

Decision SS 11 101 NOV 30 1983**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 R & R Transportation Company, a)
 California trucking company, for)
 authority to depart from the rates,)
 rules and regulations of Minimum Rate)
 Tariff 14-A in the transportation of)
 bulk feed under the provisions of)
 Section 3666 of the Public Utilities)
 Code.)

Application 83-10-11
 (Filed October 3, 1983)

O P I N I O N

By this application, Ronald D. Pierce, doing business as R & R Transportation Company, seeks authority to charge less than the minimum rates in Minimum Rate Tariff (MRT) 14-A for the following transportation for Murphy Products (MP):

1. Animal feed from MP's plant at Shafter to various dairies in the Chino area, an average distance of 172 miles.
2. Brewers grain from the Schlitz Brewery Company's plant at Van Nuys (Metropolitan Zone 204) to:
 - a. MP's plant at Shafter, a distance of 117 miles, or
 - b. Various dairies in the Chino area, an average distance of 53 miles.

Following is a comparison of the sought and minimum rates per 100 pounds for the proposed transportation:

<u>Haul</u>	<u>Commodity</u>	<u>Rates*</u>	
		<u>Proposed</u>	<u>Minimum</u>
Shafter to Chino area	Animal feed	53	66
Van Nuys to Shafter	Brewers grain	40	50
Van Nuys to Chino area	Brewers grain	29	36

* All rates subject to 52,000 pounds minimum weight.

The proposed rates would apply only when the transportation is handled as a continuous movement in the same unit of equipment as follows:

1. Animal feed from Shafter to a dairy in the Chino area, then empty to Van Nuys, and then brewers grain to Shafter, an average total distance of 342 actual miles.
2. Animal feed from Shafter to a dairy in the Chino area, then empty to Van Nuys, then brewers grain to a dairy in the Chino area, then again empty to Van Nuys; and then brewers grain to Shafter, an average total distance of 448 actual miles.

Transportation at the proposed rates would be subject to a free time allowance of one hour for loading and one hour for unloading after which the delay charges in MRT 14-A would apply. The tariff allows two hours free time for each.

The application states as follows:

1. Applicant holds a Public Utilities Code § 1063.5 highway common carrier certificate and highway contract carrier, agricultural carrier, and other permits.
2. For a considerable period of time, applicant has been providing the transportation in issue for MP at minimum rates. The transportation is performed daily on weekdays and Saturdays and totals approximately 60 shipments per month.
3. Bulk hopper trailers are used for the transportation. Loading is by the consignor and is by gravity. Unloading is by gravity discharge.
4. Other carriers transport some animal feed shipments southbound from Shafter for MP. However, they seldom transport northbound shipments for MP and would not have the overall cost savings available to applicant by regularly handling shipments in both directions.

5. Subhaulers will not be used for any of the proposed transportation.
6. Handled in the manner described, transportation at the proposed rates will be compensatory.
7. As indicated in the support letter from MP attached to the application, MP has been considering alternative means of transportation, including private carriage, but will continue to use applicant's service if the sought authority is granted.
8. The proposals are not a significant action affecting the quality of human environment or energy efficiency.

According to the revenue and cost data included with the application for each continuous movement loaded from Shafter to the Chino area, empty to Van Nuys, and loaded to Shafter, the revenue at the proposed rates and the cost would be \$483.60 and \$385.99, respectively, and the resulting profit and operating ratio would be \$97.61 and 79.8%, respectively. With the addition to these data of the revenue and cost for the loaded shipment from Van Nuys to the Chino area and empty return, the revenue at the proposed rates and the cost for each continuous movement would be \$634.40 and \$504.55, and the resulting profit and operating ratio would be \$129.85 and 79.5%, respectively.

As of December 31, 1982, applicant had assets of \$227,666, liabilities of \$145,668, and a net worth of \$81,998. For the year 1982, his gross revenue was \$451,905, and his profit was \$51,096 before income taxes.

The application was listed on the Commission's Daily Calendar of October 7, 1983 and on its Daily Transportation Calendar of October 11, 1983. Copies were served on the California Trucking Association, California Manufacturers Association, California Farm Bureau Federation, and California Grain and Feed Association. There has been no protest.

