

ORIGINALDecision No. 62804

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 GUSTAV C. KLEMPER to depart from the)
 provisions of Minimum Rate Tariff)
 No. 2 (rate and estimated weights).)

Application No. 43584

Mitchell & Henderson, by R. C. Dedekam,
 for applicant.
R. J. Carberry and John R. Laurie, for the
 Commission staff.

O P I N I O N

Gustav C. Klempel, an individual, operates as a radial highway common carrier. By this application, as amended, he seeks authority to transport lumber and railroad ties for Monschke Stud Mills, Inc., between certain points in Humboldt County at rates which are less than the applicable minimum rates. Applicant also seeks authority to use estimated weights, in lieu of actual weights, in the computation of transportation charges for shipments moving under the sought rates.

Public hearing of the application was held before Examiner Carter R. Bishop at Eureka on September 26, 1961. Applicant presented evidence through two witnesses. Representatives of the Commission's Transportation Division staff assisted in the development of the record.

The two movements here in issue are as follows: two-by-four fir lumber originating at the plant of Monschke Stud Mills, Inc., approximately eight miles east of Garberville and destined to a point on the Eel Rock Road approximately one mile east of Rolling Grove, and railroad ties moving from said Monschke plant to the

Northwestern Pacific Railroad railhead at South Fork. The presently applicable minimum rates are 11 cents and 13 cents per 100 pounds for the lumber and ties, respectively.¹ In lieu thereof, applicant proposes to assess rates of 9.8 cents and 11.7 cents per 100 pounds, respectively. Both rates would be subject to the present truckload minimum weight of 44,000 pounds.

Applicant testified that he operates one truck and trailer, does his own driving, and keeps his own records. The two hauls involved in this proceeding make up his entire carrier operation. No other carriers participate in the traffic in question. According to applicant, the volume of said traffic is fairly constant throughout the year.

The basis for the sought rates, the record shows, is as follows: Applicant has in the past assessed charges on both movements equivalent to \$4.50 per 1,000 board feet. However, he was recently informed by Monschke that because of the depressed condition of the lumber industry said shipper would be able to pay no more than \$4.00 per 1,000 board feet. Assertedly, this lower rate was necessary in order for Monschke to be competitive with other mill operators in the lumber market. The estimated weights which applicant proposes to use in lieu of actual weights are 4.1 pounds and 3.41 pounds per board foot for the lumber and ties, respectively. The rates in cents per 100 pounds herein sought were calculated by conversion of the above-mentioned rate of \$4.00 per 1,000 board feet on the basis of said estimated weights.

Applicant testified concerning a study he had made of expenses incurred in his carrier operations for the 12-month period

¹ These rates are set forth in Item No. 690 series of Minimum Rate Tariff No. 2.

ended April 30, 1961. His total recorded operating expenses for that period amounted to \$14,934. Applicant adjusted these figures by eliminating \$2,250 for unusual equipment repairs and adding allowances of \$7,000 and \$300 for labor and terminal expense, respectively.² The labor cost estimate is based upon going wage rates in Humboldt County and includes allowances for payroll taxes and fringe benefits. The foregoing adjustments produce a constructive operating expense total, for the period in question, of \$19,984.

Applicant's estimate of annual revenues at the sought rates is \$21,600, predicated on the tonnage which moved during the aforesaid period. Thus, he estimated that his annual net revenue, before income taxes, under the sought rates would amount to approximately \$1,600. The corresponding operating ratio would be 92.5 percent.

Through cross-examination it developed that applicant's estimate of depreciation expense may be overstated, in that more realistic service lives might be assigned to his vehicles, and since no allowance was made for the salvage value of said equipment. On the other hand, in providing an allowance in the cost estimates for his services as driver, applicant did not include overtime wages for Saturday operations.

With respect to his request for relief from the requirement that actual weights be used in the determination of transportation charges, applicant pointed out that there is no public scale between the point of origin and points of destination involved herein. The nearest scale is located at Fortuna, some distance to the north of applicant's scene of operations. To go to Fortuna with each load necessitates additional round-trip distances of approximately 52

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Since applicant does his own driving and maintenance work and his wife does the bookkeeping, no labor costs are recorded in his books. Likewise the latter reflect no terminal expense, since his home property is his terminal.

miles and 70 miles for shipments destined to South Fork and to the Monschke plant, respectively. According to applicant, movement via Fortuna would unnecessarily increase the estimated costs of operation in connection with the sought rates. These cost estimates, the record shows, are predicated on movement via the direct routes between point of origin and points of destination. The estimated weights which the carrier proposes to use are based on certain tests which he has made. In his opinion said weights are reasonably accurate.

One of the co-owners of Monschke Stud Mills, Inc., testified in support of applicant's proposals. She described the depressed condition of the lumber industry in Humboldt County, and, in particular, the adverse effect of such depression on Monschke's economic position. She introduced financial statements, which purported to show that her company's operations, and those of a subsidiary company, had resulted in substantial losses during two recent fiscal periods. This witness testified that if the rate relief herein sought should be denied, Monschke would be compelled to terminate applicant's services and would itself take over the transportation here in issue. Her company, she said, was satisfied that it could do so at less cost than is represented by the proposed rates.

The record shows that applicant can perform the transportation here under consideration at a profit and that the requirement of securing actual weights of the shipments of lumber and ties will place an undue burden on applicant's operations. The record further shows that, unless the sought rates are authorized, the traffic in question will be lost to common carriage. After careful consideration of the evidence we hereby find that the proposed rates will

be reasonable. We further find that the sought relief from the weighing requirement of the minimum rate tariff and the use in lieu thereof of the proposed estimated weights have been justified. The application 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 findings and conclusions set forth in the preceding opinion,

IT IS ORDERED that:


1. Gustav C. Klempel, operating as a radial highway common carrier, is hereby authorized to transport lumber from the plant of Monschke Stud Mills, Inc., approximately eight miles east of Garberville, to a point on the Eel Rock Road approximately one mile east of Bolling Grove, at a rate less than the established minimum rate but not less than 9.8 cents per 100 pounds, minimum weight 44,000 pounds; and to transport railroad ties from said plant to the Northwestern Pacific Railroad railhead at South Fork at a rate less than the established minimum rate but not less than 11.7 cents per 100 pounds, minimum weight 44,000 pounds.


2. Applicant is authorized to assess charges for the transportation described in numbered paragraph 1 of this Order on the basis of estimated weights of 4.1 pounds per board foot of lumber and 3.41 pounds per board foot of railroad ties, in lieu of actual weights.


3. 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.

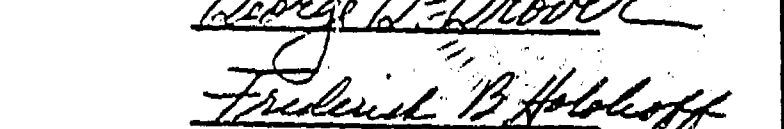
This order shall become effective twenty days after the date hereof.

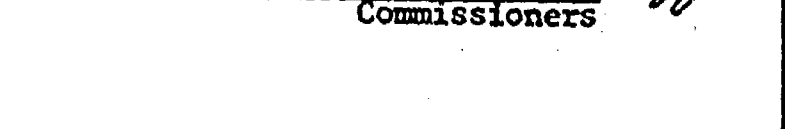
Dated at San Francisco, California, this 14th day of NOVEMBER, 1961.



President








Commissioners