

Decision No. 31140

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
COLE MCGEE for preferential rates
and relief under Section 10 of the
City Carriers' Act, Chapter 312,
Statutes of 1935, as amended, cov-
ering the transportation of commodi-
ties for Fibreboard Products Com-
pany, Los Angeles, California, be-
tween points within the incorpora-
ted limits of Los Angeles.

Application No. 21966

ORIGINAL

Cole McGee, in propria persona.
E. Bissinger, for Pacific Electric Railway Company,
interested party.
Stuart Russel, for The Motor Truck Association of
Southern California, interested party.
S. T. McCloy, for Fibreboard Products, Inc.,
proponent.

BY THE COMMISSION:

O P I N I O N

Applicant, a city carrier and a highway contract carrier,
seeks authority under Section 10 of the City Carriers' Act and Section
11 of the Highway Carriers' Act to transport manufactured paper prod-
ucts and waste paper for Fibreboard Products, Inc., between points
within the Los Angeles drayage area as described in Decision No. 30785
of April 11, 1938, in Case No. 4121, at lesser charges than those ac-
cruing under minimum rates established in and by said decision.¹

¹ The rates proposed in lieu of the established minimum rates are as follows:

Sheet Paper, 7½ cents per 100 pounds.
Corrugated Boxes, 8-¾ cents per 100 pounds, subject to a
minimum of 88 cents per shipment or \$1.50 per hour.
Scrap Paper, 3½ cents per 100 pounds.
Pool Car Shipments, the following rates, subject to a min-
imum charge of 50 cents:
500 to 2000 pounds, 18 cents per 100 pounds.
2001 to 4000 pounds, 15 cents per 100 pounds.
4001 to 6000 pounds, \$6.00 per shipment.
6001 pounds or more, 10 cents per 100 pounds.

A public hearing was had before Examiner Bryant at Los Angeles on June 27, 1938.

Applicant has been engaged since March, 1937, in transporting paper and paper products for Fibreboard Products, Inc., exclusively. Sixty to seventy per cent of this transportation is performed within a radius of four or five miles from the Fibreboard plant in Vernon, and substantially all of it is performed within the Los Angeles drayage area here involved.² Approximately ninety per cent of the tonnage consists of corrugated boxes and other manufactured paper products moving from the Vernon plant to the industrial section of Los Angeles. In addition, there is some movement of scrap paper from Southgate to the plant, and a local distribution of carload shipments received by rail from the Antioch and Stockton plants of the Fibreboard Company.

Applicant operates two trucks in this service - a 1931 Dodge and a 1929 Ford. He acts as driver himself and is assisted by a brother and a nephew as their services are required. It appears that the brother usually reports to the plant in the morning, and, after waiting an hour or two to see what surplus traffic develops, he may be dismissed for the day without compensation. Should additional orders come in later in the day he may be recalled. The brother and nephew are paid on the basis of 25 per cent of the gross revenue from the particular shipments which they transport.

Applicant's trucks are stationed and stored at the Vernon plant, and his services are available to the Fibreboard company at all times. However, the company now operates three tractors and

² On the few shipments which may go beyond the drayage zones applicant proposes to assess the established minimum rates.

five semi-trailers of its own for the transportation of its products in the Los Angeles area, and these vehicles are always kept occupied in preference to those of applicant. In other words, it may be said that applicant renders a stand-by service for the performance of the shipper's excess or surplus transportation.

McGee offered no detailed segregation of his costs, either actual or estimated, but introduced a statement of his revenues and expenses for the months of April and May, 1938.³ The revenues for April accrued under rates and charges assessed by him prior to May 1, which rates and charges are identical with those he now asks the Commission to approve for the future. The revenues for the month of May accrued under established minimum rates, as the rates proscribed by Decision No. 30785, supra, became effective with May 1, 1938. Applicant explained that his statement of expenses showed only the amounts actually expended during the month, and that any allowance for overhead, depreciation of tires and equipment, interest on investment, or salary of the applicant himself must be deducted from the figures indicated as "total net profit." He asserted that except for two payments his trucks are fully paid for and that they

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The statement follows:

	<u>April 1938</u>	<u>May 1938</u>
Gasoline & Oil	\$60.40	\$44.95
Repairs (Tires, etc.)	1.90	2.32
New Tires, etc.	2.95	9.13
Labor	67.95	138.84
License	4.38	4.38
Insurance	13.43	13.43
Total Cost	<u>\$151.01</u>	<u>\$213.05</u>
Tons hauled	308	195
Cost per ton	\$.49	\$1.09
Total Revenue	380.49	590.15
Revenue per ton	1.24	3.03
Total net profit	229.48	377.10
Total profit per ton	.75	1.94

have been purchased out of the profit from his operations.