The Commission staff has advised that it has no objection to the proposed authority. However, the staff pointed out that because of the total distance involved and if the one-hour maximum allowable time were taken for each loading and unloading, the proposed movement that includes the brewers grain shipment from Van Nuys to the Chino area and empty return could possibly require more driver hours than the maximum authorized in Vehicle Code § 21702(b). This section provides as follows:

"(o) No person shall drive upon any highway any vehicle designed or used for transporting merchandise, freight, materials or other property for more than 12 consecutive hours nor for more than 12 hours spread over a total of 15 consecutive hours. Thereafter, such person shall not drive any such vehicle until eight consecutive hours have elapsed.

"Regardless of aggregate driving time, no driver shall drive for more than 12 hours in any 24-hour period unless eight consecutive hours off duty have elapsed."

The authority will be granted. Upon review of the application, it appears that the probability of any violation of maximum driver hours in providing any of the proposed transportation is questionable. Since applicant is required by law to comply with all applicable provisions of the Vehicle Code, including those in § 21702(b) governing maximum driver hours, no specific directive by us regarding this is necessary. Furthermore, as requested by applicant, the sought rates apply only when the transportation is handled as a continuous movement without any layover time. Therefore, for any proposed trip that could not be handled in this manner, the sought rates would not apply.

Findings of Fact

1. The transportation in issue involves unique circumstances in which several separate shipments are handled in the same continuous movement.

2. Cost data of record indicate that the proposed transportation at the sought rates will be compensatory provided the individual shipments are handled as part of continuous movements in the same unit of equipment as described in the application.

3. The sought rates are reasonable provided the proposed transportation is handled in the manner referred to in Finding 2.

4. Applicant does not intend to use subhaulers for any of the transportation in issue.

5. This proposal has no reasonably foreseeable impact on the energy efficiency of highway carriers.

6. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted as set forth in the following order.

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

O R D E R

IT IS ORDERED that:

1. Ronald D. Pierce may depart from the rates in MRT 14-A by charging not less than the rates in Appendix A.
2. This authority shall expire one year after the effective date.

This order becomes effective 30 days from today.

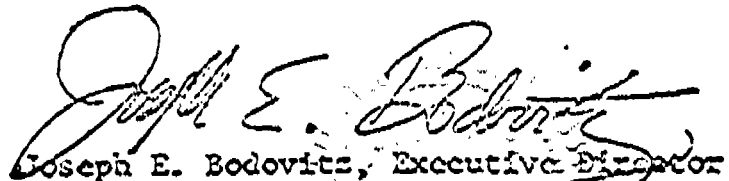
Dated NOV 30 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
WILLIAM E. BAGLEY
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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


Joseph E. Bodovitz, Executive Director

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Carrier: Donald D. Pierce, doing business as R & R
Transportation Company.

Authorized Rates:

1. Shafter to Chino Area:

Origin: Murphy Products, Shafter.

Destination: Dairies in the Chino area.

Commodity: Animal Feed.

Rate: 53¢/100 pounds.

2. Van Nuys to Shafter and Chino area:

Origin: Schlitz Brewery Company, Van Nuys (MZ 204).

Destinations: a. Murphy Products, Shafter.

b. Various dairies in Chino area.

Commodity: Brewers grain.

Rates: a. Shafter: 40¢/100 pounds.

b. Chino area: 29¢/100 pounds.

Minimum Weight: 52,000 pounds per unit of equipment
for all rates.

Conditions:

1. Rates apply only when:

- a. Shipment is transported in bulk hopper trailing equipment and is loaded and unloaded by gravity, and
- b. The transportation is handled as a continuous movement in the same unit of equipment with no layover time as follows:
 - (1) Animal feed from Shafter to the Chino area, then empty to Van Nuys, and then brewers grain to Shafter, or
 - (2) Animal feed from Shafter to the Chino area, then empty to Van Nuys, then brewers grain to the Chino area, then empty to Van Nuys, and then brewers grain to Shafter.

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2. Rates include one hour for loading and one hour for unloading computed from the time carrier's equipment is tendered to consignor or consignee. The delay charges in Item 130 of Minimum Rate Tariff (MRT) 14-A shall be applied for excess time.
3. Any subhaulers employed shall be paid no less than the rates authorized without any deduction for the use of Pierce's trailing equipment.
4. In all other respects, the rates and rules in MRT 14-A shall apply.

(END OF APPENDIX A)