

ORIGINAL

Decision No. 23993

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of F. M. FORD for Authority to Charge Less than Minimum Rates.	}	Application No. 21319
In the Matter of the Application of W. H. DUFF for Authority to Charge Less than Minimum Rates.	}	Application No. 21320
In the Matter of the Application of NORMAN MacINNIS for Authority to Charge Less than Minimum Rates.	}	Application No. 21321
In the Matter of the Application of MAMIE L. CLAIRETTE for Authority to Charge Less than Minimum Rates.	}	Application No. 21322
In the Matter of the Application of D. BRUNSON for Authority to Charge Less than Minimum Rates.	}	Application No. 21323
In the Matter of the Application of F. A. TEMPLETON for Authority to Charge Less than Minimum Rates.	}	Application No. 21324
In the Matter of the Application of ROBERT S. BONTA for Authority to Charge Less than Minimum Rates.	}	Application No. 21327
In the Matter of the Application of E. F. BRODERICK for Authority to Charge Less than Minimum Rates.	}	Application No. 21328
In the Matter of the Application of JOHN C. FORD for Authority to Charge Less than Minimum Rates.	}	Application No. 21329
In the Matter of the Application of WALTER RICHARDSON for Authority to Charge Less than Minimum Rates.	}	Application No. 21330

In the Matter of the Application of }
L. C. GIBSON for Authority to Charge } Application No. 21333
Less than Minimum Rates.

In the Matter of the Application of }
E. B. PARKINSON for Authority to } Application No. 21335
Charge Less than Minimum Rates.

In the Matter of the Application of }
A. J. CHAMPION for Authority to Charge } Application No. 21337
Less than Minimum Rates.

In the Matter of the Application of }
LA MARR DUMP TRUCK SERVICE for Author- } Application No. 21339
ity to Charge Less than Minimum Rates.)

W. H. Duff, in propria persona.

Mamie L. Clairette, in propria persona,
and for A. J. Champion.

D. Brunson, in propria persona, and
for F. A. Templeton.

Robert S. Bonta, in propria persona, and
for L. C. Gibson.

E. F. Broderick, in propria persona.

John C. Ford, in propria persona.

Viola Richardson, for Walter Richardson.

E. B. Parkinson, in propria persona.

Raymond L. LaMarr, for LaMarr Dump Truck
Service.

E. A. Maher, for Automotive Council of Orange
County, Interested Party.

J. C. Bowden, for Dump Truck Association of
Southern California, Protestant.

F. F. Willig, for Pacific Electric Railway,
as its interest may appear.

BY THE COMMISSION:

O P I N I O N

The application in each of these proceedings, except Application No. 21339 of LaMarr Dump Truck Service, seeks authority of the Railroad Commission to transport property, chiefly dirt, and excavated material, in dump trucks, under contract with the U. S. Treasury Department, on W. P. A. projects in Los Angeles City and Los Angeles County, from July 1, 1937, to September 30, 1937, at rates less than the minimum rates established for such transportation by Decision No. 28836 in Case 4087, as modified. The applicants propose to render such service as needed and called for by the W. P. A. Application No. 21339 is a similar matter pertaining to hauling for the Department of Public Works of the State of California.

Pursuant to Section 10 of the City Carriers' Act and Section 11 of the Highway Carriers' Act, each of the applications is to be granted if the particular applicant can perform the service at the proposed rate without a loss which would have to be borne by revenue from other shippers and traffic. In other words, the proposed rates will be approved if shown to be reasonable and not unjustly or unduly preferential and discriminatory.

Public hearings on the applications were conducted before Examiner Elder at Los Angeles on July 15 and 16, 1937, and the matters submitted on a consolidated record.

No evidence was offered by or on behalf of F. M. Ford in Application No. 21319, Norman MacInnes in Application No. 21321, F. A. Templeton in Application No. 21324, L. C. Gibson in Application No. 21333, nor A. J. Champion in Application No. 21337. In the absence of any evidence to support the rates proposed therein, those applications must be denied.

Applicant W. F. Duff, in Application No. 21319, proposed a rate of \$1.34 per hour for hauling under either hand or power loading, to be performed with a 1935 Chevrolet truck of 2 cubic yards capacity, which he drives himself. ✓ Dr. Duff had ascertained his probably hourly gasoline cost, had arrived at a figure which he thought represented his hourly cost for tires and repairs, and knew, of course, his wages should be computed at the established scale of 55 cents per hour. However, such items as overhead, taxes, depreciation, insurance and gross revenue charges did not enter into his calculations and he submitted no figures to show the amount of these costs or whether they might be met out of the revenue at the proposed rate. We cannot assume that because the proposed rate is but 1 cent under the minimum of \$1.35 per hour, it is, therefore, reasonable, as the minimum rate is designed as the proper rate for the average carrier, and Mr. Duff's costs may vary widely from the average. In the absence of any evidence to support a favorable finding, the application must be denied.

