

ORIGINAL

Decision S2 12 053 DEC 8 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of COOL TRANSPORTATION for )  
authority to deviate from the )  
provisions of Minimum Rate Tariff )  
No. 8-A in connection with the )  
transportation for Safeway of )  
Bananas from Long Beach, Los )  
Angeles, and Port Hueneme, to the )  
Safeway distribution facilities in )  
Richmond and Sacramento. )

Application 82-10-07  
(Filed October 4, 1982)

O P I N I O N

Cool Transportation (Cool) requests authority to charge less than the rates contained in Minimum Rate Tariff (MRT) 8-A for the transportation of bananas. Shipments involved are those originating at the banana loading facilities at Long Beach, Los Angeles Harbor, and Port Hueneme, destined to Safeway Stores, Inc. (Safeway) at Richmond and Sacramento. Authority is also requested to deviate from MRT 8-A rates in connection with round-trip movements, combining the northbound banana shipments with south-bound shipments of various commodities for Safeway. The minimum rates applicable for the northbound shipments of bananas, as presently shown in MRT 8-A are as follows:

Table 1

MILEAGES

<u>From/to</u>	<u>Richmond</u>	<u>Sacramento</u>
Long Beach/Los Angeles Harbor	412	422
Port Hueneme	390	411

PRESENT CHARGES BASED ON APPLICABLE MILEAGE

Miles	375-400	400-425
Base Rate	163/43000 = \$700.90	73/43000 = \$743.90
Surcharge 2.5%	17.52	18.60
Mechanical Refrigeration 6.5 cents	27.95	27.95
Mechanical Refrigeration Surcharge 2%	.56	.56
	<u>\$746.93</u>	<u>\$791.01</u>

In lieu of the applicable minimum charges for the transportation shown above, Cool requests permission to assess a charge of \$725. This charge will include the base rate, mechanical refrigeration charge, loading, unloading, and surcharges otherwise applicable in connection with the services. Loading of carrier equipment will be performed by the shipper, with the driver acting only as a "pusher" (assistant). Unloading of carrier equipment will be accomplished by the driver only.

Cool states that the shipments of bananas will be in straight truckload quantities, not exceeding 45,000 lbs. Vessels bringing bananas to Long Beach and Los Angeles Harbors are off-loaded for truck loading every Monday commencing 8 a.m. and

concluding Thursday at 5 p.m. Vessels arriving at Port Hueneme are off-loaded on Mondays, commencing at 8 a.m. through Wednesdays at 5 p.m.

Safeway has been escalating its proprietary fleet backhaul program. The carrier believes it is justified in reducing banana truckload rates on the basis of speedy loading and unloading, consistency of traffic and avoidance of unproductive waiting time.

In addition to the regular northbound banana shipments, Safeway has numerous dry and refrigerated truckload shipments consigned to its distribution centers in southern California. In connection with many northbound banana shipments delivered to Richmond or Sacramento, Cool intends to transport a southbound shipment of any commodity from those and intermediate points to Safeway's Santa Fe Springs distribution center. Total revenue for a round-trip movement will be \$1,300.

Cool has submitted costs applicable in connection with the one-way (northbound) shipments as well as its round-trip proposal. Costs include labor expense (based on prevailing wage levels), vehicle fixed and mileage costs, insurance, Commission fees, and indirect expenses. The carrier has developed total costs on a unit of equipment basis. The application contains a letter of support from Safeway.

In order to minimize total costs, it is proposed that service under the requested northbound rates not include stops for partial loading and/or unloading.

In connection with the round-trip movement, the charge of \$1,300 will apply only when Cool moves a second load of freight for Safeway from Richmond or Sacramento and intermediate points to Santa Fe Springs after a prior northbound banana movement. Loading of the southbound movement must be completed within 12 hours of unloading of the northbound shipment. Safeway will issue a single bill of lading covering the combined round-trip movement.

