ORIGINAL Decision No. BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA In the Matter of the Application of Brown Trucking Company for authority to charge less than the Application No. 21618 minimum rates. In the Matter of the Application of S. W. Nelson for authority to Application No. 21619 charge less than the minimum rates. McBryde & Ballenger, by Louis Ballenger, for applicants. John J. McGinnis, for Gladding McBean & Company. Wallace K. Downey, for Pacific Freight Lines and Keystone Express System, protestents.
R. E. Wedekind, for Southern Pacific Company.
E. L. Bissinger, for Pacific Klectric Railway Company, protestant. Geo. T. Hurst, for The Atchison, Topeka and Santa Fe Railway Company. BY THE COMMISSION: <u>o p i n i o n</u> By Application No. 21618 Brown Trucking Company, a highway contract carrier, seeks authority under Section 11 of the Highway Carriers' Act to transport certain clay products from plants of Gladding McBean & Company located at Los Angeles, Santa Monica and Alberhill, to points in southern and central California as far north as Bakersfield and San Luis Obispo, at less than the minimum rates established therefor in Case No. 4088, Parts M and V. Applicant In Decision No. 29480, dated January 25, 1937, as amended, in Case No. 4088 Part M, the Commission established minimum rates for the transportation of property, in lots of 15,000 pounds and less, 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. ("Part M" territory.) The order provided that charges for the transportation of shipments weighing more than 15,000 pounds should not be less than the charges therein provided for a shipment weighing 15,000 pounds. In Decision No. 30370, dated November 29, 1937, as emended, in Case No. 4088 Part V, the Commission established minimum rates for the transportation of property, in shipments weighing 20,000 pounds or less, between points in the so-called "Part M" territory on the

rates are to become effective April 1, 1938.

one hand and points in the general territory north thereof to but not including Madera and Monterey Counties on the other hand. These

also seeks authority to refund all charges collected in excess of the sought rates, on all shipments moving since October 26, 1937, the date upon which the present established minimum rates for transportation within southern California first became effective.

Similarly, in Application No. 21619, S. W. Nelson, a high-way contract carrier, seeks authority to transport certain clay products from the plant of the Los Angeles Brick & Clay Products Company at Alberhill to points in southern California, Ventura, Saugus and south.

Public hearings in these applications were had before Examiner W. S. Johnson at Los Angeles.

The commodities which applicants propose to transport and the rates which they propose to charge are set forth in the respective applications. The proposed rates, as well as the minima, rules and regulations to which they are subject, differ materially from those contained in the minimum rate orders from which relief is sought and do not readily lend themselves to comparison. However, the proposed rates, rules and regulations will result in substantially lower charges than those resulting from the established minimum rates, rules and regulations.

In support of the application of his company, Frank P. Brown testified that prior to the establishment of the present minimum rates the Brown Trucking Company's operations were conducted under the sought rates at a substantial profit. He stated that a check of revenue and expenses for the period April 1 to September 30, 1937, revealed a profit in excess of \$4,600.00, or approximately

The term "clay products" was used rather loosely in the applications and during the hearings. It appears that the term was intended generally to include commodities listed under that caption in Southern Pacific Company Tariff No. 825-K, C.R.C. No. 3271, and particularly roof tile, fire tile, hollow tile, fire brick, flue lining, drain tile, sewer pipe, faience tile, floor tile and terra cotta.

10% of the gross revenue.

Similarly, Nelson testified that during the first nine months of 1937 he realized a profit in excess of \$3,800.00 from transportation under the sought rates.

Each applicant showed that it received substantial assistance from the shippers in loading and in billing. Furthermore, both showed that shipments were so distributed that maximum load and equipment factors were obtained.

Representatives of the two interested shippers stated their companies would operate their own trucks unless the sought rates were approved.

Protests against the granting of the proposed rates were made by several common carriers by rail and truck and requests were made to permit common carriers to meet the proposed rates should these applications be granted. It should be pointed out that the scope of the present proceedings is limited by the applications filed by the contract carriers for permission to charge less than the established minimum rates under authority of Section 11 of the Highway Carriers' Act. Common carrier rates are not in issue.

