

ORIGINAL

Decision No. 88412 JAN 24 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of COMPLETE TRUCKING SERVICE, INC. for authority to establish a small shipment service within the Los Angeles Metropolitan Zone. This small shipment service will contain comparable wording for requirements and restrictions to shippers who wish to use said service as those shown in existing Item #149 of Minimum Rate Tariff #2, with the exception being, these charges to apply only on shipments having point of origin and point of destination wholly within the Los Angeles Metropolitan Zone as defined in Item #270-3 Paragraph 5 of Minimum Rate Tariff #2 and weighing not over 1,000 pounds. Exact wording and charges are shown in Paragraph 7 of this application.

Application No. 57142
(Filed March 11, 1977)

Donald L. Penney, for applicant.
Charles D. Gilbert and H. W. Hughes,
for California Trucking Association;
David C. Williams, for
Williams Transportation, Inc.;
Lee Jones, for Purchasing &
Stores Department, County of Los
Angeles; and John Archer and
James E. Burke, for themselves;
interested parties.
Mark Wetzell and Thomas Fann, for
the Commission staff.

O P I N I O N

Applicant, Complete Trucking Service, Inc. (CTS), is authorized to transport general commodities as a radial highway common carrier and as a highway contract carrier. As such, it

is required to observe the rates and rules in Minimum Rate Tariff 2 (MRT 2). CTS seeks authority to deviate from the rates in Column A of Item 530 of MRT 2 for shipments weighing less than 1,000 pounds applicable within the 62-zone Metropolitan Los Angeles Area.^{1/3} About 95 percent of the current operations of CTS are within the 62-zone area.

Public hearing was held before Administrative Law Judge Norman Haley on June 29 and 30, 1977 at Los Angeles. The matter was submitted July 21, 1977 with receipt of transcripts.

CTS operates a truck terminal and a private warehouse in Los Angeles. Its principal business consists of providing pickup and delivery of freight in the Los Angeles-Orange County area for line-haul carriers on divisions of revenues. About 10 percent of CTS revenue is derived from traffic handled directly for a few local shipper accounts under Item 530. CTS desires to transport freight in the 62-zone area directly for shippers located outside the area who would ship freight by other carriers to the terminal of CTS for reshipment in the area. New bills of lading would be issued at the sought rates showing the CTS terminal as the shippers' address. CTS hopes to develop about 80 percent of its revenue from this traffic at the sought rates. CTS desires to assess less than the minimum per shipment charges in Column A of Item 530, subject to all the rules in MRT 2, including the rules in Item 149 for small shipment service now applicable only in the San Francisco Territory. There would be no limit on the kinds of commodities transported or the numbers of shippers served. CTS does not now handle the traffic for which the sought reduced rates would apply. Most of this traffic is being handled by other highway carriers. Assertedly, CTS facilities would permit handling

^{1/3} The 62 zones are listed in Item 270-3 of MRT 2 and described in Distance Table 8. They cover approximately 2,000 square miles of the most populous portions of Los Angeles and Orange Counties.

double the present dock tonnage without increasing fixed costs. CTS introduced evidence designed to show that the proposed rates would be compensatory for the additional traffic that would be generated. The present Class 100 charges in Column A of Item 530 (for other than pool shipments) range from \$6.66 for shipments weighing 25 pounds and less to \$34.73 for shipments weighing over 900 but less than 1,000 pounds. These charges include the current surcharge. The charges sought by CTS are about 25 percent lower. They range from \$4.95 for shipments weighing 25 pounds and less to \$26.30 for shipments weighing over 900 but less than 1,000 pounds. CTS now pays subhaulers 65 percent of the revenue. Under the proposal CTS would pay subhaulers flat charges for deliveries ranging from \$2.95 for shipments weighing 25 pounds or less to \$13.65 for shipments weighing over 900 but less than 1,000 pounds. These charges include the additional 50c per delivery offered in Exhibit 5. For pickup of other shipments subhaulers would receive an additional 50c per 100 pounds on the total weight picked up in any one given day with no minimum charges applicable. Under these levels of pay subhaulers would receive about 55 percent of the revenue under the sought rates. There would be no guaranteed revenue. CTS would absorb costs of rating, billing, collecting, and terminal and dock facilities. Assistance sometimes would be given subhaulers in loading and unloading their trucks at the terminal. Three carriers who would haul the freight as subhaulers were of the opinion that the proposed levels of pay they would receive would be compensatory based upon about 15 to 18 deliveries and 5 or 6 pickups in an 8-hour period. It is anticipated by CTS that transportation at the proposed rates mostly would be performed by use of step vans similar to those used by United Parcel Service. CTS contends that this type of vehicle is very efficient for the kind of

traffic involved. CTS now has one bobtail truck, one diesel tractor, one 40-foot trailer, and a yard goat. Altogether, an average of 11 trucks are used including subhauler equipment. It uses this equipment primarily to distribute line-haul traffic for other carriers. It anticipates a need for another 19 vehicles to handle traffic tendered by shippers at the proposed reduced rates. Most of these would be subhauler trucks. Some new company-owned equipment also would be included.

