

Decision No. 91533 APR 2 1980**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lucky Fruit & Produce Co., Inc.,)
 dba Lucky Produce Transport,)
 deviation from MRT 2 re transpor-) Application No. 59345
 tation for American Home Foods,) (Filed December 19, 1979)
 between Vaca Valley and Los)
 Angeles Basin Territory.)

OPINION AND ORDER

By this application, Lucky Fruit & Produce Co., Inc., a corporation, doing business as Lucky Produce Transport (Lucky Produce), requests authority to deviate from the provisions of Minimum Rate Tariff 2 (MRT 2) in connection with the transportation of canned goods, between Vaca Valley and points in the Los Angeles Basin Territory for American Home Foods.^{1/}

Lucky Produce seeks to apply the point-to-point canned goods rates named in Item 631 of MRT 2 for the aforesaid transportation.^{2/} Although Vaca Valley is not listed as a rate point in Item 631, the carrier contends that the circumstances surrounding the application of the specific item on canned goods to this transportation are similar.^{3/} American Home Foods presently tenders the applicant numerous truckload shipments of canned goods. The shipments are generally loaded by mechanical means at no expense

1/ The Commission staff's analysis of the applicant's operating permits discloses that its Radial Highway Common Carrier, Highway Contract Carrier and Agricultural Carrier permits were issued as: Lucky Fruit & Produce Co., Inc., doing business as Lucky Fruit & Produce Co. and Lucky Produce Transport.

2/ Item 631 of MRT 2 specifically sets forth commodity rates for canned goods, shipments weighing a minimum of 48,000 pounds, between specific points, e.g. San Francisco, Stockton and Sacramento and the Los Angeles Basin Territory.

3/ Although the rates named in Item 631 are applicable to the routings listed in Item 900, Vaca Valley is not located on one of the designated routes. The community of Vaca Valley is located two constructive miles north of Interstate Highway 80, and two constructive miles east of the City of Vacaville in Solano County.

to the carrier. The shipper intends to tender to the applicant 10 to 12 shipments of canned goods weekly. Lucky Produce states that by applying the commodity rates in Item 631 of MRT 2 between the aforementioned points, the total charges for two units of motor carrier equipment (48,000 pound minimum per unit of equipment) will exceed the total charges assessed by it when the railroad alternative common carrier rates are applied (based upon a 80,000 pound minimum shipment) between the same points by \$100 or more per shipment.^{4/}

Revenue and expense data submitted by applicant indicate that the transportation involved may reasonably be expected to be profitable under the proposed rates.

The application was listed on the Commission's Daily Calendar of December 21, 1979. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that applicant's proposal is reasonable. A public hearing is not necessary. The Commission concludes that the application should be granted to the extent 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. Lucky Fruit & Produce Co., Inc., a corporation, doing business as Lucky Fruit & Produce Co. and Lucky Produce Transport, 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.

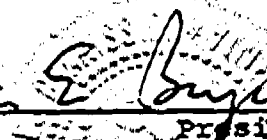
^{4/} Applicant seeks to assess the commodity rates published in Item 631 of MRT 2 that are applicable between, e.g. the San Francisco Territory and Sacramento and the Los Angeles Basin Territory. Presently, the rate for this transportation is 101 cents per hundred pounds (effective May 5, 1979) 48,000 pound minimum weight, plus the current surcharge of 11½ cents per hundred pounds (effective February 2, 1980).

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2. The authority granted herein shall expire one year after the effective date of this order unless sooner cancelled, modified or extended by further order of the Commission.

The effective date of this order is the date hereof.

Dated APR 2 1980, at San Francisco, California.


John E. Baylon
President

Vernon L. Sturgeon

Robert D. Wood

Samuel J. Davis
Commissioners

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

APPENDIX A

Carrier: Lucky Fruit & Produce Co., Inc., a corporation, doing business as Lucky Fruit & Produce Co. and Lucky Produce Transport

Shipper: American Home Foods

Origin: Vaca Valley, Solano County

Destination: Los Angeles Basin Territory, as described in Item 270 of Minimum Rate Tariff 2

Commodity: Canned Goods, as set forth in Items 320 and 320-1 of Minimum Rate Tariff 2

Rate: 101 cents per hundred pounds, minimum weight 48,000 pounds, subject to the notes of Item 631 of Minimum Rate Tariff 2 (except routing) and all applicable surcharge provisions of the tariff. Also subject to the following conditions:

Conditions:

1. Applicant has not indicated that subhaulers will be engaged nor have any costs of subhaulers been submitted. Therefore, if subhaulers are employed, they shall be paid not less than the rate authorized herein without any deduction for use of applicant's trailing equipment.
2. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)