

Decision No. 31225

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of C. W. CARLSTROM, D. B. A. Ace) Application No. 22242
Van & Storage Co., for authority)
to charge less than minimum rates.)

ORIGINAL

APPEARANCES:

Phil Jacobson, for applicant.

Jackson W. Kendall and Daniel P. Bryant, for Bekins Van Lines, Inc., and for Yellowway Van Lines, Inc., protestants.

Jackson W. Kendall, for Bekins Van & Storage Company, and for Los Angeles Round Table of the California Storage Association, protestants.

C. P. Von Herzen, for Lyon Van Lines, Inc., and for Lyon Van & Storage Association, protestants.

C. Harold Sexsmith, for Lyon Van Lines, Inc; for Lyon Van and Storage Company, and for Los Angeles Round Table of the California Storage Association, protestants.

J. J. Gosling, for the American Van Lines, interested party.

Harold W. Dill, for the Truck and Warehouse Association of San Diego and Imperial Counties, as their interests may appear.

Burton Mason and E. L. H. Bissinger, for the San Diego & Arizona Eastern Railway Company, for Southern Pacific Company, and for Pacific Motor Trucking Company, protestants.

Wm. L. Carpenter, protestant.

E. T. Lucey, for Atchison, Topeka & Santa Fe Railway Company, protestant.

BY THE COMMISSION.

O P I N I O N

By this application C. W. Carlstrom, an individual doing business as Ace Van & Storage Company, a radial highway common carrier, highway contract carrier and city carrier, seeks authority

under Section 11 of the Highway Carriers' Act to transport approximately 1,750,000 pounds of used household goods and professional books for the United States Army from San Diego and vicinity to the Sacramento Air Depot and points within a radius of 10 miles thereof, at charges less than those which would accrue under minimum rates established by Decision No. 29891 of June 28, 1937, as amended, in Cases Nos. 4086 and 4099 (40 C.R.C.533).

The matter was submitted at a public hearing had before Examiner Bryant at Los Angeles on September 27, 28, 29 and 30, 1938.

From explanation of the proposed operation supplied by applicant, who testified in his own behalf, it appears that the transportation is to be performed under a contract with the United States Government which requires the furnishing of all necessary labor, material and equipment for the following:

Item No. 1. Preparing for shipment, weighing and transporting approximately 875,000 pounds of used property from Rockwell Air Depot (North Island) and from residences located in Coronado and other points in the San Diego Metropolitan Area to residences in the Sacramento Air Depot Area, as defined in the contract.

Item No. 2. Preparing for shipment, weighing and transporting approximately 875,000 pounds of used property from the same origin points to the Sacramento Air Depot, where it will be unloaded by applicant subject to re-loading and transporting by applicant's motor van to residences in the Sacramento Air Depot Area.

The contract provides, among other things, that services will commence on or about September 30, 1938,¹ and will be carried out in twelve group movements consisting of approximately 135,000 pounds of household goods for each group. Group movements will be spaced approximately ten days apart, the last movement to be on or about January 30, 1939. The carrier will be required to complete delivery of all supplies or perform the services incidental to each

1 This application was filed with the Commission on September 22, 1938.

group movement within five days from receipt of call, Sundays and holidays excluded.

The rates proposed by applicant to be charged for the services hereinbefore indicated under Items Nos. 1 and 2 are \$1.69 and \$2.19 per 100 pounds respectively; however, as each of these rates is subject to a discount of five per cent for payment within twenty days, the net rates proposed are actually \$1.60² and \$2.08 per 100 pounds respectively.

The testimony adduced in this proceeding was all elicited from witness Carlstrom, and inasmuch as substantially all of his testimony was directed to the question of estimated costs it will be necessary to consider the cost exhibits in some detail. He introduced nine exhibits which collectively comprise a study of his estimated cost of performing the services to be rendered under Item No. 1, and which indicate that in applicant's opinion the total cost would be approximately \$1.13 per 100 pounds.³ The nine exhibits are devoted, respectively, to packing of articles required to be placed in boxes or barrels; loading and unloading of the vehicles; drivers' wages for the line haul, including the driving time involved in the pickup and delivery; cost of vehicles and other equipment necessary to be considered in allocating the fixed charges of depreciation and interest on investment; operating costs (covering two exhibits); overhead

2 The established minimum rate for the transportation of household goods from Metropolitan San Diego to Sacramento and North Sacramento, in shipments of 4,000 pounds or more, is \$3.76 per 100 pounds. In addition, there is an added charge for packing, unpacking, delivery of shipping containers, and for transportation beyond North Sacramento. Further, subsequent delivery, such as that contemplated by Item No. 2 above, is charged for at hourly rates which vary according to the size of vehicle and the number of helpers required.

