

Decision No. 37294

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
J. A. CLARK DRAYING COMPANY, LTD.,)
for authority under Section 10,)
City Carriers' Act, to charge less)
than minimum rates prescribed by the)
Commission by Decision No. 36958 in)
Case 4121 for the unloading and)
segregation of freight moving in)
pool cars for the account of CROWN)
ZELLERBACH CORPORATION, its affiliates)
and subsidiaries.)

ORIGINAL

Application No. 26171

BY THE COMMISSION:

Appearances

- Arthur Glanz, for applicant.
- Arlo D. Poe, for Motor Truck Association of
Southern California, protestant.
- Edward M. Berol, for Signal Trucking Service,
protestant.

O P I N I O N

By this application, J. A. Clark Draying Company, Ltd. seeks authority to charge less than the established minimum rates for the accessorial service of unloading and segregating freight received in rail pool cars within the Los Angeles drayage area for Crown Zellerbach Corporation and its subsidiaries and affiliates named in the application.

Public hearings were had before Examiner Bryant at Los Angeles on June 7 and July 13, 1944, and the matter is ready for decision.

Applicant's Los Angeles manager described the handling of the cars in question. According to his testimony, each car is loaded with one or more kinds of paper and paper products by the manufacturers and shippers in the Pacific Northwest and elsewhere. The cars

are consigned to Crown Zellerbach Corporation, Los Angeles, but the freight in each car is intended for delivery to various sub-consignees. The cars are spotted for unloading at applicant's Los Angeles terminal, and applicant unloads the freight, makes such segregation¹ as may be required, and performs the delivery to the sub-consignees. Detailed distribution instructions are received by applicant, through Zellerbach, several days before the cars arrive in Los Angeles.

The witness stated that the number of commodities loaded in each of the cars normally does not exceed three or four, and that the number of sub-consignees per car ranges from two to eighteen or twenty, with an average of six or seven. He said that the freight is usually so loaded into the cars at points of origin as to make further segregation at Los Angeles unnecessary, and that all accessorial as well as transportation charges are paid by Zellerbach. The witness declared that the handling of these cars is less expensive than the unloading and segregating of freight from other classes of pool cars received by his company. Summarizing, he stated that the Zellerbach cars were unique for the reasons that they are loaded with packages of generally uniform size and type which are subject to easy and rapid handling, require little or no segregation, involve relatively few sub-consignees, require no proration of charges among sub-consignees or consignors, and require no filing of freight claims or other accounting between applicant and the rail lines.

In specific justification of the proposed rate of 4 cents per 100 pounds, the witness referred to cost statements and other

1

Rates for the transportation service are not involved in this proceeding. Infrequently the cars are unloaded by applicant at public team tracks.

exhibits attached to the application. One of these exhibits develops an estimated total cost per man-hour of \$1.20, which consists of an average wage rate of 98.39 cents per hour (including social security taxes and compensation insurance), increased by 22 per cent to cover overhead and administration expense. Another exhibit is a record of 78 cars handled by applicant for the Zellerbach companies during the period from September 10, 1943 to May 9, 1944. This statement sets forth data for each of the cars under the headings of total weight, number of sub-consignees, man hours spent in unloading, description of commodities, developed cost per ton, cost per car, and classification ratings of the commodities. The witness stated that the 78 cars included in this exhibit did not represent all of those handled during the period, but were selected with a view to including representative cars of each type and class.

The assistant traffic manager of Crown Zellerbach Corporation corroborated and amplified the testimony of applicant's representative in so far as it related to classes of commodities shipped, manner of loading the rail cars, documentation of the shipments, numbers of consignees and other matters within his knowledge.

The Motor Truck Association of Southern California and Signal Trucking Service opposed the granting of this application. The former called two witnesses in support of its position. The first of these was a consulting transportation engineer, who testified concerning the cost of performing the service. Using applicant's 1943 operating statement and data submitted with the application, he calculated that the total cost on a man-hour basis was approximately \$1.40 which may be compared with the estimate of \$1.20 used by applicant's witness.

The Association's other witness was the president of a high-way carrier which had handled the Zellerbach cars prior to April, 1943. This witness testified that his company was currently handling pool cars for other distributors of paper and paper products, and that these distributors had declared they were in competition with Zellerbach and would expect to pay no higher rates and charges. He indicated that regardless of the outcome of the instant proceeding he did not intend to file a similar application. This witness also stated that during his company's experience some of the Zellerbach cars required segregation and delivery to as many as sixty or more sub-consignees.

