

Decision No. 31241

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of I. J. MENDOSA for permission under Section 11 Chapter 223 Statutes of 1935 of Highway Carriers' Act, to transport merchandise between Mendocino and Petaluma, California, at lesser rates than are charged by Common Carriers.

Application No. 21284

John E. McCurdy, for applicant and Poultry Producers of Central California

BY THE COMMISSION:

OPINION ON REHEARING

By the above entitled application I. J. Mendosa, a highway contract carrier, sought authority under Section 11 of the Highway Carriers' Act to transport eggs and live poultry from Mendocino and Albion to Petaluma, and empty egg cases, empty poultry coops, empty sacks, grain, feed and "poultry supplies" from Petaluma to Mendocino and Albion at rates less than the established minimum rates.¹ Following a public hearing at which no evidence was introduced, the Commission rendered its Decision No. 30277 denying the requested relief. Thereafter applicant offered to introduce evidence of probative value and a rehearing was had at San Francisco before Examiner Mulgrew.

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The constructive highway distance between Albion and Petaluma is 127 miles and between Mendocino and Petaluma is 140 miles. The minimum rates in effect for this transportation at the time the application was filed were those established by Decision No. 28761 of April 27, 1936, as amended, in Part "A" of Case No. 4088. That decision provided that for the transportation of the commodities involved in this application, on shipments weighing less than 4,000 pounds, the minimum rate for contract carriers would be the lowest common carrier rate for the same transportation, and that for heavier shipments the minimum charge would be the charge accruing under the lowest common carrier rate for a shipment of the same commodities weighing 3,999 pounds.

Applicant performs the transportation here involved, under contract with Poultry Producers of Central California. She also operates a general store at Mendocino and acts as agent for the Poultry Producers in receiving eggs and live poultry and in selling feed and other merchandise for their account. The rates which she proposes to charge are as follows:

Commodity	From	To	Sought Rates
Eggs, in cases (including return of empty cases)	Mendocino Albion	Petaluma	15 cents per case
Live Poultry, in coops (including return of empty coops)	Mendocino Albion	Petaluma	75 cents per coop
Empty sacks and "poultry supplies"	Petaluma	Mendocino Albion	25 cents per 100 pounds
Grain and feed	Petaluma	Mendocino Albion	\$4.25 per ton ²

Applicant presented two profit and loss statements, showing the actual costs experienced and revenues derived in performing the transportation here involved during the periods from November 1935 to and including December 1936, and from January to December 1937, inclusive.³ The statement for the period from November 1935 through December 1936 indicates that applicant's total expenses during that period (including overhead and depreciation) amounted to \$7,162.55

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A rate of \$5.00 per ton for transportation of grain and feed from Petaluma to Mendocino and Albion was sought in the original application; however, it was amended at the rehearing by substituting the rate of \$4.25 per ton.

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Although according to the witness no expenses for rent, or for executive, administrative or clerical services are actually incurred by applicant, the statements include what are said to be reasonable amounts for these services.

and that revenue of \$6,970.97 was received. During the year 1937 the total expenses are shown as \$6,167.43 and the revenue as \$7,796.18.⁴

No one opposed the granting of the application.

Since the rehearing was had the Commission issued Decision No. 30640 as amended in Case No. 4088, Part "F", prescribing rates for the transportation of grain and feed. These rates are generally lower than the rate sought; hence as to this traffic no relief from the minimum rates is required.⁵ As to the so-called "poultry supplies" and empty sacks the record is still without the information necessary to the proper determination of reasonable rates. The cost of performing the service, the nature and value of the commodities, and the circumstances surrounding their transportation are not shown.

In so far as it pertains to grain, feed, "poultry supplies" and empty sacks, the application will be denied. Rates of substantially the volume of those sought for the transportation of eggs and live poultry, and for empty egg cases and empty coops returning, are now in effect for similar transportation by a common carrier serving the same points. To the extent necessary to place applicant on the same basis as her competitor, the relief sought will be granted.⁶

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The record shows that during both periods grain and feed were charged for at a rate of \$5.00 per ton, as compared with the sought rate of \$4.25 per ton; poultry, poultry supplies and empty sacks were charged for at rates identical with those which applicant here proposes; and eggs were charged for at the sought rate of 15 cents per case during a part of the first period mentioned, but this rate was later increased to 18½ cents and a rate of that volume was assessed throughout the second period.

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The minimum rates for the distances here involved range from \$8.00 per ton on "any quantity" shipments to \$3.00 per ton on shipments weighing 10 tons or more and to \$2.50 per ton on shipments weighing 15 tons or more. The record indicates that the average weight of shipments handled by applicant northbound approximates 11 tons, and that the bulk of this weight consists of grain and feed.

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The competitive rates are subject to a minimum charge of 35 cents per shipment, "per case" rates are limited to cases containing not to exceed 30 dozen eggs, and "per coop" rates to coops containing not to exceed 50 fowl. They are contained in Supplement 4 of Local Freight Tariff No. 1, C.R.C. No. 1, of Jack Reid, doing business as Petaluma-Fort Bragg Motor Truck Line, which became effective May 10, 1937.

The findings herein are based on existing conditions and the authority will therefore be made effective for a temporary period expiring one year from the effective date hereof, unless sooner changed, cancelled or extended.

ORDER ON REHEARING

A rehearing having been had in the above entitled matter,

IT IS HEREBY ORDERED that I. J. Mendoza be and she is hereby authorized to assess and collect rates less than the minimum rates heretofore established by the Commission, but not less than the rates set forth in Appendix "A" attached hereto and hereby made a part hereof, for transportation of the property and between the points for which rates are provided in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this order unless sooner changed, cancelled or extended by appropriate order of the Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the above entitled application be and it is hereby denied.

The effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 6th day of September, 1938.

Robert W. Johnson
Leon A. Johnson
David W. Johnson
Ray L. Riley

Commissioners.

APPENDIX "A"

Item No. 5 - Definition of Technical Terms

- (a) The term "shipment" means a quantity of freight tendered by one shipper on one shipping document at one point of origin at one time for one consignee at one point of destination.
- (b) The term "point of origin" means the precise location at which property is physically delivered by the consignor or his agent into the custody of the carrier for transportation.
- (c) The term "point of destination" means the precise location at which property is physically delivered into the custody of the consignee or his agent.

Item No. 10 - Application of Rates

Rates named in this appendix apply only in connection with shipments transported from Mendocino or Albion to Petaluma.

Item No. 15 - Rates

Eggs, in cases, not exceeding 30 dozen per case

*# 15 cents per case

Poultry, live, in coops, not exceeding 50 per coop

75 cents per coop

* Minimum charge 35 cents per shipment.

Rate includes return of empty containers to point of origin.