

ORIGINAL

Decision No. 88780 MAY 10 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of **TERESI TRUCKING, INC.**, a California Corporation, for authority to deviate and depart from the provisions of Minimum Rate Tariff Number 2 in connection with the transportation of tin plate and related commodities between specified points in California, pursuant to the provisions of Section 3666 of the California Public Utilities Code.

Application No. **57135**
(Filed March 10, 1977;
~~amended August 9, 1977~~)

- Eldon M. Johnson, Attorney at Law, for Teresi Trucking, Inc., applicant.
- Daniel W. Baker, Attorney at Law, for Keep On Trucking Co., Inc.; Doudell Trucking Company, and Bill Rackley Trucking Incorporated, protestants.
- Charles D. Gilbert and H. W. Hughes, for California Trucking Association; James R. Foote, for Associated Independent Owner-Operators, Inc.; O. F. Marcantonio, for Guthmiller Trucking, Inc.; R. M. Zaller, for Continental Can Company, U.S.A.; Anthony J. Heywood, for West Transportation Inc.; and Daniel W. Baker, Attorney at Law, for Conti Trucking; interested parties.
- Everest A. Benton, for the Commission staff.

O P I N I O N

By its application, as amended, Teresi Trucking, Inc. requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of tin plate and related commodities between specified points within the State.

Public hearing was held before Administrative Law Judge Daly at San Francisco with the matter being submitted on November 30, 1977, upon the receipt of concurrent briefs, which were filed with the Commission on February 15, 1978.

The deviation requested is as follows: 02728 .02% rate

Commodities

Tin plate and terne plate, plain, chrome coated, lacquered, painted, lithographed, printed, embossed or perforated, with or without scrolled edges; tin mill black plate, plain, chrome coated, lacquered, painted, lithographed, printed, embossed or perforated, with or without scrolled edges; coils or in packages, on platforms or on skids.

Origins, Destinations, and Rates

- (a) Between on-rail points in the counties of Alameda, Contra Costa, Sacramento, San Francisco, San Joaquin, and Santa Clara, on the one hand, and on the other hand, on-rail points in Los Angeles, and Orange Counties and on-rail points in the cities of Cucamonga, Etiwanda, Fontana, Kaiser, and Mira Loma.

Rate: Sixty-nine cents (69¢) per one hundred (100) pounds, with a forty-eight thousand (48,000) pound minimum.

- (b) From on-rail points in the counties of Los Angeles and Orange, and from on-rail points in the cities of Cucamonga, Etiwanda, Fontana, and Kaiser, to on-rail points in the cities of Modesto and Riverbank.

Rate: Sixty-two cents (62¢) per one hundred (100) pounds, with a forty-eight thousand (48,000) pound minimum.

Conditions

- (a) Rates apply to single truckload shipments only;
- (b) Shipments are to be power-loaded by shipper and power-unloaded by consignee without assistance of carrier's employees;
- (c) Rates will apply only to shipments moving between points on-rail where under applicable rail rates--no switching charge would apply;
- (d) Rates will not apply for split pickup or split-delivery shipments;
- (e) Rates shall be point-to-point only, and shall not apply with intermediate application rules;
- (f) Rates shall not be used in making a combination rate to an off-rail origin or destination point; and
- (g) In all other respects, the provisions of Minimum Rate Tariff 2 shall apply.

Commission on February 12, 1978.

Provisions With Respect To
Owner-Operators And Subhaulers

In the event that carrier utilizes owner/operators and/or subhaulers to perform service under the deviation rates, a payment to such shall be not less than the following:

(a) For "steady" owner/operators providing their own power unit bearing carrier's distinctive colors, design, and decals--seventy percent (70%) of the revenue generated;

(b) For "steady" owner/operators providing their own power unit and trailing equipment bearing carrier's distinctive colors, design, and decals--seventy-eight percent (78%) of the revenue generated; and

(c) For "casual" subhaulers providing their own power unit and trailing equipment--seventy-five percent (75%) of the revenue generated.

