

Decision No. 32262.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WELLS FARGO BANK & UNION TRUST CO.,)
as executor of the estate of MINNIE)
I. WORTH, deceased, doing business)
as C.A. WORTH & CO., to charge less)
than established minimum rate.)

Application No. 22747

ORIGINAL

BY THE COMMISSION:

J.F. Vizzard, for applicant
E.H. Hart, for Pacific Motor Tariff Bureau, Protestant.
F.M. Mott, for Walkup Drayage Co. and Merchants Express
Corporation, interested parties.
William Meinhold, for Southern Pacific Company and
Pacific Motor Transport Company, interested parties.
George D. Hart, for United Transfer Company, interested
party.

O P I N I O N

By this application Wells Fargo Bank & Union Trust Co. (as executor of the estate of Minnie I. Worth, deceased), doing business as C.A. Worth & Co., a radial highway common, highway contract and city carrier, seeks authority under Section 11 of the Highway Carriers' Act to transport shipments of drugs, drug sundries and liquors from San Francisco to Richmond, Berkeley, Emeryville, Oakland, Alameda and San Leandro, for Coffin Redington Co., at lesser charges than would accrue under the minimum rates¹ established for such transportation.

A public hearing was held in San Francisco on July 20, 1939, before Examiner Broz.

The rates in effect for the transportation here involved

¹ The minimum rates in effect at the time the application was filed were those established by Decision No. 30370, as amended, in Case No. 4088, Part "U". Effective August 7, 1939, these rates were superseded by those established in Decision No. 31606, as amended, in Case No. 4246. The latter rates are substantially lower than those previously in effect for this transportation.

are stated in the form of class rates, varying with the nature of the commodity, the size of the shipment and the distance it is transported. The rate sought to be charged is \$330.00 per month per truck of capacity not exceeding 4500 pounds. Ferry or bridge tolls, as well as overtime wages of drivers, are proposed to be assessed in addition to this monthly rate. No limitation as to the maximum monthly mileage over which the trucks may be operated is proposed to be made.

Applicant's manager, Fred N. Worth, testified that for many years prior to 1935 his company had performed transportation services for Coffin Redington Co. in the San Francisco Bay area. In that year, however, a so-called "lease" arrangement was consummated whereby Worth agreed to furnish trucks with drivers, and assume all operating expenses except bridge and ferry tolls and drivers' overtime wages, and Coffin Redington Co. agreed to pay, in exchange, \$330.00 per truck per month plus a stipulated sum per month for excess mileage over 50 miles per day.² The shipper and carrier now desire to discontinue this arrangement in connection with the trans-bay transportation and substitute the monthly rental basis here proposed.

Worth introduced an exhibit comparing the revenue which would have accrued under the minimum rates in effect prior to August 7, 1939, on the property transported between San Francisco and East Bay cities for Coffin Redington Co. during ten months in 1938, with the revenue received therefor. Revenue under the established minimum rates would have amounted to \$13,729.20 whereas

² At the present time seven trucks are operated under this arrangement. Four of these are used for drayage in San Francisco and three for trans-bay transportation. \$172.50 per month is paid to cover excess mileage operated by these seven trucks.

revenue received was \$11,810.66.

An estimate of the cost of operating truck equipment of the capacity required for the transportation here involved was also presented by the witness. The estimate is based on the actual costs incurred in operating seven truck units within San Francisco and between San Francisco and East Bay cities, under the lease arrangement, during the year 1938. The estimated annual cost per truck is \$3,574.60.

The witness pointed out that the proposed rate is the same as that prescribed for the same size equipment for local drayage in San Francisco, except that no additional charge is proposed to be added for mileages in excess of 50 miles per day, and is higher than the charge established for local drayage in the East Bay area.³ He asserted that his trucks average only 47.3 miles per day, but conceded that they sometimes operate more than 50 miles per day.

Worth asserted that this shipper contemplated the commencement of proprietary trucking, both for the transportation here involved and for local drayage in San Francisco, if the application is denied.

