

Decision No. 87537 June 28, 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of D AND F TRUCKING CO., INC.,)
for authority to deviate from)
certain minimum rates pursuant)
to Section 3666 of the California)
Public Utilities Code for trans-)
portation performed for WAGNER)
DISTRIBUTION SERVICES, INC., and)
PACKERS COLD STORAGE.)

Application No. 56965
(Filed December 23, 1976)

OPINION AND ORDER

By this application D and F Trucking Co., Inc. 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 Wagner Distribution Services, Inc. and Packers Cold Storage, Inc. between Brea, Fullerton, Anaheim and La Habra, on the one hand, and various points in northern California, on the other hand.

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

The application was listed on the Commission's Daily Calendar of December 29, 1976.

California Trucking Association protested the ex parte consideration of the application stating:

"Application does not contain any information which would enable the Commission to determine whether the proposed rates are related to the costs of performing the service at issue. It is apparent that service is to be provided by owner-operators; however, no supporting costs have been furnished. Also, no evaluation has been made concerning the effect the proposed deviation will have on the carriers presently transporting this traffic."

Milton W. Flack, attorney for applicant, has supplied protestant and the Commission with cost estimates of representative shipments and has responded to the other allegations as follows:

"I would also like to point out that similar applications for deviations were previously filed by Central Coast Truck Service and Cool Transportation, in which Decisions 85990 and 86432 were granted by the Commission. As indicated in the Application of D and F Trucking both of the supporting shippers, Wagner Distribution Services, Inc. and Packers Cold Storage, are presently utilizing Central Coast Truck Service and Cool Transportation, and desire to also utilize D and F Trucking Co. under the deviation rate. I am advised that there would be no diversion of traffic and that the said shippers would continue to use the above mentioned carriers together with D and F Trucking Co. In view of the fact that the Commission has already previously granted the same deviation rates to two other carriers transporting for the same shippers, the proposed rates are justified."

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.

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.

IR IS ORDERED that:

1. D and F Trucking, Inc. 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 28th day of JUNE, 1977.

*I will file a dissent;
William Lyons Jr.*

Robert B. ...
President

Vernon L. Sturgeon

Richard D. ...

Commissioners

APPENDIX A

CARRIER: D and F Trucking Co., Inc.

FOR: Wagner Distribution Services, Inc. and
Packers Cold Storage, Inc.

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

Bakery Goods NOI: or pies not requiring baking, frozen.
(Item 360 MRT 2)

Food, cooked, cured, preserved, or prepared, frozen NOI.
(Item 360 MRT 2)

Fruits and vegetables, fresh, cold pack, frozen, sweetened
or not sweetened. (Items 73280 & 75340 NMF 100-D)

Juice, fruit, frozen.
(Item 320 MRT 2)

Milk or cream substitutes, other than milk, cream or
milk solids, frozen (Item 335.7 MRT 2)

Milk, cream or vegetable oil compounds (dessert toppings)
aerated, with or without flavoring or other ingredients,
frozen. (Item 335.7 MRT 2)

Pies, NOI, not baked, requiring baking, frozen.
(Item 74340 NMF 100-D)

Poultry, dressed or eviscerated or poultry parts, other than
cooked, frozen. (Item 379 MRT 2)

Shrimp, NOI, frozen.
(Item 69870 NMF 100-D)

APPENDIX A

SECTION I

Rates: Except as provided in Section 2 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 will not apply.

SECTION 2

APPLICATION OF RATES: When commodities requiring Frozen Temperature Control Service as named herein are transported by D and F Trucking Co., Inc., in straight or mixed shipments between Brea, Fullerton, Anaheim and La Habra and various points in northern California, rates named in Minimum Rate Tariff 2 will be applicable subject to the following truckload minimum weights and class ratings and Notes 1, 2, 3 and 4 below:

<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 highway 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 will be that named from origin to farthest point of destination via all other destination points.

APPENDIX A

NOTE 3: 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.

NOTE 4: In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)