

63341

Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HAROLD MARTIN)
for an order granting permission)
to charge less than the minimum)
rates on shipments transported)
for ALHAMBRA-NATIONAL WATER)
COMPANY (a corporation).)

Application No. 43933

R. S. Cathcart, for applicant.
J. C. Kaspar, A. D. Poe and J. X. Quintrall,
for California Trucking Associations, Inc.,
interested party.
A. R. Day and Henry E. Frank, for the
Commission staff.

O P I N I O N

This application was heard at San Francisco before Examiner J. E. Thompson on December 26, 1961, on which date it was submitted.

Applicant has been issued a radial highway common carrier permit. At present he is an employee of Alhambra-National Water Company, hereinafter sometimes called Alhambra. He has been driving a truck for Alhambra, making deliveries of bottled water from the San Francisco plant to distributors in Sacramento, Salinas, Redwood City and Santa Rosa. On November 16, 1961, applicant and Alhambra entered into a contract under which, subject to authorization by the Commission, applicant will transport bottled water, water coolers and sundries common to the bottled water business (including paper cups) from the San Francisco plant to the distributors, and empty bottles, returned coolers and sundries from the distributors to the plant in semitrailers and trailers owned and maintained by Alhambra. The contract provides that Alhambra will rent a tractor to applicant and bear what might be termed the fixed expenses in connection therewith. Applicant will be required to bear the direct operating expenses.

Applicant seeks authority here to charge rates which are different and less than the minimum rates established by the Commission. The proposed rates are 32.5 cents per agreed round-trip mile for hauling 35-foot semitrailers and an additional 5 cents per mile for hauling a 16-foot trailer with the 35-foot semitrailers. In essence the proposed rates are charges per trip regardless of the amount of lading in either or both directions. The agreed distances are shown below, and for convenience we are also setting forth the charge which would result from the application of the agreed rates.

<u>Between San Francisco and</u>	<u>Agreed Distance</u>	<u>Charges per Round Trip</u>	
		<u>35' Semi</u>	<u>Semi plus 16' Trailer</u>
Redwood City	60 Miles	\$19.50	\$22.50
Santa Clara ^{1/}	90 Miles	29.25	33.75
Salinas	200 Miles	65.00	75.00
Sacramento	170 Miles	55.25	63.75
Santa Rosa	120 Miles	39.00	45.00

The established minimum truckload rate for the transportation of bottled water is the applicable Class 5 rate subject to a minimum weight of 30,000 pounds. For the purpose of comparison, the applicable minimum charge for the transportation of 30,000 pounds of bottled water, without coolers or sundries, from San Francisco to Sacramento, and without return of the empty containers, is \$113.05.

Applicant estimated that for an average day of 320 miles he would receive \$104.00 in gross revenues for hauling a semitrailer and that his expenses would be \$88.64 which would provide a profit of \$15.36. He stated that when he hauls a small trailer with the semitrailer at an additional 5 cents per mile as provided in the contract the profit would increase without material increase in cost. His estimate is based upon the assumption that he will drive the truck and can average 320 revenue miles per day without exceeding the limitations upon hours of driving specified in Section 21702 of the Vehicle Code.

^{1/} Alhambra does not have a depot in Santa Clara at present but contemplates obtaining one in the immediate future.

Alhambra presently conducts this operation using applicant and another driver in two shifts. The average miles per day for the months of April to November 1961, both inclusive, are of record. The averages ranged from 290 miles in April to 514 miles in August and down to 350 in November. Alhambra's production manager testified that the summer is the peak season and the lowest volume moves during the winter. The number of trips made during August 1961 is of record. From such data it is apparent that if applicant operates as indicated in his testimony, by any combination of those trips the best that he could achieve without violating Section 21702 of the Vehicle Code would be 350 miles for that month although Alhambra averaged 541 miles per day by operating two shifts of drivers. It is also readily apparent that during the months of December through May the traffic is not sufficient to provide applicant with 320 revenue miles per day.

