

Decision No. 32808

CONFIDENTIAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of John J. Williams d.b.a. Williams )  
Transfer Co. for permission to ) Application No. 22394  
charge less than minimum rates on )  
freight regardless of classifica- )  
tion. )

BY THE COMMISSION:

Appearances

F. W. Turcotte, for applicant.  
N. E. Williams, for Williams Transfer Co.  
E. L. H. Bissinger, for Pacific Electric Railway  
Company, interested party.

FOURTH SUPPLEMENTAL OPINION

By Decision No. 31436 of November 28, 1938, as amended, John J. Williams, an individual doing business as Williams Transfer Co., operating as a highway contract carrier and city carrier, was authorized to charge less than established minimum rates for the transportation of property for several designated shippers within the Los Angeles drayage area.<sup>1</sup> The reduced rates were approved for a one year's period upon allegations that the routed and scheduled transportation service performed by applicant was of a specialized nature for which the established minimum rates were not readily adaptable; that in a service of this nature economies were possible which would permit profitable operations at rates lower than those required for ordinary drayage; and that the shippers involved had definitely

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The "Los Angeles drayage area" referred to herein is the area within which minimum rates were established by Decision No. 31473 of November 25, 1938, as amended, in Case No. 4121. Rates established by this decision were cancelled and superseded effective January 1, 1940, by those established in and by Decision No. 32504 of October 24, 1939, as amended, in the same proceeding. Except as herein explained, the changes do not materially affect this application.

decided to commence proprietary operations if they were required to pay the established minimum rates and abide by the governing rules and regulations.

By the terms of said Decision No. 31486, as amended, the present authority will expire with February 29, 1940, unless sooner cancelled, changed or extended by the Commission.<sup>2</sup> Applicant now seeks, by supplemental application, to have the authority extended to November 28, 1940. He alleges that the reduced rates will give to him a fair return on his investment, and that all of the shippers involved have advised that unless the rates are retained they will immediately discontinue applicant's service and perform their own deliveries with proprietary trucks.

Public hearing on the supplemental application was had before Examiner Bryant at Los Angeles, and the matter is now ready for decision.

The shippers for which applicant is authorized to charge less than established minimum rates are five wholesale hardware companies and four electrical supply houses. The authorized rates are stated in cents per shipment, and are subject to specified monthly revenue guarantees. The rates and revenue guarantees differ with the several shippers, and are as shown in the

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The authority was originally scheduled to expire with November 28, 1939, but by Decision No. 32589 of that date in this proceeding it was extended to December 31, 1939; and thereafter, by Decision No. 32666 of December 19, 1939, it was extended to February 29, 1940, in order that applicant and his shippers might suffer no hardship pending a full consideration of the present record by the Commission.

footnote.<sup>3</sup>

The established minimum rates are named on two general bases. One of these is the usual class and commodity rate plan, under which the rates and transportation charges vary according to the weight of the shipment, the drayage zone or zones involved, and in the case of class rates according to the classification of the commodity or commodities. The other is a newly established "unit" basis which became effective on January 1, 1940, under which each shipment constitutes one or more units, according to its weight; and the charge per unit is the same for all commodities and for all zones, varying only according to the number of units tendered to the carrier by the shipper during the calendar month or any portion thereof. The establishment of the unit basis followed an investigation dealing specifically with the operations of this applicant and of other carriers performing similar routed parcel delivery service for wholesalers, jobbers and manufacturers. Under the unit plan shippers may declare their intention to ship at

<sup>3</sup> The shippers, the rates, and the guaranteed revenues are as follows:

<u>Name of Shipper</u>	<u>Rate in Cents per Shipment(1)</u>	<u>Guaranteed Monthly Revenue(2)</u>
Union Hardware & Metal Co.	28	\$ 2,000.00
Ducommun Metals & Supply Co.	28	1,250.00
Harper & Reynolds Corp.	28	700.00
Hoffman Hardware Co.	33	600.00
California Hardware Co.	33	300.00
Westinghouse Electric Supply Co. of Southern California	(3) 25	300.00
General Electric Supply Corp.	34. 5	500.00
Listenwalter & Gough, Inc.	30	400.00
Leo J. Meyberg Co.	32	400.00

(1) Applies only on shipments weighing 500 pounds or less. Established minimum rates to be assessed on shipments weighing more than 500 pounds.

(2) The amount guaranteed is the transportation charge on shipments weighing 500 pounds or less moving under rates herein named.

(3) The record herein shows that after a trial of one month this rate was increased to 30 cents per shipment by voluntary agreement between the carrier and shipper.

unit rates, or if they do not so elect they may ship under the rates otherwise applicable.

N. H. Williams, the general manager of Williams Transfer Company, testified in support of the supplemental application, as did representatives of four of the wholesale hardware companies. From Williams' testimony it appears that applicant owns 69 pieces of motor vehicle equipment, all of which are operated within the Los Angeles drayage area. He has some seventy employees, with a total payroll of approximately \$10,000 per month. The nine shippers involved in the instant application contribute 85 per cent of his gross revenue.

