

ORIGINAL

Decision No. 89343 SEP 6 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
TONY'S EXPRESS, INC., for authority)
to depart from the minimum rates,)
rules, and regulations of Minimum)
Rate Tariff No. 2, pursuant to the)
provisions of Section 3666 of the)
Public Utilities Code for transpor-)
tation for BRISTOL-MYERS COMPANY and)
its divisions and subsidiaries.)

Application No. 57853
(Filed February 7, 1978)

OPINION AND ORDER

Tony's Express, Inc. (Tony's Express), a radial highway common carrier and a highway contract carrier operating under permits issued in File No. T-82699, seeks authority to depart from the minimum rates, rules, and regulations of Minimum Rate Tariff 2 (MRT 2) for the transportation of over 1,000 different items that are shipped to the numerous metropolitan zones in the Los Angeles area by Bristol-Myers Company and its divisions and subsidiaries (Bristol-Myers). The deviation does not seek a reduction in revenues; it is simply to permit the adoption of shipping procedures that will enable both the shipper and the carrier to avoid costly and wasteful practices to which they are now subjected. These shipments will originate at 14731 East Industry Circle, La Mirada, for distribution to points in proposed zones thus avoiding an enormous amount of clerical work presently required to compile all the necessary paper work, breakout freight descriptions and weights for the master billing, determine the cumulative mileage, and audit the freight bills for transportation of over 1,000 items.

By letter of March 1, 1978 the California Trucking Association (CTA) expressed its interest in applicant's request for deviation and propounded the following questions with respect to applicant's proposal:

1. Will each component be considered as a separate shipment or will the consolidated pickup be considered as the shipment?
2. Will split deliveries be permitted; and if so, how will charges be assessed?

In response to CTA's letter applicant's attorney, by his letter of March 8, submitted the following two conditions to be added to any authority which may be granted applicant in this matter:

1. A shipment transported hereunder shall consist of a lot of freight tendered to the carrier by the shipper at the Bristol-Myers' distribution center at La Mirada at one time for delivery to one consignee at one place, on one bill of lading.
2. The provisions of Items 170-173 of MRT 2 (split deliveries) shall not apply to the shipments transported hereunder.

In justification for the authority sought, applicant alleges as follows:

Tony's Express has been serving Bristol-Myers and its division and subsidiaries in the Los Angeles and adjacent areas for many years. This service has been performed from a substantial distribution center at La Mirada, California, which is operated by Bristol-Myers for its divisions and wholly owned subsidiaries. From this center Bristol-Myers distributes merchandise throughout the western part of the United States.

Applicant is this shipper's prime or house carrier in the Los Angeles area. Its contract-type service has been developed and operated in a manner that achieves maximum coordination in meeting the shipper's needs and procedures at the distribution center and facilitates and expedites the handling, loading, and delivery of the

traffic. Of the 25 truck-loading doors at the distribution center, three are exclusively assigned to applicant for receiving and loading the shipments that are involved in this proceeding. Three other doors are assigned to Tony's Express to handle drayage and interline-type traffic not covered by this application. Tony's Express spots three 45-foot van-type trailers and stations a driver at the Bristol-Myers facility. The driver backs empty trailers up to the warehouse platform for loading, oversees and assists with the loading, and either pulls the trailers from the platform when they are completely loaded or arranges for another driver to pick up and take the loaded trailer to the applicant's terminal at Glendale. All shipments received from Bristol-Myers are fully palletized and are placed in applicant's trailers by the shipper's employees operating the shipper's electric pallet jacks. The loading of a 45-foot trailer takes about 45 minutes. Other than the driver stationed at the distribution center, no employee of Tony's Express is required to be stationed or to wait at the plant for a shipment to be loaded. When a trailer is loaded, a driver will pick up the unit with a tractor dispatched from the terminal and will drop an empty trailer at the Bristol-Myers facility to be loaded. Through this procedure, the units are expeditiously loaded and no driver time is lost waiting for trailers to be loaded. After the loaded trailers are transported to applicant's terminal at Glendale the palletized freight is unloaded with pallet jacks, taken into the terminal, and routed in delivery trucks which are dispatched to destinations. About 75 percent of all of Tony's Express' delivery trucks, when dispatched from the terminal, have Bristol-Myers' traffic included in their loads.

