

Decision No. 30142.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of WALTER WOOLHOUSE for relief under Section 11 of the Highway Carriers' Act, Chapter 223, 1935, from the minimum rates on steel transported for the Earle M. Jorgensen Company heretofore established by the Commission in Case 4088, Part "A".

ORIGINAL

Application No. 21035.

- Shaw, Bailey & Poe, by Arlo D. Poe, for applicant.
G. E. Duffy, for The Atchison, Topeka and Santa Fe Railway Company and for Santa Fe Transportation Company.
E. Bissinger, for Pacific Electric Railway Company.
H. J. Bischoff, for Southern California Freight Lines and Southern California Freight Forwarders.
A. L. Whittle and R. E. Wedekind, for Southern Pacific Company, Pacific Motor Transport Company and Pacific Motor Trucking Company.
Stuart Russel, for Motor Truck Association of Southern California and Southwestern Motor Tariff Bureau.
W. K. Downey, for Pacific Freight Lines and Keystone Express Company.

BY THE COMMISSION:

O P I N I O N

Applicant, a highway contract carrier, seeks authority under Section 11 of the Highway Carriers' Act to observe rates less than the minimum rates heretofore established for the transportation of steel articles for Earle M. Jorgensen Company between its plant near Los Angeles and southern California points.

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The rates applicant seeks authority to observe are set forth in Appendix "A" attached hereto. Those now in effect for this transportation were established by Decisions Nos. 28761 and 29480, and as amended in Case No. 4088, in re Establishment of *** rates, etc., of all radial highway common carriers and highway contract carriers.

The Jorgensen plant is located at 10510 South Alameda Street in unincorporated territory in Los Angeles County in the vicinity of Lynwood and Southgate.

The term "steel articles" as used herein embraces the following commodities: Angles, bars, beams, billets, channels, columns, plates, sheets and slabs.

Public hearings were had before Examiner Mulgrew at Los Angeles.

In justification of the relief sought, applicant and witnesses appearing in his behalf testified that approximately 97% of petitioner's for-hire carrier operation is here in issue; that he has been engaged in transporting steel articles for the Jorgensen Company since 1927, enjoying some 95% of its total traffic subsequent to 1931; that about 90% of this movement is within a radius of 20 miles of the Jorgensen plant; and that because of the transportation characteristics of this traffic the service is performed in a very economical manner.

The factors which were said to tend to lower operating costs are the absence of any solicitation, collection, advertising or platform expense; nominal billing cost; lack of bad debt or cargo losses; unimpeded movement of equipment; the use of vehicles especially equipped for the transportation of steel articles; the location of applicant's terminal one block from the Jorgensen plant; and the loading and unloading of heavy articles by plant crane facilities.

Statements purporting to show actual operating expenses and revenues from January 1936 to March 1937 inclusive were introduced (Exhibits Nos. 6 and 7). A summarization of these statements follows:

TRUCK NUMBER							
3	4	5	8	9	11	Total	
Revenues: \$5821.59	\$6851.45	\$7591.60	\$4034.37	\$5593.56	\$5071.38	\$34,953.95	
Expenses: 3997.43	4304.37	4975.14	2939.55	4499.53	3620.00	24,336.02	
Earnings: \$1824.16	\$2547.08	\$2606.46	\$1094.82	\$1094.03	\$1451.38	\$10,617.93	

Also submitted in support of the application was a study, Exhibit No. 8, of charges applicable to transactions during the months of April and May which applicant contended showed marked increases above

the contract basis. It was designed to show the difference between revenue accruing at the contract basis and that accruing at the prescribed rates for that portion of trip handled between Jorgensen's plant and points affected by the decisions in Part "M" of Case No. 4088, supra.² On trips involving movements to both "Part M territory" and the exempted area in that case, charges for the exempted area shipments are computed at the difference between charges under prescribed Part "M" rates and the contract basis for the trip.

The tabulation below portrays the result of applicant's study in this regard.

	DATE							
	Apr. 12	Apr. 16	Apr. 21	Apr. 26	Apr. 30	May 5	May 10	May 14
C.R.C. Rates	127.40	136.42	127.79	121.41	111.79	164.49	118.79	150.24
Contract Rates	114.55	108.54	119.98	119.55	111.79	157.10	106.21	144.63
Exceeds Contract	12.85	27.88	7.81	1.86	---	7.39	12.58	5.61

Exhibit No. 9, summarization of charges computed in the manner outlined in the explanation of Exhibit No. 8 was introduced to show that for the period from April 12 to May 31, 1937, revenue from the Jorgensen Company was \$4,803.87, \$247.67 above the amount which would have been due at the sought rates.

