

ORIGINAL

Decision No. 86979

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 AUTHO-)
RIZING 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 Los)
Angeles (MZ-229) California to)
Modesto, Stockton, Sonoma, Santa)
Rosa, Concord, Vallejo, Napa,)
Middletown, and Foster City,)
California.)

Application No. 56925
(Filed December 9, 1976)

OPINION AND ORDER

By this application, Parker & Son Trucking, Inc., a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of beer in cartons and kegs for Pabst Brewing Company from Los Angeles to Concord, Foster City, Middletown, Modesto, Napa, Santa Rosa, Sonoma, Stockton and Vallejo.¹

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

¹The present rates, exclusive of applicable surcharges, and the proposed rates in cents per 100 pounds, for representative shipments of the aforementioned commodities are:

<u>From</u>	<u>To</u>	<u>Present Rates</u> <u>Minimum Weight</u> <u>40,000 Pounds</u>	<u>Proposed Rates</u> <u>Minimum Weight</u> <u>48,000 Pounds</u>
Los Angeles MZ 229	Concord	99	75
	Middletown	113	109
	Napa	108	87
	Stockton	99	72

Revenue and expense data submitted by applicant are sufficient to 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 December 10, 1976. California Trucking Association objected to the ex parte handling of this matter stating:

"This Application when considered with other requests for relief from minimum rates in connection with the transportation of beer raises questions concerning the relevancy of existing minimum rates for this type of traffic. In other related circumstances, such as those involving bulk salt, the Commission has directed its staff in a program designed to set reasonable minimum rate levels for all carriers.

"It appears that similar consideration is in order in connection with the transportation of beer, and we would support such an approach by the Commission staff."

In Decision 86739, dated December 14, 1976, the Commission stated:

"...it is clear that minimum rate levels are too high to accommodate this traffic.

"Until such time as we have adequate information before us to establish commodity rates on beer, we cannot expect carriers and shippers to patiently wait while such a determination is made. In the absence of commodity minimum rates carriers are encouraged to come forward with proposals in those instances where the transportation conditions (such as traffic volume) are such that lower rates may be appropriate."

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.

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APPENDIX A

T-104,319

Carrier: Parker & Son Trucking, Inc.
Shipper: Pabst Brewing Company
Commodity: Beer in cartons and kegs

Rates:	<u>From Los Angeles</u> <u>MZ 229 To</u>	<u>Rates in Cents</u> <u>Per 100 Pounds</u>
	Concord	75
	Foster City	72
	Middletown	109
	Modesto	68
	Napa	87
	Santa Rosa	96
	Sonoma	91
	Stockton	72
	Vallejo	84

Minimum Weight: 48,000 pounds

Conditions:

1. Applicant has not indicated that subhaulers will be used 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. Whenever the elapsed time between commencement and completion of the loading of shipments exceeds two hours, additional charges for delay time shall be assessed as provided in Item 145 of Minimum Rate Tariff 2.
3. Whenever the elapsed time between commencement and completion of the unloading of shipments exceeds two hours, additional charges for delay time shall be assessed as provided in Item 145 of Minimum Rate Tariff 2.
4. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)

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Parker & Son Trucking, Inc.: DEVIATION

COMMISSIONER WILLIAM SYMONS, JR., Dissenting

Deviations for a Few 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:

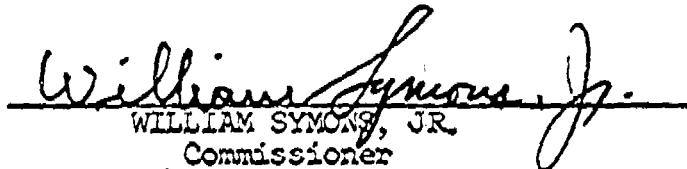
"... where it has been shown that the traffic is available to other for-hire carriers under the same circumstances and conditions it has been the policy of the Commission to establish commodity minimum rates for such transportation so that all interested carriers will have equal opportunity to compete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

This is yet another select deviation for the carriage of beer. As predicted in the two previous dissenting opinions on this problem, shipper after shipper will be forced by competitive disadvantage to press their carriers to apply for deviations. Miller and Schlitz pushed in A.56463 because of General Brewing's advantage in A.55719. Now Pabst Brewing Company follows suit.

As Commissioner Sturgeon and I pointed out in our dissenting opinion to Decision No. 86739 (Preston Trucking's most recent deviation case, December 14, 1976), 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 Pellico 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.

San Francisco, California
February 15, 1977


WILLIAM SYMONS, JR.
Commissioner