

ORIGINAL

Decision No. 91445 MAR 18 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation for the purposes of considering and determining minimum rates for transportation of any and all commodities statewide including, but not limited to, those rates which are provided in Minimum Rate Tariff 2 and the revisions or reissues thereof.

} Case No. 5432
} OSH No. 1022
} (Filed May 2, 1978)
} and
} Case No. 5432
} Petition For Modification
} No. 1051
} (Filed August 29, 1979)

Eldon M. Johnson, Attorney at Law, for Guthmiller Trucking, Inc., petitioner in Petition No. 1051; and Clifford J. Van Duker, for Poly-Vue Plastics Corporation, petitioner in Petition for Modification of Decision No. 90441 in OSH No. 1022.
William H. Sterling, for National Can Corporation; R. M. Zaller, for Continental Can Co.-U.S.A.; William D. Mayer, for Del Monte Corporation; and William R. Haerle, Attorney at Law, J. D. Anderson and H. W. Hughes, for California Trucking Association; interested parties.
John Lemke, Russell D. Corning, and Thomas Fann, for the Commission staff.

O P I N I O N

Decision No. 90441 dated June 19, 1979, in Case No. 5432 (OSH 1022) established revised commodity rates in Minimum Rate Tariff 2 (MRT 2) on packaging containers including plastic bottles. That decision found that the rate levels adopted therein had the support of the majority of shippers and carriers involved in the transportation of shipping containers; that the movement of shipping containers is a specialized form of transportation in

which a limited number of carriers are engaged; and that the adopted rate levels give adequate consideration to the requirements of shippers and to the ratemaking considerations set forth in Section 3662 of the Public Utilities Code, including costs of service.

On July 13, 1979, Poly-Vue Plastics Corporation (Poly-Vue) petitioned for reconsideration or amendment of Decision No. 90441, alleging that no specific rate consideration was given in that decision to movements of plastic containers from Poly-Vue's plant at Petaluma to destinations in the Metropolitan Los Angeles Area. The pleading requested that a specific commodity rate be established in MRT 2 on the same level as the commodity rate applicable between the Metropolitan San Francisco Bay Area and the Metropolitan Los Angeles Area.

On August 29, 1979, Guthmiller Trucking, Inc. (Guthmiller), a highway carrier transporting plastic bottles for Poly-Vue, filed Petition No. 1051. In that petition, Guthmiller seeks the establishment of a rate of \$450 per load for the transportation of packaging containers between Petaluma and points in the Metropolitan Los Angeles Area.

The following table sets forth a comparison of the rate sought in Petition No. 1051 with other point-to-point commodity rates on packaging containers established in Decision No. 90441 (supra):

TABLE 1

Comparison of Rates Set Forth in MRT 2
With Rate Proposed in Petition No. 1051

<u>Between Points. In Metropolitan Los Angeles Area and:</u>	<u>Rates in Dollars Per Load</u>
Metropolitan San Francisco Bay Area (MRT 2)	390
Eastern Contra Costa County and Solano County (MRT 2)	400
Sacramento and North Sacramento (MRT 2)	410
Rocklin (Sunset Whitney Ranch)	440
Petaluma (Proposed in Petition No. 1051)	450

Public hearing in the consolidated proceeding was held before Administrative Law Judge Mallory in San Francisco on November 1 and 9, 1979, and the matters were submitted. Evidence in support of the establishment of a commodity rate on plastic containers was presented on behalf of Poly-Vue, Guthmiller, and California Trucking Association (CTA). Evidence also was presented on behalf of National Can Corporation and Continental Can Co.-U.S.A. The Commission staff did not oppose the relief sought in Petition No. 1051.

The principal parties to the proceeding are in agreement that a commodity rate should be established so that Poly-Vue can compete with other manufacturers of the plastic bottles in the principal California market area for that commodity, which is the Metropolitan Los Angeles Area. The only issue remaining to be decided is the level of the commodity rate to be established.

Exhibit 1 in Petition No. 1051 is a listing of loads of plastic containers shipped by Poly-Vue from Petaluma to points in

the Metropolitan Los Angeles Area. Exhibit 3 compares the total charges on Poly-Vue's traffic described in Exhibit 1 with the charges that are applicable on shipments from Sunset Whitney Ranch and from Richmond. That exhibit shows that Poly-Vue's total charges are in excess of the total charges for shipments from Sunset Whitney Ranch and from Richmond.

Exhibit 4, presented on behalf of CTA, develops the estimated cost of performing service between Petaluma and Metropolitan Los Angeles Area points. It also compares the revenues per constructive mile generated under the existing commodity rates (Table 1) with proposed rates of \$450 and \$460 per load. It is CTA's contention that both on a cost basis and on a revenue-per-mile basis the proposed rate of \$450 per load is noncompensatory and that a rate of \$460 per load would be compensatory.

