

ALJ/LEM/bg

Decision 89 07 005

JUL 6 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mailed

In the Matter of the Application of)
 Bert E. Jessup Transportation, Inc.)
 for authority to amend documentation)
 requirements with respect to shipper)
 requests for specified services.)

JUL 6 1989
 Application 89-01-039
 (Filed January 27, 1989)

In the Matter of the Application of)
 Tiger Lines, Inc. (T-135221) for)
 authority to amend documentation)
 requirements with respect to shipper)
 requests for specified services.)

Application 89-01-040
 (Filed January 27, 1989)

OPINION

These two applications are consolidated for decision issuing purposes because of the similarity of the requests.

Bert E. Jessup Transportation, Inc. and Tiger Lines, Inc. (applicants) both operate as highway common carriers under certificates of public convenience and necessity issued by this Commission. Applicants seek authority to depart from the provisions of Rule 7.1 of General Order (GO) 147-A which require submission of a cost justification for reduced rates. In support of their requests, applicants assert generally as follows:

The specific requests involve proposed tariff items authorizing the use of standing instructions of shippers when annotating bills of lading or shipping documents is required. In lieu of annotating each shipping document, the shipper or consignor could elect to provide standing written instructions to the carrier requesting that all shipments tendered and otherwise eligible be transported in accordance with the tariff item. The specific tariff proposal is set forth in Appendix A to each application and to this decision.

Neither filing seeks a specific change in any actual rate level. However, the definition of "rate" in Rule 3.18 of GO 147-A includes "...the minimum weight or volume and rules governing...the charge on the property transported." (Emphasis added.) Under the applicants' proposals, an existing condition (rule) of the applicable tariff could be supplanted at shipper's option in order to minimize the possibility of inadvertent misapplication of rates. Thus, in a technical sense, the change constitutes a reduction since it would offer a service to a shipper which is not currently available. However, since the changes proposed cannot be readily quantified by cost justification, Commission approval is required.

Applicants publish many of their rates in their local freight tariffs. Included are various provisions which require shippers to specifically request application of a particular item in order to be eligible for use of lower rates. This is generally due to a provision limiting carrier liability in the event of loss or damage to goods. Such limits have been deemed necessary when the range of values of commodities varies widely. Liability limitation has been one of the considerations underlying decisions to offer reduced rates to shippers. Even with these limitations on carrier liability, shippers have the option of tendering their goods at full value; in such circumstances applicants are liable for the full actual loss or damage to the goods transported. Thus, no shipper is required to forgo full value liability by applicants.

When a shipper annotates a bill of lading so as to request application of a particular item, he is releasing the goods to the custody of the carrier at a lesser value, and therefore a lesser carrier liability. Absent such a request, carriers are required to assess higher, full value freight rates.

Sometimes a shipper will overlook the need to annotate a bill of lading. When this occurs, it is a source of friction between the parties because the shipper must pay the higher freight

rates. The Commission has frequently cited carriers for failure to properly adhere to documentation annotation requirements.

In order that shippers may avail themselves of lower freight rates without having to be concerned over the possibility of inadvertent omission of an annotation, applicants propose establishment of an item which will allow shippers to make written request for continuing application of specified tariff items, without the need to separately annotate each bill of lading. Shippers could revoke such standing instructions any time they wish. The items are applicable at the option of shippers. The written shipper requests will constitute documentation which applicants are required to maintain in accordance with Rule 7 of General Order 155, and would be available for inspection by the Commission upon request.

Applicants note that the use of filed, written shipper requests of this sort are in use by other carriers, for other purposes. For example, carrier discount tariffs apply within California only when shippers file written requests with carriers. Applicants request ex parte handling of their requests.

Under the proposed rule, shippers will be able to avail themselves of lower freight rates without having to be concerned about the possibility of inadvertent omission of a request clause from bills of lading. Notice of filing of the applications was published in the Commission's Daily Transportation Calendar. Neither application has been protested. The Commission's Transportation Division has reviewed the applications and suggests that they be granted by ex parte order. In the circumstances, the applications are reasonable and necessary and will be granted.

Findings of Fact

1. GO 147-A requires that requests for rate reductions be cost justified.

2. Rule 3.18 of GO 147-A states that "rate" includes "...the minimum weight or volume and rules governing...the charge on the property transported."

3. Under applicants' proposals, shippers, at their option, may avail themselves of bill of lading annotation opportunities which allow the application of reduced rates.

4. Applicants propose the publication in their common carrier tariffs of a rule allowing standing instructions from shippers, requesting that all shipments tendered requiring shipper annotation, and otherwise eligible, be transported in accordance with applicable tariff items.

5. The proposed rule will apply at the option of shippers; requests by shippers for rating of their shipments in accordance with the provisions of the rule may be revoked by the shippers at any time.

6. Under the proposed rule, shippers will be able to avail themselves of lower freight rates without having to be concerned about the possibility of inadvertently omitting a request clause from bills of lading.

Conclusions of Law

1. The applications should be granted.
2. A public hearing is not necessary.

ORDER

IT IS ORDERED that Bert E. Jessup Transportation, Inc. and Tiger Lines, Inc. are authorized to publish in their common carrier tariffs, on five days' notice, the rule contained in Appendix A.

This order becomes effective 30 days from today.

Dated JUL 6 1989, at San Francisco, California.

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

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

Victor Weiser
Victor Weiser, Executive Director
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APPENDIX A

STANDING INSTRUCTIONS OF SHIPPERS

When a provision of this tariff requires a shipper or consignor to annotate a bill of lading or shipping document in order to be eligible for application of the rates named in such item, in lieu of such annotation the shipper or consignor may elect to provide standing written instructions to the carrier containing a request that all shipments tendered and otherwise eligible be transported in accordance with such tariff item.

The written instructions shall be in the form of a letter to the carrier, and

1. Shall clearly and unambiguously identify the traffic and the item or items involved;
2. Shall specifically state the shipper's or consignor's acknowledgement and acceptance of any limitations of liability contained in such item or items;
3. Shall contain:
 - a. A termination date for such standing instructions, or
 - b. A clause stating that such instructions shall remain in effect until rescinded or amended in writing by the shipper or consignor; and
4. Shall be signed by an officer or other individual authorized to obligate the shipper or consignor in matters of this kind.

The sole purpose of this item is to eliminate the need for shippers or consignors who so elect to separately annotate each bill of lading or shipping document with the statement or reference contained in certain items of this tariff. The provisions hereof shall not be construed as otherwise allowing the alteration or amendment of the conditions and requirements of items in this tariff.

(END OF APPENDIX A)