

**ORIGINAL**Decision No. 42566

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
Frank C. Winans and Grant A. Winans,	)	
co-partners doing business as	)	
Winans Brothers, for authority to	)	Application No. 30100
charge less than minimum rates under	)	
the provisions of the Highway Car-	)	
riers' Act of the State of California.	)	

Appearances

Marvin Handler, for applicants.  
 A. H. Clickman, for Hudson Lumber Company,  
 intervenor in support of the application.  
 Wm. Meinhold, for Southern Pacific Company,  
 and Clair W. MacLeod, for Rochlitz Bros.,  
 Inc., interested parties.

O P I N I O N

Frank C. Winans and Grant A. Winans, copartners doing business as Winans Brothers, operate as a highway contract carrier and as a radial highway common carrier. They seek authority to transport lumber for Hudson Lumber Company at a rate less than that established as minimum.

Public hearing of the application was had at San Francisco on March 18, 1949, before Examiner Jacopi.

According to the record, Hudson Lumber Company is engaged in the manufacture of cedar pencil slats at its plant in San Leandro. The finished slats are sold to eastern pencil manufacturers. For the past seven years the cedar lumber used in these activities has been obtained in the vicinity of Caldor, Mokelumne County. This source of supply has been depleted. Hudson Lumber Company has now secured rights to a stand of cedar timber near Anderson, Tehama County, which is expected to sustain the operations for at least twenty years. The logging and sawmill operations at the source of supply will be performed by Elkins Sawmill,

Incorporated, a subsidiary of the San Leandro concern.

The transportation involved herein consists of the movement of the seasoned cedar lumber from the Elkins mill near Anderson to the plant of Hudson Lumber Company, San Leandro.<sup>1</sup> The minimum rate established for this transportation by highway carriers is 37 cents per 100 pounds, minimum weight 30,000 pounds.<sup>2</sup> The sought rate is 32 cents per 100 pounds, minimum weight 40,000 pounds.

A traffic consultant for Hudson Lumber Company, testifying in behalf of applicants, asserted that the applicable minimum rate would be improper in view of the unusually favorable conditions under which the transportation would be performed. His testimony shows that about seven million board feet of lumber would be transported by applicants during the next twelve months, and that the movement would be at the rate of ten truck and trailer loads per week with each load weighing not less than 40,000 pounds.<sup>3</sup>

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<sup>1</sup> The mill of Elkins Sawmill, Incorporated, is situated on Highway U.S. 99 about one and one-half miles north of Anderson. Both the Elkins mill and the Hudson plant are served by rail spur track.

<sup>2</sup> The aforesaid rate is set forth in Highway Carriers' Tariff No. 2 (Appendix "D" of Decision No. 31606, as amended, in Case No. 4246). Under the alternative provisions of the tariff, however, common carrier rates may be applied when they produce a lower aggregate charge for the same transportation than results under the rates set forth in the tariff. Applicants allege that under such provisions certain of the transportation in question would be subject to a rate of 34 cents per 100 pounds, minimum weight 34,000 pounds, maintained by Southern Pacific Company in Item No. 1106, Pacific Freight Tariff Bureau Tariff No. 48-T, Cal.P.U.C. No. 132 of J. P. Haynes, Agent.

<sup>3</sup> The witness also said that the annual volume indicated might well prevail for at least two years.

The loading and unloading of applicants' vehicles would be performed by the shipper and consignee, employing power equipment at their own expense. The facilities therefor would be available at least 12 hours per day. Moreover, the witness said, the large volume of traffic coupled with the regularity of the movement would enable applicants to realize considerably more favorable equipment load and use factors than would be possible under ordinary conditions.

A consulting engineer submitted a study of the anticipated cost of providing the service. Based upon operation of applicants' vehicles at least 250 days per year and a load factor of 41,250 pounds, the engineer calculated that operating expenses including overhead would amount to 28.55 cents per 100 pounds. He further calculated that a rate of 31.72 cents per 100 pounds would produce an operating ratio of 90.0 before provision for income taxes and would afford applicants a satisfactory profit. Moreover, the engineer asserted, the foregoing costs would exceed those that would actually obtain for the service involved herein. He pointed out that certain of the elements of cost were based upon applicants' operations for other lumber companies involving movements over rough roads in mountainous terrain. The cost of maintenance, fuel and oil for such operations, he said, was substantially greater than would result over the comparatively level and paved highways that would be used between the points here involved.

Grant A. Winans, one of the partners, testified that since 1943 applicants have been almost exclusively engaged in the transportation of lumber and forest products between points in northern California. He stated that sufficient equipment for the proposed service was available and that the personnel was experienced in the handling of lumber. The witness asserted that the

proposed operations had been carefully considered and that applicants were convinced that the sought rate would be amply compensatory.

The superintendent of Hudson Lumber Company substantiated the testimony of the traffic consultant regarding the favorable conditions involved in the transportation in question. He also testified that his company would undertake to perform the transportation in the event the application was not granted. He asserted that his company has available for the service two units of equipment that were used in the Caldor operations before the supply of cedar lumber at that point was exhausted. The witness said that, based on past operations, he was convinced that his company could transport the lumber at a cost no greater than the rate sought here. He further testified that his company would not utilize rail service in any event because of additional costs involved in loading, unloading, blocking and bracing of the lumber when moved in rail cars. The witness stated that the movement from Anderson would commence soon after April 1, 1949, and that the sought rate would have to be available at that time if applicants are to handle the traffic.

Interested parties participated in the cross-examination of the witnesses. No one specifically opposed the granting of the application.

The record is convincing that, in view of the unusually favorable circumstances and conditions that will obtain, applicants will be able to conduct the operations under the sought rate on a compensatory basis. The granting of the authority to observe that rate will avoid diversion of the traffic from for-hire to proprietary operations.

We are of the opinion and hereby find that the rate proposed by applicants has been shown to be reasonable. The application will be granted. Because the conditions which justify the granting of the application may change at any time, however, the authority herein granted will be limited to a period of one year and made subject to earlier cancellation, modification or extension.

O R D E R

Based on the evidence of record and the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Frank C. Winans and Grant A. Winans, copartners doing business as Winans Brothers, be and they are hereby authorized to transport for Hudson Lumber Company seasoned cedar lumber from the mill of Elkins Sawmill, Incorporated, situated on Highway U. S. 99 about one and one-half miles north of Anderson, to the plant of Hudson Lumber Company, San Leandro, at a rate less than the established minimum rate but not less than 32 cents per 100 pounds, minimum weight 40,000 pounds per shipment.

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

The effective date of this order shall be April 1, 1949.

Dated at San Francisco, California, this 29<sup>th</sup> day of March, 1949.

*R. J. Anderson*  
*Justice J. Coe*  
*Dept. of Public Affairs*  
*Harold P. Hull*

Commissioners