

ORIGINAL

Decision No. 86910

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of F. & C. Truck &)
 Transfer for authority to charge)
 by the piece instead of by)
 weight.)

We are delivering cartoned)
 new furniture only, for one ship-)
 per, which is Douglas Furniture)
 Corp. of Calif.)

Application No. 56786
 (Filed September 29, 1976)

OPINION AND ORDER

By this application, Carl Smith and Franklin Hansen, doing business as F. & C. Truck & Transfer, request authority to deviate from the provisions of Minimum Rate Tariff 2 by charging by the piece rather than by weight in connection with transportation of dinette sets in cartons from El Segundo to various points in Los Angeles, Orange, San Bernardino, Riverside and San Diego Counties for Douglas Furniture Corporation.¹

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

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

The application was listed on the Commission's Daily Calendar of October 1, 1976. No objection to the granting of the application has been received.

¹ The present charge, exclusive of applicable surcharges and split delivery charges, and the proposed charge for a representative shipment (180 cartons average weight 45 pounds per carton) are:

	<u>Present Charge</u>	<u>Proposed Charge</u>
From El Segundo (MZ 227) to Maywood (MZ 235)	\$116.00	\$99.00

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. Carl Smith and Franklin Hansen are 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 this Commission.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of

February, 1977.

Robert Batistovich

President



L. Ross

Michael W. Gould

Commissioners

*I will file a dissent.
William Synoun Jr.*

*I dissent only to
the effective date
Vernon L. Sturgeon*

Carl Smith and Franklin Hansen, doing business as F. & C. Truck & Transfer, are authorized to transport dinette sets in cartons from El Segundo to points in Los Angeles, Orange, San Bernardino, Riverside and San Diego Counties for Douglas Furniture Corporation at not less than the following charges.

(1) Charges in Dollars and Cents

<u>Number of Cartons</u>	<u>(1) Charge</u>	<u>Number of Cartons</u>	<u>(1) Charge</u>
1)		36	\$ 30.60
to)	\$ 4.25	37	31.45
4)		38	32.30
5	4.75	39	33.15
6	5.70	40	34.00
7	6.65	41	34.85
8	7.60	42	35.70
9	8.55	43	36.55
10	9.50	44)	
11	10.45	to)	37.40
12	11.40	49)	
13	12.35	50	37.50
14	13.30	51	38.25
15	14.25	52	39.00
16	15.20	53	39.75
17	16.15	54	40.50
18	17.10	55	41.25
19	18.05	56	42.00
20	19.00	57	42.75
21	19.95	58	43.50
22)		59	44.25
to)	20.90	60	45.00
24)		61	45.75
25	21.25	62	46.50
26	22.10	63	47.25
27	22.95	64	48.00
28	23.80	65	48.75
29	24.65	66	49.50
30	25.50	67	50.25
31	26.35	68	51.00
32	27.20	69	51.75
33	28.05	70	52.50
34	28.90	71	53.25
35	29.75	72	54.00

APPENDIX A

<u>Number of Cartons</u>	<u>(1) Charge</u>	<u>Number of Cartons</u>	<u>(1) Charge</u>
73	\$ 54.75	125	\$ 81.25
74	55.50	126	81.90
75	56.25	127	82.55
76	57.00	128	83.20
77	57.75	129	83.85
78	58.50	130	84.50
79	59.25	131	85.15
80	60.00	132	85.80
81	60.75	133	86.45
82	61.50	134	87.10
83	62.25	135	87.75
84	63.00	136	88.40
85	63.75	137	89.05
86)		138)	
to)	64.50	to)	89.70
99)		149)	
100	65.00	150	90.00
101	65.65	151	90.60
102	66.30	152	91.20
103	66.95	153	91.80
104	67.60	154	92.40
105	68.25	155	93.00
106	68.90	156	93.60
107	69.55	157	94.20
108	70.20	158	94.80
109	70.85	159	95.40
110	71.50	160	96.00
111	72.15	161)	
112	72.80	to)	96.25
113	73.45	175)	
114	74.10	176	96.80
115	74.75	177	97.35
116	75.40	178	97.90
117	76.05	179	98.45
118	76.70	180	99.00
119	77.35	181	99.55
120	78.00	182	100.10
121	78.65	183	100.65
122	79.30	184	101.20
123	79.95	185	101.75
124	80.60		

(1) Add 25 cents per carton to the charges for shipments to Riverside, San Bernardino and San Diego Counties.

APPENDIX A

Conditions:

1. Where a range in number of cartons is indicated, such range is inclusive.
2. The maximum weight per carton shall be 90 pounds.
3. The split pickup and delivery provisions of Minimum Rate Tariff 2 shall not apply to the transportation involved herein.
4. 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.

(END OF APPENDIX A)

H-11

A. 56786 - D.
F & C Truck & Transfer: DEVIATION

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 indicate 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 SIMONS, JR.
Commissioner