

Decision No. 89964 : FEB 14 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Eddie Phillips, DBA AABACUS INTRASTATE CARRIERS, a sole proprietorship, for an order authorizing departure from the rates, rules and regulations of Minimum Rate Tariff 4-B, pursuant to the provisions of Section 3666 of the Public Utilities Code for the transportation of household goods and items consistent with tariff requirements.

Application No. 57883
(Filed February 23, 1978;
amended April 6, 1978)

Eddie Phillips, for himself, applicant;
Charles D. Gilbert, for California Trucking
Association, and Thomas J. Hays, for
California Moving & Storage Association,
interested parties.
Donald J. Harvey, for the Commission staff.

O P I N I O N

By this application, as amended, applicant seeks authority pursuant to Section 5195 of the Public Utilities Code to assess rates less than the minimum rates in Minimum Rate Tariff 4-B (MRT 4-B).

Public hearing was held before Administrative Law Judge O'Leary at Salinas on October 24, 1978, at which time the matter was submitted.

Specifically, applicant requests that he be allowed to provide senior citizens a 15 percent discount from the rates set forth in Items 300, 320, 330, and 340 of MRT 4-B for transportation originating in Monterey County for senior citizens. Applicant defines a senior citizen as a person 60 years of age or over.

Applicant's estimated costs are set forth in Exhibit 2 attached to the application. The costs are based upon a hypothetical shipment weighing 6,500 pounds for a distance of 58 miles. The wages of the driver and helper, including fringe benefits, amount to \$4.50 per man. Cross-examination of applicant disclosed that his insurance cost totaled 15 cents per mile rather than 3.9 cents per mile. In allocating some costs such as highway use tax, maintenance costs, telephone, and utilities, applicant apportioned them into 8-hour increments based upon a 365-day year and 24 hours per day use factor. In actuality, the testimony of the applicant discloses that he would actually operate an average of 8 hours per day three or four days per week. As a result, many of applicant's costs are understated.

The application is supported by the Monterey County Senior Citizens Advisory Commission which support is set forth in a letter from said agency to applicant which is attached to the application.

California Trucking Association, California Moving & Storage Association, and the Commission staff request that the application should be denied.

Although applicant's proposal is admirable, we are not convinced from the evidence adduced that the operation would be compensatory to applicant and therefore cannot find that the proposal of applicant is reasonable. Furthermore, the service proposed to be provided to senior citizens has not been shown to involve any special transportation circumstances, other than labor costs substantially below those upon which the minimum rates are predicated. Although these unusually low wages reduce applicant's costs of operation below those upon which the minimum rates are based, this Commission has not previously granted deviations predicated solely upon wage costs below those employed in establishing minimum rates. This basic issue of whether carriers should be able to assess less than minimum rates to reflect lower than normal labor costs is currently under consideration in the broader context of Case No. 5436, OSH 244. Pending resolution of the issue upon the evidence introduced in that

broader context, we will adhere to prior Commission policy. The application should be denied.

Findings

1. Applicant's estimated costs are understated in some instances.
2. Applicant has not shown that service at the proposed rates would be compensatory.
3. The service proposed to be provided to senior citizens has not been shown to involve any special transportation circumstances other than labor costs substantially below those upon which Minimum Rate Tariff 4-B is based.
4. The Commission has not previously granted deviations predicated solely upon wage costs below those employed in establishing minimum rates.

The Commission concludes that the application should be denied without prejudice pending consideration of the labor cost issue in Case No. 5436, OSH 244.

ORDER

IT IS ORDERED that Application No. 57883 is denied.

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

Dated at San Francisco, California, this 14th day of FEBRUARY, 1979.

John E. Boyer
President
Richard L. Sturgeon

Blair T. DeLoach

Commissioners

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