Applicant Mamie L. Clairette, in Application No. 21322, proposes a rate of \$1.59 per hour for hauling under either hand or power loading with a 1929 G.M.C. truck of 4.4 cubic yards capacity. This applicant stated certain costs per day for gas, oil, "up keep" and insurance. Evidently they were rather rough approximations. She was unable to convert them to an hourly basis. She gave no consideration to tire replacement, labor for repairs and maintenance, interest, or overhead. She knew the annual expenses for some of the taxes and fees and estimated \$100.00 a year for depreciation, but she had no actual or estimated figure for the number of hours of operation, rendering it impossible to approximate

her hourly costs. We are, therefore, unable to find the proposed rate reasonable.

Applicant D. Brunson, in Application No. 21323, proposes a rate of \$1.59 per hour for hauling under either hand or power loading with two Mack trucks of 4.4 cubic yards capacity, one a 1923 and the other a 1925 model. This applicant had figures for the same items of cost as applicant Clairette, but did not give consideration to repairs, depreciation, management expense, garage, tires, licenses or gross revenue charges. In the absence of such figures the proposed rate cannot be approved.

Applicant Robert S. Bonta, in Application No. 21327, proposed a rate of \$1.59 per hour for hauling under either hand or power loading with a 1924 Moreland truck of 4.4 cubic yards capacity which he drives himself. This applicant had certain figures for gas, oil and lubrication derived from experience on a similar job. He submitted no figures, however, as to the cost of the other elements of expense and was unable to show that they could be met out of the proposed rate. He admitted that he bid \$1.59 merely because he wanted to underbid a certain fleet owner who he heard was going to bid \$1.60 per hour. We are unable to approve the proposed rate on the showing thus made.

Applicant Elmer F. Broderick, in Application No. 21328, proposed a rate of \$1.15 per hour for hauling under either hand or power loading with a 1935 Ford of 2 cubic yards capacity. In computing his variable costs, the applicant took into consideration that the work would be easy and relatively cheap to perform, and relied on experience obtained in similar

work for Los Angeles County in June, 1937. On this job, most of which was under power loading and, therefore, less favorable than the instant job where mostly hand loading is anticipated, the applicant found his hourly variable costs as follows: gasoline 16.3 cents, oil 1.1 cents, lubrication .8 cents, repairs 4.6 cents, tires 6 cents, gross revenue tax 4 cents, or a total of 32.8 cents. Wages were computed at 55 cents. Annual fixed charges used were interest on investment \$42.40, depreciation \$90.00, insurance \$49.20, license and fees \$56.00, a total of \$237.60. His hourly fixed charges, based on an estimated 1800 hours a year, amount to 13.2 cents, producing, according to this estimate, total hourly operating costs of \$1.01.

In further explanation of the figures used, applicant stated the depreciation figure was the difference between cost and salvage value divided over a five-year life period. License and fees include Board of Equalization, Railroad Commission, city, motor vehicle and property taxes. The gasoline figure was based on an assumed consumption of 9 gallons per day, whereas he is informed consumption on WPA work runs between 6 and 8. The charge for repairs was based on an assumed expense of \$7.00 per month, although in June it was only \$1.70. The \$7.00 figure he admits is low for average dump truck work but, he believes, is sufficient for WPA work.

Applicant made no allowance for non-productive labor, salary or expenses of management, nor for rent, telephone, traveling and similar costs. A more serious defect in his computation, however, results from figuring his hourly fixed costs on the basis of 1800 hours of productive operation per year. We do not believe this figure is justified. Twelve hundred hours appears to be closer to what applicant may actually ex-

perience, and using that number increases his hourly fixed cost 6.6 cents. Five and one-half cents per hour additional for non-productive labor, being 10% of the productive labor cost, brings the hourly cost up to \$1.131, leaving a margin under the \$1.15 proposed of only \$0.019 to cover the other omitted elements of cost above mentioned. It is clear that they must exceed this amount, and that \$1.15 per hour would not cover the full cost of the operation. We cannot, therefore, find the proposed rate reasonable.

Application No. 21329 of John C. Ford asks authority to charge \$1.63 per hundred for hauling under hand or power loading with a 1935 Diamond T of 4.4 cubic yards capacity. To support this rate, the applicant had only the labor cost, the cost of gas and oil, and lump estimates for interest on investment, insurance, licenses and taxes, and for "wear and tear". It is not possible to form any conclusion from this fragmentary evidence of applicant's cost of operation or the reasonableness of the proposed rate. We are, therefore, unable to approve it.

