

Decision No. 28836

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of W. L. MORGAN for authority to
charge less than minimum rates. }

Application No. 21444

BY THE COMMISSION:

O P I N I O N

By his application filed August 30, 1937, W. L. Morgan, who then held and now holds permits issued by the Commission authorizing him to operate as a city carrier and as a highway contract carrier, sought authority under section 11, Highway Carriers' Act and section 10, City Carriers' Act to transport property by dump truck at a rate below the minimum rates established by the Commission for such transportation, pursuant to Decision No. 28836, dated May 25, 1936, in Case No. 4087.

Specifically, applicant requested permission to maintain a rate of \$2.13 per hour for the operation of his 3-cubic-yard dump trucks in the removal of slide material at various locations in Santa Barbara County, pursuant to a contract entered into between applicant and the Department of Public Works, Division of Highways. By the terms of this agreement, applicant undertook to continue the performance of this work during the period ending December 31, 1937. The proposed rate, so applicant alleged, was reasonable and compensatory, and would create no unjust or unreasonable discrimination against other similar transportation. The consideration 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).

Since it appears from the application itself that the transportation concerning which applicant sought relief was not of a continuing nature, the term during which it was to be performed, as provided by the contract between applicant and the Department, having expired December 31, 1937, there is nothing now before the Commission requiring its consideration. Accordingly, the application will be dismissed.

O R D E R

The Commission having duly considered the application in this matter, 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 6th day of June, 1939.

Robert W. ...
Frank ...
Carl ...
...
Justin J. Casner
COMMISSIONERS