In 1976, the applicant transported 30,620,762 pounds of Bristol-Myers' traffic of the type that will be covered by this deviation. It also hauls drayage and interline freight for Bristol-Myers that is not involved herein.

For several years, applicant and Bristol-Myers have been studying possible innovations and changes which could improve and benefit the distribution procedures for shipments destined to points in the Los Angeles area. These studies centered on a particular massive and burdensome problem that involves both the carrier and the shipper. Because there is such a substantial volume of daily shipments destined to points in the Los Angeles Metropolitan Area, a large portion of these movements are master billed and distributed as split deliveries. Shipping in this manner, to take advantage of the lowest available freight charges, results in an enormous amount of clerical work that is required to compile all of the necessary documentation, the breakout of freight descriptions and weights for the master billing, determine the cumulative mileages, and audit freight bills for the transportation of the over 1,000 items that are shipped to the numerous metropolitan zones in the Los Angeles area. The onerous and substantial labor costs incurred by both the shipper and carrier impelled them to find an answer to this problem. Bristol-Myers proposed that a procedure be adopted that is similar to the distribution services that it utilizes in certain other parts of the United States. Under such procedure, an area is divided into several zones and rates are developed that are tailored to the operation and return fair profit to the carrier. One of the tariffs considered was that of J. F. Martin Cartage Co. of Hodgkins, Illinois, a motor carrier that provides a distribution service in the Chicago area. It was selected because Chicago and Los Angeles are similar metropolitan areas.

After the shipper and carrier agreed as to a preliminary format for a distribution plan, R. D. Davis Company, Traffic Consultants ("Davis"), was employed to make a thorough study of the problem and to propose a solution. In January of 1977, Davis made a study of the Bristol-Myers' traffic that was transported by the applicant in the Los Angeles Metropolitan Area during the calendar year of 1976. The result of this study revealed that the LTL

classification impact on the majority of the traffic would be within Class 60 to Class 65 ratings, with a Mean Class of 61.2

An analysis of the geographical range of the shipments indicated that virtually all were destined to places within the Los Angeles Basin Territory from the Bristol-Myers distribution center at La Mirada. For analytical purposes, Davis divided the area into eight zones: The seven metropolitan zone groups and a separate zone which embraced the points which were between the easternmost metropolitan zones, as described in Distance Table 8, and San Bernardino. The distribution was as follows:

| <u>Zone</u> | <u>Stops</u> | <u>Weight</u> | <u>Revenue</u> |
|-------------|--------------|---------------|----------------|
| MZG 203 | 113 | 226,080 | \$ 3,093 |
| MZG 219 | 43 | 196,442 | 1,958 |
| MZG 222 | 48 | 88,339 | 1,343 |
| MZG 226 | 79 | 69,605 | 1,505 |
| MZG 235 | 148 | 361,189 | 4,242 |
| MZG 246 | 41 | 28,345 | 793 |
| MZG 251 | 16 | 121,248 | 635 |
| Outzone | 65 | 72,013 | 1,436 |
| Totals | 553 | 1,163,261 | 15,005 |

After numerous evaluations, it was determined that a combination of three zones or groups that were geographically compatible should be adopted that would also conform to the format proposed by the shipper and carrier.

