

ORIGINAL

Decision No. 43945

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Frank W. Brown, Jr. for permission to)
haul lumber for designated shippers)
on 1000 board foot basis and to col-) Application No. 30779
lect hauling charges from said ship-)
pers at biweekly intervals.)

Appearances

Stanley W. Reckers, for applicant.
Frank W. Chandler by J. G. Fitzhenry,
for The Truck Owners Association,
interested party.
Wm. Meinhold, for Southern Pacific
Company, protestant.

O P I N I O N

Frank W. Brown, Jr. operates as a highway contract carrier and as a radial highway common carrier. He seeks authority under Section 11 of the Highway Carriers' Act to assess other than the established minimum rates for the transportation of lumber and forest products for the Michigan-California Lumber Company and the California Door Company.¹ Applicant also seeks authority in connection with prepaid transportation performed for the above-mentioned shippers, to depart from the regulation relating to the time within which charges for the transportation of property must be collected.

¹Michigan-California Lumber Company maintains a lumber yard at Camino, El Dorado County. Shipments are transported from its mill at Pino Grande to the yard and from the yard to various California destinations. California Door Company is located at Diamond Springs and ships its products to various consignees at various points throughout the State.

Public hearing was had at Sacramento before Examiner Lake.

Applicant is required to observe, for the transportation here in issue, minimum rates in cents per 100 pounds as set forth in Highway Carriers' Tariff No. 2. He is also required, under the provisions of that tariff, to collect charges for the transportation of property within seven days after the presentation of the freight bills. He is allowed seven days after delivery of the property within which to issue his freight bills. Specifically, applicant seeks authority to assess charges in connection with the transportation of lumber for shippers hereinbefore mentioned on a basis of board foot measurement and to collect such charges on a biweekly basis.

In support of his request, he contended that all dealings with respect to lumber, from the time a tree is felled to the time the finished product is sold at retail, are on the basis of 1,000 board feet or fraction thereof. He alleged that it is inconvenient and confusing to shippers to assess rates for the transportation of lumber on a weight basis. He introduced an exhibit showing proposed rates and estimated shipping weights for various kinds and sizes of lumber. The proposed per 1,000 board foot measurement rates were said to have been determined by checking weights and measurements of many shipments of lumber. It was alleged that the revenue which would be received from applying such rates would not be less than that accruing under the minimum rates.

The granting of the relief was opposed by the Southern Pacific Company. Counsel for protestant participated in the cross-examination of applicant, but did not offer any testimony.

Applicant does not allege that the established minimum rates, rules and regulations are excessive or unreasonable. He asserted that the measurement rates and proposed billing arrangement would be a convenience to the shipper, but conceded that the established bases did not seriously inconvenience him. Neither of the shippers appeared in support of applicant's requests.

In a proceeding of this nature it is necessary that the Commission weigh the asserted inconveniences which may result from use of the established bases of minimum rates and regulations against the public benefits which are derived from the maintenance of a stabilized basis of transportation charges. In order to preserve these benefits for the public, the Commission will not authorize deviations from the established rates and regulations in the absence of a clear affirmative showing that such rates and regulations would prove unduly burdensome or impracticable. (See Decisions Nos. 35064, A & B Garment Delivery (44 CRC 48,49); 35518, R. W. Baetz (44 CRC 267,271); and 32320 in Application No. 22408, Ben Gruell (unreported)). Such a showing has not been made on this record.

Upon careful consideration of the evidence of record, it is concluded that applicant has not shown his proposed bases to be "reasonable" within the meaning of Section 11 of the Highway Carriers' Act. The application will be denied.

O R D E R

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

IT IS HEREBY ORDERED that the above-entitled application be and it is hereby denied.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this ~~14th~~ day of March, 1950.

R. E. Johnson
Justin J. Carrion
Charles D. Powell
Harold A. Hill
Herbert W. Potter
Commissioners