

Decision No. 32251

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION  
OF

JENNINGS CONTRACTING AND  
TRUCKING CORPORATION, a  
corporation,

TO CHARGE LESS THAN AN ESTABLISHED  
MINIMUM RATE

Application No. 23489

**ORIGINAL**

Call, Murphey & Davis, by Walter Bennett, for  
Applicant

Alfred E. Rogers, for Pacific Rock & Gravel Com-  
pany, interested party

Earl Smith, for Consolidated Rock Company, in-  
terested party

Verner Copeland & Wm. F. Thompson, by Verner  
Copeland, interested party

BY THE COMMISSION:

O P I N I O N

By this application, Jennings Contracting and Trucking Corporation seeks authority under the provisions of Section 10 of the City Carriers' Act (Statutes 1935, Chapter 312 as amended) to transport earth, sand, rock and other materials in dump trucks over the public streets of the City of Los Angeles at lesser rates than those set forth in City Carriers' Tariff No. 6 of Decision No. 32566, as amended<sup>(1)</sup>.

The application sets forth that said applicant proposes to transport materials excavated from the Los Angeles River bed to the "City Dump at or near the intersection of Washington Boulevard and Santa Fe Avenue" in the City of Los Angeles for Morrison-

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(1) Decision No. 32566 as amended in Cases No. 4246 and No. 4434 established minimum rates, rules and regulations for the transportation of property in dump truck equipment.

Knudsen Company, Inc., which company has a contract with the War Department of the United States Government; that the length of the haul will vary from one and one-half miles to two and one-half miles; that operations will extend over a period of three shifts per day; that loading of the trucks will be accomplished by means of power shovels of two and one-half cubic-yard capacity. The application also states that the trucks will average three trips per hour, that approximately 180,000 cubic yards of material will be transported during the three-months' period which is the approximate time allotted for the completion of the excavation work. The application also states that the rate sought is 18 cents per cubic yard instead of the minimum rate set forth in the Commission's Decision No. 32566, supra, of 18 cents per ton for the distance involved in this operation.

A public hearing in this application was held before Examiner Jacobsen in Los Angeles on June 14, 1940.

Carl G. Jennings, President of the Jennings Contracting and Trucking Corporation, testified that the applicant owns dump truck equipment which, at the present time, is operating on a job in connection with the construction of the Friant Dam and at present is operating none of its trucks on the job involved herein; that applicant sub-contracts with owners of other dump truck equipment to perform this transportation service until its own equipment will be released for use. The witness also stated that the material encountered in the transportation operations involved herein is earth, sand and some rip-rap rock and that the average density of this material is approximately 2,550 to 2,600 pounds per cubic yard.

The witness referred to the cost study shown in Paragraph VII of the application as being the experience of his company in connection with jobs under somewhat similar operating conditions. This cost study shows the total cost per cubic yard to be \$0.15869, providing \$0.02131 per cubic yard to cover contingen-

cies and profit.

L. D. Wilbur, engineer for Morrison-Knudsen Company, testified that his company had estimated that the transportation of material could be done for 18 cents per cubic yard and that his company owned more than 50 pieces of dump truck equipment at the present time scattered over several jobs throughout California and nearby states, some of which could be called to this job and if the requested rate could not be authorized, his company would use such equipment for the transportation involved in this contract. This witness stated that at the beginning of the trucking operations on this particular job, he converted the hourly rate used into a rate per cubic yard, which showed the cost to the general contractor to be 19-1/2 cents per cubic yard. Since that time three shifts per day have been established and the job has been placed on a more efficient basis and he is of the opinion that the rate of 18 cents per yard is compensatory now that such improvements have been made in the operations. This witness also testified that the portion of the job dealing with the excavation and transportation of the 180,000 cubic yards of material should be completed some time between the 1st of September and the 1st of October, 1940.

No opposition was presented other than that of a truck operator who opposed generally the reduction of rates from those established in the Commission's decision. This truck operator also opposed the practice used by this applicant in compensating sub-contracting truck operators on a basis somewhat less than that received by him from the shipper. The applicant stated that he proposed to compensate said sub-contracting truck operators on the basis of approximately 16 cents per cubic yard in the event the Commission granted his request to charge the shipper on the basis of 18 cents per cubic yard.

The record shows that the cost study introduced by the applicant covers all of the items of expense involved in the trans-

portation of a job of this nature. Cross-examination brought out the fact that the individual amounts set forth for the various items are sufficient to cover the expenses of said items. The large amount of material transported in such a relatively short time reduces the unit cost per cubic yard. The applicant's low operating cost is based primarily upon the use factor of 22 hours per day. This use factor is very much higher than that employed in the estimated costs presented to the Commission in the record upon which the minimum rates were established. Circumstances surrounding the transportation do not present any particular hazard and the loading time is reduced to a minimum by the use of the large power shovel and the conditions at the unloading point are such as to reduce the unloading time to a minimum.

A careful review of this record leads to the conclusion that the applicant has convincingly shown that the proposed rate of 18 cents per cubic yard is "reasonable" within the meaning of Section 10 of the City Carriers' Act, and authority to depart from established rates should be granted.

Applicant further requests that the authority to assess the proposed rate of 18 cents per cubic yard be made retroactive as of May 22, 1940. This request must be denied, there being no statutory authority whereby the Commission may grant such request. (2)

#### 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 Jennings Contracting and Trucking

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(2) In re Application of J.A. Clark Draying Co., etc., Decision No. 29105, dated September 14, 1936; Application No. 20629; Application of Brown and Nelson, 41 CRC 176.

Corporation be and it is hereby authorized to assess and collect as of the effective date of this order for the transportation of excavated materials on behalf of Morrison-Knudsen Company, Inc., in connection with a contract which said Morrison-Knudsen Company, Inc., has with the War Department of the United States Government for the performance of certain work known as the Los Angeles River Improvement Project, Section V, Olympic Boulevard to Fourth Street, in the City of Los Angeles, at rates less than the minimum rate heretofore established by the Commission in the City Carriers' Tariff No. 6 of Decision No. 32566 as amended by Decision No. 33002 in Case No. 4434, but at a rate not less than 18 cents per cubic yard when said material is loaded on the dump truck equipment.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire October 1, 1940, unless sooner cancelled, changed or extended by appropriate order of this Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects said application be and the same is hereby denied.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 26<sup>th</sup> day of June, 1940.

Ray L. Keen  
Frank R. Duffin  
Harold W. Duffin  
H. W. Duffin

COMMISSIONERS