

Decision No. 31322

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
R.G.KNOLL, INC. LTD., a corporation,  
for authority to charge less than  
minimum rates, under the provisions  
of the Highway Carriers' Act.

Application No. 21539

ADDITIONAL APPEARANCES

R.F.Walker, for Western Sugar Refinery  
G.E.Duffy and George Hurst, by G.E.Duffy  
for The Atchison Topeka and Santa Fe  
Railway Company

ORIGINAL

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

By Decision No. 30377 of December 6, 1937, in the above entitled proceeding, applicant, a highway contract carrier was authorized under Section 11 of the Highway Carriers' Act to transport sugar from Los Angeles and Long Beach Harbors to Los Angeles, Glendale, Pasadena and Santa Ana at rates lower than the established minimum rates for such transportation. The rates thus authorized are subject to weight minima per shipment of 7,500, 10,000 and 20,000<sup>1</sup> pounds and to an annual minimum tonnage requirement of 18,000 tons.

Thereafter, applicant filed a petition for modification of the original order, requesting (1) that the minimum annual tonnage requirement be reduced to 12,000 tons and (2) that in computing minimum

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<sup>1</sup> Decision No. 30377 further provides that "In the event less than 18,000 tons are transported from and to the points named and at rates no lower than those specified in this appendix, the minimum charge for the property transported shall be no lower than the charges applicable at the rates provided in this appendix for the property transported plus a sum determined by multiplying the difference between the aggregate weight of the sugar transported and 18,000 tons by \$1.50 per ton unless a lower charge would accrue by restating charges for the entire year at the minimum rates otherwise applicable, in which event such lower aggregate charge shall apply."

annual tonnage the weight of the sugar transported at rates authorized in this proceeding be combined with the tonnage moved under minimum rates otherwise applicable.<sup>2</sup>

Pursuant to this petition the proceeding was reopened and further hearing was had before Examiner Mulgrew.

In justification of the relief sought, it was stated that the cost estimates submitted at the original hearing were based upon individual truck unit operation for the transportation of sugar alone. The record shows that applicant regularly employs approximately 60 units of equipment; that the shipments here in issue constitute but some 15% of applicant's total tonnage; and that by arranging for the use of equipment not owned by it during peak periods it has been able to reduce the idle time of its own equipment to a minimum. Applicant also showed that between the points in issue shipments of sugar in greater quantities than 20,000 pounds are transported by it; and that in most instances such shipments are not handled at the rates authorized by Decision No. 30377 in this proceeding but at lower rates established in Decision No. 29480, as amended in Case No. 4088, Part "M". Thus it argued that the additional facts presented, coupled with the probable loss of traffic through diversion to other means of transportation justifies the further relief requested.

The granting of the application was supported by the Cal-

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<sup>2</sup> More specifically it was requested that paragraph (b) of the application of Appendix "A" of Decision No. 30377 be amended to read: "A minimum annual tonnage of 12,000 tons. In the event less than 12,000 tons are transported from and to the points named the minimum charge for the property transported shall be no lower than the charges applicable at the rates provided in this appendix and/or by Decision No. 29480 and as amended and as modified by this appendix, for the property transported plus a sum determined by multiplying the difference between the aggregate weight of the sugar transported and 12,000 tons by \$1.50 per ton unless a lower charge would accrue by restating charges for the entire year at the minimum rates otherwise applicable, in which event such lower aggregate charge shall apply."

ifornia and Hawaiian Sugar Refining Corporation for which the sugar is transported. The Sugar company represented that although 18,000 tons or more per year would ordinarily be available for transportation, due to interruptions in common carrier vessel service from its plant at Crockett to Los Angeles and Long Beach Harbors or by interruptions in production at its plant through labor disturbances there is a strong possibility of a substantial reduction in tonnage. It was stated that in view of such contingencies the Sugar company could not be certain of its ability to fulfill the minimum tonnage requirement upon which the rates previously authorized are conditioned and that under these circumstances unless the relief here sought were granted, it might be compelled to rearrange its distribution of sugar to the points affected by this application.

In connection with the traffic moving under the so-called Part "M" rates a representative of the Sugar company testified that, during the months of January and February 1938, shipments weighing 20,000 pounds and under transported by the applicant between the points in issue amounted to 1,464 tons, whereas during the same period shipments weighing over 20,000 pounds amounted to 1,970 tons. Assuming that this tonnage would be representative of the year's business he estimated 8,784 tons in shipments of 20,000 pounds and under and 11,820 tons in shipments weighing over 20,000 pounds.

No one opposed the modification of Decision No. 30377 here sought.

The evidence is persuasive that under the requirements of Decision No. 30377 in this proceeding, the tonnage of sugar to be transported at the rates authorized will fall far short of the minimum annual tonnage required. From the testimony of witnesses appearing on further hearing it seems evident that it is somewhat doubtful if

this tonnage would be reached even though the requirements of the outstanding order be relaxed so as to permit the addition of so-called Part "M" rate tonnage to the weight of the property transported at rates authorized herein. Moreover, a review of applicant's cost studies in the light of further evidence relating to its methods of operation in connection with this traffic convincingly shows that the rates heretofore authorized at a reduced minimum annual tonnage of 12,000 tons will be reasonable for the service rendered and necessary in the face of the competitive situation surrounding the transportation of this commodity. Accordingly the petition will be granted.

#### O R D E R

A further hearing having been held in the above entitled application and the matter being submitted,

IT IS HEREBY ORDERED that Appendix "A" of Decision No. 30377 of December 6, 1937, in the above entitled application be amended by substituting the following for paragraph (b) of the application of Appendix "A" thereof:

"A minimum annual tonnage of 12,000 tons. In the event less than 12,000 tons are transported from and to the points named the minimum charge for the property transported shall be no lower than the charges applicable at the rates provided by Decision No. 29480, as amended and as modified by this appendix, for the property transported plus a sum determined by multiplying the difference between the aggregate weight of the sugar transported and 12,000 tons by \$1.50 per ton unless a lower charge would accrue by restating charges for the entire year at the minimum rates otherwise applicable, in which event such lower aggregate charge shall apply."

IT IS HEREBY FURTHER ORDERED that in all other respects  
said Decision No. 30377 shall remain in full force and effect.

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

Dated at San Francisco, California, this 13<sup>th</sup> day  
of June, 1938.

Walter H. ...  
Leon ...  
Frank ...  
Kaufmann ...  
Paul ...  
Commissioners