Applicant Walter Richardson, in Application No. 21330, proposed a rate of \$1.05 for hauling under either hand or power loading with a 1934 Chevrolet of 2 cubic yards capacity. This applicant computed hourly fixed costs for insurance, Board of Equalization and California Railroad Commission permits, tires and parts, but based the computation on the assumption that the truck would be in productive operation 8 hours a day, 6 days a week throughout the year, rather than on actual hours of productive operation. The applicant also was unable to supply any data concerning his hourly variable costs. Depreciation, labor for repairs, gross revenue, charges and other costs were left wholly out of consideration.

The application must, therefore, be denied.

Applicant E. B. Parkinson, in Application No. 21335, proposed a rate of \$1.09 per hour for hauling under either hand or power loading with a 1931 Chevrolet of 2 cubic yards capacity. This applicant's cost figures strain the credulity. He allowed 11 cents per hour for gas, oil and grease, 2 cents for repairs, 2 cents for tires, 5 cents for insurance, 1½ cents for licenses, 3 cents for depreciation. These costs were based on an estimate of 1000 hours per year. While this is a reasonable expectation, we are not convinced of the accuracy of the applicant's cost figures. He claims to have incurred no expense for repairs or tires during the past year, but has allowed the sum of \$20.00 for each. Comparison with testimony of other applicants and with evidence offered by protestants tends to indicate these estimates are unduly low. The same may be said as to the estimate for gas, oil and grease. The allowance for licenses and taxes does not include the Board of Equalization or Railroad Commission charges and fees. Depreciation was fixed at \$30.00 per year for the 7 year old truck worth about \$250. Applicant refused to express an opinion as to the probable length of life of the truck. In our opinion, however, he should depreciate it at a faster rate than that proposed. He has allowed nothing for managerial or overhead expense, rent or garage, nor for interest on investment. He sometimes hires drivers but has allowed nothing for compensation insurance. We do not think this applicant has shown the reasonableness of the rate proposed, and his application will be denied.

In Application No. 21339 La Marr Dump Truck Service seeks authority to transport excavated material and slide material for the Department of Public Works, Division of Highways of the State of California, principally in Santa Barbara County, using two 1933 model Ford trucks of 3 cubic yards capacity, at the rate of \$2.00 per hour for each truck. The minimum rate is \$2.18. The work involves 160 hours of hauling to be performed subsequent to July 6. In support of the proposed rate, applicant submitted an estimate of the cost of operation for one month of 20 days operation, eight hours a day. The fixed costs considered were interest on investment, depreciation, insurance (public liability and property damage, fire and theft), compensation insurance and state license fees. But instead of determining the hourly cost by dividing these annual costs by the actual number of hours of productive operation, applicant simply assumed 160 hours of operation a month, each month of the year. The cost study was thus based on an assumption of 1920 hours of operation per truck per year, which is greatly in excess of what applicant experiences in practice. As in the case of the other applicants, numerous elements of cost were omitted from consideration, such as overhead and management, and traveling expenses, as from his home in Pasadena to the job in Santa Barbara. The figure given as cost of repairs was obtained by taking 1/36th of a three-year total. It bears no relationship to the cost per hour of actual productive operation. Similar errors were made in computing other items. As a result, the cost figure used by applicant is far below what must be his actual cost, and no figures are available to us to determine what the actual costs are. The application must, therefore, be denied.

The sincerity of most of the applicants in these proceedings and the earnestness with which they attempted to support their proposed rates have been impressive. Nevertheless, as the foregoing discussion indicates, not one of the applicants fully realized all of the factors which enter into the cost of their operations, and hardly one had any clear idea how to go about ascertaining his hourly cost. It is little wonder that in almost every case the applicant proposed a rate which is probably well below the cost of operation. Indeed, their proposals seem to have been based almost wholly upon consideration of the competition likely to be encountered. Losses resulting from such rates would plainly have to be regained from other shippers or the carriers would eventually be compelled to go out of business.

The proceedings forcibly illustrate the extremes to which competition leads contract, radial and city carriers, to the prejudice of other shippers and the public interest. It was such conditions as these which the legislature had in mind in enacting the Highway Carriers' and City Carriers' Acts, and in requiring the Commission to establish or approve all the rates of the carriers subject thereto.

O R D E R

The above mentioned applications numbered 21319, 21320, 21321, 21322, 21323, 21324, 21327, 21328, 21329, 21330, 21333, 21335, 21337 and 21339 having been duly heard and submitted for decision, and the Commission now being fully advised in the premises,

IT IS HEREBY ORDERED that said applications be and

each of them is hereby denied.

Dated at San Francisco, California, this 27th
day of July, 1937.

William H. Ware
Frank R. Reine
Raymond J. ...
COMMISSIONERS.