

Decision No. 30322

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
IRA P. LAMB for permission to charge
other than minimum rates on grain,
grain products and related commodi-
ties.

Application No. 21911

- Roy B. Thompson, for Truck Owners Association of California.
- W. G. Stone, for Sacramento Chamber of Commerce.
- J. E. McCurdy, for Poultry Producers of Central California.
- Fred Merkelbach, for Albers Bros. Milling Company.
- J. B. Costello, N. R. Moon and W. B. Ferguson for applicant.
- J. B. Costello and N. R. Moon, for Sperry Flour Company.
- G. E. Duffy and George Hurst, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION:

O P I N I O N

Applicant, a highway contract carrier and a city carrier, seeks authority under Section 11 of the Highway Carriers' Act and under Section 10 of the City Carriers' Act to transport grain, grain products and related articles (as described in Pacific Freight Tariff Bureau Tariff No. 240-B, C.R.C. No. 622) for the Sperry Flour Company, between points in southern California, at lesser charges than those which will accrue under minimum rates established by this Commission in Decision No. 30640 of February 14, 1938, in Case No. 4088, Part "F", and between points within the metropolitan Los Angeles area at lesser charges than those accruing under minimum rates established by this Commission in Decision No. 30785 of April 11, 1938, in Case No. 4121, as amended.

A public hearing was had before Examiner W. S. Johnson at San Francisco on May 27, 1938.

Applicant performs transportation services for the Sperry Flour Company in both northern California and southern California. The relief herein sought pertains solely to applicant's operations in southern California, involving transportation within the Los Angeles metropolitan area as embraced by Decision No. 30785, supra, and between various points in southern California for which rates were established by Decision No. 30640, supra.¹ The total tonnage transported within this area ranges from 51,000 tons to 70,000 tons annually, of which approximately 65 per cent moves within the area embraced by Decision No. 30785, supra.

Applicant's scope of operations and the various points to which he is required to make deliveries do not permit specific allocation of given pieces of equipment to any particular hauls or localities. As an example, it was said that a truck may make a delivery from the Vernon plant to a point in the Los Angeles metropolitan area and upon its return to the Vernon plant, be assigned to make a delivery to a point outside that area, or that deliveries may be made to points embraced by both Decision No. 30785, supra, and Decision No. 30640, supra, on a single trip.

In so far as Section 10 relief is concerned applicant seeks to apply the weekly or monthly vehicle unit rates, as provided in Item No. 810 of Decision No. 30785, supra, without the penalty provided in

¹ Applicant's operations are said to be principally between Los Angeles Harbor, Long Beach and the Sperry plant at Vernon, and between those three points and points in the area bounded by San Clemente, Alberhill, Casa Blanca, Riverside, San Bernardino, Alta Loma, Glendora, Monrovia, Altadena, Chatsworth, Santa Monica and the Pacific Ocean. In addition, deliveries are made about once weekly to Imperial Valley destinations, and a tri-weekly trip is made to Tehachapi, Inyokern, Bishop, West Bishop and intermediate points, and to ranches within 15 miles of these towns. Occasional trips are also made to points in Ventura County.

Item No. 80 thereof,² in lieu of the zone rates provided in Items Nos. 600 and 650. Due to the dual nature of his operations both within and outside the metropolitan Los Angeles area, applicant's request for Section 11 relief from Decision No. 30640, supra, contemplates extension of the weekly or monthly rental rates as provided in Decision No. 30785, supra, to the territory embraced by the former decision. It was said that deliveries within the metropolitan Los Angeles area are generally accomplished during the hours from 6 A.M. to 6 P.M., but that deliveries to points outside that area frequently require the use of equipment between the hours of 6 P.M. and 6 A.M. In support of the request for exemption of operations between 6 P.M. and 6 A.M. from the provisions of Rule No. 80, it was contended that this service does not result in any additional cost to the applicant but that, on the contrary, it would return additional revenue through use of equipment exceeding 50 miles a day.³

Applicant further proposes to alternate the preceding basis with charges which would accrue for the same transportation at rates provided in Decision No. 30640, supra, and to assess charges upon the basis reflecting the greatest total charge. Accomplishment of this proposal would be obtained through the maintenance of proper records showing the detail of each shipment, and a daily mileage record of each vehicle. At the end of a week or month (depending upon the period selected) charges would be computed on both bases and that yielding the greatest revenue would govern for the selected period.