S. T. McCloy, plant accountant of the Fibreboard company, testified that his company's local transportation costs had increased approximately fifty per cent in the month of May, due largely to the fact that its plant is located several miles from its principal customers, making inter-zone rates applicable. He expressed the opinion that unless relief were granted from the established rates the company would be forced to purchase sufficient equipment to perform all of its own transportation within the Los Angeles area.

The Motor Truck Association of Southern California and the Pacific Electric Railway Company appeared as interested parties and participated in the cross-examination of witnesses. No one specifically opposed the granting of this application, but the Motor Truck Association directed attention to the fact that a proposal to reduce the established minimum rates for the transportation of paper and paper articles had been made in Case No. 4121 and was before the Commission for consideration.⁴ It was the position of the Association that any rate reduction should be accomplished in the general proceeding in order that the rates might be available to all carriers, rather than in a special application proceeding such as this one.

The cost figures produced by applicant indicate that for the month of April, 1938, during which period the rates here sought to be charged were assessed, he realized a net revenue over and above actual out-of-pocket expenditures of only \$229.48. Out of this amount

⁴ By Decision No. 31067 of June 30, 1938, the Commission amended Decision No. 30785, supra, by the establishment of special commodity rates for the transportation of paper and paper articles which are considerably lower than the rates in effect at the time of hearing in the instant proceeding.

must be taken whatever salary applicant may expect to receive as manager, driver and mechanic, as well as a depreciation and replacement allotment. With these deductions made it is apparent that little if any interest on investment would be available in any event, and that in all probability a substantial deficit would be incurred. In the month of May, during which period applicant assessed the minimum rates in effect prior to the reductions authorized by Decision No. 31067, supra, he received \$377.10 above out-of-pocket expenditures. However, had applicant received the same revenue per ton during May as he was paid during April (\$1.24 per ton) he would have earned only \$28.75 above actual out-of-pocket expenditures, from which his monthly salary and depreciation reserve would have had to be drawn.

It must be observed that applicant has failed to show wherein his operation is unusually economical. On the contrary, it appears that he renders an expensive type of transportation service in that he receives only surplus or overflow traffic. That his load and use factors are low may be inferred from the fact that during the month of April he paid only \$67.95 in drivers' wages, indicating that at least one of his vehicles suffered considerable idle time. Considered over a period of time, it is evident from the record that under the rates which applicant here seeks authority to charge, he could hope to receive little more than his out-of-pocket expenditures, plus, perhaps, a small salary. When, as inevitably it must, his equipment requires replacement, he will have no depreciation reserve for that purpose. Rates so based on out-of-pocket expenditures are not justified under the circumstances here shown.

The expressed plan of the shipper to employ his own trucks and discontinue the use of applicant's services was based on a study

of the rates originally established by Decision No. 30785, supra. However, as hereinbefore pointed out, these rates have since been reduced substantially by Decision No. 31067, supra, by the establishment of special commodity rates for paper and paper products. It is a fair assumption that the reduced rates will largely eliminate the threat of proprietary competition and enable applicant to retain this business.

Upon consideration of all the facts and circumstances of record the Commission is of the opinion that the proposed rates have not been shown to be compensatory, or necessary to prevent diversion of the traffic to proprietary carriers. The application will be denied.

O R D E R

Upon consideration of all the facts and circumstances of record,

IT IS HEREBY ORDERED that this application be and it is hereby denied.

Dated at San Francisco, California, this 1st day of

August, 1938.

Ray B. W. [Signature]
Leon [Signature]
Frank [Signature]
Ray L. [Signature]
Commissioners.