

ORIGINAL

Decision No. 87385 May 24, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga-)
 tion into the Rates, Rules,)
 Regulations, Charges, Allowances)
 and Practices of all highway car-)
 riers relating to the transporta-)
 tion of any and all commodities)
 between and within all points and)
 places in the State of California)
 (including, but not limited to,)
 transportation for which rates)
 are provided in Minimum Rate)
 Tariff No. 2).)

Case No. 5432
 Petition for Modification
 No. 938
 (Filed January 5, 1977)

In the Matter of the Application)
 of DE BOER TRUCK LINES, INC., a)
 California corporation, for an)
 Order authorizing Applicant to)
 deviate from certain minimum)
 rates on shipments transported)
 for H. J. Heinz Co., pursuant to)
 Section 3666 of the Public)
 Utilities Code of the State of)
 the California.)

Application No. 56984
 (Filed January 5, 1977)

OPINION AND ORDER

By this petition and application, De Boer Truck Lines, Inc., (De Boer) requests authority: (1) as a highway common carrier, to publish an allowance of 5 cents per 100 pounds when a shipper palletizes and loads by forklift equipment shipments of foodstuffs and canned goods at Tracy or Stockton;¹ and (2) as a highway permit carrier, to deviate from the provisions of Minimum Rate Tariff 2 (MRT 2) by authorizing the carrier to give shipper, H. J. Heinz Company, an allowance of 5 cents per hundred pounds

¹ Petitioner's rates are set forth in Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15.

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when said shipper palletizes and loads by forklift equipment shipments of foodstuffs and/or canned goods, as described in Items 320, 320-1 and 345 of MRT 2 at Tracy or Stockton.

De Boer states that its cost for loading 40,000 pounds of the involved commodities is \$45.11 (sic) which represents four hours at a cost of \$11.28 per hour. De Boer declares that loading by forklift can be accomplished in one-half hour at a cost of \$6.39 (sic) or a saving of \$39.48 and the cost of providing pallets amortized over a four-year life would amount to 15 cents per load. De Boer avers that the proposed allowance for shipper loading by forklift amounts to \$20.00 for a 40,000-pound load resulting in a net saving of \$19.33. De Boer alleges that, since no change is proposed in the basic rates established by the Commission, the sole question involved is whether the 5-cent allowance is reasonable when the shipper provides the loading. De Boer asserts that the aforementioned saving far exceeds the proposed allowance and both it and the shipper will benefit from its proposal.

Revenue and expense data submitted by De Boer are sufficient to determine that the transportation involved may reasonably be expected to be profitable under the proposal.

The petition and application were listed on the Commission's Daily Calendar of January 6, 1977. California Trucking Association (CTA) objected to the ex parte handling of these matters stating that the sought relief is essentially a "me too" to authority granted to Wallace Transport and Coyner Trucking Company and would tend to indicate the availability of this traffic to numerous for-hire carriers with the same justification. CTA cites Decision 77767 (Major Truck Lines) wherein it stated:

"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."

CTA alleges that these circumstances make apparent the need for a current and responsive investigation into the process of loading by slipsheeting and whether or not such method results in a cost savings. CTA declares that the sought relief, if granted, would constitute a special basis of charges for a designated shipper.

Murchison & Davis, attorneys for De Boer, replied to CTA's protest stating that De Boer was not aware of the Coyner Trucking Company application and, contrary to protestant's allegation, the instant application is not a "me too" application. Concerning CTA's allegation that a special basis of charges for a designated shipper would exist under the sought relief, Murchison & Davis refers to Paragraph 7 of the application which reads:

*** To avoid discrimination, however the allowance will be given to any shipper at those two points of origin who could meet the conditions for receiving the allowance."

Until the Commission has adequate information before it to establish a specific rate reduction or allowance when shippers provide the loading service with forklift equipment, the Commission cannot expect carriers and shippers to wait patiently while such a determination is made. In the absence of the establishment of such a rate reduction or allowance, carriers are encouraged to come forward with proposals in those instances where the transportation conditions are such that rate reductions or allowances are appropriate.

