

Decision No. 51476**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of W. W. MILES and PAT L. NOLET, a)
partnership doing business as)
MILES AND SONS TRUCKING SERVICE, for)
authority to depart from the rates,)
rules and regulations of City)
Carriers' Tariff No. 6, Highway)
Carriers' Tariff No. 7, under the)
provisions of the Highway Carriers')
Act.)

Application No. 35759

Edward M. Barol, for applicants.
J. C. Kaspar and R. D. Boynton, for
California Trucking Associations,
Inc.; E. O. Blackman, for Cali-
fornia Dump Truck Owners Associa-
tion; and N. E. Keller, for
Monterey Sand Company; interested
parties.
A. R. Day, for the Commission's staff.

O P I N I O N

W. W. Miles and Pat L. Nolet, a copartnership doing business as Miles and Sons Trucking Service, operate as a contract carrier in the transportation of property between points in this State.¹ By this application, as amended, they seek authority to transport sand and gravel in hopper bottom trucks for Pacific Coast Aggregates, Inc., at rates less than those established as minimum.

A public hearing of the application was held at San Francisco on March 10, 1955, before Examiner Carter R. Bishop.

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Applicants also hold radial highway common carrier and city carrier permits from this Commission. Additionally, they operate as a certificated common carrier in the transportation of petroleum products only.

The transportation here in issue is from the sand and gravel deposit operated by Pacific Coast Aggregates at Centerville to its mixing plants and distribution yards in Oakland, Hayward and San Jose, and from that company's deposit at Rockfield² to its plant and yard at Fresno. With respect to Oakland the request involves movement to two different plants. This is also true as to San Jose.

The established minimum rates for the transportation here in issue are on an hourly basis. They vary with the capacities of the vehicles utilized and with the method of loading.³ In lieu thereof applicants seek authority to apply the following rates in cents per ton:

<u>Origin</u>	<u>Destination</u>	<u>P.C.A. Yard No.</u>	<u>Rate</u>
Rockfield	Fresno	268	65
Centerville	Oakland (92nd Ave.)	252	76
"	Oakland (Peralta St.)	254	85
"	Hayward	255	40
"	San Jose	381	65
"	San Jose	382	70

Applicants point out that formerly they were authorized to deviate from the established minimum rates in the transportation of sand and gravel in hopper bottom trucks for Pacific Coast

² Rockfield is located 17 miles northeast of Fresno.

³ The minimum rates are determined by adding to the hourly rates set forth in Item No. 360 series of Minimum Rate Tariff No. 7 (formerly City Carriers' Tariff No. 6 - Highway Carriers' Tariff No. 7) the prevailing drivers' and helpers' wage rates.

Aggregates from Centerville to Oakland and San Jose. That authorization expired on January 10, 1951.⁴ Applicants allege that the circumstances surrounding the transportation remain substantially unchanged.

Applicants' office manager and Pacific's manager of sales and service testified in support of the proposal. Their testimony discloses that the movement of aggregates between the points involved herein is very substantial, amounting to 197,000 tons in 1954, and that the annual revenues derived from this transportation are in the neighborhood of \$125,000.⁵

According to the office manager, the operations under consideration herein are highly efficient. The loading and unloading time, he stated, is reduced to a minimum because of bunker loading and the exclusive use of hopper-bottom trucks, in which gravity unloading through apertures in the bottom of the equipment is utilized. He alleged, moreover, that deliveries may be made at Pacific's Oakland yards practically on a 24-hour basis.⁶

The office manager explained a study in which he had calculated the costs of performing the various hauls involved

⁴ The deviation in question was first authorized by Decision No. 42344, dated December 21, 1948 in Application No. 29878. An extension was granted by Decision No. 43664, dated January 4, 1950. Assertedly, the authorization was permitted to lapse because of a misunderstanding as to the applicability of the established minimum rates to the transportation of property in hopper-bottom trucks. The rates authorized by the above-mentioned decisions were lower than those sought herein.

⁵ According to the record this figure reflects about one third of the total annual revenues received by applicants for all services rendered under its contract with Pacific. Transportation for that company not involved herein includes the movement of aggregates from Eliot, and of cement.

⁶ Assertedly, receiving plants at the other points of destination involved herein do not have sufficient storage facilities to make 24-hour operation practical.

herein. In the table below are set forth, for each movement, the average revenue per trip under the proposed rate,⁷ the full cost per round trip as developed by the witness, and the corresponding operating ratio before provision for income taxes:

<u>From</u>	<u>To</u>	<u>Revenue (Dollars)</u>	<u>Cost (Dollars)</u>	<u>Operating Ratio (Per cent)</u>
Rockfield	Fresno	16.06	13.09	81.05
Centerville	Oakland (92nd Ave.)	18.76	12.57	67.00
"	Oakland (Peralta St.)	20.98	16.87	80.40
"	Hayward	9.88	8.85	89.57
"	San Jose (Yard 381)	16.05	12.73	79.31
"	San Jose (Yard 382)	17.29	13.83	79.98

In developing the costs per round trip the witness calculated, for a vehicular train, the average fixed costs per year and per hour, the running expense per mile and the drivers' wages per hour. These factors were expanded to reflect the direct cost per round trip for each of the six movements in question.⁸ The cost figures in each instance were then expanded for indirect expense and for gross revenue expenses, resulting in the full cost figures set forth above.

⁷ The revenue was calculated on a weight of 49,400 pounds. This was the average weight of 283 loads selected at random from shipments which moved during a representative five months' period.