The data set forth in Exhibit 4 shows a total estimated per trip cost of \$427.43 at a cost/rate relationship of 100 (no provision for profit) and a cost of \$462.56 at a cost/rate relationship of 93 (seven percent provision for profit). The proposed rate of \$450 produces a cost/rate relationship of 95 (five percent provision for profit) when compared with cost data in Exhibit 4.

The revenue range in cents per mile for the present and proposed commodity rates is set forth below:

TABLE 2

Comparison of Revenue Range For Existing Commodity Rates In MRT 2 With Proposed Rates

<u>Between Metropolitan Los Angeles Area or Metropolitan San Francisco Bay Area and:</u>	<u>Revenue Range In Cents Per Mile</u>
Rocklin (Sunset Whitney Ranch)	98.21 - 109.73
Mira Loma	98.65 - 108.64
Alta Loma	99.55 - 109.73
Petaluma (Proposed \$450 rate)	96.36 - 107.14
Petaluma (Proposed \$460 rate)	98.50 - 109.52

It is CTA's contention and that of shippers of packaging containers from competing points that the existing rates established by Decision No. 90441 were designed to produce a cost/rate relationship of approximately 93 and that the establishment of a commodity rate from a new shipping point that produces a less favorable cost/rate relationship would competitively disadvantage shippers at other points.

Guthmiller's witness testified that it is the primary carrier for Poly-Vue from Petaluma to Metropolitan Los Angeles Area destinations and that Guthmiller believes that it could transport Poly-Vue's traffic between said points at a profit at the \$450 rate.

Poly-Vue's president testified that a rate of not in excess of \$450 per load is necessary if Poly-Vue is to effectively compete in the Metropolitan Los Angeles market area. The witness

stated that Poly-Vue would seriously consider moving its manufacturing location if it cannot compete effectively in that market area. Witnesses for the Petaluma Chamber of Commerce and the City of Petaluma testified that there are few industrial jobs in the Petaluma area, that Poly-Vue is one of the larger employers in Petaluma, and that the loss of the jobs provided by Poly-Vue would be detrimental to the local economy.

Discussion

The evidence presented herein indicates that Poly-Vue, if represented in the discussions that preceded the industry rate proposal adopted in Decision No. 90441, would have been accorded special rate treatment in that proposal. All principal parties to the proceeding are in accord that a commodity rate should be established on packaging containers from Petaluma to the Metropolitan Los Angeles Area. The only remaining issue is the specific level of the rate to be established.

The record indicates that a rate no higher than \$450 per load is necessary if Poly-Vue is to compete effectively with manufacturers and shippers located closer to the Metropolitan Los Angeles Area markets. The principal carrier that now performs the transportation of plastic bottles for Poly-Vue has indicated that a rate of \$450 is compensatory.

All of the minimum rates established in Decision No. 90441 did not produce a cost/rate relationship of 93 as alleged by CTA and competing shippers; rather, the rate structure as a whole established in that decision was designed to produce that cost/rate relationship.

A per-load charge of \$450 from Petaluma to the Metropolitan Los Angeles Area exceeds the estimated costs of providing that transportation service and makes a substantial contribution to profit, as represented by an estimated cost/rate relationship of 95. In the circumstances, a minimum rate as proposed in Petition No. 1051 is compensatory, will not cast a burden on other traffic, and will not create a competitive disadvantage to competing shippers of the same commodity.

Findings of Fact

1. Decision No. 90441 (supra) established revised commodity rates for the transportation of packaging containers including plastic bottles.
2. The rate levels adopted in Decision No. 90441 were those proposed by a shipper representative and were generally concurred in by both carriers and shippers.
3. Poly-Vue and its predecessor corporation did not participate in the proceeding leading to Decision No. 90441.
4. Specific point-to-point commodity rates were established in Decision No. 90441 from shipping points that are located nearby but outside Metropolitan San Francisco Area to destination points in Metropolitan Los Angeles Area, and from shipping points located nearby but beyond Metropolitan Los Angeles Area to points in Metropolitan San Francisco Area.
5. No specific point-to-point commodity rate was established in Decision No. 90441 from Poly-Vue's plant in Petaluma to points in Metropolitan Los Angeles Area.

6. The Los Angeles area is the principal market within California for plastic packaging containers.

7. Poly-Vue and Guthmiller propose that a point-to-point charge of \$450 per load (plus applicable surcharges) be established for movement of packaging containers between Petaluma and Metropolitan Los Angeles Area.

8. A minimum charge of \$450 per load (plus applicable surcharges) will exceed the estimated cost of providing the transportation service, and will produce an estimated cost/rate relationship of 95. Such minimum rate will be compensatory.

9. Competing shippers of plastic bottles are located closer to the Metropolitan Los Angeles Area than Poly-Vue, and the minimum rates from competing shipping points are below the commodity rate proposed by Poly-Vue and Guthmiller.

10. Establishment of a specific point-to-point commodity rate on packaging containers of \$450 per load (plus applicable surcharges) between Petaluma and Metropolitan Los Angeles Area will not create a competitive disadvantage for competing shippers.

