

Decision No. 21347

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of A. MARKOWITZ for authority to charge less than minimum rates. } Application No. 21347

P. N. McCLOSKEY and A. MARKOWITZ, in propria persona, for Applicant.

HAROLD W. DILL, for Truck & Warehouse Association of San Diego and Imperial Counties, Protestant.

J. C. BOWDEN, for Dump Truck Association of Southern California, Protestant.

F. F. WILLEY, for Pacific Electric Railway Company, Interested Party.

BY THE COMMISSION:

#### O P I N I O N

By his application, filed July 15, 1937, A. Markowitz operating as a city carrier under a permit issued by the Commission, December 1, 1936, seeks authority under section 10, City Carriers' Act, to transport property by dump truck at a rate below the minimum established by the Commission for such transportation, pursuant to Decision No. 28836, dated May 25, 1936, in Case No. 4087.

A public hearing was had before Examiner Hunter at Los Angeles, on August 4 and 5, 1937, when the matter was submitted. The disposition of this matter has been delayed pending the determination of litigation affecting the Commission's power to prescribe minimum rates for carriers engaged in transporting property by dump trucks for the State Department of Public Works. Such authority has been upheld (Entremont v. Whitsell, 97 Cal. Dec. 505).

Applicant proposes to establish a rate of \$1.00 per hour for transporting property in his two cubic-yard dump truck in connection with certain W.P.A. projects in Los Angeles County, performing this service under arrangement with the United States Treasury Department.

The Commission's records disclose that applicant's city carrier permit was revoked November 20, 1937, because of his failure to maintain and continue in effect the insurance protection required by sections 4, 5 and 6, City Carriers' Act. The Commission's files show that another city carrier permit was issued to applicant January 24, 1938. Likewise this permit was revoked April 8, 1938, because of failure to maintain and continue in effect the required insurance protection. Since applicant now possesses no authority to continue in the transportation service as to which relief is sought, further consideration of this application appears unnecessary. It will therefore be dismissed.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, and the Commission being now fully advised:

IT IS HEREBY ORDERED that the above entitled proceeding be and it is hereby dismissed.

This order shall become effective immediately.

Dated at San Francisco, California, this 31<sup>st</sup> day of  
May, 1939.

Robert H. Spind  
Frank P. DeWitt  
W. L. Rice  
H. Baker  
Justin F. Coe  
COMMISSIONERS