

ORIGINAL

Decision 89 04 025 APR 12 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Frank C. Alegre Trucking Inc. to)
amend rules in its Tariff No. 1 for)
the transportation of Portland)
Cement, and related products,)
pursuant to General Order 150 series)
and Division I of the Public)
Utilities Code.)

Application 88-11-054
(Filed November 30, 1988)

Mailed

APR 15 1989

OPINION

By this application Frank C. Alegre Trucking, Inc. (Alegre) requests authority to amend a rule in its Tariff No. 1 for the transportation of cement, pursuant to General Order (GO) 150 series.

Alegre is a corporation organized and existing under the laws of the State of California. A copy of its Articles of Incorporation is on file with the Commission in File T-104128. Alegre is authorized to conduct for-hire operations under various permits and certificates issued by the Commission, including cement, highway common and contract, and dump truck authorities. Alegre's Tariff No. 1 is governed by the requirements of GO 150 series. Alegre seeks in this application to amend the application of Item 110 of its tariff. It believes that present language in Item 110 is unclear and insufficient because it does not properly identify the conditions under which the carrier may divert shipments after tender thereof by shippers.

The present rule states:

"Charges upon shipments diverted at request of consignor or consignee shall be assessed upon the basis of the charge established for the constructive mileage applicable via the point or points where diversion occurs, subject to Items 50 and 100."

Alegre believes the rule fails to specify how mileage is determined when a shipment is diverted prior to unloading, when a shipment is partially unloaded, or the amount of time allowed for each additional unloading operation. The carrier proposes the following language for publication in lieu of the present:

"Charges upon a shipment which is diverted at request of consignor or consignee shall be as follows:

- "(a) Charges upon a shipment which is diverted prior to unloading of any portion of shipment from carrier's equipment shall be assessed on the basis of the applicable mileage rate. Mileage shall be determined in accordance with the governing distance table (see Item 50), from point of origin to final destination, via point or points where diversion occurs.
- "(b) Charges upon a shipment which is diverted after partial unloading occurs shall be assessed on the basis of the applicable mileage rate on the entire weight of the shipment from point of origin to point where partial unloading occurs. Diversion of that portion of shipment remaining in carrier's equipment may be diverted at the applicable mileage rate from point where partial unloading occurred to final destination at actual weight, but not less than 40,000 pounds.
- "(c) One-half (1/2) hour free time shall be allowed to accomplish diversion. Such free time shall commence at the time consignor is notified that shipment or portion thereof has been refused.
- "(d) Time consumed in excess of that time provided in Paragraph (c) shall be charged at a rate or rates provided in Item 100."

Alegre believes the proposed rule will clarify its tariff, identify more precisely when and how charges for diverted shipments will apply, and specify clearly under what conditions additional standby time may be assessed. Alegre asserts that the proposed changes set forth above will affect its regulated intrastate revenues by less than one percent.

Filing of the carrier's application appeared in the Commission's Daily Transportation Calendar. No protest to the application has been received. The proposed rule appears to be reasonable, and to clearly address the problems it is intended to remedy. In the circumstances, the application should be granted. A public hearing is not necessary.

Findings of Fact

1. Alegre requests authority to clarify the language contained in its Tariff No. 1, Item 110, relating to assessment of charges on diverted shipments.

2. The language proposed by Alegre for substitution in lieu of the present language contained in Item 110, clearly sets forth the bases for computation of mileages on shipments which are diverted both before and after partial unloading occurs.

Conclusion of Law

The application should be granted.

ORDER

IT IS ORDERED that:

1. Frank C. Alegre Trucking, Inc. is authorized to publish in its Tariff No. 1, on not less than 5 days' notice, the language contained in Appendix A of Application 88-11-054.

2. The authority granted by this decision shall expire if not exercised within 60 days of today.

This order is effective today.

Dated APR 12 1989, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

Commissioner Frederick R. Duda
being necessarily absent, did
not participate.

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

Victor Weisbur
Victor Weisbur, Executive Director
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