

Decision No. 31595

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)
BEKINS VAN & STORAGE CO., a corporation,	)
for authority to deviate from rates as	)
prescribed in Decision No. 29891, as	)
amended, in Cases 4086 and 4099; Decision	)
No. 29480, as amended, in Case No. 4088,	)
Part M; Decision No. 31473, in Case 4121,	)
and Decision No. 30021, as amended, in	)
Case No. 4135, and other orders covering	)
the rates to be charged in moving house-	)
hold goods and personal effects.	)

Application No. 22422.

Daniel P. Bryant, for Applicant.

Jackson W. Kendall, for Bekins Van Lines, Inc.,  
Interested Party.

Harold W. Dill, for Truck and Warehouse Associa-  
tion of San Diego and Imperial Counties,  
as its interests may appear.

Paul Jacobson, Protestant.

William Carpenter, for Argonne Van Lines and  
Argonne Van and Storage Company, Protestants.

BY THE COMMISSION:

O P I N I O N

By this application Bekins Van & Storage Company, a corpora-  
tion engaged, among other things, in the transportation of property  
as a radial highway common carrier, highway contract carrier and city  
carrier, seeks authority to pack and transport household goods, furni-  
ture and personal effects of personnel of the United States Government  
at contract rates which would in some instances result in charges less  
than those which would accrue under rates heretofore established as  
minimum by the Commission. Applicant alleges that the revenue which  
would accrue at the proposed rates would aggregate as much as, if not  
more than, that which would accrue under strict application of the

established minimum rates; that the proposed rates are reasonable and would not constitute an unjust or unreasonable discrimination against any other shipper or traffic; and that all but a small percentage of the tonnage to be handled under the proposed contracts would be transported in interstate commerce. The service involved is to be performed for the Naval Supply Depot, San Diego, during the period from January 1 to March 31, 1939, within two areas designated in the proposed contracts as the Long Beach district and the San Diego district.

A public hearing was had before Examiner Bryant at Los Angeles on December 19, 1938.

A witness for the applicant testified that in his opinion the contract rates would return at least as much revenue as the prescribed minimum rates. In support of this opinion he introduced two exhibits comparing the two bases of rates and the revenue which might be expected under each.<sup>1</sup> These exhibits indicate that for the service to be performed within the Long Beach district the proposed rates would return \$8,259.00, whereas the established minimum rates would return only \$4,915.04. In the San Diego district, the comparable figures are \$6,062.50 under the proposed rates and from \$4,643.73 to \$5,843.73 (dependent upon certain variable factors) under the minimum rates. All of these figures are estimates, inasmuch as numerous factors, such as the time to be consumed in the

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<sup>1</sup> Comparison may not be readily made between the proposed rates and those heretofore established as minimum, as the former are named in cents per 100 pounds as required in the government bid form, whereas the latter are in most instances prescribed on an hourly basis. The established minimum rates were prescribed by Decision No. 29891, as amended, in Case No. 4086; Decision No. 29480, as amended, in Case No. 4088, Part "M"; Decision No. 31473 in Case No. 4121; and Decision No. 30021, as amended, in Cases Nos. 4088, Part "K", and 4135.

various services, the average weight of the shipments, and even the total tonnage to be moved, cannot be definitely known until after the work has been performed.

Applicant called a second witness who confirmed certain of the estimates made by the first witness (such as to the probable average weight of the shipments, the weight relationship between crated and uncrated property, and the number of pounds to be loaded and unloaded per man hour). He stated that based upon his experience as the former manager of another transfer company which had performed under his supervision a number of United States Navy contracts somewhat similar to those here involved, he was of the opinion that such estimates were reasonable and proper.

No other witness testified, and no attempt was made to develop the cost of performing the service involved, it being applicant's position that inasmuch as the proposed rates would return more revenue in the aggregate than would the minimum rates established by the Commission, there was no necessity for justifying the proposed rates from a cost standpoint.

William Carpenter (doing business as Argonne Van Lines and Argonne Van & Storage Company) and Phil Jacobson protested the granting of this application. The latter protestant moved that the application be dismissed on the grounds that applicant had failed to show under what provisions of law it sought authority to "deviate" from the established minimum rates, rather than to charge lesser rates as provided by Section 10 of the City Carriers' Act and Section 11 of the Highway Carriers' Act.

Inasmuch as the established rates are minimum in application, no relief is necessary to the extent that the proposed rates

will result in charges as great as or greater than those which would accrue under the established minimum rates on particular shipments. However, it is apparent that the proposed rates will in some instances result in lesser charges than the established rates, and in this respect the application may properly be considered as a request for relief under Section 10 of the City Carriers' Act and Section 11 of the Highway Carriers' Act. The motion to dismiss will be denied.

The relief here applied for differs somewhat from that usually sought under the aforesaid sections. Generally the relief sought is directed to the establishment of rates and charges less than those established by orders of the Commission; here applicant seeks to apply rates which deviate from those established as minimum but which are expected to return, in the aggregate, revenue materially greater than would accrue under the established rates. However, this application is not without precedent, as the Commission has heretofore granted relief to other applicants under somewhat similar circumstances.<sup>2</sup>

In view of the fact that the established rates for the local transportation of household goods are in most instances named on an hourly basis, whereas the government's request for bids requires rates to be stated in cents per 100 pounds, it is apparent that some deviation from minimum rates is unavoidable if applicant is to comply with the government requirements. The record indicates that in the aggregate the proposed rates would return a greater revenue than would the established minimum rates and that it would be

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<sup>2</sup> See Decision No. 29930 of July 7, 1937, in Application No. 21256, Application of Edward Malde; Decision No. 30777 of April 11, 1938, in Application No. 21071, Application of Edward Malde, and Decision No. 30938 of May 31, 1938, in Application No. 21911, Application of Ira P. Lamb (41 C.R.C. 384).

necessary to exercise the sought authority in relatively few instances.

Upon consideration of all the facts of record we are of the opinion and find that the bases upon which applicant proposes to collect charges under the particular contracts here involved are reasonable. The application will be granted. This finding being predicated upon existing conditions, and the proposed contracts being for services to be rendered during the period from January 1, 1939, to March 31, 1939, the authority granted will be limited to the latter date.

O R D E R

This application having been duly heard and submitted,  
IT IS HEREBY ORDERED that this application be, and it is hereby, granted.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire with March 31, 1939.

This order shall become effective January 1, 1939.

Dated at San Francisco, California, this 27<sup>th</sup> day of December, 1938.

Raymond A. B. [Signature]

James M. [Signature]

[Signature]

Commissioners.