

Decision No. 30741

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applications) Application No. 21692
of C. V. CLARK, JR., for authority)
to charge less than minimum rates) Application No. 21700
)

C. V. CLARK, in pro per.

BY THE COMMISSION:

O P I N I O N

The above applications were filed pursuant to Section 11 of the Highway Carriers' Act (Chapter 223, Statutes 1935, as amended) to secure authority from the Railroad Commission to render transportation services for the State Department of Public Works, Division of Highways, at less than the minimum rates established by the Railroad Commission.

In Application No. 21692 authority is sought to perform transportation services with two $3\frac{1}{2}$ cubic yard water level capacity dump trucks, on the Roosevelt Highway in Monterey County, District No. 5 of the Division of Highways, for the removal of slide material, the trucks to be loaded by power shovel at the rate of \$2.10 per hour, plus drivers' wages of 68¢ per hour.

In Application No. 21700 authority is sought to perform transportation services with four 4.4 cubic yard water level capacity dump trucks, on the State Highway in Kern County, at

Keene, California, District No. 6 of the Division of Highways, in the widening and construction of said highway, the trucks to be loaded by power shovel at a rate of \$2.10 per hour, plus drivers' wages of 75¢ per hour.

The minimum rate established by the Railroad Commission in Decision No. 28836, Case No. 4087, is \$2.15 per hour, exclusive of drivers' wages.

A public hearing was held before Examiner Cameron on January 31st, 1932, at Los Angeles, at which time both applications were consolidated for hearing.

The only evidence in support of both applications is the testimony of applicant. He testified that for the past three and one-half years he has devoted practically his entire time to performing transportation services for the Department of Public Works, Division of Highways; that he had performed highway work on the Roosevelt Highway in Monterey County, similar to the work to be done for which a 5% preference is requested in Application No. 21692. Cost figures were compiled by applicant covering this job, and it was contended that these figures were applicable to the work to be performed. The items of expense upon which applicant relied showed that his cost of operation for the services performed were \$1.71 per hour, including drivers' wages. In attempting to explain how this figure was arrived at applicant was unable to make any showing.

In regard to the work to be performed covered by Application No. 21700, on the State Highway at Keene, applicant had cost figures which he compiled from services performed in Topanga Canyon, which showed that his cost of operation on that job was slightly less than \$1.79 per hour, including drivers' wages. Applicant was unable, however, to explain in what way he arrived at his items of cost

totaling this amount, except in one or two instances.

With reference to the work to be performed in both applications, applicant was unable to state with any degree of accuracy the number of hours' work in any given period of time, upon which he could rely. For this reason it is impossible to adjust the cost figures compiled from previous jobs to the work for which preference is requested, assuming that these cost figures are correct.

It is to be noted that in Application No. 21700, where the work is to be performed on the highway at Keene, applicant's preferential rate requested is 5¢ under the minimum rate established by the Commission. This is also true in Application No. 21692, where the work is to be performed on the Roosevelt Highway in Monterey County.

Section 11 of the Highway Carriers' Act (Chapter 223, Statutes of 1935, as amended) stated in part that the Commission shall,

"***upon finding that the proposed rate is reasonable, authorize such rates less than the minimum rates established in accordance with the provisions of Section 10 hereof."

It is apparent from the evidence submitted in support of these applications that there is no sufficient showing from which the Commission can find that the rate requested is reasonable. Under the circumstances, therefore, the relief sought cannot be granted.

O R D E R

A public hearing having been had, evidence produced, the matter submitted, and the Commission now being fully advised in the premises,

IT IS HEREBY ORDERED that the above entitled applications be

and they are hereby denied.

This order shall become effective twenty (20) days from and after the date thereof.

Dated at San Francisco, California, the 4th day of April, 1938.

W. H. [unclear]
Leon [unclear]
Frank [unclear]
R. [unclear]
Al & [unclear]
Commissioners