

ORIGINAL

Decision No. 45763

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 FRED WINKLER, SR., RALPH WINKLER, )  
 HERMAN WINKLER and STANLEY WINKLER, )  
 copartners, doing business as WINKLER ) Application No. 32242  
 BROTHERS TRANSPORTATION, for authority )  
 to charge less than the minimum rates )  
 under the provisions of the Highway )  
 Carriers' Act. )

Appearances

- W. Burleigh Pattee, for applicants.
- John E. Doane, for Calaveras Cement Company, interested party.
- Joseph T. Enright and Waldo A. Gillette, for Monolith Portland Cement Co., interested party.
- N. E. Keller, for Pacific Portland Cement Co., interested party.
- Frank R. Golzen, for California Trucking Service, interested party.
- Frank M. Chandler and Orla St. Clair, for The Truck Owners Association of California, protestant.
- S. A. Moore and John H. Bosche, for Permanente Cement Co., protestant.
- Joseph J. Diviny, for Highway Drivers' Council of Northern California, protestant.
- Grant L. Malquist, for the Commission's Staff.

OPINION

Fred Winkler, Sr., Ralph Winkler, Herman Winkler and Stanley Winkler, doing business as Winkler Brothers Transportation, operate as a highway contract carrier. They seek authority to transport cement in bulk for the Calaveras Cement Company at a rate less than that established as minimum.

Public hearings of the application were held at San Francisco on May 7 and 15, 1951, before Examiner Lake.

The transportation in question involves the movement of cement in bulk in specially designed motor truck equipment from the

1 They are also engaged in the sale and distribution of petroleum and petroleum products.

Calaveras Cement Company's mill at Kentucky House to a point near Pine Flat, a distance of 187<sup>2</sup>/<sub>4</sub> constructive miles. According to the record, the cement is used in the construction of a dam that is a part of the Central Valley Project. When the work was commenced, about 2,000 barrels of cement were required per day and the cement company handled the movement in its own motor vehicles. Recently the rate of delivery was increased to a total of 3,000 barrels per day, and the cement company engaged applicants to transport the additional 1,000 barrels per day. They have been performing this service on the basis of the established minimum rate of 23 cents per 100 pounds. Applicants now seek authority to observe a rate of 20 cents per 100 pounds.

In support of the proposal, one of the partners testified that the transportation service in question is performed under unusual conditions. He explained that loading and unloading facilities are available 24 hours per day, six days per week; that the shipper arranges for prompt loading and unloading of the vehicles; and that the steady movement of the cement involved is to continue over a period of 18 months. Assertedly, these conditions will result in a better than average utilization of applicants' equipment. The profit anticipated to be derived from this operation was estimated at \$10,342.80 per year.

The estimated profit was developed upon the basis of costs experienced in performing similar operations during 1950 adjusted to reflect the current costs of labor, tires and fuel. Based upon operations of applicants' vehicles handling five loads per day, 306 days per year and upon a load factor of 46,000 pounds, operating

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<sup>2</sup> Pine Flat is located east of Fresno in Fresno County near the railroad station of Piedra. Via applicants' route of movement, the round-trip distance is 386 actual miles.

expenses were calculated by applicants to be 18.53 cents per 100 pounds, or \$85.24 per load. Applicants further calculated that at the proposed rate of 20 cents per 100 pounds, the per-load revenue would be \$92.00 resulting in a profit, before provision for income taxes, of \$6.76 per load. The operating ratio would be 92.65 percent. The costs developed were somewhat understated in that they did not include provision for a salary for a bookkeeper<sup>3</sup> nor for salaries of the partners for supervision and management. However, they were overstated to the extent of \$3,470 per year due to a duplicate inclusion of certain transportation taxes. According to profit and loss statements submitted in evidence, operations for 1950 were conducted at a profit of slightly over \$30,000 before provision for income taxes or salary for the bookkeeper and partners for administrative and managerial services, respectively.

According to testimony of the shipper's traffic manager, his company will resort to proprietary operations for all of this movement unless the proposed rate is authorized. He testified that it was the policy of his company to use proprietary equipment whenever it was practicable to do so and to use for-hire carriage only to supplement its transportation needs. The witness stated that his company had been able to meet the cement requirements for the construction of the dam with proprietary operations until recently when the rate of delivery was increased. To perform its proprietary operations, the shipper has 15 vehicles specially designed for the transportation of cement, and to meet the additional delivery requirements, additional equipment would be needed. He stated that while his company was ready, willing and able to increase its fleet to take care of the needs for the movement here in question, it would not do so providing applicants were granted the authority herein sought.

<sup>3</sup>According to the record, one of the applicants performs the services of mechanic and manager, two of the partners are truck drivers and the other is no longer actively engaged in the business. The bookkeeping work is performed by the wife of one of the partners. She is not paid, nor is provision made in the estimated expenses, for her services. The partners are paid salaries for their services as mechanic and truck drivers but do not charge to expenses any salary for supervision. Assertedly this operation requires little supervision.

According to the testimony of one of the partners, applicants would be willing to accept this movement, even though it were conducted at a slight loss, to protect other movements from being diverted to proprietary equipment when the movement herein involved is finished. He stated that if the Calaveras Cement Company increased its fleet of proprietary equipment to take care of this movement, it would be likely, when this movement was completed, to use the equipment for other transportation now enjoyed by applicants.

Protestants participated in the development of the record through cross examination of the witnesses and by establishing the rate of existing wages for drivers performing services for applicants. They did not, however, submit evidence which would tend to rebut applicants' showing.

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 rate sought is shown to be necessary to enable applicants to retain the traffic.

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. Due to the fact that the conditions which justify authorization of the sought rates may change at any time, the authority will be limited in duration to a period of one year.

#### O R D E R

This application having been heard and full consideration of the matters and things involved having been had and based upon the conclusions and findings in the preceding opinion,

IT IS HEREBY ORDERED that Fred Winkler, Sr., Ralph Winkler, Herman Winkler and Stanley Winkler, copartners, doing business as Winkler Brothers Transportation, be and they are hereby authorized to transport for Calaveras Cement Company cement in bulk from Kentucky House to the site of the Pine Flat Dam at a rate less than the established minimum rate but not less than 20 cents per 100 pounds.

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.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of May, 1951.

Robert J. [Signature]  
Justin F. [Signature]  
Harold A. [Signature]  
Thomas H. [Signature]  
John L. [Signature]  
Commissioners