

Decision No. 88566 MAR 7 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CALIFORNIA CANNERS AND GROWERS)
for authority to depart from the)
minimum rates, rules and regula-)
tions of Minimum Rate Tariff)
No. 2, pursuant to the provisions)
of Section 3666 of the Public)
Utilities Code, for the transpor-)
tation (sic) for C. T. SUPPLY)
COMPANY.)

Application No. 57786
(Filed January 3, 1978)

OPINION AND ORDER

By this application, California Cannery and Growers, a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of plain, coated, lacquered, painted, lithographed or printed N.O.I. tin mill black plate, tin plate,terne plate, or chrome plated black plate; aluminum plate or sheet; can ends, steel, tin, aluminum or chrome coated, between Fremont and Modesto.¹

Applicant states that the shipper, C. T. Supply Company is a manufacturer of metal cans and has two plants in California (Fremont and Modesto). This company is jointly owned by applicant and Tri-Valley Growers. Applicant receives substantially all of the production of the shipper. The tonnage averages about 280,000 pounds a day, and the movements are daily for 52 weeks per year.

Applicant contends that the shipper has devised a unique method whereby the loading and unloading processes are efficiently expedited rendering the movement highly profitable.

¹ The present minimum rates and the proposed rates in cents per 100 pounds for representative 96,000-pound shipments are:

<u>Commodities</u>	<u>Between Fremont and Modesto</u>	<u>Present Rates</u>	<u>Proposed Rates</u>
Can Ends	Modesto	53	33
Tin Plate	Modesto	71	33

Applicant alleges that initially Doudell Trucking Company (Doudell) was the principal carrier of this shipper. According to applicant, in Decision No. 87847 dated September 13, 1977, the Commission found that the rates proposed by Doudell were reasonable and compensatory. Because Doudell operates between the involved points as a highway common carrier and has not shown that the needs of commerce or the public interest require the establishment of the lower than maximum reasonable rate proposed, the petition was denied. This application proposes the identical rates and rules for the same transportation as is involved in the Doudell petition (Case No. 5432, Petition for Modification No. 917).

Applicant claims the current service of Doudell under Minimum Rate Tariff 15 for the involved transportation has been impractical. Consequently, some of the shipments are now being transported by the applicant, pursuant to the rates in Minimum Rate Tariff 2.

Revenue and expense data submitted by applicant indicate that the transportation involved may reasonably be expected to be profitable under the proposed rate.

The authority sought by the applicant is similar to the ones granted to the following carriers:

Frank's Trucking
Decision 86565, dated October 26, 1976
in Application 56766 and Case 5432,
Petition for Modification 919

and
Decision 87182, dated April 5, 1977,
in Applications 56588 and 57126

Guthmiller Trucking Inc.
Decisions 86485 and 87933, dated
October 13, 1976 and October 12, 1977
respectively, in Applications 56190
and 57574.

The application was listed on the Commission's Daily Calendar of January 5, 1978. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that applicant's operations involved herein constitute an alter-ego relationship with the shipper. Therefore, applicant may not engage subhau- lers unless they are paid 100 percent of the applicable minimum rates established by the Commission without any deduction for use of appli- cant's trailing equipment. The Commission also finds the proposed rate is reasonable for the transportation in question. A public hearing is not necessary. The Commission concludes that the appli- cation 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. California Cannery and Growers, 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 rate 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

7th day of MARCH, 1978.

Robert B. ...
President

William ...

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...

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Commissioners

APPENDIX A

Carrier: California Cannery and Growers

Shipper: C. T. Supply Company

Commodities: Plain, coated, lacquered, painted, lithographed or printed N.O.I. tin mill black plate, tin plate, terne plate, or chrome plated black plate; aluminum plate or sheet; can ends, steel, tin, aluminum or chrome coated.

Between: Fremont

And: Modesto

Rate in Cents Per 100 Pounds: 33

Conditions:

1. Each shipment shall be two (2) truckloads; minimum weight shall be 96,000 pounds per shipment; more than one shipment per day may be shipped.
2. Shipments shall be power loaded and unloaded at no expense to carrier or assistance from carrier personnel.
3. There shall be no split pickup or delivery shipments under this rate.
4. Rate includes one hour to load or unload a shipment. Excess loading or unloading time shall be subject to the charges set forth in Minimum Rate Tariff 2.
5. Freight charges shall be prepaid.
6. Whenever California Cannery and Growers engages underlying carriers for the transportation of property in which a financial interest is held by C. T. Supply Company, or Richmond Chase Company or Filice and Perrelli Canning Company or Thornton Canning Company under this deviation, they shall pay such underlying carriers not less than 100% of the applicable minimum rates and charges established by the Commission without any deduction for use of applicant's trailing equipment.
7. In all other respects, the rates and rules set forth in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)