3 No study was introduced of the cost of performing the services required under Item No. 2.

costs; miscellaneous expense; and a recapitulation of the various expenses to develop the total cost of \$1.13 per 100 pounds just indicated.

Packing: Applicant estimated that the average cost of furnishing and packing each container would be \$1.20, including cost of the materials, delivery to the residence, and a labor charge for one-half hour at the rate of 65 cents per hour. In order to translate this cost into cents per 100 pounds he estimated that there will be one container of packed articles for each 767 pounds of gross weight on the entire job, this figure being explained as representing applicant's actual experience in connection with a somewhat similar movement which took place about four years ago from March Field (near Riverside) to Hamilton Field (Marin County).⁴ From these factors he computed a packing cost of 15.6 cents per 100 pounds.

Loading and Unloading: Applicant arrived at the cost of loading and unloading the vehicles by estimating that the property would be handled at the rate of 546 pounds per man hour, the men to be paid at an average wage of 60 cents per hour, plus compensation insurance, federal old age insurance, and state unemployment insurance. He stated that the figure of 546 pounds reflected actual performance on the March Field job. Direct computation from these factors produced a loading and unloading cost of 12 cents per 100 pounds.

Drivers' Wages: The drivers' wages were calculated at the rate of 60 cents per hour, plus insurance charges. The hours were estimated upon the basis of applicant's assumptions that 1047 miles would constitute a round trip, including pickup and delivery, and the vehicles would average approximately 24 miles per hour.

⁴ This movement will be referred to hereinafter as the "March Field job".

Calculations from these bases developed a cost of 20.2 cents per 100 pounds.

Cost of Equipment: For the purpose of determining an amount to be charged to depreciation and interest on investment, applicant set forth the cost of an average unit, consisting of tractor, semi-trailer, and necessary pads, dollies and other equipment. The record is somewhat indefinite as to the method used in arriving at this cost, but it appears that he charged to the cost of vehicles an amount less than the price of comparable new vehicles, but more than the price which he actually paid for them. Whether the amount charged was more or less than the original cost plus actual expense incurred in rebuilding certain of the equipment,⁵ is not clearly indicated.

Operating Costs: In the development of operating costs, applicant explained that he contemplated the use of seven tractors and semi-trailers, and assumed for the purpose of his estimate that each unit would transport one-seventh of the total tonnage. Upon this basis he estimated the cost per unit for interest on investment, depreciation, fire and theft insurance, loss and damage, taxes, and mileage costs of tires, tubes, repairs, fuel and lubricants. These items totaled \$1,161.51, resulting in a cost per 100 pounds of 48.8 cents.

Overhead Costs: Applicant estimated a total overhead cost of \$890, made up of \$100 for clerical expense; \$100 for legal and traveling expense; \$600 for supervision; and \$90 for telephone, office supplies and miscellaneous overhead expenses. Reduced to a weight basis, the resulting overhead cost is slightly in excess of 5 cents per 100 pounds.

⁵ Applicant testified that the vehicles were not purchased new; that certain of the van bodies had been altered at an expense of approximately \$300 each; and that in addition some of the chassis had been converted from one axle to two axles.

Miscellaneous: Under the heading of miscellaneous expense applicant listed the items of faithful performance bond, surety bond, cargo insurance, gross revenue taxes, ferry charges, and weight certificates. The total expense was estimated at \$1967, resulting in a cost of 11.24 cents per 100 pounds.

Total Expense: The exhibit covering total expense is merely a tabulation of the costs hereinbefore indicated, which when added together develop a total of approximately \$1.15 per 100 pounds.

* * * * *

Cross examination developed many questionable factors in applicant's cost estimates. For example, he did not undertake to explain with any degree of particularity how he had determined his packing and loading performance on the March Field job; merely stating that the figures were taken from time cards and other records. His information was quite indefinite with respect to the dimensions of the vehicles to be used and the number of axles and tires on the several vehicles. His estimate of mileage costs (tires, tubes, repairs, fuel and lubricants) was taken directly from a study made about two years ago of the performance of a vehicle which is different from, and apparently shorter than, other vans upon which the present cost study is based. Although he testified that the exhibits had been entirely prepared under his supervision and direction, he was apparently unable or unwilling to supply definite answers to many questions concerning details which were presumably essential in arriving at the estimated costs, and he was not prepared to produce any of the records, working papers, or other data upon which he relied in the preparation of his exhibits.

⁶ When requested by protestants to produce the records which he had used, for the purpose of cross examination, he explained that certain of the records contained information which he did not wish to disclose to his competitors, and that segregation of the confidential material for the purpose of bringing in the balance would be impracticable because of the time element involved in this application.