The record clearly shows that the proposed rates, rules and regulations will return sufficient revenue to defray the cost of transportation services involved, and that unless rates, rules and regulations substantially the same as those proposed are authorized, the traffic will be lost to proprietary competition. However, certain of the proposed rates are for movements wholly within the

Total expenses and revenue during the six months' period were \$39,688.20 and \$44,329.54 respectively. The capital invested in rolling stock amounted to \$38,115.49.

Total expenses and revenue during the nine months' period were \$33,670.93 and \$37,527.79.

confines of a single city. Such movements are not within the scope of the minimum rate orders from which relief is sought and the suggested rates thereon cannot be approved in these proceedings. Furthermore, certain changes in the manner in which the proposed rates are stated and in the suggested rules and regulations appear to be necessary to bring them into conformity with the form of outstanding rate orders and to provide a more definite application of such rates. With these modifications the proposed rates, rules and regulations are found reasonable and their application to the particular traffic which they are designed to embrace will be approved.

The request of Brown Trucking Company to refund charges collected on past shipments must be denied, no statutory provision having been shown whereby the Commission may lawfully authorize such action. 5

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

In Decision No. 29105, dated September 14, 1936, in Application No. 20629 (in re Application of J. A. Clark Draying Company, etc.), in commenting upon a similar request the Commission said:

<sup>&</sup>quot;Applicants ask, however, that the authority sought be granted as of June 1, 1936 or, in the event the Commission is of the opinion that it is without authority to grant such relief, that it be made effective from the time the application was filed. Under what provision of law this relief is sought, the record does not show. This Commission is authorized to award reparation in cases where the applicable charges of carriers subject to the Public Utilities Act are found to be unreasonable, excessive or discriminatory by virtue of Section 71 of that act. No such provision is contained, however, in the Highway Carriers' Act under which this proceeding is brought. The request for retreactive relief will be denied."

#### ORDER

Those applications having been duly heard and submitted,
IT IS HEREBY ORDERED that Frank P. Brown, Frank E. Bertlett
and Frank Cordon, co-partners doing business as Brown Trucking Company, a highway contract carrier, be and they are hereby authorized
to assess and collect for the transportation of the commodities and
between the points for which rates are provided in Appendix "A",
attached hereto and hereby made a part hereof, rates less than the
minimum rates heretofore established in Case No. 4088, Parts "M" and
"V", but in no event less than the rates provided in said Appendix "A".

IT IS EXHEBY FURTHER ORDERED that S. W. Nelson be and he is hereby authorized to assess and collect for the transportation of the commodities and between the points for which rates are provided in Appendix "B" attached hereto and hereby made a part hereof, rates less than the minimum rates heretofore established in Case No. 4088, Parts "M" and "V", but in no event less than the rates provided in said Appendix "B".

IT IS HERREY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date hereof.

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

Dated at San Francisco, California, this 28m day of March, 1938.

Commissioners.

#### APPENDIX "A"

ITEM No.	RULES AND REGULATIONS
,	- APPLICATION OF RATES - CAPPIERS
5	Rates in this Appendix apply only for transportation by Frank P. Brown, Frank E. Bartlett and Frank Cordon, copartners, doing business as Brown Trucking Company, a highway contract carrier.
	APPLICATION OF PATES - COMMODITIES
10	Except as provided in individual items, rates in this Appendix apply for the transportation of the following commodities: brick, face and fire; lining, flue; tile, drain, faience, floor, hollow and roof; pipe, sewer; and terra cotta.
	APPLICATION OF RATES - TERRITORY
	(a) Except as otherwise provided in connection with individual rate items, rates in this Appendix from Los Angeles, Santa Monica and Alberhill apply from the following plants of Gladding, McBean & Company:
15	(1) 952 Date Street, Los Angeles (2) 2901 Los Feliz Boulevard, Los Angeles (3) Santa Monica (4) Alberhill
	(b) Rates in this Appendix apply to points of destination as noted in individual sections.
	(c) Rates named herein will not apply for movements wholly within the limits of a single incorporated city.