In the circumstances, the Commission finds that:

1. De Boer's actual time for loading a 40,000-pound shipment of foodstuffs and canned goods is 4 hours.
2. The loading time provided in Item 142 of MRT 2 based on 8 minutes per ton is 2 hours and 40 minutes (2 2/3 hours) for a 40,000-pound shipment.

3. The saving for loading a 40,000-pound shipment will therefore be measured by the loading time provided in Item 142 of MRT 2.

4. De Boer's cost for loading a 40,000-pound shipment within the time limit specified in Finding 2 is \$30.08 based on 2 2/3 hours at \$11.28 per hour.

5. De Boer's cost when loading is performed by shipper with forklift is \$5.64 based on one-half hour at \$11.28 per hour.

6. De Boer's cost for providing pallets amortized on a four-year life amounts to 15 cents per load.

7. The sum of De Boer's cost for loading and providing pallets as set forth in Findings 5 and 6 is \$5.79.

8. The saving for loading a 40,000-pound shipment within the time limit specified in Finding 2 and providing pallets as set forth in Finding 6 is \$24.29 (\$30.08 minus \$5.79).

9. The allowance to the shipper of 5 cents per 100 pounds on a 40,000-pound shipment amounts to \$20.00.

10. The net saving to the carrier on a 40,000 pound shipment is \$4.29 (\$24.29 minus \$20.00).

11. The needs of commerce and the public interest require that the proposed rate be established.

12. The proposed rate allowance or rate reduction of 5 cents per 100 pounds is reasonable and justified by transportation conditions.

The Commission concludes that the petition and application should be granted to the extent indicated 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. A public hearing is not necessary.

IT IS ORDERED that:

1. De Boer Truck Lines, Inc., is authorized to publish and file to expire with June 1, 1978, an allowance or rate

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reduction for the transportation of foodstuffs and canned goods as set forth, and subject to the conditions specified, in Appendix A attached hereto and by this reference made a part hereof.

2. De Boer Truck Lines, Inc. is authorized to perform the transportation shown in Appendix B attached hereto and by this reference made a part hereof at not less than the rates set forth therein.

3. Tariff publications authorized to be made as a result of ordering paragraph 1 hereof may be made effective on one day's notice to the Commission and to the public.

4. De Boer Truck Lines, Inc. is authorized to depart from the provisions of Section 461.5 of the Public Utilities Code in establishing and maintaining the rates authorized in ordering paragraph 1 hereof. Schedules containing the rates published under this authority shall make reference to this order.

5. The authority granted in ordering paragraph 2 hereof shall expire with June 1, 1978.

6. The Executive Director is directed to cause a copy of this order to be served upon M. J. Nicolaus, Issuing Officer, Western Motor Tariff Bureau, Inc., Agent.

The effective date of this order is the date hereof.

Dated at Los Angeles, California, this 24th day of MAY, 1977.

I concur in the decision but not as to the effective date of the order hereof.

William Lyons Jr.
Commissioner

President

James L. Sturgeon

Richard W. Howell

Commissioners

Commissioner Robert Batinevich, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

De Boer Truck Lines, Inc., is authorized to publish and file in Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15, a rule allowing shippers a reduction of 5 cents per 100 pounds on all palletized shipments of canned goods and foodstuffs for human consumption transported from Tracy or Stockton, to points in California subject to the following conditions:

1. When the elapsed time between commencement and completion of the loading of shipments exceeds one-half hour, the accessorial charges for delays, as set forth in aforesaid tariff, shall apply.
2. The palletized shipments shall be power loaded by the shipper without assistance of, or expense to, the carrier.
3. In all other respects, the rates and rules in Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15, shall apply.

(END OF APPENDIX A)

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APPENDIX B

De Boer Truck Lines, Inc., is authorized to transport palletized shipments of canned goods and foodstuffs for human consumption, as described in Items 320, 320-1 and 345 of Minimum Rate Tariff 2, for H. J. Heinz Company from Tracy or Stockton to various points in the State of California at a rate reduction of 5 cents per 100 pounds when power loaded by shipper, without assistance of, or expense to, the carrier, subject to the following conditions:

1. 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.
2. When the elapsed time between commencement and completion of the loading of shipments exceeds one-half hour, the charges specified in Item 145 of Minimum Rate Tariff 2 shall apply.
3. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX B)