

Decision No. 22027

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of WM. F. O'BRIEN for authority
to charge less than minimum rates. }

Application No. 21517

BY THE COMMISSION:

ORIGINAL

O P I N I O N

William F. O'Brien, the applicant in this proceeding, operating as a radial highway common carrier and as a city carrier, under permits granted by the Commission, seeks authority under section 11, Highway Carriers' Act and under section 10, City Carriers' Act, by his application filed October 9, 1937, to establish a rate for the transportation of property in dump trucks lower than the minimum rates established by the Commission for such transportation in Decision No. 28836, dated May 25, 1936, in Case No. 4087.

Specifically, applicant requests authority to continue in effect, for transportation to be performed by his 4.4 cubic-yard dump truck in connection with certain W.P.A. projects in the city of Los Angeles and in the county of Los Angeles, the rate of not less than \$2.00 per hour which he had been authorized by Decision No. 29975, on Application No. 21293, dated July 27, 1937 to maintain for operations of similar character. The consideration of this matter has been delayed pending the determination of litigation affecting the Commission's power to prescribe minimum rates for carriers engaging in transporting property by dump truck for the State Department of Public Works. Such authority has been upheld (Entremont v. Whitsell, 97 Cal. Dec. 505).

From the Commission's records it appears that the permit issued to applicant authorizing him to operate as a radial highway common carrier was revoked December 31, 1938 at the request of permittee, and that on March 4, 1939, the city carrier permit issued to applicant was revoked because of his failure to maintain and continue in effect the insurance protection required by sections 4, 5 and 6, City Carriers' Act. Neither permit has been reinstated. Since applicant is not now authorized to continue the performance of the transportation service concerning which relief is sought, further consideration of this application appears unnecessary and it will therefore be dismissed.

O R D E R

The Commission having duly considered the application in this proceeding and 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 31st day of May, 1939.

Rayburn
Frank DeWitt
Carl F. Kelley
W. B. K.
Justus Z. Casner
COMMISSIONERS