

DECISION NO. 32550

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF
PACIFIC ROCK & GRAVEL CO., a California
corporation, and HARRISON NICHOLS CO.,
LTD., a California corporation, for a
minimum rate for dump truck hauling of
rock from FISH CANYON QUARRY TO various
parts of Los Angeles County.)

Application No. 23065

ORIGINAL

Appearances

Alfred E. Rogers, for applicants

Randolph Karr and Fred F. Willey, for Pacific
Electric Railway Company and Southern
Pacific Company, as their interest may
appear

BY THE COMMISSION:

O P I N I O N

By this application the Pacific Rock and Gravel Com-
pany, hereinafter called the applicant company, a corporation en-
gaged in the business of producing, selling and delivering rock,
crushed rock, sand and gravel, holding Contract and City Carriers'
Permits; and by Harrison Nichols Company, Ltd., hereinafter called
the applicant carrier, a Highway Contract and City Carrier,
specializing in dump truck operations; seek authority to transport
rock in dump trucks from the Fish Canyon Quarry of the applicant
company to points within Los Angeles County at lesser rates than
those set forth in the Commission's orders in Decision No. 22236
as amended¹.

1 Decision No. 22236 in Case No. 4027 established minimum rates, rules and regulations of state-wide application for the transportation of certain materials in dump trucks. For the territory involved in this application, minimum rates on hourly, ton-mile or distance, and zone or point-to-point bases have been established. This order was amended by Decision No. 29172 permitting deductions from the zone or point-to-point rates applicable to the Los Angeles Area, under conditions involving certain volume movements. In the particular area involved in this application, the maximum discount of 25 per cent from these zone rates is permitted.

The application sets forth that the company has entered into a contract with the United States Government (U.S. Engineers) for the delivery of approximately 22,000 tons of rock from the Fish Canyon Quarry to the job at the Los Angeles River between Randolph Street in Maywood, and Stewart and Gray Road in Southgate, and requests that the proposed rate of 10 cents per ton for loading and unloading and 2.2 cents per ton per mile, which rates are less than the minimum rates fixed by the Commission, apply for the transportation of said rock; that loading at the quarry is done by means of a 2-1/2 cubic yard shovel; that when dump trucks are hauling from this quarry they are travelling down hill practically all the way; that when the job is handled by the U.S. Engineers the unloading operation is performed in an efficient manner reducing the time to a minimum. The application adds that the company intends to bid and offer for sale, rock from the same quarry in quantities of approximately 100,000 tons during the next 12 months' period and that the delivery of this said rock will be similar in nature to the specific case set forth above and requests that the same rates apply to the transportation of this quantity of rock as for that of the specific case set forth.

The record shows that the applicant company has been principally engaged in the production of building aggregates and in the transportation of the materials so produced, that the applicant carrier has been principally engaged in the hauling of said materials, generally for the applicant company.

A public hearing on this application was held before Examiner Jacobsen at Los Angeles on October 27, 1939.

Frank L. Moore, vice-president of Harrison Nichols Company, Ltd., testified that while not having checked the actual distance between the quarry and the job site at the Los Angeles River, he was informed that the distance is 23 miles and that the

average time for a round trip employing a dump truck having a capacity of 10 tons would be 2 hours and 15 minutes, or an average of 4 trips in approximately 8-1/2 to 9 hours; that the loading of a 10-ton truck should not exceed 20 minutes, being accomplished by means of a power shovel working directly from the pile resulting from the blasting operations. This witness further alleged that, with the exception of that unimproved portion approximately 1,000 feet from the shovel, the road in Fish Canyon is constructed of a rock base with a good surface as far south as the junction of Foothill Boulevard and Fish Canyon Road, and from this junction of Foothill Boulevard to the job, the operation is over paved highways. A rate of 10 cents per ton for loading and unloading, plus 2.2 cents per ton per mile, according to this testimony, should produce the costs encountered in this operation, but the rates for such operation should not be lower than this volume as the proposed rate would be an absolute minimum, basing his contention upon the transportation by his company of approximately 50,000 tons of crushed rock from the applicant company's commercial producing plant near El Monte to the site of the new working post office at Macy and Alameda Streets in the City of Los Angeles.

The U.S. Engineers normally will consume approximately 400 tons per day; however, greater amounts than this may be needed at times and under such circumstances it will be necessary for the applicants to hire additional trucks for the delivery of said material.

The granting of the application was protested by the operators of three other rock quarries situated in the Los Angeles metropolitan area. G. L. Skolfield, operating a rock quarry at South Fontana, protested the granting of the proposed transportation rate alleging that it was tantamount to "double bidding", thereby placing his company in a disadvantageous position and creating discrimination against its operations; that deliveries to

this job have been in progress for approximately 2 weeks by the applicant company; that applicant company in transporting its own property is not required to adhere to the minimum rates established by the Commission; that the time of loading such rock² by means of a power shovel would, without question, far exceed on an average the 20-minute period per 10-ton load, mentioned by the previous witness as delays would invariably occur due to breakdown of the machinery, and that while at times the U.S. Engineers arrange for efficient unloading of the trucks at the job, many delays develop causing greater loss of time at this point.