² Part "M" deals with rates within the general territory from San Fernando and Burbank on the north to San Diego and San Ysidro on the south and from the Pacific Ocean on the west to Redlands, Yucaipa, Hemet Valley and Escondido on the east. Decisions in this phase of Case No. 4088 exempt transportation between points in an area known as the industrial section of the Los Angeles metropolitan area.

Witness Smith, secretary-treasurer of Earle M. Jorgensen Company, testified that his company would, if necessary, operate its own trucks rather than continue to employ the applicant at any substantial increase above the former contract level. He expressed the opinion that if the applicant could operate profitably at the contract basis in effect prior to the prescription of minimum rates, his company performing the same service with its own trucks would experience approximately the same operating cost.

At the hearings protestants questioned the accuracy of certain cost factors submitted by applicant, particularly the amounts charged to depreciation, tire expense, repairs and mechanic's labor. They contended that it is improper in cost studies of this nature to depreciate the equipment on a 5 year basis and show no depreciation thereafter, and that the other assailed expenses should be averaged over a period of years rather than set forth as the actual annual costs.

On brief protestants, Southern California Freight Lines and Southern California Freight Forwarders argue that relief under Section 11 of the Highway Carriers' Act must be based upon conditions that result in hardship or unfairness to a shipper, and that the granting of the application would create discrimination among shippers and tend to upset the entire rate structure prescribed by the Commission.

It seems clear that if reasonable allocations are made for the disputed cost factors and added to the cost shown by applicant, his operations would still be conducted at something above out-of-pocket costs. It is also apparent that the applicant is convinced that he faces the loss of practically his entire transportation business to proprietary truck operation unless he is granted relief from the existing minimum rates. While the evidence in this respect is somewhat meagre it will be noted that in regard to for-hire vs. proprietary operations in its Decision No. 29480 of January 25, 1937, in Part "M" of Case No. 4088, supra, the Commission said "It may be well, however, at this point to observe that what it will cost the shipper to perform his own service is

perhaps less important than what he thinks it will cost him. If a shipper makes a substantial investment on the strength of his belief that he can save money by operating his own trucks, and subsequently finds that he was mistaken, he is not likely to abandon his plans for some time unless the difference in cost is extremely great." Furthermore, in Decision No. 29104 of September 14, 1936, in re Application of Walker Drayage & Warehouse Company, etc., (40 C.R.C. 9), the following is found: "If it is a fact that the proposed rates are necessary to meet proprietary competition and go no further, then it is difficult to see how they could be held to be unduly discriminatory or to deprive competing for-hire carriers of an opportunity to conduct their business on a competitive basis."

Little or no evidence of any probative value was introduced in regard to the proposed $\frac{1}{2}$ rate on shipments returned to the Jorgensen plant. In all other respects, however, it has been demonstrated that the proposed rates will more than cover out-of-pocket costs, that they are necessary to meet proprietary competition, are reasonable under the circumstances here of record and will not unduly burden other traffic.

The findings herein are necessarily predicated upon existing conditions. The possibility of changes in these conditions which would require an adjustment of the rates found justified herein leads to the conclusion that the relief to be authorized should be limited to a definite period. Accordingly the application should be granted for a period of one year. If upon its expiration the carrier is of the opinion that an extension is justified an appropriate application requesting such action should be filed.

Upon consideration of all the facts of record it is concluded that the application should be granted to the extent indicated in the order herein.

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that applicant Walter Woolhouse be and he is hereby authorized to assess and collect rates less than those established by the Commission in Decisions Nos. 28761 and 29480, and as amended, in Case No. 4088, but not less than the rates set forth in Appendix "B" attached hereto and by this reference made a part hereof, for the transportation of property as described in said Appendix "B" for Earle M. Jorgensen Company between the points for which rates are provided therein.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one year from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that in all other respects the application be and it is hereby denied.

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

Dated at San Francisco, California, this 20th day of September, 1937.

