

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of A. M. DELIVERY, INC.,)
for authority to deviate from)
minimum rates pursuant to Section 3666)
of the California Public Utilities)
Code for the transportation of intra-)
venous solutions, hemodialysis)
solutions, distilled water and expend-)
able administration sets for McGAW)
LABORATORIES.)

Application No. 58431
(Filed October 23, 1978)

O P I N I O N

A. M. Delivery, Inc. (applicant) operates as a radial highway common carrier. It seeks authority to deviate from the minimum rates set forth in Minimum Rate Tariff 2 (MRT 2) for the transportation of intravenous solutions, hemodialysis solutions (other than intravenous), distilled water, and expendable administration sets (5 pounds per cubic foot or greater) for McGaw Laboratories (McGaw) from Irvine to McGaw at Santa Clara.

The applicable truckload minimum rates in MRT 2 are 140 cents per 100 pounds, minimum weight 40,000 pounds, or higher (plus applicable surcharges). Applicant proposes to apply a rate of 75 cents per 100 pounds subject to a minimum weight of 48,000 pounds. Each shipment will be tendered on one shipping document at one time, and the proposed rate will apply to single truckload shipments. Current San Francisco Bay Area surcharges will not apply. In all other respects the provisions of MRT 2 will apply in connection with the proposed rates.

As justification for the authority sought, applicant alleges the following: Applicant has served McGaw for three years. The traffic involved herein is desirable and profitable, and volume transportation allows efficient low-cost operation.

The pharmaceutical products are placed on pallets and transported in vans. McGaw loads and unloads the shipments with its forklift equipment. There is an anticipated volume of 4 to 5 truckloads per week, for a total estimated weekly volume of 200,000 pounds.

Exhibits attached to the application include a balance sheet as of March 31, 1978 and an income statement for the three-month period ended March 31, 1978, a profitability statement based on round-trip service between Irvine and Santa Clara, the direct costs per trip and overhead expenses, a revenue analysis of the round-trip service, and a letter of support from McGaw.

Applicant alleges that no other carrier is presently providing the specific service involved herein; applicant has provided exclusive services to McGaw as a house carrier, except for emergencies and equipment shortages. Applicant will not utilize subhaulers to provide transportation under the rate deviation.

Notice of the filing of the application appeared on the Commission's Daily Calendar and a copy of the application was served on the California Trucking Association (CTA). That association requested by letter that the Commission set the matter for public hearing because certain alleged deficiencies were noted in its letter. Additional data were furnished by applicant in response to CTA's letter. CTA in subsequent correspondence expressed the view that the additional data were incomplete.

On February 23, 1979, applicant filed a motion to strike the letters of CTA dated November 13, December 8, and December 19, 1978 requesting the matter be set for hearing on the basis that such letters were not in conformity with the Commission's procedural Rules 42.1 and 42.2 concerning protests

in rate deviation proceedings. Decision No. 90041 dated February 27, 1979 granted applicant's motion, and ordered that this matter be decided without a hearing.

The profit and loss statement attached as Appendix A to the application for the three-month period shows a net operating loss of \$2,593. The profitability analysis attached as Appendix B to the application shows that the proposed transportation would not be profitable without a backhaul that would produce revenues of at least \$300 per trip. The application does not disclose what backhauls, if any, applicant may have that would produce revenues of \$300 or more per trip. However, the additional information supplied by applicant in response to CTA's inquiries indicates that applicant had a net profit of \$43,653 for the first nine months of 1978. Further, the revised profitability analysis, direct costs per trip, overhead expense development, and revenue analysis (developed from applicant's supplemental data) indicate that operations under the proposed less than minimum rates will be profitable if current southbound traffic now enjoyed by applicant continues at its present volume. ✓

The application states that subhaulers will not be used. No costs of subhauler operations have been submitted. Therefore, if subhaulers are employed, they should be paid no less than the rates authorized herein without deduction for the use of applicant's trailer equipment.

Findings of Fact

1. Applicant operates as a profitable radial highway common carrier.
2. The applicant has southbound backhaul traffic which enables the assessment of the deviated rate by the applicant to result in a compensable operation.
3. A public hearing is not necessary.

Conclusion of Law

The Commission concludes that the application should be granted as set forth in the ensuring order and the effective date of this order should be the date hereof because there is an immediate need for this rate relief.

O R D E R

IT IS ORDERED that:

1. A.M. Delivery, 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.
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 this Commission.

The effective date of this order is the date hereof.

Dated OCT 10 1979, at San Francisco, California.

John E. Sarno
President

James L. Steyer

Arthur D. Koell


Lawrence J. Paul
Commissioners

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

APPENDIX A

A. M. Delivery Service, Inc. is authorized to transport the commodities specified herein for McGaw Laboratories from the facilities of McGaw Laboratories at Irvine to that company's facilities at Santa Clara at a rate of 75 cents per hundred pounds, minimum weight 48,000 pounds per shipment, subject to the following conditions:

Conditions

1. The commodities are:
Solutions, intravenous (NMFC Item 59380-4)
Solutions, hemodialysis, other than intravenous (NMFC Item 59370)
Distilled water (NMFC Item 59380-1)
Sets, expendable administration,
5 pounds per cubic foot or
greater (NMFC Item 108150-2
and NMFC Item 59380-4)
 2. Rates apply to single truckload shipments subject to a minimum weight of 48,000 pounds, transported on one unit of equipment.
 3. Each shipment shall be tendered on one shipping document at one time.
 4. All surcharges set forth in Minimum Rate Tariff 2 applicable at time of shipment shall apply, except San Francisco Bay Area surcharges.
 5. In the event subhaulers are engaged under the rate deviation authorized herein, subhaulers shall be paid no less than the rates authorized herein without deduction for the use of applicant's trailer equipment.
 6. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.
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(END OF APPENDIX A)