

Decision No. 90274 MAY 8 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of AMERICAN HOME DELIVERY, INC., )  
a California corporation, for an )  
Order Authorizing Applicant to )  
Deviate from the provisions of )  
MRT 15 in leasing of equipment )  
with driver, to AVON PRODUCTS, )  
INC., pursuant to Section 3666 )  
of the Public Utilities Code. )

Application No. 58246  
(Filed July 19, 1978;  
amended August 24, 1978,  
and February 15, 1979)

OPINION AND ORDER

By Decision No. 89678 dated November 28, 1978, American Home Delivery, Inc. (applicant) was granted authority to deviate from the unit of measurement provisions of Minimum Rate Tariff 15 (MRT 15). That deviation named specific subhaulers as being authorized to participate in the deviation. The deviation provides that Avon Products, Inc. (Avon) shall pay applicant a specified charge per stop in what is a multiple delivery operation from a single point of pickup. It also requires that the minimum charge per month must not be less than the vehicle unit charge specified in Item 200 of MRT 15.

Pursuant to Section 1708 of the Public Utilities Code, applicant now seeks, by its latest amendment, to modify Appendix A to Decision No. 89678. The modification would authorize applicant to add to the fleet of equipment used in performance of services subject to that appendix. The added fleet is required to meet the expanded needs for service of Avon on whose behalf the deviation was sought and the only shipper to whom the deviation applies. The added equipment would be provided by additional subhaulers working for applicant. Applicant maintains that the subhauler costs used to justify the present deviation are representative of the costs for any subhaulers applicant may use; therefore, additions to the subhaulers to meet the demands of Avon

should be permitted within the discretion of management. Applicant offers to submit revised subhauler costs for each annual renewal of the deviation based on subhaulers then currently employed.

We find that applicant's request is reasonable and should be granted.

It is noted that the present deviation is due to expire on or about November 28, 1979; that expiration date is not amended by this order.

By letter dated February 20, 1979, California Trucking Association (CTA) protested the granting of the application and requested a public hearing. CTA's request for denial is based on the fact that applicant did not provide cost data for each individual subhauler. We note, however, that CTA has not complied with Rule 42.2 of the Commission's Rules of Practice and Procedure, because the protest was not verified, did not contain a certificate of service, and did not specify the injury complained of or who would be injured if the application were granted. (See Decision No. 90041 dated February 27, 1979 in Application No. 58431.) As CTA should be familiar with Rule 42.2 and Decision No. 90041 and as it had sufficient time to file a valid protest within 20 days after February 15, 1979, the date of the filing of the last amendment to the application in this proceeding, we presume that CTA did not intend to file a valid protest.

#### Conclusions

1. A public hearing is not necessary.
2. The application, as amended, should be granted as set forth in the following order.
3. In accordance with Item 52, paragraph (g) of MRT 15, participating subhaulers should dedicate their equipment to the exclusive use of the shipper.

The effective date of this order should be the date hereof because there is an immediate need for the relief sought.

IT IS ORDERED that:

1. American Home Delivery, Inc. may use subhaulers other than those shown in Condition 2 of Appendix A to Decision No. 89678 at the rate per stop and minimum guarantee set forth in Condition 2 for the transportation authorized in that appendix.

2. Applications for renewal of the deviation authorized by Decision No. 89678 shall contain revenues and expenses for subhaulers then currently used by American Home Delivery, Inc. for the transportation involved.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 8<sup>th</sup> day of MAY, 1979.

James E. Bryson  
President  
Damon L. Stinson

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

Richard D. Gravelle  
Leonard W. [unclear]  
Commissioners