

PNK/cab

ORIGINAL

Decision No. 87258

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PRESTON TRUCKING CO., a corp-)
oration, for an order authorizing)
departure from the rates, rules)
and regulations of Minimum Rate)
Tariff No. 2 pursuant to the pro-)
visions of Section 3666 of the)
Public Utilities Code, for the)
transportation of beer in cartons)
and kegs from the plant site of)
Miller Brewing Co. at Azusa, Cali-)
fornia to Santa Cruz, California)
for Favorite Brands.)

Application No. 56956
(Filed December 22, 1976)

In the Matter of the Application)
of PRESTON TRUCKING CO., a corp-)
oration, for an order authorizing)
departure from the rates, rules)
and regulations of Minimum Rate)
Tariff No. 2 pursuant to the pro-)
visions of Section 3666 of the)
Public Utilities Code, for the)
transportation of beer in cartons)
and kegs from the plant site of)
Jos. Schlitz Brewing Co. at Van)
Nuys, California to Yuba City,)
California for O & D Distributing)
Co.)

Application No. 56957
(Filed December 22, 1976)

OPINION AND ORDER

By these applications, Preston Trucking Co., a corpora-
tion, requests authority to deviate from the provisions of Minimum
Rate Tariff 2 in connection with the transportation of beer in
cartons or kegs from Miller Brewing Co. in Azusa to Favorite Brands,
Inc. at Santa Cruz and from Jos. Schlitz Brewing Co. in Van Nuys to
O. D. Distributing Co. at Yuba City.

The applications are based on special circumstances and
conditions detailed therein.

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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 applications were listed on the Commission's Daily Calendar of December 23, 1976. California Trucking Association (CTA) objected to the ex parte handling of these matters stating that the application covers what appears to be an obvious diversion of traffic from another carrier and, if granted, would provide applicant with an exclusive franchise for transportation at the expense of the carrier previously handling the traffic. CTA alleged that the applications also raise questions concerning the relevancy of existing minimum rates for the transportation of beer. CTA averred that, in other related circumstances involving bulk salt and glass containers, the Commission has directed its staff in a program designed to set minimum rate levels for all carriers of a single commodity.

Applicant, through its attorney, Marvin Handler, replied to CTA's protest stating that the transportation of beer for Favorite Brands, Inc., has been performed by its affiliated carrier, Lowe Trucking Co. Applicant alleges that, because it has a large fleet of equipment and a greater volume of freight both northbound and southbound, it was more desirable for it to perform the service and the shipper was agreeable to the change. Applicant avers that it has heretofore performed some of the hauls itself and it is obvious that, since the affiliated carrier is totally controlled by it, there will be no diversion from any independent carrier. Applicant asserts that CTA's allegation of diversion concerning the movement of beer for O. D. Distributing Co. is equally without merit and contrary to fact. Applicant declares that it inadvertently stated that its affiliated carrier performed the service when it has been transporting such shipments since December 22, 1975, except for a brief period commencing in August of 1976.

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Applicant contends that it has transported all shipments of O. D. Distributing Co. since November of 1976 and there is no possibility of diversion from another carrier by reason of granting Application 56957. Applicant states that: (1) it was put to great expense in preparing for and attending hearings in a similar proceeding by reason of protest of CTA; (2) its costs in the similar proceeding; and the instant proceedings were developed by a certified public accountant who is well known to the Commission; and (3) it would be unequitable to require it to suffer the expense and delays of hearings in the instant applications which are supported by the involved shippers.

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 the applicant's proposals are reasonable. A public hearing is not necessary. The Commission concludes that the applications 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 the sought rate relief.

IT IS ORDERED that:

1. Preston Trucking Co. 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.

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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 20th day of APRIL, 1977.

I dissent.

William Synovis, Jr.
Commissioner

Robert Batminal
President

Vernon L. Sturgeon
Commissioner

Richard D. Howell
Commissioner

I concur in part and dissent only to the effective date

Vernon L. Sturgeon
Commissioner

Commissioners

Preston Trucking Co., a corporation, is authorized to transport shipments of beer in cartons and kegs as follows:

From: Miller Brewing Co. at Azusa
To: Favorite Brands, Inc. at Santa Cruz
Rate: 79 cents per 100 pounds
Minimum Weight: 45,000 pounds

From: Jos. Schlitz Brewing Co. at Van Nuys
To: O.D. Distributing Co. at Yuba City
Rate: 88 cents per 100 pounds
Minimum Weight: 45,000 pounds

Conditions:

1. Applicant has indicated that subhaulers will not be used. 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. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)