Based upon these preliminary studies and findings, a determination was made of a revenue or rate base for each of the three zones. The analysis and development of the revenue bases utilize standard ratemaking guidelines and revenues from transportation under minimum rates. But the paramount consideration in determining the charges was the protection or retention of the level of revenues. The revenues that would be received under the proposed deviation charges were required to be not lower than those that would be earned under the existing minimum rates. Using the selected

revenue rate bases, the involved freight bills were rerated, which resulted in the determination that almost identical total revenues will be earned under the proposed rates, compared to the revenues that were received under the Commission's minimum rates. The results of this comparative study showed the following:

| <u>Zone Number</u> | <u>Revenue As Rated</u> | <u>Revenue As Proposed</u> | <u>Relationship</u> |
|--------------------|-------------------------|----------------------------|---------------------|
| 1 | \$ 7,011.60 | \$ 7,029.88 | 100.37 |
| 2 | 6,556.64 | 6,569.49 | 100.2 |
| 3 | <u>1,436.83</u> | <u>1,511.19</u> | <u>105.2</u> |
| Totals | \$15,005.07 | \$15,110.56 | 100.77 |

Because of lapse of time between the initial study and the decision to proceed with the deviation, Davis was directed to make another current study to determine whether the minimum rates would be protected if the proposed deviation is granted. This study was made. It covered 510 shipments over a representative 8-day period averaging 2,621.5 pounds per shipment and weighing a total of 1,336,965 pounds. Under MRT 2 the total revenue for such transportation amounted to \$15,955.84. Each individual shipment was rerated under the charges that were used for the initial study, then the charges were increased by 13 percent to place them on parity with the adjustments in the minimum rates. The results of this rebilling were as follows:

| | |
|-----------------|------------------|
| Actual rates | \$15,955.84 |
| Deviation rates | <u>15,955.97</u> |
| Difference | + .13 |

Therefore, the revenues from the actual MRT 2 charges as compared to the proposed deviation rates set forth in the rate proposal are almost identical. A separate study was made by Tony's Express which confirmed this finding, although the revenues that would be realized from the proposed rates were slightly higher than found by the Davis study. But the findings of both indicate that, under the proposed rates, the revenues would be comparable to and slightly higher than the revenues that would be derived from transportation of the same shipments under the minimum rates.

A related study was made by Tony's Express of the comparative times for rating the 510 bills during the 8-day sample period under the present and proposed charges. It was determined that it required 18 hours to calculate the proper charges under MRT 2 and 6 hours under the proposed deviation. This innovation will permit the carrier to utilize a rate structure which is particularly designed for and related to transportation it performs and a method of assessing charges that are suited for and essential to the distribution practices of the shipper.

Applicant seeks an ex parte order to utilize the proposed procedure as early as possible. No protests have been received; CTA is apparently satisfied with the answer to its questions; and the staff recommends that this matter be granted ex parte subject to the following conditions:

Any renewal or extension of this authority will be subject to the production of a traffic flow study which will show that the revenue received under the deviation authority equals or exceeds the revenue which would accrue under the application of the minimum rates.

In the circumstances, the Commission finds that applicant's proposal is reasonable. A public hearing is not necessary. The Commission concludes 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. Tony's Express, 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 rates set forth therein.

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2. The authority granted herein shall expire one year after the effective date of this order unless sooner canceled, 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 6th day of SEPTEMBER, 1978.

I dissent.
William J. Furows Jr

Robert Bateman
President
~~William J. Furows Jr~~
Raymond L. J. Johnson
Richard W. Shalle

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A
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Carrier: Tony's Express, Inc.

Shipper: Bristol-Myers Company and its divisions and wholly owned subsidiaries, Bristol-Myers Laboratories, Bristol-Myers Products, Clairol, Inc., The Drackett Company, Mead Johnson and Company, and Westwood Pharmaceuticals, Inc.

Commodities: Merchandise of Bristol-Myers Company and its divisions and subsidiaries named above, which is distributed from the Bristol-Myers Company plant at 14731 East Industry Circle, La Mirada, California, to points in the zones described hereafter.

