

Decision No. 31575

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
E. A. Heyn, DBA E. & J. Truck Co.'s)
request to grant a privilege to accept)
a contract from the City of Los Angeles) Application No. 22196
and the City of Los Angeles to be)
privileges to issue a contract to said)
applicant for services to wit:)

APPEARANCES

E. A. Heyn, in propria persona.
E. J. McSweeney, for Western Truck Lines, Ltd.,
interested party.
Stuart Russel, for Motor Truck Association of
Southern California, protestant.

BY THE COMMISSION:

O P I N I O N

By this application, E. A. Heyn, doing business as E. & J. Truck Co., a radial highway common carrier, seeks authority under Section 11 of the Highway Carriers' Act to enter into a contract with the Department of Water and Power of the City of Los Angeles for the performance of "general hauling service" at hourly rates which would in some cases result in charges less than those which would accrue at minimum rates heretofore established by the Commission.

Public hearings were had before Examiner Bryant at Los Angeles.

Specifications of the proposed contract, introduced as an exhibit in this proceeding, indicate that transportation service will be required in the area bounded on the north by the Mono Basin project (which is located approximately 350 miles north of Los Angeles), and on the south by San Pedro and Wilmington, and shall include projects located in San Francisquito Canyon, Boquet Canyon,

Owens Valley, and at intermediate points between Los Angeles and the Nevada state line along the route of the Boulder Canyon transmission line.

The proposed rates range from \$2.45 to \$4.45 per hour, according to the weight of the property transported, subject to a discount of 15 per cent for payment within thirty days. These rates may not be readily compared with those heretofore established by the Commission, inasmuch as the latter are, with few exceptions, named in cents per 100 pounds.

Applicant testified that in his opinion the suggested hourly rates would produce a greater revenue than would the minimum rates now in effect. To demonstrate this point, he introduced exhibits comparing charges under the two bases upon a number of theoretical shipments which could be offered under the proposed contract, showing that in each of the examples selected the hourly rates would produce a greater revenue. He hazarded a guess that on less than 10 per cent of the shipments would the proposed hourly rates result in the lesser revenue.

Western Truck Lines, Ltd., a highway common carrier operating, among other places, between Los Angeles and Owens Valley points, objected to the granting of this application to the extent that transportation under the proposed rates would be performed between points served by it. The Motor Truck Association of Southern California also protested the granting of the application, stating that it is opposed, as a matter of policy, to the granting of special rates to any particular carrier.

Aside from the comparisons hereinbefore indicated, and a statement to the effect that the City of Los Angeles deemed an hourly basis necessary on account of the nature of the services,

applicant offered little evidence in support of the application. He stated that in his opinion the proposed hourly rates would return a profit, due to the fact that the territory to be covered "is more or less hilly and slow." He offered no cost estimates in support of this contention, and stated that he had not prepared a cost study nor kept cost records. He did not undertake to show why hourly rates are considered necessary or in what respects the effective minimum rates are considered inappropriate. His conclusion that the proposed hourly rates would return greater aggregate revenue than would the effective minimum rates took into consideration that for a considerable portion of the transportation, minimum rates have not as yet been established. The record does not indicate how the revenues would compare upon that portion of the traffic for which minimum rates have been established.

In view of the total absence of information relative to the estimated cost of performing the proposed services, and of the speculative nature of the testimony respecting the volume of the rates, applicant has not demonstrated that he can fulfill the proposed contract at a cost equal to or less than the revenue which would accrue at the suggested 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. (Decision No. 31325 of October 3, 1938, in Application No.

¹ For example, Decisions Nos. 29480 and 30370, as amended, in Case No. 4088, provide that the rates therein established do not apply upon shipments weighing more than 15,000 pounds or 20,000 pounds, respectively, except that such shipments shall not be transported at a lesser total charge than the charge therein established for the same transportation of a shipment of the same commodity (or of the same commodities in the same proportion) weighing 15,000 (or 20,000) pounds.

22242; In the Matter of the Application of C. W. Carlstrom.) In the absence of an affirmative showing 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. (Section 11, Highway Carriers' Act, Statutes 1935, Chapter 223.)

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 able to justify his proposed rates, a further hearing may be had. The application will be denied without prejudice.

O R D E R

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 19th day of December, 1938.

Raymond J. [Signature]
Leon [Signature]
Oran [Signature]

[Signature]

Commissioners.