

ORIGINAL

Decision No. 86905

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)
of CENTRAL COAST TRUCK SERVICE,)
INC., a corporation, for author-)
ity to depart from rates, rules)
and regulations of Minimum Rate)
Tariff No. 2 in connection with)
certain transportation of com-)
modities requiring temperature)
control service to be performed)
for Green Giant Co. under pro-)
visions of Section 3666 of the)
Public Utilities Code.)

Application No. 56849
(Filed November 4, 1976)

OPINION AND ORDER

By this application, Central Coast Truck Service, Inc., a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of various commodities requiring frozen temperature control service for Green Giant Co. generally between Watsonville and points in northern and southern California.¹

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

The application was listed on the Commission's Daily Calendar of November 8, 1976.

¹Dependent on the mixture of the commodities shipped, the proposed rates would be slightly lower in some instances and slightly higher in other instances than the minimum rates. However, on an overall basis for this transportation, the proposed rates would approximate the minimum rates.

Bayview Trucking, Inc. (Bayview) did not specifically protest the granting of the sought relief, but stated in a letter that 34½ percent of the applicant's revenues are obtained through subhaulers engaged and applicant does not produce any detailed subhaul expense other than purchased transportation in total sum of \$1,752,731.

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. Since no detailed costs have been presented for subhaulers, the rates authorized herein will provide that subhaulers shall be paid no less than the authorized rates if they should be engaged in performing this transportation. This condition governing said rates should satisfy the concern of Bayview.

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 relief.

IT IS ORDERED that:

1. Central Coast Truck Service, 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 13th day
of February, 1977.

I will file a dissent.
William Szymanski.

I dissent only to
the effective date
Simon L. Sturgeon

Robert B. ...

President

Thomas ...

Michael D. ...

Commissioners

A. 56849

APPENDIX A
(Page 1 of 2 pages)

T-71,923

CARRIER: CENTRAL COAST TRUCK SERVICE, INC.

FOR: GREEN GIANT CO.

Commodities requiring Frozen Temperature Control Services, in boxes or packages, as follows:

Food, cooked, cured, preserved, or prepared, frozen NOI. Item 360 of Minimum Rate Tariff 2 (MRT 2) and Item 73180 of National Motor Freight Classification NMF 100-C (NMFC 100-C).

Fruits or Vegetables, fresh, cold pack, frozen, sweetened or not sweetened (Items 73280 and 75340 of NMFC 100-C).

Meats, cooked, cured or preserved, with or without cereal or vegetable ingredients, frozen (Item 345 of MRT 2).

SECTION I

Rates: Except as provided in Section II below, the minimum rates and rules set forth in Minimum Rate Tariff 2 are applicable on commodities provided for herein and further excepting that Items 200 thru 241 of Minimum Rate Tariff 2 shall not apply.

SECTION II

Application of Rates: When commodities requiring Frozen Temperature Control Service, as named herein, are transported by Central Coast Truck Service, Inc., in straight or mixed shipments between points in California, rates named in Minimum Rate Tariff 2 shall be applicable subject to the following truckload minimum weights and class ratings and Notes 1, 2 and 3 below:

APPENDIX A
(Page 2 of 2 pages)

T-71,923

<u>Truckload Minimum Weight</u>	<u>Class Rating</u>
30,000 pounds	35
36,000 pounds	35.1
42,000 pounds	35.2

- Note 1: Rate and minimum weight applies to each unit of carrier's equipment furnished. Unit of Carrier's Equipment means any motor truck or other self-propelled highway vehicle, trailer, semitrailer, or any combination of such highway vehicles, operated as a single unit which may be lawfully operated over the public highways without special permit. Loading shall in no case exceed the maximum weight which may be lawfully transported per unit of carrier's equipment in accordance with existing highway and safety regulations via the route of movement.
- Note 2: Shipments tendered may be stopped in transit for partial loading or partial unloading at intermediate points between origin and farthest point of destination at a charge of \$19.40 for each component part of the shipment including final delivery. The rate applicable to the shipment shall be that named from origin to farthest point of destination via all other destination points.
- Note 3: Applicant has not indicated 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.

(END OF APPENDIX A)

A. 56849 - D.
CENTRAL COAST TRUCK SERVICE, INC.

H-7

COMMISSIONER WILLIAM SYMONS, JR., Dissenting

This decision granting a deviation is defective for the reasons previously set forth in detail in my August 24, 1976, dissenting opinion to Decision Nos. 86274 through 86279.

1. Bad Public Policy. Indiscriminate granting of deviations undermines the regulatory framework established by the Commission and the Legislature for motor freight transport (Major Truck Lines, Inc. (1970) 71 CPUC 447). Minimum rate regulation in California is being washed away by this and similar Commission decisions which have opened the flood gates on deviations.

2. Unreasonable. Today's opinion fails to set forth any facts about the special circumstances of the transportation which a person might review to see if the deviation is justified. Instead it relies on boiler-plate language:

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

and

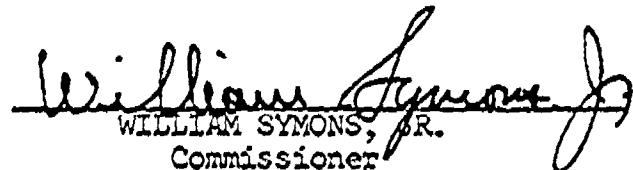
"Revenue and expense data submitted by applicant are sufficient to determine that the transportation involved may reasonably be expected to be profitable under the proposed rates."

Is this a responsible way to administer Public Utilities Code Section 3666 which calls for a finding prior to granting deviations?

"3666. If any highway carrier other than a highway common carrier desires to perform any transportation or accessorial service at a lesser rate than the minimum established rates, the commission shall, upon finding that the proposed rate is reasonable, authorize the lesser rate. (Former Sec. 11. Amended 1959, Ch. 1566.)"
(Emphasis added)

3. Less than 20-day effective date. This order is made effective immediately. This Commission would be best advised to heed its own tradition and the spirit of Public Utilities Code Section 1705, which provides that Commission orders normally "... take effect and become operative 20 days after the service thereof ...". If no good reason for instantaneous effect is shown, extraordinary haste is out of order. Parties are cut off from statutory provisions allowing a suspension while their application for rehearing is reviewed (PUC § 1733(a)). Whistling decisions through this Commission is hardly judicious nor is it conducting the people's business in an orderly manner.

San Francisco, California
February 1, 1977


WILLIAM SYMONS, JR.
Commissioner