ITEM No.

RULES AND REGULATIONS (Continued)

#### DESCRIPTIONS OF ZONES

Descriptions of zones referred to in this Appendix are as follows:

Zone 1. All points enclosed within the following boundaries: beginning at the intersection of Aviation
Drive and Riverside Drive; thence on Riverside
Drive to Los Feliz Boulevard; thence on Los
Feliz Boulevard to Western Avenue; thence on
Western Avenue to Franklin Avenue; thence on
Franklin Avenue to La Brea Avenue; thence on
La Brea Avenue to Hollywood Boulevard; thence on
Hollywood Boulevard to Fairfax Avenue; thence on
Fairfax Avenue to West Jefferson; thence on West
Jefferson to Angelus Mesa Drive; thence on
Angelus Mesa Drive to Manchester; thence on
Manchester and Fircstone Boulevard to Alameda
Street; thence on Alameda Street to Florence
Avenue; thence on Florence Avenue to Salt Lake
Avenue, thence on Salt Lake Avenue, Lucille and
Downey Road to 25th Street; thence on 25th Street
and Noakes Street to Indiana Avenue; thence on
Indiana Avenue to Worth Street; thence on Worth
Street to Bonnie Beach; thence on Bonnie Beach
and Valley Boulevard to the line separating the
City of Los Angeles from the City of Alhambra;
thence along said line and Maycrest to Kendall
Avenue; thence along Kendall Avenue to the line
separating the City of Los Angeles from the City
of South Pasadena; thence along said line to
York Boulevard; thence along York Boulevard and
Eagle Rock Boulevard to San Fernando Road; thence
on San Fernando Road to Aviation Drive; thence to

Zone 2. All points enclosed within the following boundaries: beginning at the point where the Los AngelesVentura County Line intersects the Pacific Ocean;
thence along said line to the main highway running
from Fillmore to Castaic Junction; thence along
said highway to Saugus; thence along U. S. Highway
99 to State Highway 118 to U. S. Highway 66 to
Monrovia; thence along said Highway 66 to the highway running south from Glendora to Covina; thence
along said highway to Baldwin Park; thence across
U. S. Highway 99 to U. S. Highway 101; thence along
said highway to Whittier; thence back to said point
of intersection along the highway connecting Santa
Fe Springs, Norwalk, Artesia and Seal Beach to the
Pacific Ocean and exclusive of territory in Zone 1.

20

ITEM No.	RULES AND REGULATIONS (Continued)
	DESCRIPTIONS OF ZONES (Continued)  Zone 3. All points enclosed within the following boundaries: beginning on the eastern boundary of Zone 2 east of Glendora; thence running easterly along U. S. Highways 66 and 99 to Redlands; thence along the highway leading through Brym Mawr and Loma Linda to State Highway 18; thence to Riverside; thence along U. S. Highways
20 (Con- clud- ed)	60 and 395 to Perris; thence along U. S. Highway 395 to Elsinore; thence along State Highways 71 and 74 to San Juan Capistrano; thence to the Pacific Ocean and exclusive of territory in Zones 1 and 2.  Zone 4. All points enclosed within the following boundaries: beginning south of Elsinore on U. S. Highway 395; thence on U. S. Highway 395 to the intersection of U. S. Highway 395 with State Highway 78; thence along State Highway 78 to the Pacific Ocean and exclusive of any territory in Zones 1, 2 and 3.
	APPLICATION OF DECISIONS IN CASE 4088, PARTS M AND V
25	Rules and regulations provided in Decision No. 29480, as amended, in Case No. 4088, Part M, and Decision No. 30370, as amended in Case No. 4088, Part V, will apply when not in conflict with rates, rules and regulations in this Appendix.

