

ORIGINAL

Decision No. 88026 NOV 8 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)	
of AERO SPEED MAIL SERVICE,)	
INC., for an order authorizing)	Application No. 57531
departure from the rates, rules)	(Filed August 23, 1977)
and regulations of Public)	
Utilities Minimum Rate Tariff 2.)	

OPINION AND ORDER

By this application, Aero Speed Mail Service, Inc., a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 (MRT-2) in connection with the transportation of shipments weighing 100 pounds or less between all points within 20 air miles of the Sacramento city limits, when said shipments are delivered on the same day they are tendered to the applicant.

The application is based upon the fact that in recent years a large percentage of Sacramento's businesses are now located outside of the city limits. Applicant has received numerous requests to provide "same day" delivery service to firms which because of their location outside of the Sacramento city limits are not entitled to the territorial exemption set forth in Item 30, MRT-2. Applicant claims these shippers have needs identical to shippers who are located within the city limits.

The application was listed on the Commission's Daily Calendar of August 26, 1977.

California Trucking Association (CTA) protested the ex parte consideration of the application stating that applicant has failed to serve copies of the application to known competitors such as Capital Parcel Delivery Service, Advanced Business Service and United Parcel Service. It also states that the granting of

applicant's request for same day delivery will give applicant a competitive advantage not only over United Parcel Service, who is the rate making carrier for parcel delivery service, but over the other parcel delivery carriers as well. Furthermore, it points out that applicant's Balance Sheet and Income Statement for the year ended December 31, 1976 indicate a net loss.

CTA alleges that the discrimination which exists against those firms located outside of the Sacramento city limits because no rate regulation is applicable on those firms who have shipments between points within the Sacramento city limits is of the Commission's own making since the Commission has consistently refused to establish drayage rates within the Sacramento area.

Applicant has complied with the provisions of the Rules of Practice and Procedure by furnishing CTA with a copy of the application and indicating in its application that it would serve a copy thereof to any other interested party, upon written request. Furthermore, applicant has informed the Commission that it contacted the president of Capital Parcel Delivery Service, (Capital) who appeared to be the only competitor within the Sacramento area, concerning this application. Capital indicated, at that time, it had no interest in the matter.

CTA's objection to the granting of same day service because it would give applicant a competitive advantage has little merit. The Commission has heretofore granted similar authority to Adams Delivery Service, Inc. by Decision 85216 as amended by Decisions 86241, 86771 and 86373 in Applications 55645, 56867 and 56519.

CTA's allegation concerning applicant showing a loss in its 1976 financial statements is answered by applicant in the following manner: (1) In 1975 Aero Speed Mail Service, Inc. (Aero Speed) was converted into two entities, viz: Almas Trucking and Aero Speed Mail Service, Inc.; (2) during the transition Almas

A. 57531 - cab *

Trucking obtained \$43,000 from the original Aero Speed; (3) the transferring of this amount reduced the profits of Aero Speed for that period. In fact, it produced a net loss of \$421. Applicant has used the retained earnings of \$20,936 from the previous year to offset this loss. The loss was caused by growth and expansion - not by the application of lower rates. As a matter of fact, applicant is authorized by Decision 85045 (which was extended by Special Deviation Docket SDD-308) to transport general commodities at deviation rates on shipments weighing 100 pounds or less, between points in Northern and Central California, which includes Sacramento, on a non "same day" basis. The current charges authorized by Decision 85045, except for the first mile, are lower than those proposed by applicant for parcels weighing up to 25 pounds.

<u>Weight in Pounds</u>	<u>Authorized by D. 85045</u>	<u>Proposed Charges</u>
16	\$1.06	\$1.10
25	1.42	3.70

CTA alleges that the territorial discrimination existing in Sacramento is brought about by the Commission's refusal to establish drayage rates therein. The Commission has consistently stated, when such allegation is made, that "If CTA desires to pursue the matter of establishing minimum rates in the Sacramento Metropolitan Area, it may do so by filing an appropriate petition."

Applicant is also authorized by Decision 85220 (which was extended by Special Deviation Docket No. SDD-308) to transport general commodities at deviated rates on shipments weighing 100 pounds or less, between the Sacramento Greyhound Bus Depot and points within 15 air miles of said depot.

Applicant states that the minimum rates set forth in MRT-2 are not designed for operations in connection with parcel deliveries (J.S. Aaronson, 1961, 58 CPUC 533).

Revenue and expense data submitted in the application 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 operations involved herein are of a specialized nature differing substantially from those for which the established minimum rates were primarily designed and the proposed rates are reasonable for the transportation in question. 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. Aero Speed Mail Service, Inc., a corporation, 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.
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.

A. 57531 - cab *

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 8th day of
NOVEMBER, 1977.

I dissent.
William Symons Jr.

Robert Bateman

President

Yung L. Sturgeon
Richard D. Howell

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Aero Speed Mail Service, Inc., a corporation, is authorized to transport parcels weighing one hundred pounds or less between all points within 20 air miles of the Sacramento city limits, when said shipments are delivered on the same day they are tendered to the applicant, subject to the following charges:

<u>Distance Between Service Points</u>	<u>Weight of Shipment in Pounds</u>	<u>Charges</u>
1 Airmile or less	0-25	\$1.10
2 Airmiles or less	0-25	1.40
3 Airmiles or less	0-25	1.60
4 Airmiles or less	0-25	1.80
5 Airmiles or less	0-25	2.05
6 Airmiles or less	0-25	2.25
7 Airmiles or less	0-25	2.50
8 Airmiles or less	0-25	2.80
9 Airmiles or less	0-25	3.20
10 Airmiles or more	0-25	3.70

Conditions:

1. Shipments weighing more than 25 pounds but less than 101 pounds, an additional 2 cents for each pound shall be assessed.
2. 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.
3. In all other respects, the rates and rules set forth in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)