

Decision No. 372522

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment of maximum or minimum, or maximum and minimum rates, rules and regulations of all common carriers as defined in the Public Utilities Act of the State of California, as amended, and all highway carriers as defined in Chapter 223, Statutes of 1935, as amended, for the transportation, for compensation or hire, of any and all commodities.)

ORIGINAL

Case No. 4246

Additional Appearances

Waldo A. Gillette and Joseph Enright, for Monolith Portland Cement Company

O'Melveny and Meyers, by Lauren M. Wright, for Riverside Cement Company

T.A.L. Loretz, for Blue Diamond Corporation, Ltd.

Raymond Tremaine and Franklin L. Knox, Jr., by Raymond Tremaine, for Associated Contract Truckers

BY THE COMMISSION:

O P I N I O N

This proceeding involves rates, rules and regulations for the transportation of property between points in California by common carriers, radial highway common carriers and highway contract carriers. This decision deals only with the question of minimum rates, rules and regulations to be established for the transportation of Portland building cement from Long Beach to other points in Southern California by highway carriers, concerning which evidence was received at a public hearing had before Examiner Howard G. Freas at Los Angeles on September 5, 1940.

Minimum rates were established in November, 1935, for the transportation of cement by highway carriers from Colton, Crestmore, Los Angeles, Wingfoot, Victorville, Oro Grande and Monolith to points in Southern California, Santa Barbara, Mojave and south, Daggett and west.¹ Subsequently, the Commission's attention was called to a competitive movement from Long Beach to the same destinations, and this hearing was scheduled for the purpose of receiving evidence relative to minimum highway carrier rates to be established for that movement.²

A senior engineer of the Commission's transportation department introduced and explained an exhibit showing the results of a study which he made of highway transportation between Long Beach and Southern California destinations. The witness explained that he obtained data pertaining to transportation costs and motor truck performance from two contract carriers engaged in transporting most of the cement from the Long Beach plant, and supplemented this information with his informed judgment where necessary. His study covered the period from March 15 to June 8, 1940. The exhibit develops estimated transportation costs in cents per 100 pounds for movements in quantities of 28,500 pounds and over, for various distances up to 400 miles. These costs, for certain lengths of haul, are summarized in Table XI of the exhibit as follows:

Costs in Cents per 100 Pounds

<u>10 Miles</u>	<u>50 Miles</u>	<u>100 Miles</u>	<u>200 Miles</u>	<u>400 Miles</u>
2.97	6.50	10.77	19.63	37.57

¹ Decision No. 28334 of November 4, 1935, as amended, in Cases Nos. 3981 and 4071.

² The cement which moves from Long Beach is manufactured by the Santa Cruz Portland Cement Company at Davenport (Santa Cruz County) and is transported from that point to Long Beach in a vessel owned and operated by that company. It is transported in bulk, unloaded from the vessel into silos at Long Beach, and there sacked for subsequent distribution.

The witness stated that although he had not made a detailed comparison, he was of the opinion that the costs of transporting cement from Long Beach were on the average somewhat higher than from the other mills. This was due, he said, to the fact that the Long Beach plant was not equipped with certain conveyor belts and other devices which facilitated the loading of highway equipment at some of the other mills, and to the fact that carriers transporting the Long Beach tonnage used diesel oil equipment to a lesser extent than did operators hauling out of the other mills.

