

Decision No. 132537

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation on)
the Commission's own Motion into the)
highway carrier operations, rates,)
charges, contracts and practices of) Case No. 4277
GEORGE J. FRATIES, doing business as)
ROCK AND GRAVEL TRUCKING CO.)

BY THE COMMISSION:

O P I N I O N

In this proceeding, instituted January 3, 1938, the Commission undertook an investigation into the operations conducted by respondent, George J. Fraties, doing business as Rock and Gravel Trucking Co. as a highway carrier, for the purpose of determining whether he had engaged in the transportation of sand, rock, gravel and similar materials by dump trucks at rates less than the minimum rates prescribed by the Commission. This investigation extended only to transportation performed by respondent for the Department of Public Works, Division of Highways, of this State, under certain service agreements, specified therein, which had been executed by respondent and the Department during the months of September, November and December, 1937. The proceeding was brought with a view to canceling respondent's highway carrier permits should it be found that in the performance of these agreements he had engaged in transportation at rates below the prescribed minima, in violation of Section 10, Highway Carriers' Act.

Following a public hearing the matter was submitted, and it is now ready for decision.

When the agreements under consideration were entered into, and while this investigation was progressing, litigation was pending which involved the Commission's power to prescribe minimum rates for carriers engaged in transporting property in dump trucks for

the State Department of Public Works. Since the submission of this matter such authority has been upheld (Entremont v. Whitsell, 15 Cal. (2'd) 290).

In view of all the circumstances we are disposed to dismiss this proceeding and, accordingly, such will be the order.

O R D E R

A public hearing having been had in the above entitled proceeding, the matter having been duly submitted, and the Commission being now fully advised:

IT IS HEREBY ORDERED that said proceeding be and it is hereby dismissed.

This order shall become effective immediately.

Dated at San Francisco, California, this 12th day of March, 1940.

Ray C. Rice
Frank Smith
Robert Johnson
W. J. O'Connell
Justin L. Green
(COMMISSIONERS)