Tin plate and the related commodities presently move at a rail rate of 72 cents per hundredweight based upon 120,000 pounds as a minimum. They must be master-billed and picked up within 24 hours.

Because such shipments must be handled in three truck movements the single component weight is approximately 40,000 pounds, which is 20 percent less than the capacity of applicant's vehicles. According to applicant this results in the under-utilization of equipment, which is wasteful and inefficient and can only be overcome by providing shippers with a monetary incentive to make better use of equipment capacity.

Although requested by the staff, applicant provided no cost studies for either its own operations or for that of its subhaulers. It is applicant's contention that such studies would be meaningless in this instance because the proposed deviation by providing the shippers an incentive to increase their loads would result in more revenue per load.

1/ By Decision No. 88415 dated January 24, 1978 in Application No. 57736 the Commission authorized a rail increase of 5 percent effective February 14, 1978. According to applicant's president, the requested deviation would increase along with the rail rates and if authorized would be raised from 69 cents and 62 cents, as set forth in Exhibit 1, to 73 cents and 65 cents per hundredweight.

In support of its contention, applicant introduced Exhibit 3, entitled Financial Figures Demonstrating Benefit of Higher Deviation Trip Revenue For Carriers and indicates the following:

Average 1976 Weight Per Load	44,302 lbs.
Per-Trip Revenue At Rail Rate Of 72c/cwt @ 120,000 Pounds	Per-Trip Revenue Under Proposed Deviation Rate of 69c/cwt @ 48,000 Pounds

30% Revenue Division (with respect to "steady" owner/operators providing power unit) $\$95.69$ (72c/cwt x 44,302 lbs x 30%) $\$99.36$ (69c/cwt x 48,000 lbs x 30%)

25% Revenue Division (with respect to "casual" subhaulers) $\$79.74$ (72c/cwt x 44,302 lbs x 25%) $\$82.80$ (69c/cwt x 48,000 lbs x 25%)

22% Revenue Division (with respect to "steady" owner/operators providing power unit and trailing equipment) $\$70.17$ (72c/cwt x 44,302 lbs x 22%) $\$72.86$ (69c/cwt x 48,000 lbs x 22%)

A comparison of total revenues without regard to subhaulers is as follows:

Per-trip revenue without deviation @ 72c/cwt	Per-trip revenue under proposed deviation @ 69c/cwt
$72c \times 44,302$ pounds = $\$308.96$	$69c \times 48,000$ pounds = $\$331.20$

Applicant's president, John Teresi, testified as follows:

Tin plate is a form of light gauge steel that is coated with tin and is used in the manufacture of cans; employs 34 full-time drivers who drive applicant's tractors and trailers; uses 23 drivers who operate their own tractors and haul applicant's trailers (they are paid 70 percent of the gross revenue); uses 21 owner-operators who operate their own tractors and trailers (they are paid 78 percent of the gross revenue); also uses casual subhaulers who have one-way movements of their own and are

looking for backhauls (they are paid 75 percent of the gross revenue); has two major shippers who represent 70 percent of applicant's total tin plate movement, i.e., U.S. Steel (Pittsburg) and Kaiser

Steel (Fontana); approximately 75 percent of applicant's total tin plate shipments are transported in coils as opposed to bundles; approximately 60 percent of the coils would range between 17,000 pounds and 21,000, however, applicant's customers buy tin plate ranging from 15,000 pounds to 25,000 pounds, usually two coils to a load; has always had a problem in operating equipment with full loads; the proposed rate is intended as an incentive to shippers to tender full truckload shipments; applicant's present equipment can presently handle from 48,000 pounds to 53,000 pounds, had an average load of 44,000 pounds in 1976; during the fuel crisis in 1973 everyone cooperated in building up loads in order to save fuel, but this has been discontinued; to meet the rail rate at the present time, a minimum of 120,000 pounds must be master-billed and loaded within 24 hours; if not picked up within the time prescribed a higher rate has to be applied, this results in unhappy customers; frequently receives three 40,000-pound loads; by reducing the rate from 72 cents to 69 cents and eliminating the 120,000-pound requirement it is expected that customers will offer full-truckload shipments thereby increasing the total revenue per shipment; the rail rate is designed for rail cars not trucks; the major problem today is the high cost of purchasing, maintaining, and operating equipment; better utilization of equipment would help to offset these increased costs; it costs no more to operate a truck with a 49,000-pound load than it does with a 39,000-pound load; does not know what it costs to operate a tractor and trailer one mile, nor does he know what the out-of-pocket costs are; the staff requested cost studies, including subhauler costs, but he decided not to provide them; has neither requested nor received any letters of support from shippers; applicant is not asking for a rate decrease so much as for an increase in revenue per load; applicant does not want the deviation if it will be required to pay its subhauler 100 percent of the revenue.

