

Decision No. 35728

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
HOWARD T. CLEMENS for relief from)
minimum rate set forth in City)
Carriers' Tariff No. 6 and Highway)
Carriers' Tariff No. 7.)

Application
No. 25163

BY THE COMMISSION:

OPINION AND ORDER

By this application Howard T. Clemens, an individual, seeks authority under Section 10 of the City Carriers' Act and Section 11 of the Highway Carriers' Act to deviate from the minimum rates, rules and regulations established by City Carriers' Tariff No. 6, Highway Carriers' Tariff No. 7 to the extent that applicant be permitted to assess rates on the transportation of property in dump truck equipment on the basis of six (6) tons minimum per shipment.

It is represented that applicant owns and operates a 1930 Sterling dump truck, that the net load capacity of this unit is less than the weight of the minimum shipment required by Item No. 50 series of said Tariff, namely 7 tons; that applicant transports many shipments of asphaltic concrete for Griffith Company of Los Angeles; that asphaltic concrete plants of Griffith Company at Los Angeles mix batches of approximately two (2) tons and that as applicant's equipment can handle three (3) batches, or a load of six (6) tons, it is seriously overloaded if required to transport four (4) batches, or eight (8) tons. The application further states

that Griffith Company often ships to small jobs on which applicant can transport but one load during the servicing of such jobs and that said company's business is such that this condition cannot readily be changed, and unless the relief sought is granted the complete loss of applicant's business will result.

It is further represented that it is impossible under Federal regulations to secure new equipment and that it is urged that present equipment be utilized to the best advantage. Both applicant and shipper are willing to assess and pay charges on the basis of a six (6) ton minimum shipment.

At a hearing in Case No. 4637, on May 11, 1942, in which several changes in the matter of transportation of property in dump truck equipment were involved, representatives of the California Dump Truck Owners' Association and producers of Asphaltic Concrete urged the reduction of the minimum weight of shipment specified in Item No. 50 series of City Carriers' Tariff No. 6, Highway Carriers' Tariff No. 7 from seven (7) tons to six (6) tons. On this record no one opposed this proposed reduction.

It appears that this is a matter in which a public hearing is not necessary and that under the circumstances of record the proposed request is reasonable and should be authorized. The application will be granted.

It further appears that the special circumstances surrounding the transportation involved may change. The authority granted herein will therefore be limited to a period of one year unless sooner cancelled, changed or extended; therefore, good cause appearing

IT IS HEREBY ORDERED that Howard T. Clemens, an individual, be and he is hereby authorized to assess minimum charges for the transportation of Asphaltic Concrete for Griffith Company, Los Angeles, California, as shipper, employing weights for the calculation of such minimum charges less than that prescribed in Item No. 50 series of City Carriers' Tariff No. 6, Highway Carriers' Tariff No. 7 but not less than the following:

Except as otherwise provided the minimum charge per shipment shall be the charge for six (6) tons at the applicable rate.

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

The effective date of this order shall be the date hereof.

Dated at San Francisco, California on this *1st* day of

September 1942.

Justin F. Calver

Francis R. Haveman

Commissioners.