⁸ Depreciation expense was predicated on service lives of eight years for tractor, semi-trailers and full trailers. The depreciation expense of 20 each of such units which are regularly employed in the service here in issue was utilized in developing the average annual depreciation cost. Average running times were developed from the performance data of 645 trips selected at random.

With one exception, all elements of expense utilized in the study, the witness testified, were taken from the carrier's book records. In most instances the costs related exclusively to the operations involved herein. In a few instances, as in the case of tire costs, system figures were used. All expense data employed in the study reflected the carrier's experience over substantial periods of time.

The exception to the use of book figures in applicant's cost study relates to the ratio of indirect to direct expenses. The office manager employed an estimated ratio of 10 per cent. This, he asserted, was more than sufficient to compensate for the indirect expenses actually incurred in the operations here under consideration. According to the witness there is very little overhead expense in connection with the movements out of Centerville and Rockfield.⁹

The sales manager testified that the service accorded Pacific by applicants is highly satisfactory. He stated that the market for sand and gravel is highly competitive, particularly in view of the trend toward local, roadside production, with plants located close to consuming centers. These circumstances, he said, make it imperative for his company to keep its transportation costs as low as possible. He explained that Pacific keeps accurate records

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The cost study included a table purporting to show that the allowance of 10 per cent was ample for the purposes of the study. Assertedly, the ratio of indirect to direct expenses for applicants' entire operations is as high as 16 per cent. If this figure were substituted for that used in the study the resulting operating ratios, before provision for income taxes, to each of the points of destination named in the application would be as follows (in per cents): Rockfield, 85.55; Oakland (92nd Avenue), 70.26; Oakland (Peralta Street), 84.41; Hayward, 94.13; San Jose (Yard 381), 83.24; San Jose (Yard 382), 83.98.

of these costs and that it has found it impracticable to maintain such figures on an hourly basis. For this reason Pacific had urged the carrier to seek authority to observe, as to the transportation here in issue, rates stated in cents per ton. This witness also testified that, in the event the application herein is denied, his company will be compelled to cancel its contract with applicants and transport the property in question in its own vehicles.¹⁰

No one opposed the granting of the application. However, the secretary-manager of the California Dump Truck Owners' Association, at the direction of that organization, urged that any relief to be granted pursuant to the application herein be conditioned upon the observance by applicants, as to the traffic in question, of a rule equivalent to that set forth in Item No. 94 series of Minimum Rate Tariff No. 7.¹¹ The record shows that relatively little of applicants' traffic is transported by subhaulers.¹² It has not been established on this record that applicants should be required to observe the rule in question.

The evidence is convincing that applicants will be able to perform the transportation involved herein under the sought rates on a compensatory basis and that those rates are necessary to retain the traffic for for-hire carriage.

¹⁰ According to the witness, Pacific now has approximately 132 pieces of highway equipment, but additional units will be necessary if proprietary movement of the subject traffic is undertaken.

¹¹ Item No. 94 series provides as follows:
"Charges paid by any overlying carrier to an underlying carrier and collected by the latter carrier from the former for the service of said underlying carrier shall be not less than 95 per cent of the charges applicable under the minimum rates prescribed in this tariff."

The rule, as now published, applies only in connection with transportation for which rates are provided in the tariff in question from, to or between points in Southern territory. That territory does not embrace any of the movements involved herein.

¹² While applicants employ subhaulers only to a limited extent a large part of their traffic is transported in vehicular trains in which the tractor is owned by the driver, who leases it to applicants and who is exclusively their employee.

The Commission is of the opinion and hereby finds that the proposed reduced rates are reasonable.¹³ The application, as amended, will be granted. Because the conditions under which service is performed may change at any time the authority will be made to expire at the end of one year, unless sooner canceled, changed or extended by order of the Commission.

O R D E R

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

IT IS HEREBY ORDERED that W. W. Miles and Pat L. Nolet, doing business as Miles and Sons Trucking Service, operating as a contract carrier, be and they are authorized to transport sand and gravel for Pacific Coast Aggregates, Inc., from and to the points shown below at rates which differ from those established as minimum rates, but not lower than the following, subject to a minimum weight of 20 tons:

<u>From</u>	<u>To</u>	<u>P.C.A. Yard No.</u>	<u>Rate (in cents per ton)</u>
Rockfield	Fresno	268	65
Centerville	Oakland (92nd Ave.)	252	76
"	Oakland (Peralta St.)	254	85
"	Hayward	255	40
"	San Jose	381	65
"	San Jose	382	70

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No minimum weight was specified in the application. In the order which follows the rates authorized therein will be made subject to a minimum weight of 20 tons. Also, in order to avoid possible violation of the provisions of Section 3542 of the Public Utilities Code a limitation will be placed upon applicants' service as a radial highway common carrier during the existence of the authority herein granted. Section 3542 states that "No person or corporation shall engage or be permitted by the Commission to engage in the transportation of property on any public highway, both as a common carrier and as a highway contract carrier of the same commodities between the same points."

IT IS HEREBY FURTHER ORDERED that during the period that the authority herein granted is in effect the aforesaid applicants shall not engage in the transportation of the same commodities between Rockfield and Fresno or between Centerville and Oakland, Hayward or San Jose as a radial highway common carrier, and that any such transportation which applicants may perform in violation of these provisions shall be cause for revocation of the authority herein granted.

IT IS HEREBY FURTHER ORDERED that the authority granted herein shall expire one 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 days after the date hereof.

Dated at Los Angeles, California, this 16th day of May, 1955.

John E. Mitchell
President

Justin F. Garrison

Raymond L. ...

William J. ...

Commissioners