Applicant introduced the testimony of six shipper witnesses in support of the proposed deviation, which is summarized as follows:

James T. Weatherill

Owner of Weatherill Sales - Stockton; buys and sells tin plate that has been rejected by can companies; also bids on claims that are available from marine surveyors and railroads; the tin plate, which is purchased at Los Angeles, Fontana, Fremont, Sacramento, Hayward, and Pittsburg, is taken to a warehouse in Pittsburg and an attempt is made to upgrade it; other material is sold directly to two or three customers that can use a secondary product; his biggest problem on competitive bidding is on single lots of 40,000 to 50,000 pounds, because he works on the basis of \$10 a ton profit and the profit is lost because of the present single truckload rate; as a consequence he accumulates until he has 120,000 pounds and then master-bills; he sometimes has money tied up for two to three months before he can ship; if the proposed deviation were approved, he could ship as soon as he had accumulated 48,000 pounds instead of waiting to accumulate 120,000 pounds; has used applicant in the past; he supports the application.

Richard Leroy Grant

United Can Company - Hayward; warehouse control supervisor; company manufactures cans; 90 percent for Hunt-Wesson Foods Inc. and 10 percent for other customers; facilities in Hayward and Fullerton; ships approximately 150 truckloads of tin plate from Hayward to Fullerton during the canning season; ships in 120,000-pound lots; with the proposed deviation he could make substantial savings by shipping bundles of tin plate in 50,000-pound truckloads; could save about \$16 per truckload; at the present time has no problem in making up the 120,000-pound shipments; would give applicant most of the business, but would still use other carriers.

William H. Sterling

National Can Company - Burlingame; traffic manager; has plants in San Leandro, Sunnyvale, Fontana, Modesto, Sebastopol, and two in Los Angeles; ships tin plate between plants in the north and the south; during 1977 used applicant on 36 shipments totaling 1.6 million pounds; these shipments moved from steel suppliers to the southern plants; supports the deviation because by increasing the truckload shipments of bundle tin plate, he could reduce the number of trucks into the plant and thereby relieve

congestion; also uses S&H in Fontana and Keep-On-Trucking, but if the proposed deviation is granted would give more traffic to applicant; the rail rate on 40,000-pound and 80,000-pound shipments is substantially higher than the proposed 69 cents rate.

Ronald M. Zaller

Continental Can Company - San Mateo; manager of traffic and distribution; has plants in San Jose, Pittsburg, Sacramento, Los Angeles, Commerce, and Van Nuys; ships tin plate between plants; shipments originate at Kaiser Steel, Fontana, and U.S. Steel, Pittsburg; supports the application; would not have to accumulate 120,000 to 135,000 pounds of freight at one time; could accumulate 40,000 pounds in one day instead of waiting three days and having the carrier provide three units of equipment; the lower rate would be an advantage; presently uses S&H, Brothers, applicant, Guthmiller, and Blackburn; applicant gets about 20 percent of the traffic, but would probably get more if the deviation is approved.

Gordon Larsen

American Can Company - Daly City; field traffic representative; uses applicant on north and south shipments of tin plate; gives applicant practically all the business so, "the reduced rate would be very nice".

