

Decision No. 88775 MAY 2 1978

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SMERBER TRANSPORTATION, INC., a corporation doing business as SMERBER TRANSPORTATION, INC., for modification of Application No. 57388, for the transportation of molded woodpulp products for Keyes Fibre Co., Sacramento, California, shipper, pursuant to Section 3666 of the Public Utilities Code.

Application No. 57388 (Filed June 20, 1977, amended November 4, 1977)

Terry Fortier, Attorney at Law, for Smerber Transportation, Inc., applicant. Jim Dellamaggiore, for Viking-Freight-System, Inc., and Charles D. Gilbert and H. Hughes, for the California Trucking Association, interested parties.

Everest A. Benton, for the Commission staff.

O.P.I.N.I.O.N. Smerber Transportation, Inc. requests authority to deviate from the otherwise governing provisions of Minimum Rate Tariff 2 (MRT 2) when transporting truckload shipments of molded woodpulp products for Keyes Fibre Co. from Sacramento to various destinations located over 350 miles from shipper's Sacramento facilities.

Public hearing was held before Administrative Law Judge Gagnon at Sacramento on January 9, 1978. The matter stands submitted for decision.

1/ Applicant states the majority of shipments under the proposed deviation will be from Sacramento to Los Angeles.

A comparison of the applicable MRT 2 truckload class ratings with those proposed by applicant are:

Articles	Truckload Class Ratings	
	Present	Proposed
1. Dishes, plates, or trays, NOI, paper, pulpboard, or woodpulp. Minimum weight 24,000 lbs.	35	35
2. Cartons, egg shipping case or carrier, or egg carrying, molded pulp or molded pulp with paper or paperboard tops or covers, nested, in boxes or in wrapped packages. Minimum weight 24,000 lbs.	60	55
3. Egg case or egg carrier filler flats (filler and flats combined), molded woodpulp, nested in packages. Minimum weight 24,000 lbs.	60	55

From the above summary it will be noted that applicant seeks authority to assess a scale of MRT 2 truckload rates provided for class ratings one step lower than otherwise provided in the governing classification or Exception Ratings, Tariff. The proposed rates would also be made subject to the conditions that:

1. Shipper to perform all loading; carrier to assist consignee in unloading.
2. Shipper must show declared valuation of shipment at one-half the actual value or 50 cents per pound, per article, whichever is less.
3. All other provisions of MRT 2 shall apply.
4. If subhaulers are employed, they shall be paid not less than 100 percent of the authorized rate without any deduction for use of applicant's trailing equipment.

Applicant transported 108 truckloads in 1976 and as of April 30, 1977 it handled 48 shipments from the Sacramento facilities of Keyes Fibre Co. This traffic represents a significant southbound backhaul movement in conjunction with applicant's regular northbound traffic from southern California origins. A financial statement was introduced showing that the results of applicant's overall operations for the 10 months ended October 31, 1977 were profitable. In addition, cost data was presented to show that the rate proposal was compensatory.

The materials manager for Keyes Fibre Co. testified in support of the sought relief. The shipper employs the services of several carriers in addition to applicant. Viking Freight System, Inc., California Motor Express, and Southern Truck Lines also share a portion of the traffic into the southern California market area. Applicant's share of the shipper's southbound traffic is less than 10 percent. Delta Lines is the shipper's prime carrier into the northern California market areas. The shipper's interest in the sought relief stems from efforts to enhance its competitive relationship with the same products produced by the expanded plastic industry. Applicant's interest in procuring the sought relief is to assure a southbound movement.

Findings

1. Applicant seeks authority to deviate from the otherwise governing provisions of MRT 2 by assessing lower truckload class rates for the transportation of molded woodpulp products for Keyes Fibre Co. from Sacramento to destinations located over 350 miles from the shipper's Sacramento facilities.
2. At present applicant transports only a minor share of the available traffic currently being hauled by several other competing carriers.
3. Applicant's overall operating results were shown to be profitable.
4. The proposed rates were shown to be compensatory.
5. The traffic represents a significant southbound movement in conjunction with applicant's regular northbound traffic from southern California origins.

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- 6. The proposed less than minimum rates are reasonable.
- 7. If applicant uses subhaulers for this transportation, they should be paid not less than 100 percent of the authorized rate without any deduction for use of applicant's trailing equipment.

We conclude that the request should be granted as set forth in the ensuing order.

O R D E R

IT IS ORDERED that:

- 1. Smerber Transportation, Inc. 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 ratings set forth therein.
- 2. The authority granted herein shall expire one year from the effective date of this order unless sooner canceled, modified, or extended by further order of the Commission.

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

Dated at San Francisco, California, this 2nd day of MAY, 1978.

I dissent,
William Sycous, Jr.

Robert Bahman
President

Vergon L. Sturgeon
Robert D. Howell
Clair J. DeWitt
Commissioners

APPENDIX A

Carrier: Smerber Transportation, Inc.

Shipper: Keyes Fibre Company
8450 Gerber Road
Sacramento, California

<u>Commodities</u>	<u>Truckload Class Ratings</u>
1. Dishes, plates, or trays, NOI, paper, pulpboard, or woodpulp. Minimum weight 24,000 lbs.	35.1
2. Cartons, egg shipping case or carrier, or egg carrying, molded pulp or molded pulp with paper or paperboard tops or covers, nested, in boxes or in wrapped packages. Minimum weight 24,000 lbs.	55
3. Egg case or egg carrier filler flats (filler and flats combined), molded woodpulp, nested in packages. Minimum weight 24,000 lbs.	55

From: Shipper's plant in Sacramento.

To: Points in southern California over 350 miles from shipper's Sacramento plant.

Conditions:

1. Shipper to perform all loading; carrier to assist consignee in unloading.
2. Shipper must show declared valuation of shipment at one-half the actual value or 50 cents per pound, per article, whichever is less.
3. All other provisions of MRT 2 shall apply.
4. If subhaulers are employed, they shall be paid not less than 100 percent of the authorized rate without any deduction for use of applicant's trailing equipment.
5. The above southbound backhaul movements are to be restricted to and in conjunction with a prior northbound movement.

(END OF APPENDIX A)