

ORIGINAL

Decision No. 86887

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PARKER & SON TRUCKING, INC., a corporation for an ORDER AUTHORIZING DEPARTURE FROM THE RATES, RULES & REGULATIONS OF MINIMUM RATE TARIFF NO. 2 pursuant to the provisions of Section 3666 of the Public Utilities Code for the transportation of beer in cartons and kegs from Azusa, California to Modesto, Stockton, Sonora, Sacramento, Yuba City, Salinas, Hayward, Concord, Vallejo, Napa, Middletown, San Rafael and Foster City, California, and from Van Nuys, California to Sonora, California.

Application No. 56463
(Filed May 5, 1976)

O P I N I O N

By Decision No. 85876 dated May 25, 1976, applicant Parker & Son Trucking, Inc. was granted temporary authority to deviate from the minimum rates for the transportation of beer from Van Nuys and Azusa to points in central California.

By letter dated September 2, 1976, applicant was requested to provide cost and operational data reflecting actual experience under the temporary authority for the period when operations commenced through September 30, 1976. These data were requested in an effort to avoid public hearing, yet fully protect the rights of interested parties.

The requested information was received December 6, 1976. Copies were supplied to the California Trucking Association, the only party indicating an interest in this matter.

According to the data supplied, applicant has experienced operating ratios ranging from 83.2 to 95 percent to the 14 points authorized service under the temporary authority. Applicant's overall operating experience for the four months ended September 30, 1976 was 92.7 percent, based on gross revenue of \$525,000.

In the letter transmitting the operational data applicant requests that the deviated rates be increased 5 cents per cwt and that the authority be conditioned requiring an increase proportional to any increase of the minimum rates applicable to the transportation involved.

No objection to granting the relief sought or request for public hearing has been received. We find the proposed rates reasonable and conclude that the application should be granted as provided in the following order.

Since conditions under which the service is performed may change at any time, the authority granted in the ensuing order will expire at the end of one year unless sooner canceled, modified, or extended by order of the Commission.

O R D E R

IT IS ORDERED that:

1. Parker & Son Trucking, Inc. is authorized to depart from the minimum rates set forth in Minimum Rate Tariff 2 by charging those rates set forth in Appendix A of this decision. This authority does not include any deviation from any rates, rules, or regulations except as specifically set forth in Appendix A.

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

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 25th day of JANUARY, 1977.

*I will file dissent.
William Sproue Jr.*

Robert B. Atwood
President
Vermon L. Sturgeon
Edward Ross
Commissioners

APPENDIX A

Commodity: Beer, in kegs or cartons.

From: Miller Brewing Co., Azusa, and Jos. Schlitz Brewing Co.,
Van Nuys.

Minimum Weight: 48,000 pounds.

<u>Distributor</u>	<u>Point of Origin</u>	<u>Destination</u>	<u>Rate Per 100 lbs.</u>
B & W Dist. Co.	Azusa	Modesto	.71
Scanlon Distr.	Azusa	Stockton	.75
Summit Distr.	Azusa	Sonora	.85
Bell Distr.	Azusa	Sacramento	.89
Bell Distr.	Azusa	Yuba City	1.05
H & M Distr.	Azusa	Salinas	.75
M Distr.	Azusa	Hayward	.71
M Distr.	Azusa	Concord	.78
Magnani Distr.	Azusa	Vallejo	.88
Napa Valley Bev.	Azusa	Napa	.90
J. C. Tyther Co.	Azusa	Middletown	1.12
R. J. Fassi, Inc.	Azusa	San Rafael	.90
Maita Distr. of San Mateo	Azusa	Foster City	.75
Summit Distr.	Van Nuys	Sonora	.80

Conditions:

- a. If underlying carriers are employed, they shall be paid no less than the rates authorized herein.
- b. If the rates in Minimum Rate Tariff 2, applicable to the above transportation, are increased, the rates named above shall be increased proportionately.
- c. Other than the authority described above, all other provisions of Minimum Rate Tariff 2 shall apply.

A. 56463 - D. 86887
Parker & Son Trucking, Inc.

COMMISSIONER WILLIAM SYMONS, JR., Dissenting

Deviation for One or Adjustment of Minimum Rates for All? The majority ignores a long-standing and well-conceived policy precedent enunciated in Decision No. 77767 (Major Truck Lines, Inc. (1970) 71 CPUC 447). That policy provided:

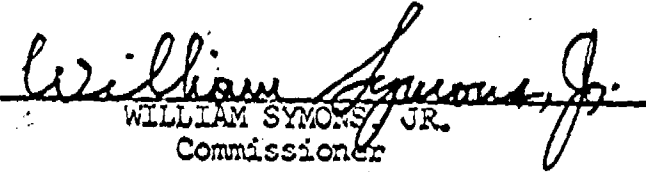
"... where it has been shown that the traffic is available to other for-hire carriers under the same circumstances and conditions it has been the policy of the Commission to establish commodity minimum rates for such transportation so that all interested carriers will have equal opportunity to compete for the traffic." (Emphasis added.)

Parker's application pointed out that some beer shipper (General Brewing Company) used a competitor (Preston Trucking) who was given a deviation. Now his shippers, Miller and Schlitz were at a competitive disadvantage. The pressure was on for applicant to secure a deviation. And this is how it will go.

As Commissioner Sturgeon and I pointed out in our dissenting opinion to the December 14, 1976 D.86739 (Preston Trucking's most recent deviation case), this constant deviation process is endless and discriminatory. The three Commissioner majority opinion stated in that case, p. 5, "... that the minimum rates are too high to accommodate this traffic". It further observed "... that the transportation service performed by Preston and Pelco is no different than that of any other carrier transporting beer between the same points." (Opinion, p. 5). The majority ignored the policy enunciated in Major Truck Lines, Inc. and our power under law to move to establish minimum rates reflecting such general circumstances. This is precisely contrary to what we decided to do on January 18, 1977 in D.86865 Guthmiller Trucking, Inc. There we denied a deviation and are proceeding to lower the minimum rate levels for transportation of glass containers.

Rather the majority would again create a private advantage for this applicant and establish a private advantage for the several named shippers. Our statutory mandate is clear. The Commission should establish minimum rates in the public interest which provide to all carriers the opportunity to compete equally; and which make available to all shippers the lowest lawful minimum rates applicable to general transportation conditions. This Commission's responsibility for the public interest cannot be subordinated to private advantage through the deviation process. I would have the Commission issue its Order Setting Hearing to review and revise the minimum rates for the transportation of beer and set this matter for common hearing.

San Francisco, California
January 25, 1977


WILLIAM SYMONS, JR.
Commissioner