

Decision No. 312080

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
C. B. KREAGER for relief under Sec-)	
tion 11 of the Highway Contract)	Application No. 22492
Carriers' Act, California Statutes)	
of 1935, as amended.)	

BY THE COMMISSION:

Appearances

- Don Petty, for applicant.
- E. Bissinger and Fred Willey, for Pacific Electric Railway Company, as its interests may appear.
- W. E. Paul, for Union Oil Company of California, as its interests may appear.
- Paul H. Moore, for Gilmore Oil Company, as its interests may appear.
- Wallace L. Ware, for Tank Truck Operators Association, protestants.

O P I N I O N

By this application, as amended, C. B. Kreager, an individual operating as a radial highway common carrier and city carrier, seeks authority under Section 11 of the Highway Carriers' Act to charge a rate less than that heretofore established as minimum by this Commission for the transportation of petroleum gas oil, by tank truck, from refineries located in the vicinity of Signal Hill to bulk storage tanks at Los Angeles Harbor.

A public hearing was held before Examiner Bryant at Los Angeles on February 21, 1939.

The minimum rates from which relief is sought were established by Decision No. 31469, effective December 7, 1938, as amended.¹

¹ Decision No. 31469, dated November 10, 1938, in Case No. 4249, In the Matter of the Investigation by the Commission on its own motion into the rates, rules, regulations and practices of carriers engaged in the transportation of petroleum and petroleum products within this state.

A rate of $2\frac{1}{2}$ cents per 100 pounds was prescribed therein for the transportation of petroleum gas oil and other "black oils" within a defined group area embracing the greater part of the Los Angeles basin. For transportation of crude oil only, this area was divided into several sub-groups. What Kreager seeks by this application is authority to charge his two principal shippers (Hancock Oil Company and Sunset Oil Company) a rate of $1\frac{3}{4}$ cents per 100 pounds for transportation of petroleum gas oil from refineries located in sub-group 6-C to bulk storage tanks located in sub-group 6-G, in lieu of the rate established for that service of $2\frac{1}{2}$ cents per 100 pounds.²

Kreager, testifying in his own behalf, explained the nature of his operations. It appears that he operates two vehicle units, one of which is a "flat rack" vehicle used for transportation of general commodities not here involved. The other, which consists of a tractor and tank semi-trailer, has been used almost exclusively in the service under consideration. Approximately 96 per cent of the service performed with the tank vehicle during the past year was for the two shippers heretofore mentioned, in the transportation of petroleum gas oil between points for which reduced rates are now sought. These shipments were transported from the refineries to marine storage tanks located on Terminal Island or Mormon Island, or to the tank farm of Sunset Oil Company located in the community of Julian City. The average length of haul was 9 miles, or 18 miles for the round trip. The points of origin and destination are open 24 hours daily, and applicant's tank vehicle was in actual service

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Sub-group 6-C embraces Signal Hill, Hynes, Bellflower, and the greater part of the city of Long Beach. Sub-group 6-G embraces Los Angeles Harbor, Harbor City, Watson and Torrance. The rate prescribed for transportation of crude oil between these sub-groups was $1\frac{3}{4}$ cents per 100 pounds where consignee's facilities permit delivery over a 24-hour period daily, and $2\frac{1}{2}$ cents per 100 pounds otherwise.

an average of 16-3/4 hours per day during the first eleven months of 1938, including Sundays and holidays. The oil is pumped into and out of the vehicle by shipper and consignee, without expense to applicant, and the average loading and unloading time was 25 minutes for each operation. No grades are encountered, and traffic conditions are such that the average running speed was 18 miles per hour.

Applicant stated that prior to the establishment of minimum rates, effective December 7, 1938, the rate charged for this transportation was 4-3/4 cents per barrel, or approximately 1.55 cents per 100 pounds. His vehicle was kept in fairly steady service, and at times he was offered more tonnage than he could handle and found it necessary to sub-contract the excess to other haulers. Approximately 20 per cent of the traffic transported during 1938 was contributed by Sunset Oil Company, and the balance by Hancock Oil Company. Since the present minimum rate of 2 1/2 cents per 100 pounds became effective applicant has lost all of the Sunset tonnage and about half of the Hancock tonnage, and has been threatened with loss of the remaining Hancock traffic.

It was applicant's understanding that the Sunset traffic had been given to another truck operator temporarily as a means of collecting a debt and that it would be returned to him later "if the rate were reduced." As to the Hancock traffic, the 50 per cent which has been lost is the portion which originates at the Hancock refinery. It was applicant's belief that this movement was transferred to pipe line because the shipper considered the established rate to be excessive, but that this lost traffic would not be returned to him regardless of the outcome of this application. The remaining 50 per cent originates at other refineries for Hancock's account, and applicant believed that whereas this tonnage can be

retained at the proposed rate, it, too, will be diverted to pipe lines if he must continue to charge the present rate.

Taking into consideration the fact that about half of the Hancock tonnage has apparently been lost in any event, and that a portion of the loss was borne by sub-haulers rather than by him, Kreager estimated that if the sought rate were approved he would hereafter transport about 75 per cent as much tonnage as he formerly received.