The record leaves some question as to the manner in which applicant planned to transport the approximately 135,000 pounds of household goods in each group movement within the five days, plus Sundays and holidays, allowed by the contract. His estimates are predicated upon the use of seven vans transporting an average weight of 14,000 pounds in each load, and upon this basis it will be seen that at least two of the vans must make two round trips. Using his estimate of 43.6 hours driving time for the round trip this performance could be accomplished by using two or more drivers, but in view of the rest periods required by California law it could hardly be done with only one driver. Applicant testified that, except in an emergency, he contemplated the use of only one driver on each vehicle, and that the vehicle would be parked beside the road or on a side road while the driver was resting or sleeping.⁷

In this connection it may be observed that the witness was obviously unfamiliar with certain provisions of the contract. For example, he first stated that ten days would be permitted for each group movement, and had apparently made his cost estimates upon that basis; but upon being shown a copy of the government invitation to bid he corrected this statement to five days - adding, however, that he did not expect the government to require this performance.

Applicant's cost estimates appear to be unreasonably low in several important respects, and for this reason considerable doubt must be entertained as to their adequacy as a whole. For example, he estimated the length of haul involved by taking a distance of 511 miles from San Diego to Sacramento, doubling it for the round

7 The witness stated that his drivers were paid an average wage of 60 cents per hour, and that the same rate prevailed for overtime work, Sundays and holidays. He made no allowance for meals, lodging or other expenses enroute.

trip, and adding 25 miles to cover pickup at origin and delivery at destination. By this method he obtained a total of 1047 miles per trip. However, the figure of 511 miles was challenged as being too low even without making allowance for detours to avoid streets subject to weight restrictions; and it was shown that in any event the Sacramento Air Depot is located some 5.8 miles beyond Sacramento. Under these circumstances, and in view of the fact that the shipments will originate at various points in the San Diego Metropolitan Area, including Rockwell Field and Coronado, and will be delivered at various points within a radius of ten miles of the Sacramento Air Depot, it appears probable that all the items in applicant's cost estimates which are predicated upon a distance of 1047 miles per trip should be revised upward.

His loading and unloading estimates were predicated upon a performance of 546 pounds per man hour, said to have been experienced on the March Field job, but he conceded upon cross examination that the origin points at March Field were more closely confined, and thus more conducive to rapid loading, than those involved here. He contemplated that unloading of the vans at destination would be done by "swampers" who would be sent from San Diego for that purpose, and who would be paid at the rate of 60 cents per hour; but he had not made inquiry to determine the prevailing wage for work of this character in Sacramento, or whether the proposed wage could be paid there. He made no provision for wages or expenses of "swampers" while enroute from San Diego to Sacramento.

He estimated a cost of \$25 per month for clerical expense, and explained that under this heading he included the duties of dispatching the vehicles, as well as recording weights, filing

weighmasters' certificates, and performing all other clerical work required.

He allowed depreciation on \$200 worth of pads, dollies and other equipment for each van, but testified that about 150 pads would be required at a cost of \$16 per dozen, thus actually leaving no provision for depreciation on the dollies, skids, tarpaulins and other equipment.

Upon this record it is impossible to judge whether clarification of the questionable factors and revision of the inadequate amounts in applicant's estimates would result in total costs higher or lower than the proposed rates, but considering the record as a whole it must be said that applicant has not convincingly demonstrated that he can perform the services involved at a cost equal to or less than the revenue which would accrue at the proposed rates. Where authority is sought to charge less than established minimum rates it is incumbent upon the one seeking such authority to justify the granting of the request. In the absence of affirmative proof that the services may reasonably be expected to be performed at other than a loss, the Commission is obviously unable to make a finding that the proposed rates are reasonable; and without such a finding it may not authorize a highway carrier to perform any transportation or accessorial service at a lesser rate than the established minimum rate. (Sec.11, Highway Carriers' Act, Statutes 1935, Ch. 223).

It appears obvious that for a movement of this nature rates less than the established minimum rates would be justified. However, unless applicant can show that his proposed rates, or other rates, are compensatory, authority to depart from the established minimum rates cannot be granted.

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 reasonable or compensatory. If and when applicant assures the Commission that he is prepared to justify his proposal, a rehearing may be had. The application will be denied without prejudice.

ORDER

This application having been duly heard and submitted, full consideration of the matters and things involved having been had, and the Commission now being fully advised,

IT IS HEREBY ORDERED that this application be and it is hereby denied without prejudice.

Dated at Los Angeles, California, this 3rd day of October, 1938.

Raymond P. ...
Leon ...
Francis ...
Ray L. Riley
COMMISSIONERS.