

Decision No. 23665

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Western Truck Lines, Ltd. for auth- )  
ority to charge less than minimum )  
rates )

**ORIGINAL**

Application No. 23665

Appearances

Phil Jacobson, for Applicant

Arlo D. Poe, for Lumber Haulers Association of  
Southern California, protestant

Wm. Meinhold, for Southern Pacific Company and  
Pacific Motor Trucking Company, protestants

CRAEMER, COMMISSIONER:

O P I N I O N

By this application Western Truck Lines, Ltd., a highway common carrier operating between points in this state, seeks authority to publish and maintain for the transportation of box shook, lumber and veneer in truckload lots, from points in the vicinity of Bishop (Inyo County) to Los Angeles and points adjacent thereto, a rate less than that heretofore established by this Commission as minimum. The established rate for this transportation, subject to a minimum weight of 30,000 pounds, is 29 cents per 100 pounds;<sup>1</sup> the rate proposed by applicant for the same trans-<sup>2</sup>portation is, in effect, 20 cents per 100 pounds.

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

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Decision No. 31606 of December 27, 1938, as amended, in Case No. 4246.

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The application seeks rates of 20 cents per 100 pounds on lumber and veneer, subject to a minimum of 30,000 pounds; and \$3.00 per thousand board feet on box shook, subject to a minimum of 20,000 board feet. The testimony shows that the shook weighs between 1,400 and 1,500 pounds per thousand board feet, and that the shipper would be agreeable to use of the weight basis.

The record shows that there is located approximately five miles north of Bishop, adjacent to U. S. Highway No. 395, a mill engaged in manufacturing box shooK and rough lumber. This mill has an average daily production of 35,000 board feet, of which about 80 per cent is shooK. Substantially all of the output is distributed in metropolitan Los Angeles and the Southern California citrus belt. The lumber is sold on a delivered basis, but the box shooK has in the past been purchased at the mill almost entirely by one large distributor and transported to destination in the purchaser's trucks.

The operator of the mill explained that the present method of distributing box shooK was unsatisfactory, principally because of his dependence upon the purchaser to keep the shooK moving steadily. He said that under present methods more than two and a quarter million board feet had accumulated at the mill, whereas the normal stock should be about one million board feet. He said that he expected a continuous growth in the operations of his company because there was plenty of timber available and a ready market in the Los Angeles area, but he desired to revise his method of distribution so as to sell on a delivered basis to various purchasers. He explained that preliminary to making this change he had approached Western Truck Lines, Ltd., whose vehicles he had seen passing his mill regularly, with a view to obtaining a satisfactory transportation rate; and that the rate here sought had been thus agreed upon. He said that at this reduced rate he proposed to load the vehicles at the mill without assistance from the carrier's driver.

This witness testified further that his company had transported some lumber to the Los Angeles area with a truck and trailer unit which it owned, and upon the basis of this experience he estimated that the transportation could be performed in proprietary vehicles at a cost comparable to that of shipping at the

proposed rate.<sup>3</sup> He was unable to supply supporting figures in substantiation of this estimate, but nevertheless asserted that if the reduced rate were not approved the mill would probably purchase motor vehicles and perform the service itself. He stated, on the other hand, that if the sought rate were authorized the mill would agree to ship all of its product via Western Truck Lines, Ltd.

The office manager of Western Truck Lines, Ltd. introduced and explained three exhibits designed to show collectively the added cost to his company of transporting the box shooK and lumber here involved and to compare this cost with the anticipated revenue. The first of these exhibits shows the tonnage transported by applicant in each direction over its route between Los Angeles and Reno, Nevada, via Bishop, for the 20 months ending with August, 1940. The second shows total unused capacity of applicant's vehicles returning southbound from Bishop during the same period, and the total anticipated tonnage of box shooK and lumber during a comparable period of time. By deducting the unused capacity from the anticipated tonnage the witness arrived at the conclusion that only 88 additional trips per year would be required to handle the new traffic. His investigation did not include a study of the space available on individual vehicles, and he was unable to explain how the freight could be handled so as to make the unused capacity available for handling shooK and lumber in truckload quantities. His third exhibit compares the anticipated total revenue from the new traffic with the estimated additional cost of handling it. In this calculation the witness made no attempt to develop the full cost of performing the service, but took

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<sup>3</sup> The witness estimated that the cost would be \$3.00 per thousand board feet for box shooK and \$5.00 per thousand board feet for the rough lumber. The lumber was said to weigh about 2,200 pounds per thousand board feet.

into account only the added or "out of pocket" expenses which would be created by the shock and lumber tonnage. By this method the witness reached the conclusion that this traffic would return a net income of \$1308.78 per year, or slightly more than \$100.00 per month.

