

CAB

ORIGINAL

Decision No. 86585

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION OF BROTHERS TRANS-)
PORTATION, INC. FOR AUTHORITY)
TO TRANSPORT STEEL ARTICLES)
FROM UNION CITY, CALIF. TO)
POINTS IN THE LOS ANGELES BASIN)
TERRITORY AND OCEANSIDE UNDER)
THE PROVISIONS OF SECTION 3666)
AND 5195 OF THE PUBLIC UTILI-)
TIES CODE.)

Application No. 56633
(Filed July 22, 1976)

OPINION AND ORDER

By this application, Brothers Transportation, Inc., a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of iron and steel articles for Pacific States Steel Corporation from Union City to points in Los Angeles Basin Territory and Oceanside.¹

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

The application was listed on the Commission's Daily Calendar of July 23, 1976. California Trucking Association objected to the ex parte handling of the matter stating that the reasonableness of the proposed rates cannot be measured by the average

¹The present rates, excluding the applicable surcharges, and the proposed rates in cents per 100 pounds for representative shipments of iron and steel articles are:

<u>From Union City</u> <u>MZ 118 To</u>	<u>Present Rates</u> <u>Minimum Weight</u> <u>36,000 Pounds</u>	<u>Proposed Rates</u> <u>Minimum Weight</u> <u>46,000 Pounds</u>
Los Angeles MZ 235	141	70
San Bernardino	147	80
Oceanside	152	110

cost data furnished by applicant. Nevertheless, the revenue and expense data submitted by applicant are sufficient to determine that the transportation involved may reasonably be expected to be profitable.

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. Brothers Transportation, Inc., 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.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 25 day of November, 1976.



President





Leonard Kon



Robert F. Behrman
Commissioners

*I will file a dissent.
William Lyons, Jr.*

*I dissent
Lemon L. Sturgeon*

APPENDIX A

Brothers Transport, Inc., a corporation, is authorized to transport iron and steel articles on flatbed equipment from Pacific States Steel Corporation, Union City, to points in Los Angeles Basin Territory and Oceanside at the following rates in cents per 100 pounds:

From Union City <u>To</u>	<u>Rates</u>
(a) Los Angeles Basin Territory	
Zone 1	70
Zone 2	75
Zone 3	80
Oceanside	110

Minimum Weight per shipment is 46,000 pounds per unit of equipment, subject to the following conditions:

(a) Los Angeles Basin Territory for rate application purposes is defined as follows:

Zone 1: That area bordered on the north, west and south by the boundaries of the Los Angeles Basin Territory as described in Item 270 of Minimum Rate Tariff 2 and bordered on the east by the easterly boundaries of Metropolitan Zones 208, 220, 236, 243, 249 and 252.

Zone 2: That area bordered on the west by the easterly boundaries of Metropolitan Zones 208, 220, 236, 243, 249 and 252, on the north and south by the boundaries of the Los Angeles Basin Territory as described in Item 270 of Minimum Rate Tariff 2 and on the east by the easterly boundaries of Metropolitan Zones 211, 239, 262, 261, 260 and 259.

Zone 3: That area bordered on the west by the easterly boundaries of Metropolitan Zones 211, 239, 262, 261, 260 and 259 and on the north, east and south by the boundaries of the Los Angeles Basin Territory as described in Item 270 of Minimum Rate Tariff 2.

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(b) In the event of split deliveries, a charge equal to the amount of split delivery charges as described in Item 173 of Minimum Rate Tariff 2 shall be assessed, with the rate for the entire shipment to the farthest zone being applied.

(c) Loading and unloading in excess of one hour each shall be assessed at the charges as set forth in Item 145 of Minimum Rate Tariff 2.

(d) Shipments shall be prepaid by shipper.

(e) Shipments shall be power loaded and power unloaded without assistance of, or expense to, the carrier.

(f) The transportation shall be performed periodically with the amount per week or month being contingent on orders placed by the shipper's customers but having a past average of 460 loads per year.

(g) Transportation shall be performed on an equipment available basis.

(h) 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.

(i) In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)

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A. 56686 - D.
A. 56633 - D.
A. 56685 - D.

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:

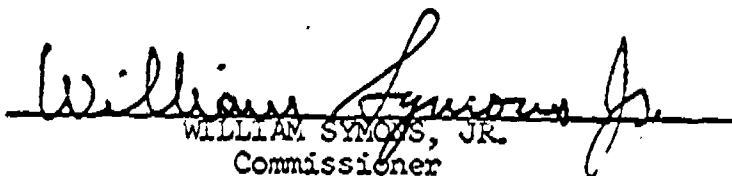
"The application is based on special circumstances and conditions detailed thereon."

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
November 2, 1976


WILLIAM SYMONS, JR.
Commissioner