

Decision No. 33135

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CARL STENBERG to charge less) Application No. 23260
than established minimum rates.)

BY THE COMMISSION:

ORIGINAL

Appearances

Carl Stenberg, in propria persona.
David Minch, for Minch's Wholesale Meat Co.,
interested party, in support of the
application.

O P I N I O N

By this application, filed under Section 11 of the Highway Carriers' Act, Carl Stenberg, a radial highway common carrier, seeks authority to transport truckload shipments of livestock for Minch's Wholesale Meat Co., for distances of not more than 50 miles in the vicinity of Red Bluff, at rates less than the established minimum rates. The matter was submitted at a public hearing held before Examiner Mulgrew at Red Bluff.

Minimum rates for the transportation of livestock within California by highway carriers were established effective November 7, 1939, by Decision No. 31924, as amended, in Case No. 4293, and are set forth in Highway Carriers' Tariff No. 3. Three scales of mileage rates are provided in this tariff, one for cattle, another for sheep, lambs, goats, kids and calves, and a third for hogs. Less-truckload or "any quantity" rates are provided for each type of livestock. The truckload rates are subject to minimum weights of 14,000 and 24,000 pounds for cattle; 12,000 and 20,000 pounds for sheep and

other stock taking the same rates; and 16,500 and 24,000 pounds for hogs.

Applicant seeks no change in the less-truckload rates. He proposes truckload rates, however, which are generally substantially lower than the minimum rates for distances up to 25 miles and subject to lower minimum weights. For distances in excess of 25 miles, the proposed rates per 100 pounds are the same as the minimum rates in most instances, although they are subject to lower minimum weights. A statement showing in detail the differences in the existing and proposed bases is attached hereto as Appendix "A".

According to the record, applicant owns only one piece of truck equipment, which he drives himself. His total investment amounts to \$7,050.00. Two-thirds of his business consists of transporting livestock for Minch's Wholesale Meat Company, most of this transportation being within 50 miles of Red Bluff. The balance of his business consists of such transportation as he is offered by other livestock shippers. It is applicant's contention that supervision, advertising, solicitation and similar overhead expenses are minimized in an operation of this nature and that this, together with the proximity of his place of business to that of the interested shipper, results in lower than average operating costs and justifies lower rates.

Applicant stated that rates substantially the same as those here sought were charged prior to November 7, 1939, on which date the minimum rates became effective. He submitted a comparison of revenues and expenses for the year 1939 showing that revenues were \$7,212.73 and expenses \$4,350.94.

A representative of the interested shipper, appearing in support of the application, testified that his company operated small trucks for less-truckload movements; that in so far as shipments within a radius of twenty-five miles from his plant were concerned, he

considered the minimum rates excessive for the service rendered; that he was of the opinion that the charges under the established rates were higher than the cost which would be experienced in proprietary hauling; and that, unless lower rates were made available, his company would divert the traffic now handled by the applicant to movement by shipper-owned trucks.

The cost figures shown in applicant's revenue and expense statement include no allowance for overhead expenses such as supervision or for facilities used for office purposes and for storage of equipment. Moreover, the estimated reasonable wage for applicant's own services as driver and in making repairs (\$106.00 per month) appears to be somewhat low. However, the making of liberal allowances for these items during the year 1939 would not have eliminated the profit shown. Since the rates here sought are substantially the same as those charged by applicant during the major portion of that year, it may reasonably be concluded that, in the aggregate, they would return the cost of performing the service.

Although the proposed rates appear justified in the aggregate from a cost standpoint, they appear to deviate unnecessarily from the form of the present rate structure. As hereinbefore pointed out, the proposed rates are subject to minimum weights different from those by which the established rates are governed, but no explanation was given as to why the established basis was considered improper or why a different basis was deemed necessary for the type of transportation in which applicant engages. Reference to the table set forth in Appendix "A" hereof will show that different minimum weights are proposed for different lengths of haul, but no justification for the differences can be found in the record. Similarly, the mileage brackets

of not over 3 and over 3 but not over 5 miles are consolidated into one bracket by the applicant without explanation or justification for such change. In numerous instances this Commission has held that showing relating solely to the compensatory nature of the operations in the aggregate would not be sufficient to justify individual rates differing in form from the form of the established minimum rates (Decision No. 32174 of July 18, 1939, in Application No. 22159 of C. H. Ward and J. L. Stelling, in Decision No. 32320 of September 19, 1939, in Application No. 22408 of Industrial Transfer Corporation, and in Decision No. 32941 of March 20, 1940, in Application No. 21815 of Lompoc Truck Company).

