

Decision No. 31141

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of LOMPOC TRUCK COMPANY, a corpor-
ation, for authority to charge
less than minimum rates, under
the provisions of the Highway Car-
riers' Act.

Application No. 21815

ORIGINAL

E.M. Berol, for the applicant
G.E. Duffy, for The Atchison, Topeka and Santa Fe
Railway Company
A.L. Whittle, for Southern Pacific Company and
Pacific Motor Transport Company
Wallace K. Downey, for Pacific Freight Lines
W.C. Thies, for Johns-Manville Products Corporation

BY THE COMMISSION:

O P I N I O N

By the above entitled application Lompoc Truck Company, a highway contract carrier, seeks authority under Section 11 of the Highway Carriers' Act to transport infusorial earth from White Hills to points throughout California at rates lower than the minimum rates heretofore established by the Commission for such transportation.

The matter was submitted at a public hearing held at San Francisco before Examiner Mulgrew.

According to the record applicant and its predecessors have been engaged since 1931 in transporting infusorial earth from White

¹ White Hills is located in Santa Barbara County, approximately 3 miles west of Lompoc. The minimum rates from which applicant seeks to deviate are those established by Decision No. 30370, as amended, in Parts "U" and "V" of Case No. 4088. That decision provides rates for the transportation of property in shipments of 20,000 pounds or less within defined territory in central and northern California (including White Hills) and between a limited territory in central California (including White Hills) on the one hand and that portion of southern California commonly known as the Los Angeles Basin on the other hand. It provides further that the charge for shipments weighing more than 20,000 pounds shall not be less than the charge therein established for a shipment weighing 20,000 pounds.

Hills to various points in California and in transporting "plant supplies" from various points in California to White Hills under contract with Johns-Manville Products Corporation. Applicant seeks authority to transport the infusorial earth at rates somewhat in excess of those assessed during the year 1937 but lower than the established minimum rates.² It will assess rates no lower than the established minimum rates in connection with the inbound movements of plant supplies.

A witness for applicant submitted detailed statements showing all operating expenses incurred during the year 1937, on the four units of equipment used in this service, and also an estimate of operating expenses for the year 1938 on the same equipment. These statements show the average cost per mile for the 1937 operations to have been 16.71 cents, and estimate the average cost per mile for the 1938 operations at 18.64 cents. They also contain a comparison of the total revenue accruing during the year 1937 (\$44,256.49) with the operating expenses for that period (\$41,782.91) and with the estimated revenue for the year 1938 (\$46,613.56).

A representative of the Johns-Manville Products Corporation testified that in many instances the established minimum rates were greatly in excess of the rates assessed during 1937 and that his company would resort to the use of proprietary trucks in the event the authority here sought were not granted. He introduced an exhibit purporting to show that application of the Decision 30370 rates to shipments moving from White Hills during February, 1938, produced revenue \$459.78 in excess of that accruing under the rates in effect during 1937. Application

² Applicant proposes specific rates for transportation from White Hills to forty-nine destinations, the rates ranging from 12½ cents per 100 pounds to Betteravia to 50 cents per 100 pounds to Asti. To other points it proposes that rates be computed on the basis of 20 cents per actual truck mile. All of the rates are proposed to be made subject to a minimum weight of 20,000 pounds.

of the rates here proposed to the same shipments produced revenue \$107.96 greater than under the 1937 basis.

Various common carriers participated in cross-examination of applicant's witnesses, principally with regard to the methods employed in estimating operating costs. A witness for Southern Pacific Company introduced an exhibit contrasting round-trip truck-mile earnings produced by applicant's proposed rates with those accruing under rates in Decision No. 30370 and with car-mile earnings produced by the effective rates for carload transportation by railroad.

