

Decision No. 32440

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 mini- )  
mum rate. )

**ORIGINAL**  
Application No. 22747

BY THE COMMISSION:

OPINION ON REHEARING

By Decision No. 32262 dated August 19, 1939, in the above entitled 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 carrier, highway contract and city carrier, was denied authority 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 rates established for such transportation. It was pointed out in the opinion that applicant's cost study contained certain discrepancies of major importance which rendered it of little value as a measure of the compensatory nature of the rate sought; and that the asserted possibility of the traffic being diverted to proprietary carriage had not been supported by a showing that the latter type of operation would be more economical. Thereafter, upon the filing of a petition for rehearing in which applicant offered to furnish additional evidence, a rehearing was granted. The hearing was held in San Francisco on September 20, 1939, before Examiner Broz.

The original cost study introduced by applicant computed drivers' wages on the basis of 8 hours per day for 300 days per year, whereas the use factor of trucks was estimated as being only 1,600 hours per year. This discrepancy in the use factor was corrected

at the rehearing by applicant's manager, who revised his original cost study by substituting a use factor computed on a milcage rather than an hourly basis.<sup>1</sup> According to the revised estimate, the trucks would operate 50 miles per day for 300 days per year, or 15,000 miles per year. At the running cost of \$.0445 cents per mile shown in the previous cost study, the annual running cost would therefore be \$667.50 instead of \$390.00 as originally estimated. This revision resulted in an increase from \$3,574.60 to \$3,852.10 in the estimated annual cost. In addition, applicant's manager introduced in evidence a letter received from the traffic manager of Coffin-Redington Co. confirming the latter's intention to engage in proprietary trucking if the application is denied.

The traffic manager of the interested shipper amplified his former testimony with respect to proprietary operations by stating that automotive engineers had made a survey of Coffin-Redington's transportation requirements in the San Francisco metropolitan area and had developed that the service here involved could be performed for approximately \$300.00 per month per truck, using equipment of the same size as that operated by the applicant. He testified also that the vice-president of Coffin-Redington Co. had ordered that proprietary trucking service be commenced in San Francisco as well as for transbay shipments in the event the authority here sought is not granted.

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The hourly use factor of 1600 hours per year, divided by 300 working days per year produced a use factor of 5.3 hours per day. In his original cost study, applicant estimated a running speed of 5.5 miles per hour, which multiplied by 5.3 hours per day, resulted in daily mileage of only 29.2 miles per day. Upon it being shown that this mileage conflicted with general testimony that the trucks operate 50 miles per day, applicant stated that the use factor of 1600 hours per year was in error, and he abandoned the hourly use factor, substituting in lieu thereof, a use factor based upon mileage.

Protestant highway common carriers, members of the Pacific Motor Tariff Bureau, offered vigorous opposition to the application at the rehearing. Its witnesses expressed the fear that if the authority sought were granted, other highway contract carriers would endeavor to obtain similar authority for their larger shippers and would thus divert a large amount of traffic from shippers now using common carrier services.

The general manager of the Merchants Express Company and Walkup Drayage & Warehouse Company, testified that he, also, was apprehensive as to the effect which the granting of this application might have on diverting traffic of other shippers from common carriers to highway contract carriers. He conceded, however, that common carriers were unable to render such service under their regular schedules, and that several years ago his companies and other common carriers had been given an opportunity to compete for the traffic but were unable to handle it in the manner desired by Coffin-Redington.

Applicant's showing upon rehearing indicates that the proposed rate will be compensatory for the service involved. Moreover, the record now leaves little doubt but that if the authority requested is denied, not only transbay traffic, but local shipments of Coffin-Redington Co. in San Francisco also, will be lost to for-hire carriage. The Commission recognizes the competitive disadvantage suffered by common carriers in instances where the form of rates sought to be charged by highway contract carriers is such that it cannot be published in tariff form and maintained by common carriers. However, in the instant case common carriers are not now enjoying the traffic and would not do so if the application were denied. Their interests will not be detrimentally affected by the granting of the application, while on the other hand, an unnecessary increase in proprietary trucking will be forestalled.

The application will be granted.