Rates: (Cents per 100 pounds)

| <u>Minimum Weight</u> | <u>Zone 1</u> | <u>Zone 2</u> | <u>Zone 3</u> |
|---------------------------|---------------|---------------|---------------|
| AQ | 436 | 447 | 452 |
| 1,000 | 205 | 233 | 236 |
| 2,000 | 151 | 183 | 186 |
| 5,000 | 121 | 164 | 166 |
| 10,000 | 94 | 111 | 113 |
| 20,000 | 68 | 75 | 81 |
| 30,000 | 50 | 60 | 68 |

APPENDIX A
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| <u>Zone 1</u> | <u>Zone 2</u> | <u>Zone 3</u> |
|---------------|---------------|-------------------------|
| MZ's | MZ's | Chino |
| 209 | 201 | Colton |
| 210 | 202 | Corona |
| 211 | 203 | Crestmore |
| 221 | 204 | Cucamonga |
| 222 | 205 | Fontana |
| 228 | 206 | Loma Linda |
| 229 | 207 | March AFB |
| 230 | 208 | Mira Loma AFS |
| 234 | 212 | Montclair |
| 235 | 213 | Norco |
| 236 | 214 | Norton AFB |
| 237 | 215 | Ontario |
| 238/239 | 216 | Pedley |
| 242 | 217 | Rialto |
| 243 | 218 | Riverside |
| 244 | 219 | San Bernardino |
| 245 | 220 | Upland |
| 246 | 223 | And the points included |
| 247 | 224 | in the area described |
| 248 | 225 | hereafter. |
| 249 | 226 | |
| 250 | 227 | |
| 251 | 231 | |
| 252 | 232 | |
| 253 | 233 | |
| 254 | 240 | |
| 255 | 241 | |
| 256 | | |
| 257 | | |
| 258 | | |
| 259 | | |
| 260 | | |
| 261 | | |
| 262 | | |

Zone Descriptions:

Zones 1 and 2 - MZ areas as described in pages 198 through 216 of Part 1 of Distance Table 8.

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Zone 3 - Beginning at the eastern boundary of MZ 211 along Interstate Highway 210 to State Highway 83 at Upland; northerly along State Highway 83 to State Highway 30; easterly along State Highway 30 to Interstate Highway 15; southerly along Interstate Highway 15 to Interstate Highway 91; southerly along Interstate Highway 91 to the eastern boundary of MZ 262; northerly along the eastern boundaries of MZ 262, 239, and 211 to point of beginning, and including March Air Force Base and Loma Linda.

Notes:

1. Shipments will be prepaid by Bristol-Myers Company and its divisions and wholly owned subsidiaries, Bristol Laboratories, Bristol-Myers Products, Clairol, Inc., The Drackett Company, Mead Johnson and Company, and Westwood Pharmaceuticals, Inc.
2. A shipment transported hereunder shall consist of a lot of freight tendered to the carrier by the shipper at the Bristol-Myers Company distribution center at La Mirada at one time for delivery to one consignee at one place on one bill of lading.
3. Rates named herein apply only when the carrier is tendered a minimum of 10,000 pounds during one calendar day.
4. Deodorants and disinfectants, NOI (NMFC 57100), toilet preparations, NOI (NMFC 59420), drugs, medicines (NMFC 58770), food, food prepared, NOI (NMFC 73200), and milk food (NMFC 74030) shall be released to a value not exceeding 50 cents per pound. (NMFC means National Motor Freight Classification.)
5. A minimum charge of \$11.30 will apply to all shipments.
6. Rates herein apply for service performed during regular working hours of 8:00 a.m. to 5:00 p.m., except Saturdays, Sundays, and the following holidays: New Year's Day, Washington's Birthday, Decoration (Memorial) Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. When such holidays fall on Sunday, the following Monday shall be considered a holiday. Except as otherwise provided, for services performed at the request of the shipper or consignee at other than those hours and on Saturdays, Sundays, or the holidays shown, an additional charge equal to the additional cost of overtime will be made.

(Continued)

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Notes: (Continued)

7. The provisions of Items 170 through 173 of Minimum Rate Tariff 2 (split deliveries) shall not apply to the shipments transported hereunder.
8. In all other respects, the rates, rules, and regulations of Minimum Rate Tariff 2 shall apply.