Control of the Contro

NO.	SECTION I - MILEACE RATES (15,000 pounds and less)							
30	APPLICATION OF SECTION I  Rates in Section I apply from the points of origin specified in Item No. 15, to points of destination to which rates from such points of origin are provided in Decision No. 29480, as amended, in Case No. 4088, Part M, and only on shipments weighing 15,000 pounds and less.							
	But : Weight: Weight: Weight: Weight: Weight: C							Min. Charge
35	Over 0 - 10 20 30 40 50 60 70 80 90 100 120 140 160		100 : Pounds: 28 31 37 40 41 43 44 45 46 48 51 53 55 57	500 : Pounds: 21 24 27 30 32 34 35 36 37 38 41 43 45 48 50	2000 : Pounds : 19 22 25 27 30 31 32 33 34 36 38 40 43 45 47	Pounds:  15 18 20 22 24 25 26 27 28 29 32 34 36 39 41	10000 : Pounds: 9 10 12 13 15 16 17 18 20 21 23 25 28 30 32	

NO.	SECTION I	I - SPECIF	TC RAT	ES (More than 15	,000 poun	ds)			
		APPLICATION OF SECTION II							
40	Except as otherwise provided in connection with individual rate items rates in Section II apply from the points of origin specified in Item No. 15 to points of destination to which rates are provided in Decision No. 29480, as amended, in Case No. 4088, Part M, and Decision No. 30370, as amended, in Case No. 4088, Part V, and only on shipments weighing more than 15,000 pounds. (See exception)  Exception: The charge provided in this Section for a shipment weighing more than 15,000 pounds shall not be less than the charge provided in Section I for a shipment weighing 15,000 pounds, for the same constructive distance.								
			RATES		<del></del>				
		From			Fro				
		Los :S Angeles:M			los :				
	To:	Pates in cente			Rates in cents per 100 pounds				
45	Arroyo Grande Arvin Bakersfield Benning Beaumont Brawley Calabassas Calexico Camarillo Carpenteria El Cajon El Centro Escondido Fillmore Hemet Holtville Indio Lake Arrowhead Lancaster Lone Pine Lost Hills Mecca Mojave	13 32	33 30 30 30 30 30 30 30 30 30 30 30 30 3	Montecito Morango Valley Ojai Oxmard Palmdale Palm Springs Piru Camyon Porterville San Diego San Jacinto San Luis Obispo Santa Barbara Santa Maria Santa Paula Senta Susana San Ysidro Solvang Taft Tehachapi 29 Palms Ventura Victorville Wasco	18     17       20     28       15     15       14     14       15     20       19     35(1)       24     25       30     35       20     25       17     22				
	(1) Applies on pottery only.								

ITEM :	CORNELLIANCE I I WE CONFIDENCE IN THE CONFIDENCE OF THE CONFIDENCE							
	From: Los Angele		From: Santa Mo			Between: Alberhill		
	To:	Rates in cents per 100 pounds	To:	Rates in cents per 100 pound	and:	Rates in cents per 100 pounds		
	Zone l Alhembra Burbank Eagle Rock Glendale Huntington	7	Zone 1 Beverly Hills Culver Ci Ocean Par		Zone 1	14 10(3)		
50	Park Pasadena South Pasadena Vernon		Monica Venice West Los Angeles					
	Zone 2	9				·		
	Zone 3	10(1) 11 13(2)						
	Zone 4	13 15(2)	Zone 4	11				
	<ul> <li>(1) Applies on shipments of hollow tile, only.</li> <li>(2) Applies on shipments of sewer pipe and on shipments of terra cotta from 2901 Los Feliz Boulevard, Los Angeles.</li> <li>(3) Applies from points in Zone 1 on shipments returning to Alberhill when the outbound movement from Alberhill is not unloaded from carrier's equipment.</li> </ul>							
	Applicable on shipments hauled between plants only							
	To:	. 29		From: Los Angeles 952 Date St.				
	Los Angele			es in cents	per 100 p	omas)		
55	2901 Los I Blvd.		-	-	11	9		
\ \ \ \	Los Angele 952 Date S		-	-	11	9		
	Alberhill		11	11	-	17		
	Santa Mon	ica	9	<b>.9</b>	17			