Cool intends to use the services of four named subhaulers in connection with this transportation, and has furnished cost information for each of these carriers. Cool will pay each carrier 90 cents per running mile for pulling Cool's refrigerator vans. Furthermore, Cool will pay each subhauler \$35.00 for assisting in the loading of bananas and \$60.00 for unloading.

The Commission's Transportation Division has reviewed the application and believes it to be one which, in the absence of protest, may be granted by ex parte order. It recommends that the authority be granted for a one-year period and be conditioned as follows:

Cool having submitted cost data for subhaulers who will be engaged in the traffic, shall be authorized to pay the named subhaulers in accordance with the provisions set forth in the application.

If Cool engages subhaulers other than those named in the application, these carriers shall be paid 100% of the rates authorized without any deduction for use of Cool's trailing equipment.

The authorities requested involve two ratemaking mechanisms. Northbound banana loads are to be transported at rates less than those contained in MRT 8-A and involve a deviation request under the provisions of Public Utilities Code Section 3666. Under the carrier's round-trip proposal, southbound loads will be transported at rates less than those named in Transition Tariff 2. The southbound portion of this latter request is properly classified as a rate reduction under the provisions of General Order (G.O.) 147, requiring proper filing and publication in the Commission's Daily Transportation Calendar. However, only the application to deviate from rates in MRT 8-A was originally noticed on the Daily Transportation Calendar.

We will immediately authorize the requested lower charge for northbound banana shipments. In order to ensure that the interests of due process are preserved, we have assigned a Rate Reduction number to, and published the carrier's round-trip proposal in our Daily Transportation Calendar of November 26, 1982.

The round-trip charge will be made effective December 26, 1982, absent valid protest, thereby satisfying the notice provisions contained in G.O. 147.

In authorizing Cool's round-trip proposal, we are not recognizing it as an authority which can be met, in its entirety, by competing carriers. Only the charge for the southbound movement can be met by competing carriers under the provisions of G.O. 147. Since the charge for one-way northbound banana shipments is \$725 and the round-trip charge \$1,300, the charge for the southbound movements of "freight, not otherwise specified," is the difference between the two, or \$575 per shipment.

Findings of Fact

1. Cool seeks authority to assess rates less than the minimum rates set forth in MRT 8-A for the transportation of bananas on northbound shipments originating at Long Beach, Los Angeles Harbor, and Port Hueneme destined to Safeway distribution centers located in Richmond and Sacramento.

2. Cool also seeks authority to assess rates less than the minimum rates in MRT 8-A and Transition Tariff 2 for the transportation of round-trip movements. These round-trip movements consist of northbound loads of bananas originating at the origins shown in Finding of Fact 1 and return shipments originating

at the destinations shown in Finding of Fact 1, and intermediate points, consigned to Safeway's distribution center located at Santa Fe Springs.

3. The round-trip proposal is cost-justified. However, since the southbound portion of the round-trip movement involves commodities included in Transition Tariff 2, it should have been filed as a Rate Reduction.

4. The round-trip proposal has been properly noticed by publication in the Commission's Daily Transportation Calendar of November 26, 1982.

5. The transportation will be performed in refrigerator vans.

6. Cost data submitted with the application indicate that the transportation at the proposed rates will be compensatory.

7. The cost data supplied in connection with transportation to be performed by named subhaulers indicate that the rates paid subhaulers will be compensatory.

8. No protest to granting the application has been received.

9. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted to the extent set forth in the following order. Since there is an immediate need for relief, this order should be effective on the date signed.

2. Since transportation conditions may change, this authority should expire in one year.

O R D E R

IT IS ORDERED that:

1. Cool Transportation (Cool) is authorized to depart from the provisions of MRT 8-A and to assess rates for transportation to the extent and at rates set forth in Appendix A. The effective date for rates on one-way (northbound) movements is today. For round-trip movements, it is December 26, 1982.

2. The authority granted shall expire one year after the effective date of this order unless sooner canceled or extended by order of the Commission.

