

ORIGINAL

Decision No. 58486

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
Donald E. Nolan, doing business as)
an individual, for permission for) Application No. 40940
relief from the Tariff provisions)
requiring weights being obtained)
on each shipment.)

OPINION AND ORDER

Applicant holds radial highway common carrier and highway contract carrier permits. He is engaged in the transportation of rough green fir lumber from the Van Duzen River Lumber Co. mill located at Swains Grove (Humboldt County) to the Southern Humboldt Lumber Co. and Carlotta Lumber Co. mills at Carlotta (also Humboldt County), a distance of about sixteen miles. By this application he seeks authority to use an estimated weight of 3 pounds per board foot instead of being required to obtain actual weights on these shipments.¹

Applicant states that along the routes of movement there are no scales which issue certified weight certificates and that the nearest scale of this type is located in Eureka, thirty-two constructive miles north of Carlotta. Applicant also states that he has secured actual weights on several representative shipments and that these weights have consistently averaged about three pounds per board foot.

Notice of the filing of the application was given to California Trucking Associations, Inc. No objection to its being granted has been received.

1

Item No. 680 of Minimum Rate Tariff No. 2 provides estimated weights for seasoned and dry lumber when the constructive distance from point of origin to point of destination does not exceed 50 miles. However, no estimated weights are provided for green lumber.

In the circumstances, it appears, and the Commission finds that applicant's proposal is reasonable. The application will be granted. A public hearing is not necessary. Because the conditions under which the 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.

The special rate authority herein sought and granted is not applicable to common carrier services.² Section 3542 of the Public Utilities Code forbids carriers to operate both as a common carrier and as a highway contract carrier of the same commodities between the same points.³ In view of the contract carriage involved in this proceeding, a limitation will be placed upon applicant's radial highway common carrier permit to preclude the dual operations prohibited by Section 3542 of the Code.

Therefore, good cause appearing,

IT IS ORDERED:

(1) That Donald E. Nolan is hereby authorized, in lieu of securing actual weights of shipments of rough green fir lumber transported from the Van Duzen River Lumber Co. mill located at Swains Grove (Humboldt County) to the Southern Humboldt Lumber Co. and Carlotta Lumber Co. located at Carlotta, to use an estimated weight of three pounds per board foot.

2

Section 3666 of the Public Utilities Code reads as follows:

"If any highway carrier other than a common carrier desires to perform any transportation or accessorial service at a lesser rate than the minimum established rates, the commission shall, upon finding that the proposed rate is reasonable, authorize the lesser rate."

3

Section 3542 of the Public Utilities Code reads as follows:

"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 or as a common carrier and a petroleum contract carrier of the same commodities between the same points."

(2) That the authority herein granted shall expire one year after the effective date of this order unless sooner canceled, changed, or extended by order of the Commission.

(3) That the permit of Donald E. Nolan to operate as a radial highway common carrier, is hereby conditioned as follows:

"This permit shall not authorize the transportation of lumber from Swains Grove to Carlotta (both in Humboldt County)."

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

Dated at San Francisco, California, this 22nd day of May, 1959.

E. Lynn Fox
President
W. L. [illegible]
Michael [illegible]
Theodore H. [illegible]
Ernest A. [illegible]
Commissioners