ITEM NO.		(Con	tinued	,	) pounds)
		are 1	tinued n cent	ES (More than 15,000)  Is per 100 pounds  And:  Flintridge Fullerton Gardena Garden Grove Girard Glendale Glendale Glendora Harbor City Hawthorne Hermosa Beach Highlands Hollywoodland Huntington Beach Huntington Park Hyde Park Hynes Inglewood Irvine La Canada La Crescenta Laguna Beach La Habra La Jolla	Rates (1) 14 10 11 8 14 10 11 8 17 11 14 10 11 8 14 10 17 11 11 8 17 11 11 11
	returnin	14 11 17 14 11 17 14 14 17 6 14 om 51 8 from	10 8 11 10 8 11 10 10 10 11 4 10 Albern	Lemenda Perk Lancaster Lankershim La Verna Lawndale Lennox Lomita Long Beach Los Alemitos Los Cerritos Lynwood Maywood Maywood Moneta  points on shipment ill when the outboun aill is not unloaded pment.	14 10 28 19 17 11 11 8 14 10 14 10 14 10 14 10 14 10

## APPENDIX "A" (Concluded)

ITEM : No. :	Section II	- SPECIE (Cond	TC RATE	S (More than 15,00	o Dom	ods)
_ And :	Between: A	tes are lberhill Rates		s per 100 pounds	Rates	(1)
Mont Mont Mont Mont Murri Napl New Nord Nord Oces Olin Onte Orei Ower Ower Palm Palm Pow Place Place Place Red Riving Rose San	walk  walk  m Park  mside  re  nric  lge  ismouth  ard  as  servedes  adena  ris  centia  ya del Rey  ona  er  nte  lands  ondo  lto  erside  lera  coe  emead  Bernardino  Diego  (1) Apply fi  returni	ng to al	berhill	San Dimas San Fernando San Gabriel San Jacinto San Pedro Santa Ana Santa Fe Springs Santa Monica Santa Paula Saugus Sawtelle Seal Beach Sidco Sierra Madre South Los Angeles South Pasadena Spar Heights Sunland Temecula Temple Torrance Tujunga Tustin Universal City Uplands Van Nuys Venice Ventura Vernon Watson Junction Watts Westwood Whittier Wilmington Yorba Linda oints on shipments when the outbound lis not unloaded	174941475974644447644411797784447441	8H06080H73H040000H40008H6HH9000H008

### APPENDIX "B"

ITEM NO.	RULES AND REGULATIONS
5	APPLICATION OF RATES - CARRIERS  Rates in this Appendix are applicable only for the transportation by S. W. Nelson, a highway contract carrier.
10	APPLICATION OF RATES - COMMODITIES  Except as provided in individual items, rates in this Appendix apply on the following commodities: brick, face and fire; lining, flue; tile, drain, faience, floor, hollow and roof; pipe, sewer; and terra cotta; in shipments weighing not less than 15,000 pounds, or when charges are assessed on a minimum weight of 15,000 pounds.
15	APPLICATION OF RATES - TERRITORY  Rates in this Appendix apply only between plant of los Angeles Brick & Clay Products Co. at Alberhill on the one hand and points specified in individual items on the other hand.
20	Description of Zone 1 referred to in this Appendix is as follows:  All points enclosed within the following boundaries: beginning at the intersection of Aviation Drive and Riverside Drive; thence on Riverside Drive to Los Feliz Boulevard; thence on Riverside Drive to Los Feliz Boulevard; thence on Western Avenue to Franklin Avenue; thence on Franklin Avenue to La Brea Avenue; thence on La Brea Avenue to Hollywood Boulevard; thence on Eollywood Boulevard to Fairfax Avenue; thence on Fairfax Avenue to West Jefferson; thence on West Jefferson to Angelus Mesa Drive; thence on Angelus Mesa Drive to Manchester; thence on Manchester and Firestone Boulevard to Alameda Street; thence on Alameda Street to Florence Avenue; thence on Florence Avenue to Salt Lake Avenue; thence on Salt Lake Avenue, Lucille and Downey Road to 25th Street; thence on 25th Street and Noakes Street to Indiana Avenue; thence on Indiana Avenue to Worth Street; thence on Worth Street to Bonnie Beach; thence on Bonnie Beach and Valley Boulevard to the line separating the City of Los Angeles from the City of Albambra; thence along said line and Mayorest to Kendall Avenue; thence along said line to York Boulevard; thence along took Boulevard and Eagle Rock Boulevard to San Fernando Road; thence on San Fernando Road to Aviation Drive; thence to the point of beginning.