Four shipper witnesses testified. The companies they represent do not now utilize the services of CTS. They use other carriers, including some service under MRT 15 vehicle unit rates. If the sought authority is granted, they would arrange to utilize CTS for a portion of their traffic in the Los Angeles-Orange County area. However, initially they would also continue to use the same carriers they are now using, including equipment leased from them under MRT 15. Exhibit 1 contains letters from 29 shippers supporting the application. Applicant's president estimated that CTS could develop at least 500 additional shipments per day if the sought authority is granted. It was his opinion that other carriers probably would not lose more than two to three percent of the tonnage they now are handling in the 0 to 1,000-pound weight group in the area if the application is granted.

It is the position of California Trucking Association that the CTS application goes beyond the purpose of relief under Section 3666; that the proper procedure would be the filing of a petition to change the levels of minimum rates for all carriers; that authority to charge less than minimum rates should be granted only to provide a remedy for an unusual situation not present in the ordinary transportation performed by highway carriers under the applicable minimum rates; that the use of step vans would not be an unusual or out-of-the-ordinary circumstance or condition;

that an applicant should be handling the traffic for which it proposes to charge less than minimum rates; that the proposal constitutes a predatory practice; that normally shippers could be expected to support a proposal for a general reduction in rates; that subhauler costs should include reasonable maintenance costs and make provision for the costs of services of the driver; and that the proposed operations whereby services would be performed for the public generally would be those of a highway common carrier for which applicant holds no authority.

The Commission staff believes that it is incumbent upon applicant to provide specific cost data directly related to the subject transportation for itself and for each subhauler involved; that in most circumstances an applicant for authority to charge less than minimum rates should be enjoying the traffic for which relief is being sought to insure that the purpose is not to divert traffic from other carriers; and that the proposed operations may approach those of a highway common carrier.

The record does not contain actual costs for the proposed transportation because the traffic is prospective. Undoubtedly applicant can show a profit on additional traffic handled over its existing terminal because most of the additional costs would be only variable costs resulting from increased traffic. Savings over existing charges in Column A of Item 530 normally can be shown when a carrier has an arrangement where it can substantially reduce pickup costs on inbound shipments delivered to its terminal, and delivery costs on outbound shipments delivered from its terminal. Other carriers in the Los Angeles area now performing transportation under Item 530 also have terminals and perform service in the same or much the same manner as proposed by applicant.^{2/} Applicant's proposed service

^{2/} The amount of freight moving by-for-hire carriers within the Los Angeles-Orange County area is very substantial. In a 1968 general freight traffic flow study in the area, more than 80 percent of all shipments weighed less than 1,000 pounds. Those shipments generated more than 35 percent of total revenue (Exh. 12, Table 5.4, C.6322, D.78264 (1971)).

to and from its terminal using bobtails and step vans does not reflect unusual circumstances or conditions in connection with pickup and delivery of freight in the Los Angeles-Orange County area. The sought authority would give applicant a price advantage over all other carriers hauling shipments weighing 1,000 pounds and less for the public.

Subhauler revenue would only be about half of the prospective revenue earned by applicant under the sought reduced rates. No allowances in the subhaul costs were made for driver labor or equipment maintenance. We are not convinced that sub-haulers would receive reasonable compensation for their services.

CTS has not shown any circumstances that exist in its transportation which are different from the usual and ordinary circumstances attendant to the transportation at issue herein. We require a showing of such special circumstances in addition to a showing that transportation at the proposed rates will be compensatory.

Findings

1. Applicant holds radial highway common carrier and highway contract carrier permits.
2. Applicant seeks authority to assess less than the minimum rates for the transportation of general commodities within the 62-zone Metropolitan Los Angeles Area for the public generally.
3. The rates now applicable to the transportation involved herein are the shipment charges set forth in Column A of Item 530 of MRT 2 for shipments weighing 1,000 pounds and less.

4. Applicant alleges that the proposed rates are sufficient to guarantee that the transportation will be profitable to it.

5. Applicant and three prospective subhaulers allege that the proposed levels of pay for subhaulers would be compensatory. There would be no specific compensation for driver expense or equipment maintenance.

6. The proposed level of pay for subhaulers would be about half of average prospective revenue under the sought reduced rates.

7. Applicant does not now provide transportation for which the proposed rates would be applicable.

8. The traffic applicant expects to attract at the proposed rates mostly would come from other carriers now engaged in performing the transportation.

9. Less than minimum rate authority granted under Section 3666 of the Public Utilities Code is not available to any carrier other than the ones to which the authority is granted.

10. The sought less than minimum rate authority would not be limited as to the kinds of commodities transported.

11. The sought less than minimum rate authority would not be limited to designated shippers or receivers.

12. Applicant has not shown that it can provide more efficient services than those being performed by existing carriers, or that any other circumstances exist which would be different from the usual and ordinary circumstances attendant to the transportation at issue.

13. This Commission should not authorize Section 3666 relief when it appears, as it does here, that the sole purpose of the application is to divert traffic from other highway carriers without a showing that the applicant can provide more efficient services than services being performed by existing carriers.

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The Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 57142 is denied.
The effective date of this order shall be twenty days after the date hereof.

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

Robert B. ...
President
William ...
...
Richard ...
Clare ...
Commissioners