

Decision No. 37013

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application | } | Application No. 25585 |
| of DIRECT DELIVERY SYSTEM, LTD. | | |
| for authority to assess less than | | |
| minimum rates. | | |

BY THE COMMISSION:

ORIGINAL

Appearances

H. J. BISCHOFF, for applicant.
C. A. ZINK, for The Dicalite Company.

O P I N I O N

By this application Direct Delivery System, Ltd., a highway contract carrier, seeks authority to charge less than the established minimum rates for transportation of diatomaceous earth for The Dicalite Company from its plant located adjacent to the City of Torrance to points within the city limits.

Public hearing was had before Examiner Bryant at Los Angeles and the matter is ready for decision.

Testimony in support of the application was offered by the president of the applicant corporation. From his description of the operation it appears that The Dicalite Company operates a quarry and factory adjacent to the southerly city limits of Torrance, from which it ships diatomaceous earth to various points. The transportation involved in this proceeding is the movement to warehouses and team tracks within the city, a service performed exclusively by applicant. The maximum length of haul is slightly over six constructive miles. The carrier utilizes three tractors and six semi-trailers in a "shuttle" type of operation. While one semi-trailer is being loaded at point of origin and another is being unloaded at destination, a third is in transit. The earth, in paper sacks,

is transported on pallets, which are returned to the plant with the returning vehicles. The loading and unloading are done by employees of The Dicalite Company, without expense to applicant. The shipper also prepares such shipping documents as are necessary.

The established minimum rate for the transportation of Class C commodities, in lots of 36,000 pounds or more, for distances of over five but not over 10 constructive miles, is 4-¹/₄ cents per 100 pounds, or 95 cents per ton. This rate includes the services of driver for loading and unloading the carrier's equipment, and of course includes preparation of the required shipping documents. The rate herein proposed for the more limited service rendered by applicant under the conditions here obtaining is 41 cents per ton, minimum weight 30,000 pounds, based upon the weight of the earth and sacks. No additional charge is proposed for transporting the pallets in either direction.

The witness declared that because of reduced cost to the carrier made possible by the shuttle type of operation, and by the shipper's service of loading and unloading the vehicles and preparing the documents, the established minimum rate was excessive for this particular operation, and the proposed rate would be reasonable and sufficient. In support of this statement he introduced and explained two exhibits for the purpose of showing the costs experienced during the period from January 1 to November 30, 1943. According to these exhibits, applicant transported 48,968,828 pounds of earth during the period, at a total cost per ton of 36.94 cents. On the basis of this cost, the proposed rate of 41 cents would allow to the carrier a profit of 4.06 cents per ton. The witness explained that his

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Highway Carriers' Tariff No. 2 (Appendix "D" to Decision No. 31606, as amended, in Case No. 4246). Diatomaceous earth is classified as Class C in Western Classification No. 71, C.R.C.-W.C. No. 4 of R. C. Fyfe, Agent.

company had, until recently, performed the service at a rate of 35 cents per ton.²

A representative of The Dicalite Company stated that his company supported the application and believed the proposed rate to be fair. No other witness testified, and no one opposed the granting of this application.

The record is convincing that the transportation operation involved in this proceeding is a highly specialized service for which the established minimum rate of 95 cents per ton, contemplating as it does a more complete and expensive type of service, would be excessive. The proposed rate of 41 cents per ton, according to the evidence of record, will return the full cost of the operation plus a satisfactory profit. The fact that applicant has successfully conducted the identical operation for a number of years at a rate of only 35 cents per ton is a practical check to indicate that the proposed rate is not below a minimum reasonable rate for this service.

Upon consideration of all of the facts and circumstances of record, the Commission is of the opinion and finds as a fact that the rate proposed in this application will be reasonable for the transportation herein involved. The application will be granted accordingly.

The finding herein is necessarily predicated upon existing conditions, and the authority hereinafter granted will, therefore, be limited to a period of one year. If, prior to the time of expiration, applicant is of the opinion that an extension is justified, an appropriate supplemental application should be seasonably filed.

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He said that this had been done on the supposition that the established minimum rates were not applicable. It appears that the route from the plant to a point within the city limits of Torrance is over a privately-owned road, although the transportation within the city is over public thoroughfares. Minimum rates have not been established for the transportation of general commodities within the City of Torrance.

O R D E R

Public hearing having been held in the above entitled application, and based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Direct Delivery System, Ltd. be and it is hereby authorized to assess and collect for the transportation for which rates are provided in Appendix "A" attached hereto and by this reference made a part hereof, rates and charges less than the minimum rates and charges heretofore established by the Commission, but in no event less than those provided in said Appendix "A".

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year from the effective date of this order unless sooner changed, canceled or extended by appropriate order of the Commission.

This order shall become effective on the date hereof:

Dated at San Francisco, California, this 25th day of April, 1944.

Arthur H. Kasper
Justice J. Crocker
Francis K. Havenner
James W. Brown
John A. Sullivan
 Commissioners

APPENDIX "A"

ITEM NO. 10 - APPLICATION OF RATES

(a) Rate provided in this appendix applies only for the transportation of diatomaceous earth, in sacks, from plant of The Dicalite Company located adjacent to the southerly city limits of Torrance to points within the City of Torrance.

(b) Transportation charges and minimum weight shall be computed upon basis of the actual weight of the diatomaceous earth and sacks. No additional charge shall be made for the transportation, in either direction, of pallets.

(c) Rate does not include loading or unloading of carrier's equipment.

ITEM NO. 30 - RATE

41 cents per ton of 2,000 pounds, minimum weight 30,000 pounds.

(End of Appendix)