A representative of Macco-Case (joint bidders), whose quarry is located near Montrose, testified that his companies were second bidders for this material. He protested the granting of these special transportation rates for the same reasons given by Witness Skolfield.

A witness representing the Blarneystone Quarry located near Corona also protested the granting of this transportation rate, stating that if the proposed rate were authorized for application to movements by the applicants alone, it would create a discriminatory situation for his company.

H. L. Bender representing the Azusa Rock and Sand Company requested that the material from Fish Canyon be defined more clearly than just that of "rock" as his plant near Azusa produces spalls or rock weighing approximately 25 pounds or 9 inches maximum in size; that if the applicant carrier is permitted to haul such materials at the rates proposed, his plant would be discriminated against in the transportation of these heavier rock products, as a great percentage of the deliveries of this heavy rock are made

2 Specifications of the rock involved in this application are in sizes up to 5 tons maximum, 15 per cent of which includes spalls of 25 pounds up to 1 ton.

to points generally south and southwest of both plants, which fact places the Azusa Rock & Sand plant at a geographical advantage.

Attorney for the applicants stated that he had no objection to the establishment of the same rate basis for use in connection with movements from the other quarries in this district represented by the protesting witnesses.

The ownership of the material is vested in the applicant company until delivered at the job site, therefore said company is not subject to the jurisdiction of the Commission when making such deliveries with its own trucks. The applicant carrier, however, being a for-hire operator under the terms of the Highway Carriers' Act and the City Carriers' Act, is required to charge and collect rates not less than the minimum rates established by the Commission.

The applicants produced no cost data in support of the rates requested, justifying their request upon the relationship of the rates proposed to the zone rates in effect for movements of aggregates from the producing areas in the general vicinity of the quarry herein involved. To establish such relationship, however, it should be necessary to adequately show that the two transportation services are similar and comparable from the standpoint of the volume of the various cost items encountered.

The loading is accomplished by the use of a 2-1/2 cubic yard capacity power shovel in the case of the heavy rock involved in this application. The Government specifications require that 85 per cent of the tonnage be in sizes ranging from 1 ton to 5 tons. To load pieces of such size it appears obvious that greater hazard would be involved, thereby incurring more damage to the equipment than in the operation of loading sand, crushed rock or gravel from a bunker or a clam shell loader.

Testimony pertaining to the unloading operation is contradictory, the applicants allege that the average time for un-

loading a 10-ton truck is approximately 2 minutes, while the protestants indicate the time will be much greater.

The line haul or running operation appears to be similar in comparing the transportation of heavy rock to that of the movement of aggregates, thereby resulting in similar unit costs for this phase of the movement.

In connection with the delivery of the 22,000 tons involved in the contract with the United States Government, upon this record, it appears that a greater than average use factor may be obtained from the more steady operations, however, no documentary evidence in the form of cost data, test runs or spot checks was produced to justify the establishment of the proposed rate.

The record does not show that the proposed rate will produce sufficient revenue to cover the cost of this operation as segregated from other operations of the applicant carrier. The testimony of the applicant carrier indicated that the proposed rate is an absolute minimum for such transportation, such rates being predicated upon ideal conditions of the loading, unloading and running operations. Considerable doubt was developed as to the ease with which the loading and unloading operations could be performed by the testimony of the protesting witnesses and by the lack of supporting data on the part of the applicants.

It must be recognized that the applicants have failed in this proceeding to convincingly show that "the proposed rate is reasonable" within the meaning of Section 11 of the Highway Carriers' Act and unless they can sustain the burden of such showing, authority to depart from the established rates should not be granted.

Relative to the justification of providing rates less than the minimum rates prescribed for the delivery of "quantities of approximately 100,000 tons during the next 12-months' period", the record is meager and quite weak. Pertinent details necessary to analyze such operations were entirely lacking, little evidence

was presented on the subject of the anticipated movement of the large tonnage involved other than to state that each contract would be for 1,000 tons or over and that the deliveries would be made within the easterly or southerly portions of Los Angeles County. In connection with the movement of this anticipated tonnage, the applicants have failed to show the reasonableness of the rate proposed, therefore the establishment of the proposed rate should be denied.

The record clearly shows that this application should be denied and it will be so ordered.

O R D E R

Public hearing having been held in the above entitled proceeding, the matter having been submitted, and the Commission fully advised,

IT IS HEREBY ORDERED that this application be, and it is hereby denied without prejudice.

Dated in San Francisco, California, this 14th
day of November, 1939.

Raymond A. Rice
Frank Sullivan
Ray H. Rice
H. H. Hall
Justin F. Casner
Commissioners.