Williams stated that in his opinion the special rates here sought to be continued would return the cost of service, plus a reasonable profit. He based this opinion principally upon a study prepared by an independent cost expert in 1938 which developed a cost of 28½ cents per delivery stop for transporting shipments during the period from January 1 to May 31, 1938. He claimed that his company experienced a 15 to 20 per cent duplication of shipments going to one consignee from various consignors and that to that extent he received two-stop revenue at one-stop cost.

Williams testified that he had interviewed each of the shippers involved herein, and had found none of them willing to change from the special relief rates to the unit rates. All of them, according to Williams, took the position that they did not wish to be bothered with the inconvenience and expense involved in weighing their shipments. The witness testified that he was satisfied in his own mind that none of the hardware shippers would change from the special basis to the unit basis, and if required to

do so would divert their traffic to proprietary vehicles. With respect to the electrical supply dealers, he testified that they had had a meeting at which transportation rates were discussed, and had reached a general conclusion that they preferred the present relief basis; and had also agreed that if any one of them decided to operate its own trucks, the others would do likewise. Williams asserted that his company had in the past lost the accounts of two electrical supply houses which had purchased trucking equipment rather than pay rates which he sought to assess, and as a result of this experience he was fearful that some of the remaining accounts might be lost if their rates were changed.

To determine the effect the new basis of rates would have upon transportation charges all of the shipments made by several of the shippers during the four-day period from December 5 to 8, inclusive, 1939, were weighed and rated at the unit rates. Where a record over a longer period was readily available, the longer period was used. According to Williams, these tests indicated that the unit rates would develop charges about the same as or possibly less than those accruing under the special basis for Union Hardware & Metal Company; a reduction of approximately \$15.00 per month for Ducommun Metals & Supply Company; increases for Hoffman Hardware Company and California Hardware Company of 8.6 and 37 per cent, respectively; and reductions of 2.3, 11.2, 6.9 and 4 per cent, respectively, for Westinghouse Electric Supply Company of Southern California, General Electric Supply Corporation, Listenwalter & Gough, Inc., and Leo J. Meyberg Co.

No shipper witness testified on behalf of the electrical supply houses. However, witnesses representing four of the wholesale

hardware companies stated that they were opposed to the unit basis. They claimed that it would necessitate the weighing of all shipments in order to determine the applicable transportation charge; and that the weighing operation would disorganize the handling of shipments within their plants, seriously delaying the filling of orders and necessitating the hiring of additional employees as well as causing other additional internal handling expense. They indicated that the anticipated inconvenience and expense led them to investigate the feasibility of proprietary operations. Three of the witnesses claimed that their investigations showed that the cost of proprietary hauling would be less than applicant's charges under the special basis; the fourth said that his indicated it would be more expensive. All of them expressed opinions to the effect that their companies would operate their own trucks in preference to weighing shipments for transportation by the applicant.

No one opposed the granting of this supplemental application. Counsel for applicant stated that he had been authorized to say that the Motor Truck Association of Southern California and the Los Angeles Parcel Delivery Association had no objection to granting of the relief sought.

On this record it is evident that shipper objection to the established minimum rates on the unit basis rests principally, if not entirely, upon the necessity of determining the weight of each shipment in order to compute the charge. This is apparent not only from the testimony of the applicant's and the interested shippers' witnesses but also from the fact that the majority of these shippers are objecting to a rate basis which produces lower

charges than they now enjoy. Nothing in the record indicates that the established unit rates are excessive or that the volume thereof would cause diversion from for-hire to proprietary carriage. On the contrary, it is evident that the shippers whose witnesses testified they had concluded to engage in proprietary operations based their conclusions primarily upon consideration of the effects the weighing of shipments would have upon their expenses and upon their methods of filling orders.<sup>4</sup>

Apparently the parties are under the misapprehension that under the established unit rates the shipper is obliged to furnish the carrier the weight of each shipment. Such is not the case. Determination of the weight per shipment for transportation under the unit rates is an obligation that rests upon the carrier.<sup>5</sup> With the applicant discharging his obligation it is apparent that the shippers would experience neither any additional expense nor any disruption in their methods of preparing shipments for transportation at the established rates. Nothing in the record suggests that the shippers would engage in proprietary operation if weights for computing charges at the prescribed unit basis are determined by the carrier; nor does the record disclose other justification for continuance of the special rates to November 28, 1940 as sought. However, applicant may be unprepared to undertake the obligation of weighing shipments on March 1, 1940 upon the scheduled expiration of the special rates. A continuance of those rates for a shorter

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Two of the four shipper witnesses testified that they did not know what the transportation charges would be at the established minimum rates. One of them said that he was not interested in finding out. Both stated that in any event, they would not consider using the prescribed rates.

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See 201 I.C.C. 235.

period will afford the applicant reasonable opportunity to make suitable arrangements for compliance with the ordered weight basis. The authority will be extended to May 31, 1940.

O R D E R

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 the expiration date of the authority granted by Decision No. 31486 of November 28, 1938, as amended, in this proceeding, be and it is hereby extended to May 31, 1940, unless sooner changed, cancelled or extended by appropriate order of the Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the supplemental application filed in this proceeding on November 22, 1939, be and it is hereby denied.

This order shall become effective on February 29, 1940.

Dated at San Francisco, California, this 13<sup>th</sup> day of February, 1940.

Ray & Kelley  
James P. Wain  
Ray DeWahyung  
H. M. M.  
Justin F. Calmes  
Commissioners