Protestants and applicant offered oral argument on certain of the issues raised. The Association contended that the granting of reduced rates for selected traffic upon a showing that such traffic could be handled more economically than the average was contrary to the principles of rate stabilization. It asked that the Commission look beyond the cost of performing the service and give due consideration to public interest in the maintenance of a stable rate structure. Counsel for Signal Trucking Service stated that his client was engaged in handling paper and paper products from pool cars for competitors of the Zellerbach companies. He argued that granting of this application would place these competitors at a disadvantage. Signal, he stated, would not seek to observe the rate herein proposed. The reasons given for this decision were that Signal did not believe it could operate profitably at the rate, and considered it improper to reduce rates below the established minimum on particular commodities selected from a group. This protestant urged that the application be denied for failure to show (1) that the sought rate will return the cost of performing the service, plus a reasonable profit;

(2) that the rate is necessary to permit the traffic to move by for-hire carriers; and (3) that the result of granting the authority requested will not unduly disturb competitive transportation conditions. Applicant replied that it had fully justified the sought rate on the basis of cost to the carrier; that the granting of this application had not been shown to be, and would not be, contrary to public interest; and that if other carriers were operating under similar conditions they were free to seek authority to charge similar rates.

Conclusions

The established minimum rates for the service of unloading and segregating freight from pool cars in the Los Angeles drayage area range from $5\frac{1}{2}$ cents to 8 cents per 100 pounds on the commodities herein involved. According to applicant, the average cost of performing the limited service which it renders in connection with the Zellerbach shipments has been about 3.6 cents per 100 pounds. As calculated by the association witness, applicant's average cost on the same shipments was 4.2 cents per 100 pounds (and would have been about 4.8 cents at the wage scales now sought). The rate proposed by applicant is 4 cents per 100 pounds.

The cost of performing the service cannot be determined on this record. It has apparently not been applicant's practice to maintain detailed time or cost figures, and the cost evidence was developed for purposes of this application from the limited data which were available. The estimated labor cost per man hour, upon which the costs per 100 pounds depend, was computed by applying an average of three hours overtime per day. This is the average for all freight handlers used in any of applicant's varied operations

and may or may not be appropriately applied to the Zellerbach cars. Applicant expanded the labor cost by 22 per cent to cover overhead and administration expense. This percentage was predicated upon a study of the experience of other carriers in unloading pool cars of various kinds and not upon an analysis of applicant's experience. The cars studied, being selected from a substantially larger number handled during the same period, may or may not reflect a proper weighting of the over-all experience. The Association witness necessarily used these same data in his calculation of applicant's costs, but arrived at a higher figure principally because he made provision for vacation pay and because he concluded (from the relationship of fixed expenses to total expenses as reflected by applicant's 1943 operating statement) that the "overhead" expansion should be based upon 28.38 per cent rather than 22 per cent.

It may reasonably be concluded from the evidence of record that applicant's cost of performing the service herein considered is somewhat below the level of charges established by the Commission as minimum, but the margin between cost and rates cannot be measured for two reasons; first, the cost is not definitely known; and, second, the record does not show the relative weight of the commodities of each class from which the average rate could be calculated.

In this proceeding the Commission is called upon by applicant to make a finding that the proposed rate of 4 cents per 100 pounds is "reasonable and consistent with the public interest" (Section 10, City Carriers' Act). A finding of reasonableness will not be made under the section cited unless it is shown that the rate will be compensatory. The cost evidence of record in this proceeding is not sufficiently conclusive to constitute such a showing. Added to this infirmity is the evidence that granting of the application would afford to the Zellerbach companies a lower basis of charges than is

available to their competitors, and that this disparity would be corrected, if at all, only by diversion of the competitors' traffic from the carriers now handling it. Moreover, it must be observed that no commercial or other necessity has been shown for the proposed reduced rate. There is not even a suggestion that the established minimum rates have been burdensome, or that the traffic would not continue to move freely under such rates.

Upon careful consideration of all of the facts and circumstances of record the Commission is of the opinion and finds that the rate proposed in this application has not been shown to be reasonable and consistent with the public interest.

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.

Dated at San Francisco, California, this 29th day of August, 1944.

Richard L. Baker
Justin F. Calmer
Francis R. Havenner
Frank W. Owen
W. H. Russell
Commissioners