No other witness testified. However, interested parties stipulated that the Commission should establish minimum rates for the transportation of cement by highway carriers from Long Beach upon the basis of the carload rail rates from and to the same points, plus additional charges for delivery beyond rail facilities and for the accessorial service of unloading the same as those now provided in connection with transportation from the other mills (Decision No. 28334, supra, as amended by Decision No. 30074).³ Counsel for the Colton mill pointed out that the minimum rates heretofore established are not applicable upon cement shipped in quantities less than 28,500 pounds, and stated that it was his understanding that the Long Beach plant commonly made shipments of approximately this amount. He recommended that rates be fixed for the transportation of lesser quantities in order to avoid the possibil-

³ The stipulation was entered into by representatives of the Southern California cement shippers, including the Long Beach plant, and also by Associated Contract Truckers, an association representing a number of highway contract carriers engaged primarily in the transportation of cement in truckload lots between points in Southern California. Southern Pacific Company and Pacific Electric Railway Company did not affirmatively support the proposal, but had no objection to offer to its adoption at this time. No one opposed the suggested basis.

ity of defeating the rates for truckload transportation by making shipments in slightly smaller quantities. Blue Diamond Corporation, L td., suggested that as a temporary measure this be accomplished by making the rates from Long Beach applicable upon shipments of any weight.

From the record developed in this phase of this proceeding it is apparent that the movement of cement from Long Beach is in direct competition with that from the other Southern California mills, and under these circumstances it is manifestly unfair to the shippers involved that the Long Beach movement should be free from minimum transportation rates while minimum rates are in force from all of the competitive shipping points.

Comparison of the proposed basis of rates with the costs developed by the Commission's engineer discloses that on the average the rates suggested approximate those which the cost study indicates are necessary to provide fully compensatory trucking

⁴ operations. However, it appears undesirable to fix trucking rates from Long Beach upon the basis of estimated present full costs without at the same time reviewing rates previously established from the other mills in order to determine whether differences which would result from the two bases would be in fact justified from a cost standpoint under present conditions. It should also be borne in mind in this connection that the Highway Carriers Act

⁴ For example, the proposed rates from Long Beach to rail facility at a number of representative destinations (including the charge for unloading) compared with the estimated truck costs between the same points are as follows:

(Rates and costs are in cents per 100 pounds.)

<u>Destination</u>	<u>Rate</u>	<u>Cost</u>	<u>Destination</u>	<u>Rate</u>	<u>Cost</u>
Los Angeles	4½	4	Indio	16½	14½
Fillmore	7½	9½	Calexico	22½	23
Pomona	5½	6	Escondido	11	10½
Oxnard	10	9	Lancaster	11	11½
Hemet	9	10	San Diego	11	12
San Bernardino	6½	8	Santa Barbara	13½	12½

precludes the establishment of minimum rates for highway carriers upon a basis higher than the current rail rates for the same transportation.⁵

The basis proposed from Long Beach also approximates that upon which minimum rates have been established from the other cement shipping points in Southern California. It appears from this record, particularly in view of the stipulation entered into by the interested parties, that for the present, at least, rates of that volume should be established. A hearing will be scheduled at an early date for the purpose of reviewing the entire cement rate structure in Southern California, including the rates previously established from the other mills as well as those hereinafter prescribed.

Upon consideration of all of the evidence of record, the Commission is of the opinion and finds:

1. That the rates and charges set forth in Appendix "A", which is attached hereto, are and will be for the future the just, reasonable and nondiscriminatory minimum rates and charges to be assessed, charged and collected by all radial highway common carriers and highway contract carriers.

2. That all radial highway common carriers and highway contract carriers should be required to assess, charge and collect, for the transportation or accessorial services to which said Appendix "A" of the order herein is applicable, rates and charges no lower in volume or effect than those set forth or referred to in said appendix.

⁵ Section 10 of the Highway Carriers' Act provides in part that "In the event the Commission establishes minimum rates for transportation services by highway carriers, such rates shall not exceed the current rates of common carriers by land subject to the provisions of the Public Utilities Act for the transportation of the same kind of property between the same points."

3. That the existing rates and charges, maintained by highway common carriers, are and will for the future be unreasonable, insufficient and not justified by the actual competitive rates of competing carriers or by the cost of other means of transportation, insofar as they are lower in volume or effect than those set forth in said Appendix "A" for the performance of the same transportation and the same accessorial services by radial highway common carriers and highway contract carriers.

