

Decision No. 29172**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Establishment of Minimum Rates, Rules and Regulations of all Radial Highway Common Carriers, Highway Contract Carriers and/or City Carriers operating dump trucks over the public highways of the State of California, pursuant to Chapters 223 and 312, Statutes 1935, for the transportation, for compensation or hire, of sand, rock, gravel, excavated material and building material.

Case No. 4087.

APPEARANCES AT REOPENED HEARINGS AT LOS ANGELES  
AUGUST 11th and 26th, 1936.

William Guthrie, Attorney for Oro Grande Lime & Stone Co.  
T. C. Rogers, for Pacific Rock & Gravel Company.  
Frank L. Moore, for Harrison Nichols, independent truckers.  
Wm. E. Swain, Jr., for Automotive Council of Orange County.  
J. C. Bowden, for Dump Truck Association of Southern Calif.  
Harold W. Dill, for Truck & Warehouse Association of  
San Diego County.  
A. H. Miller, for Azusa Rock & Sand Company.  
A. E. Rogers, for certain truck operators and producers  
of rock.  
C. W. Cornell and W. C. Knoche, for Pacific Electric  
Railway Company.

BY THE COMMISSION:

SECOND SUPPLEMENTAL OPINION

The Commission, by its Order of July 22, 1936, reopened the above entitled proceeding in so far as it deals with the fixation of minimum rates, rules and regulations applicable to all Radial Highway Common Carriers, Highway Contract Carriers and/or City Carriers operating dump trucks over the public highways of the State of California, pursuant to Chapters 223 and 312, Statutes of 1935, for the transportation, for compensation or hire, of sand,

rock, gravel, excavated material, and building material in Los Angeles County. Further hearings were held at Los Angeles August 11th and 26th, 1936, by Examiner Hunter. At the hearing on August 26th the matter was taken under submission, subject to the filing of briefs within twenty-two days thereafter. Briefs have been received and the matter is now ready for decision.

Considerable testimony was introduced by "for hire" dump truck operators and producers of sand, rock, and gravel, contending for lower rates, particularly in cases where the producer offers the trucker a substantial volume of business which would permit of more or less continuous operation. A number of producers testified that in cases where trucks can be continuously operated for a substantial portion of the day over long periods of time, it was less costly to them to deliver their products in their own trucks than it was to pay the minimum rates prescribed by the Commission in its Decision No. 28936, dated May 25, 1936. The record shows that some of the producers have recently increased their fleet or made an initial purchase of dump trucks. The producer operating his own trucks has some advantage in the present keen, competitive bidding in the Los Angeles area over other producers who depend entirely upon "for hire" dump trucks. It was shown that not less than 50 per cent of the total cost of the delivered product is represented by the transportation charge. It also appears that in the Los Angeles district there are a number of cases where producers of rock products and owners of dump trucks have recently entered into an agreement whereby the producer leases the trucks and operates them as proprietary equipment.

On the other hand, the record shows that many of the "for hire" dump truck operators in the Los Angeles district are

opposed to any decrease in the existing rate structure, taking the position that lesser rates would not yield a sufficient revenue to pay the full cost of providing the service, particularly in cases where the "for hire" trucker was not offered a sufficient volume of business to permit of a reasonably continuous operation.

Proposals were made for rate reductions, both through the introduction of a reduced ton-mile basis and by flat percentage reductions, these to be applicable particularly where the operations were the most favorable and permitted the continuous use of the truck. Examples of such proposals follow:

(1) Exhibit No. 48 proposes the following minimum rate plan for the transportation of rock, sand, and gravel in the Los Angeles district:

(a) Deliveries to "Special Jobs."

A rate of 2-1/2 cents per ton-mile for the first 15 miles and 2 cents per ton-mile thereafter, with no loading and unloading charge.

"Special Jobs" are defined as deliveries to Asphalt plants, Stock piles, and any job of over 500 tons on which there are no unfavorable delivery conditions.

Mileage to be the actual length of haul.

(b) Deliveries to "General Business."

The rate to be 20 per cent greater than the rate for "Special Jobs."

"General Business" to include all deliveries not classed as "Special Jobs."

(2) Another proposal consisted of a plan to reduce the rates prescribed in the Commission's Order of Decision No. 28836, the amount of the reduction to vary with the earnings per truck during a given period of time, thus providing a lesser rate for the more or less continuous and favorable operation, but at the same time

employing the rates prescribed by the Commission for intermittent and more costly operations.