Michael David Cohen

Metal Purchasing Company of California - Oakland; president; processes secondary steel; used to manufacture cans, toys, and games; purchases tin plate from Kaiser Steel, Continental Can Company, and National Can Company; uses applicant; supports the proposed deviation; has many small customers in southern California; the 48,000-pound single truckload at the reduced rate would be a convenience and would permit his company to be more competitive in southern California.

Applicant called representatives of two of the protestants as adverse witnesses. Their testimony is summarized as follows:

Bill Rackley

Owner - Rackley Trucking; has operated as a subhauler for applicant; applicant has always treated him fairly; he also uses subhaulers and pays them 50 cents per hundredweight on shipments of tin plate

moving north and south; this is lower than applicant would pay on the proposed deviation; hauled 1,350,000 pounds of tin plate as a prime carrier north and south during 1976; average load was 43,000 to 44,000 pounds; could handle 48,000-pound shipments; it would have been an advantage to have 48,000-pound shipments; agrees in principle with the efforts of applicant.

Armand Kunde

Vice president - Doudell Trucking Co.; hauled 22,560,000 pounds of tin plate intrastate in 1976; does not agree in principle with the proposed deviation because it would give applicant an unfair advantage in soliciting business; the weight of coils cannot be controlled; pays subhaulers 50 cents per hundredweight on shipments of tin plate moving north and south; coils average between 17,000 and 19,000 pounds; lucky to get 38,000 or 39,000 pounds on a shipment of coils; to have a legal load, two coils are usually the most you can haul; on its application for a deviation on shipments of tin plate, Doudell presented a complete cost study including subhaulers' costs; the proposed minimum weight on their proposed deviation was 48,000 pounds and it was for shipments of tin plate in bundles.

Of the remaining protestants only Keep On Trucking Company introduced evidence in support of its protest. A summary follows:

Paul A. Bojanower

President - Keep On Trucking Company; maintains an office and terminal in Oakland; at one time spent several thousand dollars unsuccessfully in trying to achieve a capacity truckload of 48,000 or 50,000 pounds on coils of tin plate; his experience was the same as Mr. Kunde's; the loads continue to be in the area of 40,000 pounds maximum; this is primarily because the weight of the coils is controlled by the customer, who frequently has forklifts and sheet equipment that is geared to 20,000 pounds; during 1976 transported 40 million pounds of tin plate intrastate; if the deviation is granted to applicant, Keep On Trucking would lose one-third of the traffic that it presently hauls for National Can; views the application as a request for a hunting license; applicant would be able to offer a rate that no other carrier could offer; uses subhaulers for

approximately one half of the tin plate shipments; for steady subhaulers pays 85 percent of the gross revenue and for casual subhaulers pays 75 percent, which is the same as applicant proposes.

After consideration the Commission finds that:

1. Applicant proposes a deviation of the minimum rates on shipments of tin plate and related articles that would be three cents less than the alternate rail rate.
2. Applicant will receive higher revenues for the transportation, provided shippers can load single truckload movements to a minimum weight of 48,000 pounds.
3. The proposed rate would apply only to businesses located on rail.
4. Approximately 85 percent of applicant's total shipments of tin plate are transported for U.S. Steel, Kaiser Steel, and American Can Company. The major portion of applicant's tin plate shipments move from north to south.
5. Between 70 percent and 80 percent of applicant's tin plate shipments are transported in coils. Coils range between 15,000 pounds and 25,000 pounds in weight, but the average coil weighs between 17,000 and 19,000 pounds.
6. The 48,000-pound minimum on coil shipments could rarely be met.
7. The handling and transportation of tin plate shipments requires nothing of an unusual nature. Under the proposed deviation, all power loading and unloading would be performed by the consignor and consignee. Applicant or its subhauler would provide and operate flatbed equipment.
8. A substantial portion of applicant's transportation of tin plate is performed by subhaulers.

9. Although requested by the staff to provide cost studies of its own operations and those of its subhaulers, applicant chose not to do so.

The Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that Applications No. 57135 is hereby denied.

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.

Patent Behavioral
President
William S. Brown Jr.
Veron L. Sturgeon
Charles D. Howell
Clair T. DeWitt
Commissioners