

Decision No. 22831

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DIRECT DELIVERY SYSTEM, LTD.,
a corporation, for authority to
charge less than minimum rates
under the provisions of Section
11 of the Highway Carriers' Act.

Application No. 22831

ORIGINAL

A P P E A R A N C E S

H. J. Bishoff, for applicant.

T. W. Henderson, for Dicalite Company,
interested party.

Wm. C. Klebenow, for Motor Truck Asso-
ciation of Southern California,
as its interests may appear.

CRAEMER, COMMISSIONER:

OPINION

By this application Direct Delivery System, Ltd., a corporation engaged in the transportation of property as a highway contract carrier, seeks authority under Section 11 of the Highway Carriers' Act to charge less than established minimum rates for the transportation of diatomaceous earth from the plant and warehouses of the Dicalite Company, situated in the City of Torrance, to destinations not more than 25 constructive miles distant therefrom, and for the transportation of empty bags in return movement to Torrance.

A public hearing was had at Los Angeles in the above entitled proceeding.

The record shows that Dicalite Company is the owner of a deposit of diatomaceous earth located within the city limits of Torrance. This earth, after being sacked at the source of supply, is transported by applicant to rail facility points in Torrance for rail shipment; to warehouses in Torrance for storage; to steamship docks at Los Angeles Harbor for shipment to interstate or foreign destinations; and to industries located in Los Angeles, Long Beach and Wilmington for local consumption. Direct Delivery Service performs all of the truck transportation for Dicalite Company, and this service constitutes applicant's principal business. Of the traffic involved in this application, the greater part is transported to Los Angeles. Dicalite Company has not heretofore shipped to other destinations within the scope of this application, but approval of the proposed rates to all destinations within the area is sought in order that possible new customers might be served.

The rates here proposed are $3\frac{1}{2}$ cents per 100 pounds, minimum weight 20,000, for transportation from Torrance to points in Long Beach and Wilmington; for transportation to Los Angeles and other destinations within 25 constructive miles of Torrance the proposed rates are $9\frac{1}{2}$ cents, minimum weight 10,000 pounds; $6\frac{1}{2}$ cents, minimum weight 20,000 pounds; and 5 cents, minimum weight 36,000 pounds.¹ For the return of empty bags it is proposed to assess the rate applicable to the outbound movement of earth at the time the bags are offered

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All rates are stated herein in cents per 100 pounds.

2

for return transportation. The established minimum rates in effect at the time of the hearing were those named in and by Decision No. 29480, as amended, in Case No. 4088, Part "M", but these were cancelled and superseded, effective August 7, 1939, by rates provided in Decision No. 31606, as amended, in Case No. 4246. Under both of these decisions the rates vary according to the weight of shipment and the length of haul, and may not be readily compared, in all respects, with those here proposed. However, for the movement of diatomaceous earth from Torrance to Long Beach, Wilmington and Los Angeles (Zone 1), the comparable established minimum rates now in effect are as shown in the following table.

To	Minimum Weight in Pounds		
	<u>10,000</u>	<u>20,000</u>	<u>36,000</u>
Long Beach	9½	6	4½
Wilmington	9½	6	4½
Los Angeles	11	7	5

The manager of applicant carrier testified that the transportation service performed for Dicalite Company permits of certain economies, in that the shipper performs all of the loading and unloading of the vehicles at Torrance, and prepares all necessary shipping documents without expense to the carrier. He stated that under the circumstances here involved he was convinced that the proposed rates would return a reasonable profit to his company. In support of this conclusion he introduced exhibits showing the profit-and-loss statement of his company as of December 31, 1938; the operating statement

2

It is not intended that bags will be picked up for return movement except at the time of delivering an outbound load of earth to the same point.

for the months of May and June, 1939, and for the six months period ending June 30, 1939; costs, both fixed and variable, of operating certain tractors and semi-trailers used in transportation for Dicalite Company; and the estimated costs of transporting shipments of various weights for an average distance of 22½ miles. The witness also introduced a statement showing all of the tonnage handled for Dicalite Company during the period from January, 1938, to June, 1939, segregated by months and by destinations; and a statement showing the weight and destination of each shipment within the scope of the present application transported during the month of June, 1939.

The secretary-treasurer of Dicalite Company testified that his company had definitely concluded to purchase trucks and perform its own transportation unless the proposed rates were authorized. He stated frankly that he had made no analysis of the minimum rates established effective August 7, 1939, by Decision No. 31606, supra, and did not know what effect they might have upon the transportation expenses of his company, but declared that because diatomaceous earth is a low-priced commodity sold on a narrow margin of profit in a highly competitive market, the company had decided to engage in proprietary trucking rather than pay any rates higher than those here sought. He said that Dicalite Company had for several years been giving consideration to the purchase of motor vehicles, but "for financial reasons" had not done so. He offered no estimate of the cost of performing the transportation in proprietary trucks.

