerly and westerly along Grand Street to its intersection with Dry Creek; and thence southerly along Dry Creek to the point of beginning."

#### Findings of Fact

1. Applicant requests that the entire Beard Industrial District adjacent the City of Modesto be included within an area within which the transportation of property is exempt from rate regulation as provided in Appendix A to D.82-06-091 as amended.

2. The Beard Industrial District consists of a 2,000-acre industrially zoned area partially within and partially without the City of Modesto.

3. There are over 120 industrial plants, warehouses, business offices, and other similar facilities in the district.

4. Approximately 24 companies have facilities located within the Beard Industrial District within the City of Modesto and 26 companies have facilities located in the district outside the city.

5. Companies within the district outside the city pay different freight transportation rates than companies within the district within the city for the transportation of goods to an identical point within the city or within the boundaries of the district.

6. The Beard Industrial District is commercially a part of the City of Modesto.

7. Including the Beard Industrial District outside the City of Modesto rate exempt status will not have an adverse impact on highway carriers.

8. A public hearing is not necessary.

Conclusions of Law

1. The entire Beard Industrial District should be accorded the same rate exempt treatment as accorded that part of the district which is within the City of Modesto.

2. The application should be granted.

ORDER

IT IS ORDERED that the territorial description under the heading "MODESTO AND VICINITY" in Section 5 of Appendix A of Decision 82-06-091 is deleted in its entirety and in lieu thereof the following description is inserted:

MODESTO, ALSO THE TERRITORY BOUNDED AS FOLLOWS:

Beginning at the junction of Dry Creek and the Tuolumne River; thence southerly and easterly along the Tuolumne River to its intersection with the eastern boundary of the Santa Fe Railroad Tracks; thence northerly along the eastern boundary of the Santa Fe Railroad