

ORIGINAL

Decision No. 86558

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the applica-)
 tion of Wallace Transport for)
 Authority to depart from the)
 rate, rules, and regulations of)
 Minimum Rate Tariff No. 2 and the)
 provisions of Section 3666 of the)
 Public Utilities Code, for the)
 transportation of Foodstuffs for)
 the H. J. Heinz Company)

Application No. 56616
 (Filed July 14, 1975)

OPINION AND ORDER

By this application, Wallace Transport, a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of foodstuffs for H. J. Heinz Company from Tracy to various points in the State of California.¹

Applicant proposes to allow the H. J. Heinz Company a rate reduction of 5 cents per hundred pounds on any and all shipments power loaded by the shipper without assistance of, or expense to, the carrier.

The application is based on special circumstances and conditions detailed therein.

¹ The present rates, exclusive of applicable surcharges, and the proposed rates for representative shipments of the aforementioned commodities are:

| <u>From Tracy To</u> | <u>Present Rates Minimum Weight 45,000 Pounds</u> | <u>Proposed Rates Minimum Weight 45,000 Pounds</u> |
|------------------------------|---|--|
| San Francisco MZ 102 | 51 | 46 |
| Fresno | 59 | 54 |
| Los Angeles MZ 235 | 96 | 91 |

The application was listed on the Commission's Daily Calendar of July 15, 1976. California Trucking Association objected to the ex parte handling of this matter stating that it has noted various inconsistencies and discrepancies between the alleged time savings, and that a forty-minute savings (in the case of two hour loadings) does not equate to a \$20 discount for the shipper. It is noted that applicant states: "Tests have been run and time savings between driver loading and shipper loading run between 1½ hours and 2 hours per unit of carrier's equipment." (Emphasis added). Protestant misconstrues this statement by saying: "In Paragraph 11, tests are said to have resulted in loading times averaging between 1½ and 2 hours." (Emphasis added). Revenue and expense data submitted by applicant are sufficient to determine that the transportation involved may reasonably be expected to be profitable under the proposed rates.

In the circumstances, the Commission finds that applicant's proposal is reasonable. A public hearing is not necessary. The Commission concludes that the application should be granted as set forth in the ensuing order and the effective date of this order should be the date hereof because there is an immediate need for this rate relief.

IT IS ORDERED that:


1. Wallace Transport, a corporation, is authorized to perform the transportation shown in Appendix A attached hereto and by this reference made a part hereof at not less than the rates set forth therein.

2. The authority granted herein shall expire one year after the effective date of this order unless sooner cancelled, modified or extended by further order of the Commission.

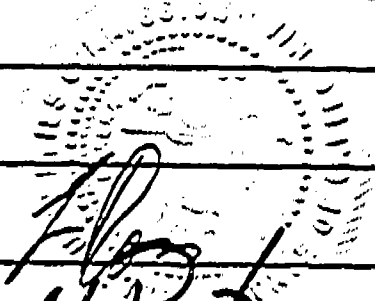
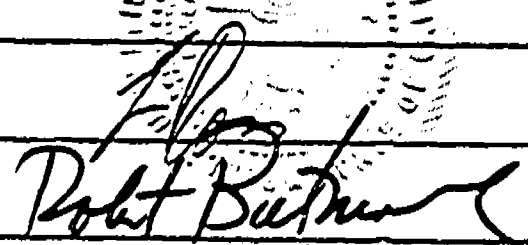
A. 56616 - FBN/jmw

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 26th day of
October, 1976.


President

I will file absent.
William L. Simon
Commissioner



Commissioners

I abstain
Vernon L. Sturgeon
Commissioner

APPENDIX A

Wallace Transport, a corporation, is authorized to transport foodstuffs for H. J. Heinz Company from Tracy to various points in the State of California at a rate reduction of 5 cents per hundred pounds on any and all shipments power loaded by the shipper without assistance of, or expense to, the carrier, subject to the following conditions:

1. Applicant has not indicated that subhaulers will be engaged nor have any costs of subhaulers been submitted. Therefore, if subhaulers are employed they shall be paid no less than the rates authorized herein without any deduction for use of applicant's trailing equipment.
2. When the elapsed time between commencement and completion of the loading of shipments exceeds 1 hour, the charges specified in Item 145 of Minimum Rate Tariff 2 shall apply.
3. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)

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COMMISSIONER WILLIAM SYMONS, JR., Dissenting

These decisions granting deviations are defective for the reasons previously set forth in detail in my August 24, 1976, dissenting opinion to Decision Nos. 86274 through 86279. The decisions are granted ex parte, despite legitimate questions being raised by protestants -- their request for a hearing is overridden. Likewise, the decisions are made effective immediately, and they contain the boiler-plate language which is becoming so common in these decisions:

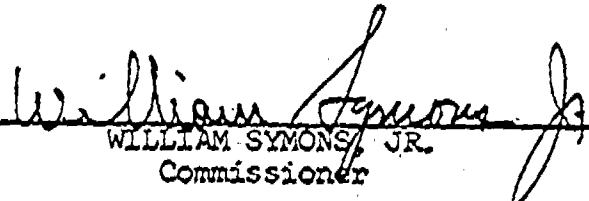
"The application is based on special circumstances and conditions detailed thereon."

and

"Revenue and expense data submitted by applicant are sufficient to determine that the transportation involved may reasonably be expected to be profitable under the proposed rates."

Thereby, the majority avoids setting forth any facts about the special circumstances of the transportation which a person might review to see if the deviation is justified.

San Francisco, California
October 26, 1976


WILLIAM SYMONS, JR.
Commissioner