

ORIGINAL

Decision No. 62562

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
LES CALKINS TRUCKING, INC., a)
corporation, for an order authorizing)
departure from the rates, rules and)
regulations of Minimum Rate Tariff)
No. 7, pursuant to the provisions of)
Section No. 2, Item 130-K, the)
distance rate for hauling.)

Application No. 43457
(Filed May 31, 1961)

Les Calkins and Robert A. Bainbridge, for applicant.
Peter K. White, for Dredge Corporation, protestant.
J. C. Kaspar, Arlo D. Poe, J. X. Quintrall, for
California Trucking Associations, Inc.; E. O.
Blackman, for California Dump Truck Owners'
Association; interested parties.
John R. Laurie, for the Commission staff.

O P I N I O N

This application was heard before Examiner J. E. Thompson at Lodi on July 24, 1961, on which date it was taken under submission subject to ruling on a motion by protestant Dredge Corporation for a continuance.

Les Calkins Trucking, Inc., is a radial highway common carrier engaged in transportation of commodities by dump truck. Gladding, McBean & Company, sometimes hereinafter called shipper, is a manufacturer of clay products with a ceramics plant at Lincoln, Placer County. Each year, shipper stockpiles various forms of clay at its plant at Lincoln. The clay is taken from pits owned by shipper at Wheatland and at Nicholaus. For five out of the past six years, applicant has performed the transportation involved.

In 1959 the transportation was performed by protestant Dredge Corporation. This year shipper requires 22,000 tons to be transported from the Nicholas Pit and 18,000 tons from the Wheatland Pit. It is estimated that the transportation of material from the latter pit will take approximately three weeks and from the Nicholas pit somewhat longer. The minimum rate per ton for the Nicholas haul is 98 cents and for the Wheatland haul is 79 cents.¹ Applicant proposes to use semi-trailer dump vehicles with water level capacities of between 14 and 15 cubic yards capable of legally transporting loads of greater than 18 tons but less than 23 tons. The minimum hourly rate for such vehicles, when loading is performed by power loading device and transportation is performed on days other than Saturdays, Sundays and holidays, is \$12.36 per hour. The minimum hourly rate applies from the time the truck and driver report to the pit to the time of the completion of the last trip each day.

Applicant proposes to charge 70 cents per ton in the Wheatland haul and 98 cents per ton on the Nicholas operation. The former rate is less than the 79 cent rate prescribed in Item 130-K of Minimum Rate Tariff No. 7.

An exhibit was presented showing the average time per trip taken by vehicles in the Wheatland operation on three days in 1960. The summary is an analysis of 216 round trips on which the average time for those trips was 57.8 minutes. It was computed that if each load were 18 tons, at the rate of 70 cents per ton, each

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Per Item 130-K of Minimum Rate Tariff No. 7 for loads of less than 23 tons for distances of over 17 but not over 18 miles and over 12 but not over 13 miles respectively. For truckloads of 23 tons or more the minimum rates per ton are 81 cents and 63 cents, respectively.

vehicle would earn \$13.07 per hour whereas the minimum hourly rate is \$12.36 per hour. The president of applicant testified that he will use ten vehicles on the job of which 2 have a capacity of between 18 and 19 tons and 8 normally haul 20½ tons. Additionally, the average time per trip computed by applicant included driving time from completion of the last load each day back to the point of origin. The minimum hourly rate does not apply to said time. The applicant's computations also include times for delays, some of which, including those resulting from flat tires, are not subject to charge under the minimum hourly rates.

Applicant's president testified that the carrier maintained time records of vehicles on all jobs so that the minimum hourly rates could be assessed, however, the shipper preferred to contract for the hauls on a tonnage basis and, because subhaulers would be used, the carrier preferred to assess charges in rates per ton. He stated that the assessment of charges at 70 cents per ton is advantageous to the carrier in three respects, it will return more revenue than the hourly rate, it will reduce any unpleasantness or argument with the shipper because the shipper will know in advance that the transportation of 18,000 tons of clay from the Wheatland pit will cost \$5,600, and, because the subhaulers will be paid 95 percent of the 70 cent rate, the carrier will not have to closely supervise the job.

Protestant, Dredge Corporation, moved for a continuance on the following grounds; (1) it had not been served with a copy of the application and only indirectly received notice of hearing, (2) the time studies offered by applicant are fragmentary and inconclusive and protestant desires to present time studies in

rebuttal, (3) the authority sought is not compatible with a 1961 amendment of the Vehicle Code embraced in AB2628, (4) the shipper informed protestant that if it received relief from the Commission it would be granted the job. The presiding officer took the motion under advisement and referred it to the Commission for ruling.