4. That rates and charges no lower in volume or effect than those set forth in said Appendix "A" will be "just, reasonable and sufficient" for highway common carriers, as those terms are employed in the Public Utilities Act.

5. That all highway common carriers should be required to cancel all rates and charges lower in volume or effect than those set forth in said Appendix "A", and to establish in their stead rates and charges no lower in volume or effect than those therein set forth.

6. That to the extent carriers affected by this order, other than those subject to the Public Utilities Act, may be deemed to be "transportation companies" within the meaning of Article XII, Section 21 of the Constitution of California, they should be authorized to charge less for longer than for shorter distances, to the extent necessary to meet the rates of competitive forms of for-hire transport for the same transportation, under the terms of said Appendix "A".

INTERIM ORDER

Public hearing having been held in the above entitled

proceeding and based on the evidence received at the hearing and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED:

1. That the rates and charges set forth in Appendix "A", which by this reference is incorporated in and made a part hereof, be and they are hereby established and approved effective twenty (20) days after the effective date hereof as the just, reasonable and nondiscriminatory minimum rates and charges to be assessed, charged and collected by any and all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, for the transportation of cement from Long Beach to points for which rates and charges are provided in said Appendix "A".

2. That all radial highway common carriers and highway contract carriers, as defined in the Highway Carriers' Act, be and they are hereby ordered and directed to cease and desist twenty (20) days after the effective date of this order, and thereafter abstain from assessing, charging or collecting rates or charges lower in volume or effect than those set forth or referred to in said Appendix "A".

3. That all highway common carriers maintaining rates or charges found by Finding No. 3 in the preceding opinion to be unreasonable, insufficient and not justified by the actual competitive rates of competing carriers or by the cost of other means of transportation, be and they are hereby ordered and directed to cancel said rates and charges on or before twenty (20) days after the effective date of this order on not less than three (3) days' notice to the Commission and to the public, and to establish in their stead rates and charges no lower in volume or effect than those found reasonable or sufficient, or justified by Findings Nos. 3 to 6 inclusive, in the opinion preceding this order.

4. That all highway common carriers, as defined in the Public Utilities Act, be and they are hereby ordered and directed to cease and desist twenty (20) days after the effective date of this order, and thereafter abstain from publishing or maintaining in their tariffs rates or charges lower in volume or effect than those found reasonable and sufficient, or justified, by Findings Nos. 3 to 6, inclusive, in the opinion preceding this order.

5. That all carriers who may be deemed to be transportation companies, as that term is employed in Article XII,

Section 21 of the Constitution of California, other than carriers subject to the Public Utilities Act, be and they are hereby authorized to charge less for longer than for shorter distances, to the extent necessary to meet the rates of competitive forms of for-hire transport for the same transportation, under the terms of said Appendix "A"

The effective date of this order shall be October 1, 1940.

Dated at San Francisco, California, this 17th day of September, 1940.

Ray & Ricey
Francis D. Allen
Ray B. ...
H. ...
Justin J. ...
Commissioners.

APPENDIX "A"

naming

Minimum rates, rules and regulations for the transportation of Cement, Portland Building, from Long Beach to points in Southern California, Santa Barbara and Mojave and south, Daggett and west.

1. Minimum rates for the transportation of cement by radial highway common carriers and highway contract carriers shall be the same in cents per 100 pounds as the common carrier rail rates on cement in carload lots from and to the same points.

2. Minimum rates for the transportation of cement by radial highway common carriers and highway contract carriers to other than rail facility shall be the rates prescribed for delivery at rail facility plus an additional charge of one cent per 100 pounds for the first $2\frac{1}{2}$ miles of the distance from the nearest rail facility to point of destination, and one-half cent per 100 pounds for each 5 miles or fraction thereof thereafter.

3. For the accessorial service of unloading, radial highway common carriers and highway contract carriers shall charge and collect one-half cent per 100 pounds in addition to the transportation charges referred to in paragraphs 1 and 2.

(End of Appendix)