As evidence that the proposed rate would be compensatory, applicant introduced a statement showing revenues and expenses in connection with his tank truck operations during the eleven months from January 1 to November 30, 1938. He explained that he did his own bookkeeping and kept all of his own records, and that he had prepared the statement himself. The exhibit indicates that 38,693 tons were transported during the period, for which a revenue of \$14,087.42 was received; and that the cost of this transportation, exclusive of depreciation and Kreager's compensation and expenses as owner and manager, was \$8,731.79. From the difference of \$5,355.63 must be deducted an allowance for depreciation and whatever amount is chargeable to applicant's services as well as an allowance for the use of his passenger automobile.³ Although Kreager's testimony indicates that the rate assessed in the past was no greater than that here sought, it appears from the tonnage and revenue figures just stated that the average rate charged during the period of the statement was 1.82 cents per 100 pounds, or slightly higher than the rate proposed.

³ Applicant testified that he drove his passenger automobile about 91 miles a day "seeing that things were rolling all right."

Applicant stated that the transportation of petroleum gas oil is essentially no different from that of crude oil for which the Commission established a rate of the volume here proposed, and said that in his opinion crude oil is slightly more expensive to transport than is gas oil. He believed his cost of operation was no different from that of any other operator engaged in a similar service, but thought he specialized in the transportation of gas oil to a greater extent than did other carriers in his territory, most of whom hauled a higher percentage of crude oil.

A representative of Hancock Oil Company testified that during the year 1938 Kreager transported about 95 per cent of the petroleum gas oil shipped by his company between the points here involved. He stated that since the present rate became effective the oil moving from the Hancock refinery had been diverted almost entirely to a pipe line, and this method of handling had proved to be more economical than truck transportation. Applicant is still transporting shipments which originate at other refineries for Hancock's account, but unless the rate is reduced this remaining traffic will be diverted from him as rapidly as the Hancock company can arrange pipe lines or other means of transportation. Kreager's services are preferred, however, as the successful use of a pipe line requires that a quantity of the liquid be accumulated prior to movement. Due to arrangements which Hancock Oil Company has made, the movement which has already been transferred to pipes will not be returned to Kreager even at the proposed rate.

Sunset Oil Company, the other shipper involved, did not enter an appearance nor take any part in this proceeding. The Tank Truck Operators Association appeared as a protestant and participated in the cross-examination of witnesses, but did not introduce evidence of its own nor state specifically the basis of its opposition to the application.

Applicant's profit-and-loss statement indicates that during the 11-months' period in 1938 he made a substantial profit at rates slightly higher on the average than the one now proposed. While it must be borne in mind that the statement made no allowance for Kreager's compensation or for depreciation, and while it appears that the profit shown should be somewhat reduced by revisions in the tire expense and in certain other cost items which cross-examination suggested were too low, nevertheless the record leaves little question but that the 1938 operation was profitable. On the other hand, it cannot be said that the record shows that the proposed rate of 1-3/4 cents per 100 pounds would be compensatory to applicant in the future. For transportation of the 38,693 tons embraced in his eleven months' statement, he would have received, at the rate sought, \$13,542.55. If we accept his estimate that he will hereafter receive 75 per cent of the tonnage he formerly enjoyed, we find his revenue for a similar period would be \$10,156.91. The reduction in tonnage would, of course, be reflected in the cost of transportation, but there is nothing in this record to show the precise amount by which his operating costs would be reduced.

Nevertheless, the record is convincing that a rate less than the present minimum rate of 2½ cents per 100 pounds would be fully compensatory to applicant under the conditions here involved. The record shows, as hereinbefore indicated, that his operations during the eleven months' period in 1938 were compensatory at an average rate of 1.82 cents per 100 pounds. Considering the contemplated reduction in tonnage and taking into consideration all of the other facts and circumstances of record, the Commission is of the opinion that applicant has justified the establishment of a rate of 2 cents per 100 pounds for transportation of the traffic involved in this application. To this extent the application will be granted. This application being based upon existing conditions, the authority will be limited to a

temporary period expiring one year from the effective date hereof, unless sooner cancelled, changed or extended by appropriate order of the Commission.

O R D E R

This application having been duly heard and submitted, full consideration of the matters and things involved having been had and the Commission now being fully advised,

IT IS HEREBY ORDERED that applicant, C.B. Kreager, be and he is hereby authorized to transport petroleum gas oil for Hancock Oil Company and Sunset Oil Company between the points involved in this application, at a rate less than that heretofore established as minimum for such transportation by Decision No. 31469 of November 10, 1938, as amended, in Case No. 4249, but not less than two (2) cents per 100 pounds.

IT IS HEREBY FURTHER ORDERED that in all other respects the transportation involved in this application shall be subject to the provisions of said Decision No. 31469, as amended.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this order, unless sooner changed, cancelled or extended by appropriate order of this Commission.

This order shall become effective five (5) days from the date hereof.

Dated at San Francisco, California, this 6th day of June, 1939.

Paul W. Quinn
Frank E. Kelly
Ray L. Riley
Justice J. Cooney
Commissioners.