

Decision 83 02 061 FEB 16 1983

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Silver Arrow )  
 Express, Inc. for authority to )  
 depart from the rates, rules and )  
 regulations of Minimum Rate )  
 Tariff 8A in the transportation of )  
 Fresh Bananas for Lucky Stores, )  
 Inc. under the provisions of )  
 Section 3666 of the Public )  
 Utilities Code. )

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Application 83-01-28  
(Filed January 17, 1983)

O P I N I O N

Silver Arrow Express, Inc. (applicant) 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 Lucky Stores, Inc. (Lucky) at San Leandro. 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>San Leandro</u> |
|-------------------------------|--------------------|
| Long Beach/Los Angeles Harbor | 412                |
| Port Hueneme                  | 390                |

PRESENT CHARGES BASED ON APPLICABLE MILEAGE

|  |                      |                      |
|--|----------------------|----------------------|
| Miles                                    | 375-400              | 400-425              |
| Base Rate                                | 163/43000 = \$700.90 | 173/43000 = \$743.90 |
| Surcharge 2.5%                           | 17.52                | 18.60                |
| Mechanical Refrigeration 6.5¢            | 27.95                | 27.95                |
| Mechanical Refrigeration<br>Surcharge 2% | .56                  | .56                  |
| Total                                    | <u>\$746.93</u>      | <u>\$791.01</u>      |

In lieu of the applicable minimum charges for the transportation shown above, applicant requests permission to assess a charge of \$725 or \$650, depending upon return load opportunity. These charges 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.

The shipments will be in straight truckload quantities. Average shipment weight is in excess of 43,500 pounds. Vessels bringing bananas to Long Beach and Los Angeles Harbors are off-loaded for truck loading every Monday, commencing at 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.

Applicant alleges that the volume of northbound traffic will amount to about four shipments per week. It also alleges that when Lucky is unable to provide a southbound shipment, applicant has available approximately eight shipments per week of refrigerated commodities from the San Jose area to the Los Angeles area.

Applicant believes that unless the sought relief is authorized, Lucky will divert this traffic to its proprietary operations; that granting the application will provide more efficient use of its equipment; and that the rates proposed will be reasonable for the services rendered and will return full costs plus a reasonable profit.

Applicant has submitted cost information applicable in connection with both one-way (northbound) and round-trip movements. 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 Lucky.

Applicant has not requested that service under the requested rates include stops for partial loading and/or unloading.

The Commission's Transportation Division has reviewed the application and supporting cost information 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:

"If applicant engages subhaulers, these carriers shall be paid 100% of the rates authorized without any deduction for use of applicant's trailing equipment."

Applicant intends to assess rates, and has developed the southbound portion of its round-trip proposal, on the basis of the provisions of Rate Reduction (RR) 504. RR 504 authorizes reduced rates on various commodities, principally food and grocery items, on shipments moving between the Bay Area and the Los Angeles Basin Territory. In granting this application we will condition use of the lower charge of \$650 upon tender of a return load earning at least the minimum charge applicable under RR 504.

Findings of Fact

1. Applicant seeks authority to assess rates less than the minimum rates set forth in MRT 8-A for the transportation of bananas originating at Long Beach, Los Angeles Harbor, and Port Hueneme destined to Lucky in San Leandro.
2. The transportation will be performed in refrigerator vans.
3. Cost data submitted with the application indicate that the transportation at the proposed rates will be compensatory.
4. No protest to granting the application has been received.
5. A public hearing is not necessary.

Conclusion of Law

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

O R D E R

IT IS ORDERED that:

1. Applicant 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.

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.

This order is effective today.

Dated FEB 16 1993, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director

APPENDIX A

Carrier: Silver Arrow Express, Inc.

Shipper: Lucky Stores, Inc.

Commodity: Bananas.

Origins: Long Beach, Los Angeles Harbor, Port Hueneme.

Destinations: Lucky Stores, Inc., San Leandro.

Rates: \$650 per unit of equipment, per load (1).  
\$725 per unit of equipment, per load (2).

Conditions:

1. Rates are 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. If applicant engages subhaulers to perform this transportation, these carriers shall be paid 100% of the rates shown, without any deduction for the use of applicant's trailing equipment.
- (1) Applies when Lucky Stores, Inc. tenders a return load to applicant for transportation in same unit of equipment under the provisions of Rate Reduction 504. Return load must be loaded within 12 hours after unloading of northbound banana load.
- (2) Applies when a return load is not tendered as outlined in (1).

(END OF APPENDIX A)