

Decision No. 88403 JAN 24 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)
 of Cal State Trucking Co., Inc.,)
 a California corporation, for)
 authority to deviate from minimum)
 rates for the transportation of)
 LUMBER and FOREST PRODUCTS and)
 WOOD PRODUCTS, of AMERICAN FOREST)
 PRODUCTS CORPORATION.)

Application No. 57685
 (Filed November 15, 1977)

OPINION AND ORDER

By this application, Cal State Trucking Co., Inc., a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 (MRT 2) in connection with the transportation of lumber, forest products and wood products for American Forest Products Corporation (American) from its plants in Foresthill, Fresno, Martell, North Fork and Stockton to points in the Los Angeles Basin Territory and points within San Diego County.¹

Applicant states that it has been transporting the involved commodities for said shipper since May 25, 1973.

Applicant declares that the rates in MRT 2 are too high to enable the shipper (American) to compete with other shippers for the sale of the aforesaid commodities. Consequently, American has had to resort to the use of proprietary carriage on those shipments not moving at rail alternative rates. The proprietary carriage should cease upon the granting of the proposed rates.

¹ The present minimum rates and the proposed rates in cents per 100 pounds for representative 50,000 pound shipments of lumber are:

<u>From</u>	<u>To</u>	<u>Present Rates</u>	<u>Proposed Rates</u>
Foresthill	Los Angeles MZ 235	96	74
Fresno	San Diego MZ 301	86	68
Martell	Long Beach MZ 251	92	70

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Applicant claims it has backhauls comprising shipments of steel for Ameron from Etiwanda ranging from 5 to 10 truckloads per week. Applicant has served this shipper since 1972.

The authority sought by the applicant is similar to those granted to Osterkamp Trucking Inc., by Decision 87647, dated July 26, 1977 and to Commercial Transfer Incorporated, by Decision 88281, dated December 20, 1977.

The application was listed on the Commission's Daily Calendar of November 16, 1977. California Trucking Association (CTA), by letter dated January 12, 1978 objected to the ex parte handling of these matters stating that the sought relief is essentially a "me too" to authority granted to Osterkamp Trucking, Inc., and Commercial Transfer Incorporated in Application 56798 and 57618 respectively. CTA contends that the significance here is the obvious availability of this traffic to numerous for-hire carriers. The services performed are not based on special circumstances and conditions and the only justification presented is the desire of the shipper to terminate his proprietary operation. 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 declares that steps for the adoption of the commodity minimum rates have been taken by the Commission and are presently under consideration as OSH 771 in Case 5432.

Michael S. Rubin, attorney, of the law offices of Silver, Rosen, Fisher and Stecher representing the applicant had stated in a letter to the Commission dated December 19, 1977 in response to an inquiry by the staff:

"... To applicant's knowledge, this traffic represents new traffic formerly handled on a proprietary basis by the shipper. As is indicated at page six of the application, Osterkamp Trucking, Inc. and Commercial Transfer, Inc. have each applied for deviations on the subject traffic, Osterkamp's application already having been granted. Applicant does not anticipate the filing of additional deviation applications by other carriers..."

"... As indicated, this particular portion of the shipper's traffic moved on a proprietary basis prior to the filing of the Osterkamp application..."

By another letter dated January 13, 1978 Mr. Rubin responded to CTA's letter stating that it would be unconscionable to permit the late filed protest to interfere with the expeditious resolution of this matter, since it was assigned for consideration by the Commission for the conference of January 17, 1978.

Until the Commission has determined that the information before it is adequate to establish specific and lower commodity rates, the Commission cannot expect carriers and shippers to wait patiently while such a determination is made. In the absence of the establishment of such lower commodity rates, carriers are encouraged to come forward with proposals in those instances where the transportation conditions are such that rate reductions are appropriate.

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 rate relief.

IT IS ORDERED that:

1. Cal State Trucking Co., 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.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 24th
day of JANUARY, 1978.

I dissent
William S. Givens Jr.

Robert B. Kinnaird
President

Harmon L. Livingston
Richard D. Chaville
Clair J. Dedrick
Commissioners

APPENDIX A

Carrier: Cal State Trucking Co., Inc., a corporation.
Commodities: Lumber and forest products as described in Item 685
of Minimum Rate Tariff 2.
Shipper: American Forest Products Corporation.
Rates: In cents per 100 pounds.

<u>Origin</u>	<u>Destination</u>	
	<u>Los Angeles Basin Territory</u>	<u>San Diego County</u>
Foresthill	74	87
Fresno	55	68
Martell	70	80
North Fork	62	72
Stockton	66	76

Minimum Weight: 50,000 pounds.

Conditions:

1. Shipments shall be power loaded by consignor and power unloaded by consignee.
2. The above rates are not subject to surcharge.
3. Though applicant has indicated that subhaulers will be engaged, no adequate costs of subhaulers have 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.
4. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)