11. A minimum charge of \$450 per load (plus applicable surcharges) between Petaluma and Metropolitan Los Angeles Area in Item 640 of MRT 2 will result in a just, reasonable, and non-discriminatory minimum rate for the transportation of packaging containers between such points and should be established in the ensuing order.

Conclusions of Law

1. MRT 2 should be amended as provided in the order which follows.
2. To the extent not granted herein, the petition filed on July 13, 1979, by Poly-Vue should be denied.
3. The effective date of this order should be shortened in order for the rate to go into effect as soon as possible.

O R D E R

IT IS ORDERED that:

1. Minimum Rate Tariff 2 (Appendix D to Decision No. 31606, as amended) is further amended by incorporating therein, to become effective, twenty-five days after the date hereof, First Revised Page 48-BB, attached hereto and made a part hereof.

2. Tariff publications authorized to be made, by common carriers as a result of this order shall be filed not earlier than the effective date of this order and may be made effective not earlier than the tenth day after the effective date of this order, and may be made effective on not less than ten days' notice to the Commission and to the public if filed not later than sixty days after the effective date of the minimum rate tariff pages incorporated in this order.

3. Common carriers, in establishing and maintaining the rates authorized by this order, are authorized to depart from the provisions of Section 460 of the Public Utilities Code to the extent necessary to adjust long- and short-haul departures now maintained under outstanding authorizations; such outstanding authorizations are hereby modified only to the extent necessary to comply with this order; and schedules containing the rates published under this

C.5432, OSH 1022 et al. ec

authority shall make reference to the prior orders authorizing long- and short-haul departures and to this order.

4. In all other respects Decision No. 31606, as amended herein, shall remain in full force and effect.

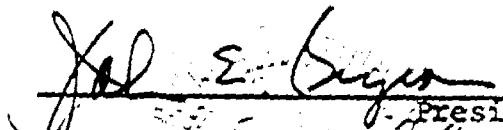
5. The Executive Director shall serve a copy of this decision on every common carrier, or such carrier's authorized tariff publishing agent, performing service under Minimum Rate Tariff 2.

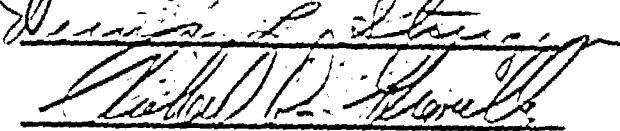
6. The Executive Director shall serve a copy of the tariff amendment on each subscriber to Minimum Rate Tariff 2.


7. To the extent not granted herein, the petition of Poly-Vue Plastics Corporation filed July 13, 1979 in Case No. 5432 (OSH 1022) is denied.

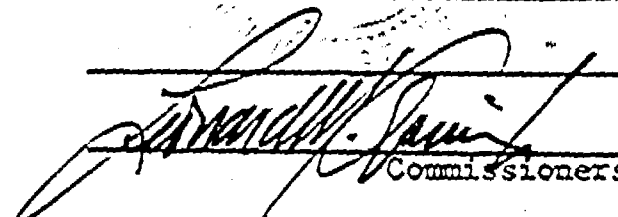
The effective date of this order shall be ten days after the date hereof.

Dated MAR 18 1980, at San Francisco, California.



President






Commissioners

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

SECTION 3--COMMODITY RATES (Continued)		ITEM
(Numbers within parentheses immediately following commodities shown below refer to such commodities as they are described in the corresponding item numbers of the Governing Classification.)		
CONTAINERS, PACKAGING (Subject to Notes 1 through 13), viz.:		
Bottles, Plastic, NOI (156600), five gallons or less in capacity. Cans, Aluminum, NOI (13120), five gallons or less in capacity. Cans, Composite, Fibreboard, Paper or Paperboard (29030), five gallons or less in capacity. Cans, Sheet Steel, NOI (52755-52780), five gallons or less in capacity. Can Ends, Aluminum, Steel or Tin (40245, 40250).		
BETWEEN	AND	Rates In Dollars per Load
Points in Metropolitan Los Angeles Area as described in Item 270.3	Points in Metropolitan San Francisco Bay Area as described in Item 270.3	(1)390.00
	Points in Contra Costa County not included in Metropolitan Zones 108 and 109. Points in Solano County.	(1)400.00
	Sacramento and North Sacramento Extended Areas as described in Distance Table.	(2)410.00
	Rocklin (Sunset Whitney Ranch)	440.00
	*6Petaluma	(2)450.00
Points in Metropolitan San Francisco Bay Area as described in Item 270.3	Mira Loma Air Force Station Alta Loma	(2)440.00
(1) Subject to the provisions of Items 900 and 900.1 (Routing). (2) Rate not subject to the provisions of Note 3.		
(Continued on following page)		
* Change) * Addition) o Reduction)	Decision No.	91445
EFFECTIVE <u>4-12-80</u>		
ISSUED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, SAN FRANCISCO, CALIFORNIA.		
Correction		

§ 640
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