It is evident that in the Los Angeles district the transportation cost for the delivery of rock products is a vital element in the keen competitive bidding for contracts, in fact it represents, as above stated, over 50 per cent of the total cost of the delivered product, and in the struggle for business, as has been pointed out, many of the producers have taken steps to control the transportation expense by either purchasing their own equipment or renting dump trucks to be operated as proprietary equipment. While the record does not indicate the present minimum rates established by the Commission are improper for the general cross-section of the industry, there now appears to be a justification, at least upon a temporary basis, for a reduction in these minimum rates to apply only to the more favorable operations.

Of the two proposed rate plans referred to above, the one providing for a direct reduction appears to be the more practical and desirable in that it provides a fair earning to the operator who enjoys only a small amount of business during a given period of time, and at the same time affords the producer an opportunity to secure transportation services at a reduced rate if he can offer the trucker a substantial volume of business. To meet this situation a plan has been worked out, designated as Rule 5, to be added to Exhibit "C-1" of Decision No. 28836. This rule is outlined in the following Order and provides for reduced minimum rates to apply to "for hire" dump truck operators when the gross earnings for one shipper or consignee equal or exceed \$150 per truck for any consecutive 30-day period. These rates will remain in effect until

further order of the Commission. If it appears desirable, after the new plan has been given a fair trial, that changes should be made, this will be accomplished by a further supplemental order in this proceeding.

### O R D E R

Further hearings having been held in the above entitled proceeding and the matter being now ready for decision,

IT IS HEREBY ORDERED that Decision No. 28625, as amended by Decision No. 28836, be modified so as to provide for an additional rule to be incorporated in Exhibit "C-1" of Decision No. 28836, and to be designated as Rule No. 5, reading as follows:

Rule 5.

- (a) Whenever any "for hire" dump truck operator (hereinafter referred to as the operator) shall have been employed by a single shipper or consignee during or within a period of thirty (30) consecutive days in the transportation of property for which rates have been prescribed by this decision or other decisions in this proceeding, he shall in the first instance charge and assess for such service not less than the full minimum transportation rates prescribed hereinabove in this exhibit ("C-1"), until there shall have accrued thereunder the average sum of \$150 per truck employed in performing such transportation service during or within said period of thirty (30) consecutive days. The said average sum of \$150 per truck shall be computed by dividing the gross revenue so earned by the maximum number of trucks in use for any single shipper or consignee at any one time during said period.

Thereupon, for any further service so performed for such shipper or consignee during and within such initial period of thirty (30) consecutive days and for each and every succeeding period of thirty (30) consecutive days during which he shall have been so employed in such transportation service by such shipper or consignee, he shall charge and assess such shipper or consignee for such service, rates which shall not be less than those provided by paragraphs (b) and (c) of this rule, provided that the transportation service so performed by the operator for such shipper or consignee shall be of sufficient volume to yield the operator gross earnings, computed according to the rates hereinabove prescribed in this exhibit ("C-1") of not less than an average of \$150 per truck so employed during each and every consecutive 30-day period for which the operator

may be so engaged. The said average sum of \$150 per truck shall likewise be computed by dividing the gross revenue so earned by the maximum number of trucks in use at any one time during each of said periods.

Should the volume of transportation service performed by the operator for such shipper or consignee be insufficient to permit the operator to earn such average minimum revenue per truck, based upon the rates hereinabove prescribed in this exhibit ("C-1") during any such consecutive 30-day period, then the said minimum rates hereinabove prescribed in this exhibit ("C-1") shall apply to, and shall be charged, assessed and collected by the operator, from such shipper or consignee for all such transportation service performed during such period.

- (b) 20 per cent reduction in the case of deliveries from any plant in the producing areas located to the north and west, consisting of Producing Areas A, B, C, D, and E, described in this exhibit ("C-1").
- (c) 25 per cent reduction from any plant in the producing areas located to the east and south, consisting of Producing Areas F, G, H, I, J, K, L, and M, described in this exhibit ("C-1").

IT IS HEREBY FURTHER ORDERED that each and every carrier subject to this Order shall maintain a record for each shipper or consignee for whom transportation service has been provided at the reduced rates set forth in paragraphs (b) and (c) hereinabove. Such records shall clearly set forth the following daily information as to each truck operating under the reduced rates prescribed in paragraphs (b) and (c) above:

- (1) Name of shipper or consignee; (2) Date; (3) Points between which service was provided and tons of each commodity transported between such points; (4) An identification of each truck by either the State or the California Railroad Commission License Number.

The above information is to be retained and preserved, subject to the inspection of the Commission or its employees, for a period of not less than one (1) year from the date the transportation service was performed.

In all other respects said Decisions Nos. 28625 and 28836

shall remain in full force and effect.

The effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of October, 1936.

M. B. Lavin  
Leon O. White  
W. J. Linn  
W. H. ...  
Frank ...

Commissioners.