The rates proposed for distances up to 25 miles, modified slightly to provide a more uniform gradation and to provide mileage brackets of not over 3 and over 3 but not over 5 miles, will be authorized. They will be made subject, however, to the same minimum weights as are now applicable in connection with the established minimum rates. For distances in excess of 25 miles the proposed rates are the same per 100 pounds in all but one instance as the minimum rates and, as hereinbefore stated, no justification for the lower proposed minimum weight has been shown. Accordingly, the sought basis will not be authorized for distances in excess of 25 miles.

The authority herein granted should enable applicant to retain the traffic involved against the threat of proprietary hauling, inasmuch as substantially lower rates are authorized for the traffic which the record shows to be most seriously endangered.

The findings herein being based upon existing conditions, the authority will be granted for a one year period subject to earlier cancellation, change or extension upon appropriate order of the Commission.

O R D E R

The matter having been duly heard and submitted,

IT IS HEREBY ORDERED that applicant, Carl Stenberg, be and he is hereby authorized to assess and collect rates less than the minimum rates established by Decision No. 31924 of April 11, 1939, as amended, in Case No. 4293, but not less than the rates set forth in Appendix "B" attached hereto and hereby made a part hereof, for the transportation of livestock for Minch's Wholesale Meat Company within a 25-mile radius of Red Bluff.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this order unless cancelled, changed or extended by order of the Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the above entitled application be and it is hereby denied.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28th day of May, 1940.

Ray L. Kelly
Frank A. Murphy
Raymond W. Vanecko
H. J. M. M.

Commissioners

APPENDIX "A"

STATEMENT OF EXISTING AND PROPOSED RATES
(Rates Are Stated In Cents Per 100 Pounds)

M I L E S		CATTLE (1)					SHEEP, LAMBS, CALVES					HOGS						
Over	But Not Over	Exist- ing		Proposed			Exist- ing		Proposed			Exist- ing		Proposed				
		Minimum Weight In Pounds					Minimum Weight In Pounds					Minimum Weight In Pounds						
		1 4 0 0 0	2 4 0 0 0	1 0 0 0 0	1 2 0 0 0	2 4 0 0 0	1 2 0 0 0	2 0 0 0 0	8 0 0 0 0	1 0 0 0 0	1 6 0 0 0	1 8 0 0 0	1 6 5 0 0	2 4 0 0 0	1 0 0 0 0	1 2 0 0 0	2 0 0 0 0	2 2 0 0 0
0	3	4	3½	3	-	2½	6	5	5	-	4	-	4	3½	4	-	3½	-
3	5	4½	4	3	-	2½	7	6	5	-	4	-	5	4	4	-	3½	-
5	10	5½	4½	4	-	3½	8	6½	5½	-	4½	-	5½	4½	4½	-	4	-
10	15	6½	5	5	-	4	9	7	7	-	5	-	6	5	5	-	4½	-
15	20	7	5½	-	6	5	10	7½	8	-	7	-	6½	5½	5½	-	5	-
20	25	7½	6	-	6½	5½	11	8	9	-	7½	-	7	6	7	-	6	-
25	30	8	6½	-	8	6½	12	8½	10	-	8½	-	7½	6½	7½	-	6½	-
30	35	-	-	-	-	-	13	9	13	-	10	-	8	7	-	8	-	7
35	40	-	-	-	-	-	14	10	-	14	-	10	8½	7½	-	8½	-	7½
40	45	-	-	-	-	-	15	11	-	15	-	11	9	8	-	9	-	8
45	50	-	-	-	-	-	16	12	-	16	-	12	10	8½	-	10	-	8½

(1) No change proposed on rates for cattle transported more than 30 miles.

END OF APPENDIX "A"

APPENDIX "B"

Application of Rates

The rates named in this appendix are subject to the rules and regulations set forth in Highway Carriers' Tariff No. 3, Appendix "C" to Decision No. 31924, as amended, in Case No. 4293.

Rates (In Cents Per 100 Pounds)

MILES		CATTLE		SHEEP, LAMBS CALVES		HOGS	
Over	But Not Over	Minimum Weight in Pounds		Minimum Weight in Pounds		Minimum Weight in Pounds	
		14,000	24,000	12,000	20,000	16,500	24,000
0	3	3	2½	5	4	4	3½
3	5	3½	3	6	4½	4½	4
5	10	4	3½	7	5	5	4½
10	15	5	4	8	6	5½	5
15	20	6	5	9	7	6	5½
20	25	7	5½	10½	7½	7	6

END OF APPENDIX "B"