Between: Alberhill   And   Rate   And   Rate   And   Rate   And   Rate   And   Rate   Alleambra   Altedena   14   10   Fullerton   11   8   Altedena   14   10   Gerdena   14   10   Anaheim   11   8   Gerden Grove   11   8   Arcadia   14   10   Girerd   17   11   Artesia   14   10   Girerd   17   11   Azusa   14   10   Glendale   14   10   Azusa   14   10   Glendale   14   10   Balboa   14   10   Harbor City   14   10   Baldwin Park   14   10   Harbor City   14   10   Ball   14   10   Hollywoodland   17   11   Ball   14   10   Hollywoodland   17   11   Belvedere   14   10   Hollywoodland   17   11   Belvedere   14   10   Huntington Beach   14   10   Breat   17   11   Hynes   14   10   Breat   17   11   Hynes   14   10   Breat   17   11   Hynes   14   10   Burnama Park   11   18   Hylesood   17   11   La Canada   17   11   Chatsworth   17   11   La Canada   17   11   Chatsworth   17   11   La Canada   17   11   Chatsworth   17   11   La Canada   17   11   Chino   9   6   Laguna Beach   14   10   Clearmont   11   8   La Habra   14   10   Compton   14   10   Lancaster   28   19   Corona   6   4   Lankershim   17   11   Cucamonga   11   8   La Lakershim   17   11   Cucamonga   11   8   La Verna   11   8   Culver City   14   10   Lancaster   14   10   Dominguez Junction   14   10   Los Alamitos   14   10   Dominguez Junction   14   10   Los Carritos   14   10   Dominguez Junction   14   10   Los Carritos   14   10   Elsinore   6   4   Montovia   14   10   Elsinore   6   4   Montovia   14   10   Elsinore   6   4   Montovia   14   10   Flintridge   14   10   Montobello   14   10   Flintridge   14   10   Flintridge   14   10   Flintridge   14   10   Flintridge   14   10	ITEM :	RATES IN CE	nis i	ÆR 100	O POUNDS	
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	25	Alhambra Altedena Anaheim Arcadia Artesia Azusa Balboa Baldwin Park Ball Bassett Bellflower Belvedere Beverly Brea Brentwood Buena Park Burbank Carthay Center Chatsworth Chino Claremont Clearwater Colton Compton Corona Cucamonga Culver City Davidson City Delhi Del Mar Dominguez Junction Downey El Molino El Segundo Elsinore Escondido Flintridge	Ret 144144444447171717779141461774447644	(10080000000000000000000000000000000000	Fullerton Gardena Garden Grove Girard Glendale Glendora Harbor City Hawthorne Hermosa Beach Highlands Hollywoodland Huntington Beach Huntington Park Hyde Park Hynes Inglewood Irvine La Canada La Crescenta Laguna Beach La Habra La Jolla Lamanda Park Lancaster Lankershim La Verna Lawndale Lennox Lomita Lomita Lomita Long Beach Los Alamitos Los Cerritos Lynwood Maywood Moneta Monrovia Montebello	13 10 8 11 10 8 11 10 11 11 11 11 11 11 11 11 11 11 11

## APPENDIX "B" (Concluded)