3. In all other respects, the provisions of MRT 8-A shall apply.

4. Cool shall pay subhaulers shown in Appendix A in accordance with the schedule of payments shown in this decision.



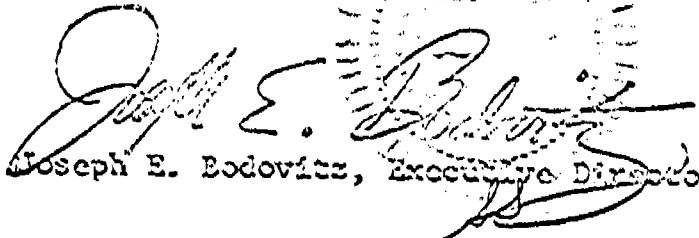
5. If Cool engages subhaulers other than those named in Appendix A, such carriers shall be paid 100% of the rates authorized without any deduction for use of Cool's trailing equipment.

This order is effective today.

Dated DEC 8 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. GREW  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director

APPENDIX A  
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Carrier: Cool Transportation  
Shipper: Safeway Stores, Inc.  
Commodity: Bananas

One-Way (northbound) Rates and Rules

Origins: Long Beach, Los Angeles Harbor, Port Hueneme  
Destinations: Safeway Stores, Inc. Distribution Centers at  
Richmond and Sacramento  
Rate: \$725 per unit of equipment, per load.

Conditions:

1. Rate is not subject to the following provisions of MRT 8-A:
  - a. Item 150 - loading/unloading.
  - b. Item 240 - mechanical refrigeration.
  - c. Surcharge.
2. Shipper shall load carrier's equipment, with carrier driver acting only as pusher.
3. Carrier shall unload, using driver only.
4. Carrier shall not stop in transit to complete loading or partly unload.
5. Carrier shall compensate independent contractor-subhaulers listed in this appendix in accordance with the division of revenue shown in the decision. When independent contractor-subhaulers not listed are engaged to perform this transportation, they shall be paid 100% of the rate authorized.

APPENDIX A

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Round-Trip Rate and Rules

Northbound Movement:

Origins: As shown on page 1 of Appendix A.

Destinations: As shown on page 1 of Appendix A.

Southbound Movement:

Origins: Richmond, Sacramento; points within 25-air miles of Richmond and Sacramento; points within 25 miles laterally of U.S. Highway 101, U.S. Highway 99, and Interstate Highway 5 between Richmond and Sacramento, on the one hand, and the Los Angeles Basin Territory, as described in Transition Tariff 2, on the other hand.

Destination: Safeway Stores, Inc. Distribution Center at Santa Fe Springs.

Rate for Combined Northbound-Southbound Movement: \$1,300.

Commodities: Freight, not otherwise specified.

Conditions:

1. Northbound movement is not subject to charges under the following provisions of MRT 8-A:
  - a. Item 150 - loading/unloading.
  - b. Item 240 - mechanical refrigeration.
  - c. Surcharge.
2. Southbound movement is not subject to charges for temperature control service, or to surcharges.
3. Safeway will load carrier's equipment, with carrier driver assisting as pusher on northbound shipments of bananas.

APPENDIX A

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4. Round-trip rate to apply only when the carrier transports southbound movements to Santa Fe Springs in conjunction with a prior northbound banana movement.
5. Loading of southbound movement shall be completed within 12 hours of unloading of northbound movement.
6. No stops to complete loading or partly unload will be permitted.
7. Carrier shall compensate independent contractor-subhaulers listed in this appendix in accordance with the division of revenue shown in the decision. When independent contractor-subhaulers not listed are engaged to perform this transportation, they shall be paid 100% of the rate authorized.

List of Independent Contractor-Subhaulers  
Authorized to be Paid in Accordance  
With the Division of Revenues Shown in this Decision

<u>Carrier</u>	<u>Cal T Number</u>
Ronald S. Allard	136,521
Martin Torres	136,893
Victor O. Medina	129,950
Lester G. Nichols	120,826

(END OF APPENDIX A)