Walter Woolhouse
Leon J. Dwyer
Frank R. Sullivan
Rafaela J. Sullivan
Ray & Dwyer
Commissioners

APPENDIX "A"

PROPOSED RATES FOR THE TRANSPORTATION OF STEEL ARTICLES
IN LOTS OF 15,000 POUNDS OR LESS BETWEEN THE EARLE M.
JORGENSEN PLANT, LOCATED AT 10510 SOUTH ALAMEDA STREET,
LOS ANGELES COUNTY, AND THE VARIOUS POINTS SHOWN BELOW.

Rates in cents per 100 Pounds except as Otherwise Indicated

Los Angeles City,)	Lomita)	La Habra)
except as other-)	Long Beach)	Olinda)
wise noted herein)	Los Nietos)	Ontario)
Bell)	Monrovia)	Orange)
Compton)7½	Norwalk)	Pasadena)15
Huntington Park)	Redondo)	Pomona)
Lynwood)	San Gabriel)10	San Fernando)
Maywood)	San Pedro)	Santa Ana)
Southgate)	Santa Fe)	Van Nuys)
Vernon)	Springs)	
	Santa Monica)	Colton)
Alhambra)	Torrance)	Oceanside)
Arusa)	Venice)	Redlands)25
Clearwater)	Whittier)	San Bernardino)
Culver City)	Wilmington)	Ventura)
Dominguez)		
Downey)10	Anaheim)	Goleta)
El Segundo)	Atwood)	San Diego)30
Harbor City)	Brea)	Santa Barbara)
Hollydale)	Burbank)15	
Hollywood)	Fullerton)	Bakersfield)40
Hynes)	Glendale)	Taft)
Inglewood)	Huntington)	
	Beach)	

To points not named, rate to nearest point named herein shall apply.

Total charge for each delivery trip to be calculated on above rates,
and for pick-ups at one-half the above rates, with a minimum of 5 cents per
100 pounds on pick-ups, except that the total charge for each trip shall not
be less than the amount would be when calculated on the basis of the total
time for the trip at the hourly rates shown below for the respective trucks:

Hourly minimum rates:

Less than 156-inch wheel base \$1.50 per hour

156-inch wheel base and over \$2.00 per hour

APPENDIX "B"

ITEM NO. 1 - APPLICATION OF APPENDIX

(a) Rates named in this appendix apply to the transportation of steel articles, viz.: angles, bars, beams, billets, channels, columns, plates, sheets and slabs between the plant of the Earle M. Jorgensen Company, located at 10510 South Alameda Street, Los Angeles County, and points for which rates are provided in this appendix.

(b) Rates in cents per 100 pounds from or to points not specifically named in this appendix shall be no lower than the rate named from or to the next more distant named point.

(c) Charges shall be computed at the applicable rate or rates in cents per 100 pounds and at the applicable hourly rate. The basis producing the highest total charge shall be observed.

ITEM NO. 2

Rates in cents per 100 pounds from or to points named below:

Los Angeles*	)	Long Beach	)	Olinda)
Bell	)	Los Nietos	)	Ontario)
Compton	)	Monrovia	)	Orange)
Huntington Park	)	Norwalk	)	Pasadena	)15
Lynwood	)7½	Redondo	)	Pomona)
Maywood	)	San Gabriel	)	San Fernando)
Southgate	)	San Pedro	)10	Santa Ana)
Vernon	)	Santa Fe Springs	)	Van Nuys)
		Santa Monica)		
Alhambra	)	Torrance	)	Colton)
Azusa	)	Venice	)	Oceanside)
Clearwater	)	Whittier	)	Redlands	)25
Culver City	)	Wilmington	)	San Bernardino)
Dominguez	)10			Ventura)
Downey	)	Anaheim)		
El Segundo	)	Atwood	)	Goleta)
Harbor City	)	Brea	)	San Diego	)30
Hollydale	)	Burbank	)15	Santa Barbara)
Hollywood	)	Fullerton)		
Hynes	)	Glendale	)	Bakersfield	)40
Inglewood	)	Huntington Beach	)	Taft)
Lomita	)	La Habra)		

*When higher rates are named herein to any portion of Los Angeles such higher rates shall apply.

ITEM NO. 3

Rates named in this item shall be computed from the time carrier's equipment leaves the Jorgensen plant until it returns thereto, except that allowances may be made for any delays caused by the carrier.

<u>Wheel Base of Equipment</u> <u>Transporting the Property</u>	<u>Rates in cents</u> <u>per hour</u>
Less than 156 inches	150
156 inches and over	200