

Decision No. 32191

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application)
of Roger W. Walters to charge)
less than established minimum)
rates.)

Application No. 22806.

APPEARANCES: Roger W. Walters, applicant

W. L. Fahey, District Maintenance Engineer,
California Highway Commission.

BY THE COMMISSION:

O P I N I O N

The above entitled application is filed pursuant to the provisions of Section 11 of the Highway Carriers' Act (Chapter 223, Statutes of 1935) and Section 10 of the City Carriers' Act (Chapter 312, Statutes of 1935). In this proceeding applicant seeks authority to operate a 4-1/2 cubic yard capacity dump truck in the performance of State Highway maintenance operations in District VII, at an hourly rate of \$2.25, whereas the minimum rate prescribed for this type of equipment in this service, as set forth by the Commission's Order of its Decision No. 28836, dated May 25, 1936, is \$2.85.

Public hearing was conducted in this matter before Examiner Hunter at Los Angeles on July 7th, at which time the matter was taken under submission and is now ready for decision.

The record in this proceeding consists of applicant's oral testimony to the effect that he is the owner of a 4-1/2 yard dump truck, 1934 Model G.M.C. Under his plan of operation he will drive the truck and do all the repair work himself. He had no figures to present showing that the rate proposed in the application would be remunerative, but supports his application on the ground that the only expense he would be put to would be that

of fuel and lubricants, insurance, licenses and taxes, with no allowance for repairs, tires, depreciation, interest or overhead expenses. He offered no evidence as to the probable use factor that the truck would be employed but on the other hand stated that at this time the truck was idle and stored on the lot in his yard.

He stated it was his plan to perform under this one service agreement to the extent of \$500.00 and then dispose of his dump truck. Under that plan he assumes he will suffer no depreciation on the equipment, as he expects to sell his truck for as much as, or more than, he paid for it. He also assumes that the work that will be offered him will be of the most favorable character in the way of light highway maintenance work, which will involve a few miles of operation per day, and that the truck will be loaded light by means of a small half yard maintenance power shovel. Applicant admitted on the stand that he could not be assured that the work to be offered would consist of such light work as he contemplated, as under his service agreement he may be required to operate under a larger shovel and perform under what might be considered rather heavy maintenance work, such as removing of slide materials, etc. which would be more costly to the operator than under the light work contemplated.

The record shows that applicant rests his showing upon the fact that he is in urgent need of this work from a financial standpoint and that he bid below the Commission's minimum rate with the thought that it was the only way he could secure this employment. The record also shows that it is the applicant's plan to discontinue dump truck operations after the completion of this service agreement, and is interested only in getting what he can out of this particular job with the equipment now in his possession, with no intention of continuing on in the business, nor of making provision for any replacement of the equipment or allowance for

major repairs or other contingencies. In fact, he stated that he was not required to put up a bond and if the expense of operation proved to be too burdensome, he could discontinue at any time.

The Commission cannot upon this record properly reach the conclusion that applicant has made a reasonable showing and that this application should be granted, therefore it will be denied and the following order will so provide.

ORDER

A public hearing having been had, evidence produced, the matter submitted, and the Commission now being fully advised,

IT IS HEREBY ORDERED that the above entitled application be and it is hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 25th day of July, 1939.

Robert W. Bishop
Stanley R. Murray
Ray H. Riley
H. H. H. H.
Justus J. Carr
Commissioners.