

Decision No. 30600.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of INDEPENDENT PAPER STOCK COMPANY)
for authority to charge less than) Application No. 22427
the minimum rates established by)
Decision No. 30600 as amended.)

APPEARANCES

ORIGINAL

H.A. Lincoln, for applicant
W.C. Klebenow, for Motor Truck Association
of Southern California, protestant

BY THE COMMISSION:

O P I N I O N

By this application Independent Paper Stock Company, a corporation, engaged, among other things, in the transportation of property as a highway contract carrier, seeks authority under Section 11 of the Highway Carriers' Act to transport pulpboard for Fibreboard Products, Inc., from its Vernon plant to its Southgate plant, at charges less than those heretofore established by this Commission as minimum for such transportation; and to make reparation to the shipper of the difference between charges which accrued under the established rates and those which would have accrued at the rate herein sought.

A public hearing was held before Examiner Bryant at Los Angeles.

The traffic manager of Fibreboard Products, Inc., the shipper, explained that Independent Paper Stock Company is a wholly-owned subsidiary whose principal business is that of supplying the parent company with waste paper as a raw material for conversion purposes, and that the for-hire transportation involved in this application

is an incidental and relatively minor function of the applicant. Independent Paper Stock Company has performed this transportation for approximately four years; in addition it transports various commodities for the same shipper in interstate or foreign commerce. According to the witness, applicant has improved and perfected the design of its automotive equipment and accessories for the most efficient and economical performance of the service, and its employees are specially trained for a most efficient operation. He testified that, to his knowledge, there is no other movement of pulpboard in the State of California which could be considered comparable to that here involved.

The witness stated that in his opinion the rate herein proposed (3 cents per 100 pounds, minimum weight 30,000 pounds) would return more revenue in the aggregate than would strict application of minimum hourly rates heretofore established by the Commission, but explained that hourly rates would be unsatisfactory to the shipper.¹ He believed hourly rates would tend to produce an unstable rate structure, would be difficult to apply and to check, and, because all of the shipper's accounts are kept on a tonnage basis, would require the keeping of two complete sets of records. The weight basis is particularly desired in order to maintain uniformity between the shipper's operations here and those in Oregon, Washington and other states.

The superintendent of the shipper's Southgate plant testified that it has been and will continue to be his policy to render every assistance to the applicant in order that its services might be performed most economically and efficiently. To this end, orders for pulpboard are placed in quantities of 100 tons or more, and applicant is permitted to transport this tonnage at its convenience in order to make the best

¹ By Decision No. 30600 of February 7, 1938, as amended, in Case No. 4121, the Commission established a rate applicable to this transportation of 7 cents per 100 pounds, minimum weight 20,000 pounds; by the same decision it provided an alternative rate (for the transportation of shipments weighing over 20,000 pounds) of \$5.00 per hour for vehicle and driver, subject to a charge of \$1.10 per man per hour for extra labor.

use of its equipment. The pulpboard is shipped in rolls which are 48 inches in diameter, and which vary in weight from 1,500 to 2,500 pounds according to their width. They are rolled on and off of the vehicles, and are transported in the horizontal position. There have been no damage claims, and as a matter of fact no shipment of pulpboard has been damaged by applicant in the several years during which it has been engaged in the service. The loading platform at the Vernon plant and the unloading platform at the Southgate plant are of approximately the same height as the bed of the trucks. The shipper's employees are instructed to see that the platforms are clear when applicant's trucks are expected; to assist the drivers and helpers in loading and unloading the vehicles; and to see that incoming shipments are received promptly and outgoing shipments are ready when the vehicles arrive. The distance between the two plants is about five miles, and a one-way trip, including loading and unloading, seldom takes more than 45 minutes. The witness was quite certain that if this application should be denied the shipper would undertake to perform its own transportation.

Another witness, the accountant of Independent Paper Stock Company, testified that in his judgment the actual cost to applicant of performing the service here involved, exclusive of general overhead expenses, was less than 40 cents per ton;¹ or 2 cents per 100 pounds.² He stated that he based this opinion upon analysis of accurate and complete time studies and cost records which he had kept of every operation over a period of years. In support of his conclusions he introduced exhibits prepared from records for the months of March, April and May, 1938, which months were said to have been selected at

¹ (Continued)

These rates are presently contained in Decision No. 31473 of November 25, 1938, which superseded and set aside previous orders in Case No. 4121.