² This rule provides that for services performed at the request of a shipper or consignee during the hours from 6 P.M. to 6 A.M. or on Sundays or legal holidays, applicable rates shall be increased 25 per cent.

³ In addition to the weekly and monthly rates provided therein, Item 810 of Decision No. 30785, supra, contains a scale of rates to be added to weekly or monthly rates for each mile of operation in excess of 50 miles per day.

In the computation of charges on the basis of the Decision No. 30640 rates, to shipments transported wholly within metropolitan Los Angeles, applicant proposes to use the rate from point of origin to the next more distant point of destination to which rates are provided in Decision No. 30640, or to use the rate from the next more distant point of origin from which rates are provided in Decision No. 30640 to point of destination.

Applicant stated that unless the relief herein sought is granted, Sperry Flour Company will perform its own trucking service in southern California.

The relief herein applied for differs materially from that ordinarily sought under Section 10 of the City Carriers' Act and Section 11 of the Highway Carriers' Act. Generally, relief sought under these sections of the two acts is directed to establishment of rates or charges substantially less than those established by orders of this Commission. Here, however, applicant desires but to assess charges accruing on the basis of hourly or weekly rates in Decision No. 30785, supra (without the penalty provided in Rule No. 80 thereof), or on the basis of rates established by Decision No. 30640, supra, for the same transportation, whichever produces the higher total charge over a selected period of time.

In effect applicant has proposed a basis for collection of charges which will return an amount of revenue approximating that which would accrue were charges to be computed on the basis of rates established in Decision No. 30785, supra, and Decision No. 30640, supra, as applied to the respective hauls within or outside metropolitan Los Angeles. Undoubtedly the proposed basis would reflect a variance in charges on particular hauls from those which would accrue under the decision embracing the transportation. In the aggregate, however,

it appears that applicant's gross revenue will be somewhat greater than the revenue that would accrue if the established minimum rates were observed in their respective territories. Furthermore, the record is convincing that unless applicant is granted the relief sought, the traffic here involved will be diverted to proprietary trucks.

No one opposed the granting of the application.

Upon consideration of all the facts of record, we are of the opinion and find that the bases upon which applicant proposes to collect charges are reasonable and that unless rates, rules and regulations substantially the same as those proposed are authorized, the traffic will be lost to proprietary competition. The application will be granted. This finding being predicated on existing conditions, the authority granted will be limited to one year.

O R D E R

This application having been duly heard and submitted,

IT IS HEREBY ORDERED that applicant, Ira P. Lamb, be and he is hereby authorized to assess and collect rates less than those established by Decision No. 30785, dated April 11, 1938, in Case No. 4121, as amended, and by Decision No. 30640, dated April 11, 1938, as amended, in Case No. 4088, Part "F", but not less than those provided in Appendix "A" attached hereto, and by this reference made a part hereof, for the transportation of grain, grain products and related articles as described in Item No. 20 of Appendix "A" to said Decision No. 30640, as amended, between points within the territory specified in Appendix "A" hereof.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire on June 1, 1939.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 21st day of

May, 1938.

