

Decision No. 30593

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of George A. Leal, under authority of Section 11 of the Highway Carriers' Act (Chapter 223, Statutes 1935) for an order exempting his motor vehicle operations from certain provisions of the Commission's order in Decision No. 30370.

Application No. 21663

In the Matter of the Application of C. B. McClain, an individual, doing business as McClain Truck Company, a contract carrier, for authority under the provisions of Section 11 of the Highway Carriers' Act (Chapter 223, Statutes 1935), to apply a lower charge for split deliveries of shipments of Fresh Meat, Eggs, Cheese, Butter and Packing House Products, from Los Angeles and other points named than ordered by the Commission for such service in Decision No. 30370.

Application No. 21701

In the Matter of the Application of E. L. Richardson, doing business as Richardson Transfer Company, for relief under the provisions of Section 11 of the Highway Carriers' Act (Chapter 223, Statutes 1935).

Application No. 21708

F. J. Wigle and R. T. Boyd, for George A. Leal.  
H. M. Wade for C. B. McClain.  
John E. Truman and W. H. Kessler, for E. L. Richardson.  
C. B. McClain in propria persona.  
E. L. Richardson in propria persona.  
L. L. Foley and P. J. Shaw, for Swift & Co.  
J. L. Stewart, for Armour & Co.  
C. L. Cooper, for Cudahy Packing Co.  
A. L. Whittle, for Southern Pacific Company and Pacific Motor Transport Co., as their interests may appear.

BY THE COMMISSION:

## OPINION

The above entitled matters were consolidated and heard before Examiner W. S. Johnson at San Francisco on January 19, 1938. They will be disposed of in one decision.

Applicants severally seek authority under Section 11 of the Highway Carriers' Act to perform split deliveries in connection with the transportation of fresh meats and packing house products at less than the minimum charges established therefor in Decision No. 30370, November 29, 1937, in Case No. 4088, Parts "U" and "V". Authority to assess a split delivery charge of 1 cent per 100 pounds, minimum charge 25 cents per delivery, or a flat charge of 25 cents per delivery is sought.<sup>1</sup> In addition Leal and McClain seek modification of the provision that split deliveries may not be made at points located more than 1 mile laterally of the shortest constructive highway route from point of origin to the most distant point of destination.

All three applicants are highway contract carriers transporting fresh meats and packing house products. Leal has a contract with Swift & Company for such transportation from South San Francisco to King City, Monterey and intermediate points and from South San Francisco to Redding and intermediate points. McClain has contracts with Armour & Company and The Cudahy Packing Company, Los Angeles, for transportation to points in the San Joaquin Valley as far north as Fresno and along the coast as far north as Paso Robles. Richardson transports the commodities here involved for the account of Armour & Company, San Francisco and C. Swanston & Son, Sacramento, to various points in central and northern California. In each instance the

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The established added charge for split delivery service provided in Decision No. 30370 is 85 cents per delivery after the first delivery.

transportation service performed is of a highly specialized character requiring the use of specially designed truck equipment. The shipments usually originate in truckload quantities and deliveries averaging about 200 pounds each in weight are made from the line haul truck along specified routes. The record shows that the number of deliveries per trip ranges from about thirty to one hundred.

In support of the applications, applicants offered evidence to show that the transportation involved is that of a scheduled peddler service, that the type of equipment used and the nature of the commodities transported permit deliveries to be effected with delays to equipment averaging only 6 minutes each and that if a charge of 85 cents per delivery is assessed the additional charges for such deliveries will often equal and sometimes exceed the transportation charge itself. Each of the applicants stated they had been notified that the traffic would be lost to shipper owned trucks unless the relief sought were granted.

Witnesses for Swift & Company, Armour & Company and The Cudahy Packing Company testified in support of the applications. They stated that they now operate large fleets of truck equipment and would transport the traffic here involved in their own trucks if the relief sought were not granted.

The record does not show what, if any, relief is required from the provision contained in Decision No. 30370 providing that split deliveries may not be made at points located more than 1 mile laterally of the shortest constructive highway route.

No one opposed the granting of the applications.

It seems clear from the record that the nature of the transportation service involved differs materially from that for which split delivery charges were provided in Decision No. 30370 and in

view of the type of equipment used, the nature of the commodities transported, the average weight of the deliveries and the relatively short time consumed in making deliveries<sup>2</sup> it must be found that a charge of 1 cent per 100 pounds, minimum 25 cents per delivery, for split deliveries is reasonable for the transportation service here involved. In all other respects the applications will be denied.

### O R D E R

Public hearing having been had in the above entitled applications, and based upon the evidence received at the hearing and the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that George A. Leal be and he is hereby authorized to depart from the provisions of paragraph 5, Rule No. 90, Appendix "A", Decision No. 30370, November 29, 1937, in Case No. 4088, Parts "U" and "V", in the performance of split delivery of fresh meat and packing house products for the account of Swift & Company from South San Francisco, but shall charge not less than the charges resulting from the application of the following rule:

Charge for the composite shipment shall be the charge applicable for a single shipment of the same kind and quantity of property from point of origin to the highest rated point of destination, plus a sum equal to 1 cent per 100 pounds for the weight of each delivery but in no case less than 25 cents per delivery.

IT IS HEREBY FURTHER ORDERED that C. B. McClain, doing business as McClain Truck Company, be and he is hereby authorized to depart from the provisions of paragraph 5, Rule No. 90, Appendix "A",

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Exhibit No. UV-23 introduced in Case No. 4088, Parts "U" and "V", by Fred H. Chesnut, Senior Engineer for the Commission, in which a cost for split deliveries of 85 cents per stop was developed shows the average time for effecting deliveries of the traffic there involved to be 17.8 minutes per stop.

Decision No. 30370, November 29, 1937, in Case No. 4088, Parts "U" and "V", in the performance of split delivery of fresh meat and packing house products for the account of Armour & Company and The Cudahy Packing Company from Los Angeles, but shall charge not less than the charges resulting from the application of the rule contained in the first ordering paragraph of this order.

IT IS HEREBY FURTHER ORDERED that E. L. Richardson, doing business as Richardson Transfer Company, be and he is hereby authorized to depart from the provisions of paragraph 5, Rule No. 90, Appendix "A", Decision No. 30370, November 29, 1937, in Case No. 4088, Parts "U" and "V", in the performance of split delivery of fresh meat and packing house products for the account of Armour & Company, San Francisco, and C. Swanston & Son, Sacramento, but shall charge not less than the charges resulting from the application of the rule contained in the first ordering paragraph of this order.

IT IS HEREBY FURTHER ORDERED that in all other respects the above entitled applications be and each of them is hereby denied.

Dated at San Francisco, California, this 2<sup>nd</sup> day of February, 1938.

Walter M. ...  
Leon ...  
Oran R. ...

W. L. Riley  
Commissioners