² The exhibits contain an item designated as "General Overhead," but the witness explained that under this heading were included only certain miscellaneous expenses such as unemployment and old age taxes and the cost of stationery, gasoline used in transporting relief drivers and helpers, and overtime for checkers.

random as being representative.³ In explanation of the exhibits he said that a complete record had been kept of the cost of gasoline, lubricants, tires, tubes, maintenance, repairs, drivers' and helpers' wages, taxes and insurance, and that these costs had been segregated as to each vehicle. A record was also kept of each truckload transported, showing the weight of the load, the time consumed and the distance traveled, and from this record all of the mileage expenses and hourly expenses were assigned to the various transportation operations. As the vehicles are used interchangeably in this and other services, the expenses were distributed on the basis of miles traveled and hours consumed.⁴ No allowance was made for garage rent, the witness asserting that none was necessary because the shipper furnishes ample storage space without charge. He explained also that no calculation had been made of general overhead expenses, but he stated that in his opinion the amount of overhead which could be assigned to the pulpboard transportation would be negligible, and would be more than offset by revenue received on interstate shipments.

The Motor Truck Association of Southern California opposed the granting of this application, explaining that it is opposed, as a matter of policy, to the granting of reduced rates to particular carriers.

The transportation service involved in this application is unusual, in that it is rendered by a subsidiary corporation which is entirely owned and controlled by the shipper, and which serves only the parent corporation. In such a situation it might be expected that

³ The costs indicated for these three months were 37.4 cents per ton, 38.6 cents per ton and 38.3 cents per ton, respectively.

⁴ For example, a truck transporting pulpboard from Vernon to Southgate would ordinarily return with a load of waste paper, in which case the time and mileage in one direction would be charged to the pulpboard movement, and the time and mileage in the return direction would be charged to the waste paper movement; should the vehicle return unladen, the round trip would be charged to the pulpboard movement.

the shipper would cooperate in every way to reduce the carriers' costs, and the testimony indicates that such is the case. Particularly, it is obvious that a considerable saving may be made by the carrier when, as here, it is given ample tonnage and permitted to transport this tonnage at its convenience for this arrangement permits the carrier to coordinate its various hauls so as to obtain the highest possible load and use factors. Moreover, in this case the haul is short, and the movement involves only one shipper, one commodity, one point of origin and one point of destination. The record is convincing that applicant's cost of performing the service, exclusive of certain overhead expenses, does not exceed 2 cents per 100 pounds. On this basis the proposed rate of 3 cents per 100 pounds would leave a margin of 50 per cent after accounting for actual out-of-pocket costs. Such a margin would clearly be more than sufficient to cover all general overhead expenses which could properly be charged to this operation.

Upon consideration of all of the facts of record, we are of the opinion and find that the proposed rate is reasonable for the specialized transportation service here involved. The application will be granted except in so far as it seeks authority to refund charges collected on past shipments. No statutory provision has been cited whereby the Commission may lawfully authorize such action.

5

This point was directly in issue in Application of J.A. Clark Draying Company, Decision No. 29105 in Application No. 20629, in which the Commission said: "Applicants ask, however, that authority sought be granted as of June 1, 1936, or, in the event the Commission is of the opinion that it is without authority to grant such relief, that it be made effective from time the application was filed. Under what provision of law this relief is sought, the record does not show. This Commission is authorized to award reparation in cases where the applicable charges of carriers subject to the Public Utilities Act are found to be unreasonable, excessive or discriminatory by virtue of Section 71 of that act. No such provision is contained, however, in the Highway Carriers' Act

The findings herein are based upon 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.

O R D E R

This matter having been duly heard and submitted,

IT IS HEREBY ORDERED that applicant, Independent Paper Stock Company, be and it is hereby authorized to assess and collect for the transportation for Fibreboard Products, Inc., of pulpboard in rolls, subject to a minimum weight of 30,000 pounds per shipment, from the shipper's plant located in the city of Vernon to its plant located in the city of Southgate, a rate less than the rates heretofore established by this Commission as minimum for such transportation, but not less than three (3) cents per 100 pounds.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this

5 (Continued)

under which this proceeding is brought. The request for retroactive relief will be denied." This interpretation was reaffirmed in Application of Triangle Transfer & Storage Company (Decision No. 29974 in Application No. 21275) and in Application of C & R Transfer Company (Decision No. 29992 in Applications Nos. 21309 and 21310), and in the Matter of the Application of Brown Trucking Company for authority to charge less than the minimum rates (Decision No. 30733 in Application No. 21618). See also Decision No. 31184 in Case No. 4286 and in Applications Nos. 21496, 21719 and 21816.

order unless sooner changed, cancelled or extended by appropriate order of the Commission.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 18th
day of April, 1939.

Robert H. ...
Frank R. ...
Ray K. ...
H. B. ...
Justin J. ...
Commissioners