

Decision No. 35481

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF)
LEONARD F. SCHEMPP, for permission)
to charge a hauling rate less than)
the present established minimum rate.)

Application No. 25016

ORIGINAL

APPEARANCES

HERBERT GALL, for Applicant,
E. O. BLACKMAN, for California Dump
Truck Owners' Association, Interested
party.

BY THE COMMISSION:

O P I N I O N

By this application, Leonard F. Schempp, an individual, seeks authority under the provisions of Section 11 of the Highway Carriers' Act, to transport asphaltic concrete material in dump trucks, from the plant of C. O. Sparks and Mundo Engineering Co. at 1601 South Soto Street, Los Angeles, California to the Roosevelt Base (Navy project) on Terminal Island, at a rate less than the established minimum rate. The proposed rate is 84 cents per ton, while the minimum rate is 89 cents ⁽¹⁾ per ton.

At a public hearing held before Examiner Malquist at Los Angeles on June 11, 1942, the applicant testified that he had entered into a contract with C. O. Sparks and Mundo Engineering Company to transport approximately 45,000 tons of asphaltic concrete material for the construction of pavement at Roosevelt Base, a Navy project, located on Terminal Island, and that this contract was made before Decision No. 35271 ⁽²⁾ became effective, and without

(1) Highway Carriers' Tariff No. 7 provided a zone rate of 84 cents per ton for the transportation of asphaltic concrete material from Production Area "S" to Delivery Zone No. 44, while the "Special supplement containing increased rates and charges", appendix to Decision No. 35271, provides a 6 per cent increase in the zone rates contained in Highway Carriers' Tariff No. 7, or 89 cents per ton.

(2) Decision No. 35271 granted an increase of 6 per cent to rates provided in Highway Carriers' Tariff No. 7 and other Highway Carrier Tariffs.

knowledge of its issuance or of the public hearings involved before said decision was issued. The applicant introduced cost data showing that this material in the above mentioned quantity could be transported in dump trucks at a rate of 34 cents per ton and show a reasonable profit and without prejudice to other traffic handled.

The secretary of the California Dump Truck Owners Association, an organization representing over 50 per cent of the for-hire dump truck operators and over 75 per cent of the rock, sand, decomposed granite and asphaltic concrete producers, testified that the directors of this association unanimously adopted a resolution favoring the retention of the general level of rates in effect prior to the issuance of Decision No. 35271, supra, and that bona-fide contracts of dump truck operators entered into at the then existing minimum rates should be permitted to be completed and that such request was presented to the Commission. (3)

There was no opposition to the request of the applicant.

A careful review of the record leads to the conclusion that the applicant has convincingly shown that the proposed rate is reasonable and should be authorized. Inasmuch as the length of time this work will be in progress cannot be determined at this time with certainty, the authority granted herein will be limited to a six months period, unless sooner cancelled, changed or extended.

O R D E R

IT IS HEREBY ORDERED that Leonard F. Schempp, an individual, be and he is hereby authorized to transport asphaltic concrete material under contract with C. O. Sparks and Mundo Engineering Company from 1601 South Soto Street, Los Angeles, California, to the Roosevelt Base, (a Navy project), on Terminal Island, California at a rate less than that established as a minimum for such transportation,

(3)

At a formal hearing in Case 4637 on May 11, 1942 at Los Angeles

but not less than 84 cents per ton.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire six months from the date of this order, unless sooner cancelled, changed or extended by appropriate order of this Commission.

This Order shall become effective on the date hereof.

Dated at San Francisco, California, this 16th day of June,

1942.

Ray R. Riley

H. B. Baker

Richard Baker

Commissioners