Walter M. ...
Leon ...
Grant ...
Ralph ...
Ray L. ...
Commissioners

APPENDIX "A"

ITEM NO.	RULES AND REGULATIONS
5	<p style="text-align: center;">APPLICATION OF RATES - CARRIERS</p> <p>Rates in this Appendix are applicable only for the transportation of commodities described in Item 10 hereof by Ira P. Lamb, a city carrier and a highway contract carrier, for the Sperry Flour Company.</p>
10	<p style="text-align: center;">APPLICATION OF RATES - COMMODITIES</p> <p>Rates in this Appendix apply only for the transportation of commodities described in Item No. 20 of Appendix "A" to Decision No. 30640, dated February 14, 1938, as amended in Case No. 4088, Part "F".</p>
15	<p style="text-align: center;">APPLICATION OF RATES - TERRITORY</p> <p>Rates in this Appendix apply only within the territory hereinafter described:</p> <p>(1) Between points within metropolitan Los Angeles as described in Rule No. 20 of Appendix "A" to Decision No. 30785, dated April 11, 1938, in Case No. 4121, as amended.</p> <p>(2) Between points within the following described territory (see Note):</p> <p>Commencing at San Clemente on U.S. Highway No. 101, thence northerly on said U.S. Highway No. 101 to San Juan Capistrano, thence northeasterly via State Highway No. 74 to the point said Highway No. 74 intersects State Highway No. 71 at a point two miles northwest of Elsinore, thence northwesterly along said Highway No. 71 to Corona, thence northeasterly along State Highway No. 18 to Colton, thence easterly along U.S. Highway No. 99 to the point said Highway No. 99 intersects U.S. Highway No. 395 at a point two miles south of San Bernardino, thence northerly along said Highway No. 395 to the point of intersection with a county road 1 mile east of Muscoy, thence via an air line drawn from said point of intersection through Alta Loma, Glendora, Monrovia, and Altadena to La Canada, thence northwesterly along State Highway No. 118 to San Fernando, thence westerly along said Highway No. 118 to Chatsworth, thence southerly along State Highway No. 27 to the point where said highway, if extended, would meet the Pacific Ocean at a point approximately 5 miles northwest of Santa Monica, thence southerly along the shore line of the Pacific Ocean to point of beginning.</p> <p>(NOTE.-Where the boundary line intersects the limits of an incorporated city, the boundary line shall follow the city limits so as to include the city within the above defined area).</p> <p>(3) Between points within the area described in para-</p>

ITEM NO.	RULES AND REGULATIONS (Concluded)
15 (Concluded)	<p>graph (2) and the following points:</p> <p>(a) Points in the Imperial Valley and points intermediate thereto.</p> <p>(b) Points in the Owens Valley south of the Mono-Inyo County line, ranches within fifteen miles of such points, and all points intermediate thereto.</p> <p>(c) Points in Ventura County and points intermediate thereto.</p>
20	<p style="text-align: center;">BASIS FOR COMPUTING RATES</p> <p>Charges on shipments moving between points within the territory described in Item No. 15 hereof shall be computed in accordance with the following:</p> <p>(1) Charges for all transportation services performed shall be computed on the basis of weekly or monthly vehicle unit rates provided in Item No. 810 of Appendix "A" to Decision No. 30785 of April 11, 1938, in Case No. 4121, subject to rules and regulations provided therein, except that the provisions of Rule No. 80 thereof shall not be applicable, or</p> <p>(2) Charges for all transportation services performed shall be computed at rates provided in Item No. 105 of Appendix "A" to Decision No. 30640 of February 14, 1938, in Case No. 4088, Part "F", subject to the rules and regulations otherwise provided therein. (See Note)</p> <p>The highest total charges determined under paragraphs (1) or (2) shall be the minimum charge.</p> <p>NOTE. - In computing charges under this basis on shipments moving wholly within the area defined in Item No. 15 paragraph (1) the following method shall be used:</p> <p>(a) <u>Single Shipments</u> - The rate from point of origin to the next most distant point in territory embraced by Decision No. 30640, to which the destination is intermediate shall apply, or, if a lower charge results from considering the point of origin as intermediate to a more distant point in territory embraced by Decision No. 30640, such lower charge shall apply.</p> <p>(b) <u>Split Deliveries</u> - Mileage shall be computed in accordance with paragraph (a) from point of origin to first point of delivery. On each subsequent delivery the mileage basing point for the preceding delivery shall be considered as the point of origin. Mileage shall be cumulative to the last point of delivery and the rate applicable thereto applied.</p>