

ORIGINAL

Decision No. 88157 NOV 29 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GUTHMILLER TRUCKING, INC., a California Corporation, for authority to deviate from the provisions of Minimum Rate Tariff Number 2 in connection with transportation of empty glassware bottles.

Application No. 53620
Petition for Modification
(Filed October 6, 1976)

Application of BLACKBURN TRUCK LINES, INC., a California Corporation, for modification of the deviation authority granted in Decision Number 82663, as amended by Decision Number 82747, to include "metal can ends", pursuant to the provisions of Section 3666 of the Public Utilities Code of the State of California.

Application No. 57315
(Filed May 13, 1977)

Eldon M. Johnson, Attorney at Law, for Guthmiller Trucking, Inc.; and Knapp, Stevens, Grossman & Marsh, by David P. Christianson, for Blackburn Truck Lines, Inc.; applicants.
C. D. Gilbert and H. Hughes, for California Trucking Association, interested party.
Patrick O'Hanlon, for the Commission staff.

O P I N I O N

These applications were heard and submitted May 25, 1977 before Administrative Law Judge Thompson at San Francisco.

In Decision No. 82663 dated April 2, 1974, as amended by Decision No. 82747, applicants and some other carriers were authorized

to deviate from the provisions of Minimum Rate Tariff 2, the effect of which was to omit the surcharge prescribed in Item 240 to an alternative application of a rail rate when the carriers utilize vehicles equipped with rollerized floors for transportation of empty glassware bottles. Applicants here request that the authority be extended to the transportation of metal can ends.

The authority granted by the aforesaid decision, as amended, is as follows:

"1. Guthmiller Trucking, Inc., Blackburn Truck Lines, Inc., Container Express, Inc., and Schaldach Container Corporation, and each of them, are authorized to charge less than the established minimum rates, but not less than the rates and charges provided in Pacific Southcoast Freight Bureau Tariff No. 300, and reissues thereof, in effect at the time of movement and available to highway carriers under the provisions of Items 200 series and 240(1)(b) of Minimum Rate Tariff 2, for the transportation in van-type semitrailers equipped with rollers or roller conveyors built into the beds as integral part of the equipment, of empty glassware bottles, NOI, other than cut, one gallon or less, between points at railhead in the counties of Los Angeles and Orange, on the one hand, and points at railhead in the counties of Alameda, Contra Costa, Sacramento, San Francisco, San Mateo, San Joaquin, Santa Clara, Solano and Fresno, on the other hand, when shipment is loaded into and/or unloaded from the carrier's equipment by the consignor and/or consignee with power equipment furnished and used without expense to the carrier, and the bill of lading issued pursuant to Item 255 of Minimum Rate Tariff 2 indicates that the shipment was loaded and/or unloaded under those circumstances."

Container Express, Inc. and Schaldach Container Corporation are affiliates of Blackburn Truck Lines, Inc. An officer of the latter testified that while both affiliates utilize van-type

semitrailers equipped with rollers, neither is engaged in hauling metal can ends under the conditions under which the proposed rate deviation would be applicable. The parties stated that, other than the named carriers, there is no other carrier known to them to be equipped to provide transportation of metal can ends pursuant to the terms and conditions specified.

The testimony in this proceeding shows that the circumstances and conditions relating to the movement of metal can ends is virtually identical to those described in Decision No. 82663 relating to the transportation of empty glassware bottles. There is a substantial movement between points at railhead in Los Angeles and Orange Counties and points at railhead in northern California. The commodity moves at the rail rates provided in Pacific Southcoast Freight Bureau Tariff No. 300 by highway permit carriers utilizing flatbed equipment. The shipments are palletized and are loaded by the consignor and unloaded by the consignee with power-loading equipment. The shippers have no preference for the type of equipment used to transport the commodity, only that it be of a type that can be loaded and unloaded by power forklift with dispatch so as to clear the loading and unloading spots without delay. The time for loading and unloading applicants' roller vans is the same as or less than the time required to load and unload flatbed equipment in connection with palletized truckloads of metal can ends. The shippers require the use of flatbed equipment only because of the additional charge of 6-3/4 cents per 100 pounds, plus applicable surcharges, prescribed in Item 240 of Minimum Rate Tariff 2 when the shipment moves by roller van.

With respect to the relief granted in Decision No. 82663 we stated therein,

"Simply stated the circumstance is that four highway permit carriers have specialized equipment with which they can transport glass bottles between

points at railhead at a profit at rates which are charged by other carriers using flat-bed equipment; and the four carriers are unable to compete for that traffic at the minimum rates applicable to transportation performed in their specialized equipment. In essence, applicants have proved that the minimum rates applicable to their operation in the transportation of glass bottles between points at railhead are noncompetitive and that it is necessary that the lower rates of their competitors be made available to them in order for them to have equal opportunity to compete for the traffic."

That statement applies with equal force to the transportation of metal can ends by applicants. The relief sought has been shown to be justified.

In Decision No. 82663 we stated that under ordinary circumstances a commodity rate should be established so that the special rate would be available to all carriers; but in view of the fact that there were only four carriers known to be affected, and all of them would be accorded equal treatment, it was not necessary nor desirable to do so at that time. A somewhat similar circumstance occurs here. There are only four known carriers who could avail themselves of the special rate. In this case, however, two of them have no intention of availing themselves of the special rate in connection with the transportation of metal can ends. The simple and practical way in which to grant relief is to restate the authority granted in Decision No. 82663, as amended, to Guthmiller Trucking, Inc. and to Blackburn Truck Lines, Inc. so as to include metal can ends and to provide that said decision, as amended, shall remain in full force and effect as to Container Express, Inc. and Schaldach Container Corporation.

We find that the proposed rate is reasonable and conclude that the petition and application should be granted.

O R D E R

IT IS ORDERED that:

1. Guthmiller Trucking, Inc. and Blackburn Truck Lines, Inc., are authorized to charge less than the established minimum rates but not less than the rates and charges provided in Pacific Southcoast Freight Bureau Tariff No. 300, and reissues thereof, in effect at the time of movement and available to highway carriers under the provisions of Items 200 series and 240(1)(b) of Minimum Rate Tariff 2, for the transportation in van-type semitrailers equipped with rollers or roller conveyors built into the beds as integral part of the equipment, of empty glassware bottles, NOI, other than cut, one gallon or less, and/or metal can ends, between points at railhead in the counties of Los Angeles and Orange, on the one hand, and points at railhead in the counties of Alameda, Contra Costa, Sacramento, San Francisco, San Mateo, San Joaquin, Santa Clara, Solano, and Fresno, on the other hand, when shipment is loaded into and/or unloaded from the carrier's equipment by the consignor and/or consignee with power equipment furnished and used without expense to the carrier, and the bill of lading issued pursuant to Item 255 of Minimum Rate Tariff 2 indicates that the shipment was loaded and/or unloaded under those circumstances.

2. In all other respects the transportation described hereinabove shall be governed by the rates and rules prescribed in Minimum Rate Tariff 2.

3. The authority herein granted shall supersede the authority granted to Guthmiller Trucking, Inc. and to Blackburn Truck Lines, Inc. in Decision No. 82663, as amended by Decision No. 82747; in all other respects said decisions shall remain in full force and effect as to Container Express, Inc. and Schaldach Container Corporation.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 29th day of NOVEMBER, 1977.

Robert Bateman
President
William J. Jones
Verdon A. Stutzman
Richard P. Howell
Clare A. Smith
Commissioners