The Motor Truck Association of Southern California appeared and participated in the cross-examination of witnesses, but did not introduce testimony of its own nor otherwise state its position. No one opposed the granting of this application.

Although it is apparent that the service here involved permits of some economies to the carrier which would not ordinarily be possible in for-hire transportation,³ it is not clear to what extent these economies may be reflected in applicant's over-all cost of transporting the particular traffic covered by this application, or to what extent, if at all, the resulting costs may warrant a reduction in transportation charges on such traffic. The profit-and-loss statement and operating statement introduced by applicant are of little assistance in this connection, for whereas they embrace applicant's entire transportation service, the record shows that the tonnage here involved is only a small portion of the total. Exhibits of record disclose that while applicant transports in excess of 2,000 tons of earth per month for Dicalite Company, more than 42 per cent of this moves in interstate or foreign commerce, and another 52 per cent is transported locally within the city of Torrance, for which

3

Particularly the record shows that the vehicles are always loaded at Torrance by employees of the shipper and without assistance from the driver. Similarly, empty bags returning to Torrance are unloaded by employees of the shipper. The shipper's plant superintendent performs for applicant, without charge, many duties for which other carriers commonly find it necessary to employ a dispatcher. Shipper employees prepare all of the shipping documents and furnish the carrier with a duplicate copy of all transportation records, thus saving applicant the expense of preparing freight bills and much of the expense of keeping records.

minimum rates have not as yet been established by this Commission. Thus only about 6 per cent of the total traffic is involved in this application. Obviously figures relating to the operation as a whole, which embraces hauls under a wide variety of conditions, can be of only limited value for the purpose of showing the cost of handling this particular traffic.⁴

Neither do applicant's two cost exhibits serve to establish the expense of transporting the particular tonnage here involved. One of the exhibits, which develops the average cost per mile of operating certain equipment used in transporting earth and empty bags for Dicalite Company, based upon 1938 experience, fails to include the important item of driver's wages, or any of the overhead expenses such as salaries of manager and clerks, cost of light, heat, stationery and printing, or loss and damage claims.⁵ The other exhibit, which deals only with shipments transported an average distance of 22½ miles, develops costs which in some instances equal or exceed the rates proposed to be applied for the comparable distance

4

That varying transportation conditions prevail is shown by evidence of record which indicates that the tonnage moved locally within the city of Torrance is transported under circumstances which are extremely favorable to the carrier. In the handling of this traffic detachable semi-trailers are loaded at point of origin and unloaded at destination by employees of the shipper, so that applicant's drivers, operating tractors, merely shuttle the semi-trailers back and forth in a practically continuous operation.

5

This exhibit produces a simple average cost of 18.16 cents per mile for the tractors and 8.33 cents per mile for the semi-trailers or a cost of 26.49 cents per mile for the combined vehicle units. As the round trip distance between Torrance and Long Beach is approximately 24 miles, it will be seen that upon the basis of this estimated cost the revenue of \$7.00 upon a 20,000 pound shipment at the proposed rate of 3½ cents per 100 pounds would be not materially greater than the cost of \$6.36 resulting from the items of expense which are included in the exhibit.

6

between Torrance and Los Angeles.

Although there is testimony to the effect that the shipper will purchase motor vehicles and perform its own transportation service unless the proposed rates are authorized, it is difficult to believe that a substantial shipper would enter into such a program without first carefully comparing the estimated cost of proprietary transportation with the cost of having the same service performed by a for-hire carrier at established minimum rates. The record shows that up to the date of hearing in this application Dicalite Company had not made such a comparison. No study of proprietary trucking costs was offered, and the evidence shows clearly that neither the shipper nor the carrier had given serious consideration to the level of minimum rates established by Decision No. 31606. From facts of record it may be seen that on shipments for the month of June, 1939 (said to be representative) transportation charges at the proposed rates would have been only \$22.61 less than those which would have accrued at established minimum rates now in effect. As applicant's total operating revenue for the same period was \$1,464.34, of which Dicalite Company contributed the greater part, it would appear that the reduction sought by this application is probably of less relative importance than had been contemplated by either shipper or carrier.

6

Applicant attempted to explain this by stating that economies could be effected by using different vehicles, and that in any event the exhibit was based upon minimum weights, whereas the shipments would usually move in greater weights.

Upon consideration of all the facts and circumstances of record I am of the opinion that the proposed rates have not been shown to be necessary, or reasonable within the meaning of Section 11 of the Highway Carriers' Act, and that the application should be denied. I recommend the following form of order:

ORDER

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 this application be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of November, 1939.

Rafaela J. ...
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...
Justus J. Cooney
Commissioners