

Decision No. 88164 NOV 29 1977

ORIGINAL

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of James E. Murphy )  
 for authority to transport sugar )  
 from Spreckels, California to )  
 San Francisco, California, for )  
 ITT Continental Baking Co., )  
 Inc., San Francisco, California )  
 and Amstar Corporation, )  
 Spreckels Sugar Division, )  
 Spreckels, California )

Application No. 57601  
 (Filed October 3, 1977)

OPINION AND ORDER

By this application, James Emmett Murphy, an individual, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of sugar for Spreckels Sugar Division, Amstar Corporation (Spreckels Sugar) from Spreckels to San Francisco.<sup>1</sup>

According to the applicant the application is based on the following facts and circumstances: that all loading is performed by power equipment; that all loading will be at the expense of the shipper; that loading is performed rapidly and efficiently inasmuch as it occurs at a time of day when consignor's dock is not being used for loading or unloading of any other vehicle.

Applicant further states that the loading location is adjacent to Highway 101, approximately five miles west of Salinas; that virtually all driving is freeway driving and maximum posted legal truck speeds can normally be attained from start to finish; that the actual mileage involved is approximately five miles, via Highway 68, to Salinas from Spreckels, then approximately 108 miles via U.S. Highway

<sup>1</sup> The present minimum rate and the proposed rate, in cents per 100 pounds, for a 40,000 pound shipment of sugar from Spreckels to San Francisco is as follows:

<u>Present Rate</u>	<u>Proposed Rate</u>
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62

57

101 from Salinas to San Francisco; that the unloading site is practically adjacent to U.S. 101; and that the maximum loaded driving time does not usually exceed two and one-quarter hours.

Applicant declares that this short driving time, coupled with rapid loading of applicant's vehicles, enables him to achieve more efficient utilization of his own equipment and will encourage consignor to continue utilizing its more efficient method of loading to the mutual benefit of carrier and shipper alike.

Applicant contends that services have been performed and will continue to be performed by an employee-driver or by applicant as driver himself, and that no owner-operators (subhaulers) will be used.

Applicant points out that he performs all office work, and most of the maintenance and repair on his vehicle.

Applicant requests that this application be handled on an expedited basis in light of Continental's dissatisfaction with its present highway carrier which has the same authority as applicant requests. Spreckels Sugar has been informed by the consignee that it wishes to have the applicant provide the service in order to obviate an increasingly unacceptable problem with damaged merchandise being delivered at present.

The authority is similar to other authorities previously granted by the Commission to other carriers for transportation of this commodity, and revenue and expense data submitted by applicant indicate that the transportation involved may reasonably be expected to be profitable under the proposed rates.

The application was listed on the Commission's Daily Calendar of October 4, 1977.

The California Trucking Association, (CTA), by letter dated November 10, 1977, objected to the granting of the application on an ex parte basis stating:

"This organization protests granting of the relief sought and respectfully requests that this matter be set for hearing so that

we may protect our interests."

Michael S. Rubin, attorney for the applicant, by letter dated November 15, 1977, has responded to CTA's letter.

The authority requested is similar to that which the Commission has previously granted in Decision 82372, in Application 54414 and Decision 87205, in Application 56950, where an allowance of seven (7) cents and five (5) cents respectively is given when shipments are power loaded by the shipper without expense to the carrier.

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.

IT IS ORDERED that:

1. James Emmett Murphy 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.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of NOVEMBER, 1977.

*I dissent.*  
*William Synnors, Jr.*

*Ralut Batimand*  
President

*Vernon L. Sturgeon*  
*Charles R. Charles*  
*Walter L. Schriber*  
Commissioners

APPENDIX A

Carrier: James Emmett Murphy.  
Commodity: Sugar in packages.  
From: Spreckels Sugar Division, Amstar Corporation, Spreckels.  
To: ITT Continental Baking Company, Inc., San Francisco.  
Rate: 57 cents per 100 pounds.  
Minimum  
Weight: 40,000 pounds.

Conditions:

1. Shipments shall be power loaded by the shipper without assistance of, or expense to, the carrier.
2. Applicant has indicated that subhaulers will not be engaged. Therefore, if subhaulers are employed, they shall be paid no less than the rate authorized herein without any deduction for use of applicant's trailing equipment.
3. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)