A copy of the application was mailed by applicant on or before May 31, 1961, to four carriers who, according to the applicant, "...may be interested in this application..." Protestant was not one of the four carriers. At the time of filing the application, the president was directed to serve a copy upon California Trucking Associations, Inc., and California Dump Truck Owners' Association. The Commission was informed by letter dated June 7, 1961, that this had been done. The time and place of public hearing was placed on the Commission's calendar June 27, 1961. The application was served in accordance with the Commission's rules of procedure. Notice of hearing was timely made in accordance with the Commission's rules. Regarding the time studies offered by applicant, the study included all loads hauled during three days in 1960. One of the days was the first day on that haul when one could expect to encounter more delays than on subsequent days. The analysis covered 216 loads which, at an average of better than 18 tons per load, amounts to approximately 4,000 tons which is over one-fifth of the total weight of the traffic involved in this application. Applicant had all of the time sheets and work papers at the hearing and offered to permit inspection by the parties. We find that the time study presented by applicant is a reasonable sample. Protestant did not attempt to show otherwise. It was stated that at a continuance protestant would offer time studies in rebuttal to those presented by applicant. The data presented by applicant was not challenged on cross-examination. The uncontradicted

evidence herein is that each year the circumstances and conditions surrounding the haul have improved. Protestant did not describe more particularly the evidence it proposes to offer. AB2628 referred to by protestant is the Collier-Porter Act of 1961 amending Section 35551 of the Vehicle Code relating to vehicle weight limits. From the evidence, we fail to find any possibility of a conflict between the authority sought herein and the provisions of said act, nor did protestant point out where that conflict may be. Protestant contends that the shipper would prefer its services. The issue before the Commission is whether the rate proposed by applicant is reasonable within the meaning of Section 3666 of the Public Utilities Code and not whether applicant or protestant will be engaged by the shipper. Motion for continuance is denied.

The only direct presentation was made by applicant. Protestant as well as California Trucking Associations, Inc., California Dump Truck Owners' Association, and the Commission's staff participated by cross-examining applicant's witness. The associations did not oppose the granting of the authority sought. California Trucking Associations, Inc., suggested that if the Commission finds the proposed rate is reasonable that it limit the authority granted so as to expire on or before May 1, 1962, which is the expiration date of the present labor contract governing the wages of dump truck drivers. California Dump Truck Owners' Association suggested that if the authority sought is granted that the order provide that applicant shall pay subhaulers no less than 95 percent of the charges at 70 cents per ton. The suggestions are acceptable to applicant.

Upon consideration of all of the facts and circumstances we find that limited as suggested by the associations the proposed rate is reasonable.

O R D E R

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

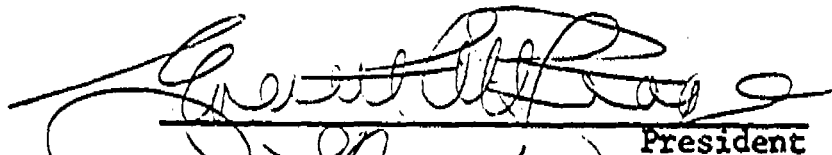
IT IS ORDERED that:

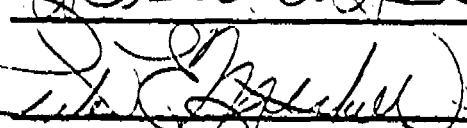
1. Les Calkins Trucking, Inc., is authorized to charge, demand and collect for the transportation of clay from the pit of Gladding, McBean & Company located at the northern end of Wheatland to the ceramic plant of Gladding, McBean & Company, Lincoln, the rates and charges set forth in Appendix A attached hereto and by this reference made a part hereof.


2. The authority hereinabove granted shall expire May 1, 1962, unless sooner canceled, modified or extended by order of the Commission.

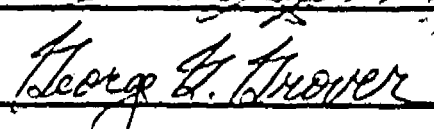
The effective date of this order shall be twenty days after the date hereof.


Dated at San Francisco, California, this 12th day of SEPTEMBER, 1961.



President








Commissioners

APPENDIX A

LES CALKINS TRUCKING, INC.

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Schedule of Minimum Rates applicable to the transportation of clay from the pit of Gladding, McBean & Company, Wheatland, to the plant of Gladding, McBean & Company, Lincoln.

Section 1Item 10. Application of Rates - General

The minimum rates, rules and regulations set forth in Minimum Rate Tariff No. 7 are applicable to all shipments except as specifically provided in Section 2.

Section 2Item 20. Application

Rates, rules and regulations in this section apply only to shipments of 18 tons or more transported at one time on one unit of semi-trailer dump truck equipment.

Item 30 Underlying Carriers

Carrier shall pay subhaulers no less than 95 percent of the rates in this section. In all other respects, Item 94 of Minimum Rate Tariff No. 7 shall govern the payments to underlying carriers.

Item 40 Rates

Minimum Weight - 18 tons
(See Item 20)

Cents per ton
70

End of Schedule