The traffic manager of applicant carrier explained in some detail the operations of his company over the route involved in this application. He testified that with some shifting of freight at Bishop and with careful supervision he thought it would be possible to arrange the handling of freight so as to accumulate the present unused capacity in full truck-and-trailer lots. He explained also that his company had equipment available in addition to the regularly scheduled vehicles, and introduced an exhibit describing all automotive equipment operated by Western Truck Lines, Ltd. He introduced also an exhibit comparing the proposed rate with certain relatively low rates in effect on other commodities between other points in the state, apparently for the purpose of showing that the revenue per trip and per mile at the rate proposed would not compare unfavorably with revenue accruing at the compared rates.<sup>4</sup> This witness explained that although it was expected that the shipper would perform the loading at the mill, it was not desired or intended that the sought rate be restricted to shipments loaded by the consignor.

Granting of this application was opposed by Lumber Haulers Association of Southern California, Southern Pacific Company,

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The rates used for comparison must all be classed as "depressed". For example, the witness included truckload rates on beverages from San Francisco to Los Angeles, canned goods from San Francisco to Hemet, and soap and related articles from Sacramento to San Clemente. Rates on each of these movements reflect the impact of rail competition. He used also a rate on lumber and forest products from Susanville to Oakland which was published to meet competition of a rail line operating via an interstate route; and a rate on hay from Imperial to Hynes which was recently reduced below the normal minimum level in order to permit for-hire carriers to meet the competition of itinerant truckers operating in that field.

Pacific Motor Trucking Company, and by the National Wooden Box Association. The Lumber Haulers Association offered no direct testimony of its own, but actively participated in the cross examination of applicant's witnesses. A rate and traffic expert, testifying on behalf of Southern Pacific Company and Pacific Motor Trucking Company, introduced and explained an exhibit comparing the present and proposed rates from Bishop to Los Angeles and other points with rates in effect from Stockton and Sacramento to the same and other destinations. In addition, a representative of the National Wooden Box Association, called as a witness on behalf of these two carriers, explained that his Association was opposed to the granting of special rates from any factory or mill below the minimum rates established by the Commission. He pointed out that the established rates are on a uniform basis which places all mills on a parity for transportation over comparable constructive distances, and asserted that other box-shook factories in direct competition with the one at Bishop would be prejudiced by the granting of this application.

No attempt was made by applicant to show that the minimum rate now in effect is unreasonable or otherwise improper for the particular transportation here involved, or that the proposed reduced rate is necessary or desirable to move the traffic. It appears only that the shipper contemplates a more elaborate distribution in Southern California and is considering the feasibility of effecting this distribution in his own vehicles. It is true that the principal part of the traffic has moved in the past in proprietary vehicles operated by the consignee, but the record does not indicate that the use of proprietary equipment was induced or encouraged in any way by the level of the minimum rate. None of the evidence offered in support of the proposed reduced rate related to the movement of either veneer or finished lumber,

two of the commodities included in the application.

A more serious defect in applicant's showing is the complete absence of evidence of probative value to indicate the probable full cost of transporting the traffic. The cost estimate offered by the shipper witness was entirely lacking in supporting figures, and was derived in part from consideration of a past movement between points other than those here involved. The carrier witnesses made no effort to develop full costs, but relied solely upon an attempt to show that the anticipated revenue at the proposed rate would exceed the out-of-pocket cost to their company of handling the traffic. It cannot be said, therefore, that the proposed reduced rate has been shown to be compensatory.

The uniform minimum rates heretofore established by this Commission for the transportation of lumber, box shooks and other forest products between points in this state were based upon extensive evidence which included detailed studies of the estimated cost of transporting these commodities by motor truck under various conditions. Clearly it would be improper for the Commission to lower the rate from one mill to one destination area by some 30 per cent solely upon the basis of evidence such as that offered by applicant in the instant proceeding. Furthermore, the Commission should not look with favor upon petitions to reduce minimum rates in particular instances to the basis of the out-of-pocket cost of transporting so-called "back haul" traffic. Little imagination is necessary to make it apparent that if this method of rate making were adopted and extended to carriers generally, the inevitable result would be that substantially all rates would be forced below the minimum level necessary to sustain the carriers.

Upon consideration of all the facts and circumstances of record I am of the opinion that the reduced rates sought in this application have not been shown to be compensatory, necessary, or

reasonable. The application should be denied. The following form of order is recommended.

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 this application be and it is hereby denied.

The foregoing opinion and order are hereby adopted and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28<sup>th</sup> day of January, 1941.

[Signature]  
[Signature]  
[Signature]  
Justin P. Casner  
Francis R. Haveman  
Commissioners.