It will be seen from the foregoing resume of the evidence that applicant is claiming (1) that the proposed rates will be compensatory and (2) that rates higher than those proposed will cause the shipper to discontinue the use of a for-hire carrier and perform the transportation in its own equipment. Applicant has shown that rates somewhat lower than those here proposed produced a profit during 1937 and has asserted that the proposed rates are sufficiently higher than those assessed during 1937 to offset any increased operating expenses which might be experienced during 1938. The weakness of the cost showing comprising applicant's operation in the aggregate is apparent when it is considered that a large proportion of applicant's tonnage consists of "plant supplies" not involved in this application, that applicant transports considerable interstate tonnage not subject to the established minimum rates and that the volume of tonnage moving during 1938 may conceivably be substantially less than that which moved during 1937. The record shows that the inbound movement of plant supplies (intra-

state and interstate) comprises approximately 40 per cent of the total movement and that outbound interstate tonnage comprises about 25 per cent. Thus, the traffic involved in this application constitutes roughly only 35 per cent of the business which produced the 1937 revenues and operating expenses relied upon.³ This being true, the profit and loss statement for the aggregate operation, converted to a truck-mile basis, is of little value as an indication that the proposed rates will be compensatory as to the particular traffic involved in the application.

Wholly aside from the adequacy of applicant's cost showing, however, it appears that in applying the established minimum rates applicant has failed to give full effect to the split delivery provisions of Decision No. 30370, and to the fact that the charge established for shipments weighing in excess of 20,000 pounds is only the charge for a shipment weighing 20,000 pounds. Properly applied, it is not clear that observance of the established minimum rates would result in the assessment of charges substantially higher over an annual period than those which would accrue under the rates here proposed. The following table shows six shipments abstracted from the statement of movements for February, 1938, with the rating as computed by the representative of Johns-Manville and the proper rating under Decision No. 30370.

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The representative of Johns-Manville testified that tonnage moving during 1937 consisted of approximately 3060 tons outbound intrastate, 2090 tons outbound interstate, 2451 tons inbound intrastate and 1147 tons inbound interstate.

Decision No. 30370 Rates									
Date	Destination	As computed by witness			As Corrected			Amt. to De-duct in Dol-lars	
		Weight in Pounds	Rate in Cents per 100 lbs.	Revenue in Dollars	Weight in Pounds	Rate in Cents per 100 lbs.	Revenue in Dollars		
Feb. 4, 1938	Oakland	10320	51	52.63	20000	51	102.00		
		10000	51	51.00	Split		.85		
		Split			Del'y		102.85	1.63	
		Del'y		.85					
				104.48					
Feb. 11, 1938	Anaheim	22000	34	74.80	20000	34	68.00	6.80	
Feb. 16, 1938	San Fran- cisco	10000	65	65.00	20000	65	130.00		
	Asti	20000	65	130.00	Split		.85		
		Split			Del'y		130.85	65.00	
		Del'y		.85					
				195.85					
Feb. 22, 1938	Anaheim	22000	34	74.80	20000	51	102.00		
	San Diego	10000	51	51.00	Split		.85		
				125.80	Del'y		102.85	22.95	
Feb. 22, 1938	Berkeley	10000	54	54.00	20000	54	108.00		
	Oleum	20400	54	110.16	Split		.85		
		Split			Del'y		108.85	56.16	
		Del'y		.85					
				165.01					
Feb. 24, 1938	Martinez	22100	54	119.34	20000	54	108.00		
	Oakland	10000	54	54.00	Split		.85		
		Split			Del'y		108.85	65.34	
		Del'y		.85					
				174.19					
TOTAL								217.98	

It will be seen that the witness has applied the Decision No. 30370 rates against the entire weight of the shipment in instances where that weight exceeds 20,000 pounds. Under the terms of Decision No. 30370 the charge for 20,000 pounds is established as minimum for all heavier shipments and such charge will include split deliveries, subject of course

to the 85 cents additional charge for each stop. So applied, the established minimum rates result in charges in some instances more than 30 per cent lower than those upon which the witness relied in stating that the assessment of the established minimum rates would force the use of proprietary trucks. As corrected, the estimated increase for February under the established minimum rates would be reduced from \$459.78 to \$241.90. The situation illustrated is not peculiar to the particular shipments selected. The record shows that approximately 50 per cent of the consignments are shipped in 30,000 pound units or greater and as to all such traffic the corrected basis would come into play.

On this record applicant has failed to demonstrate that the proposed rates would be compensatory or that authority to deviate from the established minimum rates is justified. The application will be denied.

O R D E R

The matter having been duly heard and submitted, full consideration of the matters and things involved having been had, and the Commission being fully advised,

IT IS HEREBY ORDERED that Application No. 21815 be and it is hereby denied.

Dated at San Francisco, California, this 1st day of August, 1938.

Roger Washburn
Frank B. Miller
Wm. H. Kelley
Commissioners. 1