T.H. Losee, traffic manager of Coffin Redington, testified that in order to meet competition of wholesale drug houses in Oakland, particularly as to deliveries in the East Bay area, it is necessary to have prompt service. Common carriers operate regular schedules giving same-day delivery in trans-bay service, but require shipments to be tendered to them by 12:30 P.M. or 1.00 P.M.

³ Decision No. 28632, as amended, in Case No. 4084, which established rates for drayage within San Francisco, provides a rate of \$330.00 per month for hauls not in excess of 50 miles. A rate of \$300.00 per month is provided for similar transportation in the East Bay area by Decision No. 29217, as amended, in Cases Nos. 4108 and 4109.

each day. His firm receives orders for merchandise from East Bay retailers as late as 11:00 A.M., but the task of preparing shipments results in tender to the carrier as late as 3:30 P.M. Because of this problem, his company found it necessary to use equipment devoted exclusively to this service.

Losee stated, also, that his company's shipments weigh on the average about 58 pounds each, and that approximately 80 shipments per day are made to the East Bay area. Under minimum class rates, he pointed out, these shipments would require separate classification, rating and billing whereas, under the present arrangement and the proposed monthly rate, individual ratings and billings need not be made. He confirmed the testimony of Worth concerning the intention of his company to commence proprietary operations if the proposed rate is not authorized. He said that a cost study prepared for his company some time ago disclosed that the proposed rate is fair and as high as Coffin Redington would be justified in paying.

Pacific Motor Tariff Bureau, representing highway common carriers operating between San Francisco and East Bay cities, protested the granting of the application but offered no evidence on behalf of its members. The nature of the cross-examination indulged in by its counsel indicates, however, that its protest was based principally on the claim that the list of commodities proposed to be transported was unduly extensive, and on the use of a flat monthly rate which common carriers are unable to meet due to the requirements of the Public Utilities Act. F.M. Mott, testifying on behalf of Merchants Express Corporation and Walkup Drayage Company, did not specifically protest the granting of the application but stated that, in his judgment, some consideration should be given to adding an extra charge for excess mileage over 50 miles per day.

Applicant's cost study contains at least one unexplained discrepancy of major importance which renders it of little value as a measure of the compensatory nature of the sought rate. Drivers' wages are computed on the basis of 8 hours work per day for 300 days each year, or a total of 2,400 hours per year. The use factor of the trucks, however, is assumed to be 1,600 hours per year. Manifestly, the drivers' hours and the use factor of the trucks should be consistent. The importance of this discrepancy becomes apparent when it is pointed out that, based on the asserted average mileage of 47.3 miles per truck per day and the estimated running costs developed in the cost study (.0445 per mile), the running costs per truck per day would be \$2.11, or \$633.00 for 300 days. The annual running costs developed under applicant's method is only \$390.00.

A further defect in the cost showing is that it is based on averages of costs incurred in local drayage service as well as in trans-bay transportation. It seems improbable that such averages would truly reflect costs for the latter service, since trans-bay transportation involves a materially higher percentage of running time than do drayage operations.

While, for the foregoing reasons, the proposed rate cannot be found justified on this record, it may be well to point out that the proposal contemplates not only the charging of less than the established minimum rates, but, also, the substitution of a monthly rate for the present class rate basis. The authorization of a monthly rate would manifestly preclude other carriers from obtaining any portion of this business. While the assessment of charges on a monthly basis may be warranted under some circumstances, the practice should not be extended without a convincing showing of the need therefor. Such a showing has not been made.

The shipper's assertion that it contemplates the commencement of proprietary operations if this application is denied cannot be held to outweigh the deficiencies in the record just pointed out, particularly in the absence of a more detailed showing as to the results of its study of the cost of performing this service in its own equipment. The application will be denied without prejudice.

ORDER

A public hearing having been held in the above entitled application, full consideration of the matters and things involved having been had, and the Commission being fully advised,

IT IS HEREBY ORDERED that the above entitled application be and it is hereby denied without prejudice.

Dated at San Francisco, California, this 19th day of

August, 1939.

Robert W. ...
Francis ...

...
Justice J. ...
Commissioners.