The times required for the round trips to the various destinations are of record and are based upon tachographs maintained by Alhambra.

From the evidence of record, and resolving every doubt concerning that evidence in favor of the applicant, we have estimated the number of miles and the number of hours for an operation for one year. The number of miles shown reflects the assumption that applicant will be able to select his loads so as to achieve the maximum possible revenue miles from the traffic offered consistent with operations within the driving limitations of the Vehicle Code. The number of hours shown are the hours per round trip for the various destinations estimated from tachographs which, according to the record, do not reflect rest periods.

Estimate of Number of Miles
And Number of Hours
For an Operation for One Year
Ending January 31, 1963

<u>Month</u>	<u>Holidays (1)</u>	<u>Main- tenance Days</u>	<u>Work- ing Days</u>	<u>Average Miles</u>	<u>Total Miles</u>	<u>Average Hours</u>	<u>Total Hours</u>
February	1	-	19	280	5,320	10	190
March	-	-	22	280	6,160	10	220
April	-	-	21	290	6,090	10½	220½
May	1	1	21	300	6,300	11	231
June	-	-	21	355	7,455	12	252
Subtotal	2	1	104		31,325		1,113½
July	1	-	21	365	7,665	12	252
August	-	1	22	365	8,030	12	264
September	1	-	19	360	6,840	12	228
October	-	-	23	360	8,280	12	276
November	1	-	21	350	7,350	11½	241½
December	2	-	19	300	5,700	11	209
January	1	1	21	280	5,880	10	210
Subtotal	6	2	146		49,745		1,680½
Total	8	3	250		81,070		2,794

(1) Per Master Agreement, Brotherhood
of Teamsters, Western Area

The tabulation shows subtotals in order to evaluate the labor cost estimated by applicant in that the existing union agreements provide for increases in wage rates effective July 1, 1962.

Under the extremely favorable conditions indicated above and using applicant's own cost estimates, which we shall show later are inadequate, the following is a projection of revenues and expenses for a contract year.

Gross Revenue: 81,070 Miles @ \$.325 \$26,348

Expenses:

Tractor Rental	\$ 2,400	
Tractor Maintenance	2,432	
Fuel and Oil	5,671	
Tire Expense	567	
Preventative Maintenance	406	
Miscellaneous	4,054	
Cost of Labor	<u>10,359</u>	<u>26,069</u>

Net Revenue \$ 279

Applicant did not include in his cost considerations the California Transportation Tax and the fees due to the Commission under the Transportation Rate Fund Act. Those would aggregate \$503 and if included above would result in a loss under applicant's cost estimates.

While it is clear, even resolving all of the cost estimates in favor of the applicant, and assuming the greatest productivity that might possibly be achieved, that the operation would not be compensatory, it is desirable to point out where some of the costs appear to be underestimated.

The contract does not limit applicant's liability as a carrier. The insurance secured by Alhambra on the tractor does not cover loss or damage to cargo. Applicant has made no allowance for expense which would result from the loss of or damage to the goods carried.

In his estimate applicant stated "overhead is nil". He possibly is unaware that he will be required to maintain accurate records of revenues and expenses and, as a carrier, will be required to make reports at least quarterly to the Commission, to the State Board of Equalization and to the Internal Revenue Service.

The estimate of the cost of labor approaches the cost of employing a union driver under the so-called short line agreement for the hours indicated in the tabulation at the lowest pay scale in any union jurisdiction in California. Applicant stated that in developing his estimate of labor cost he considered the wages and regulations under Local Union No. 85. It is not our intention here to interpret the provisions of any union agreements; however, we point out that the number of paid holidays in the

jurisdiction of Local 85 are greater than the eight shown in the tabulation and that certain of the so-called fringe benefit costs, including pension, are substantially greater than those set forth in the master agreement. Additionally, the number of hours shown in the tabulation reflect the applicant's estimates of round-trip hours which were based upon Alhambra's tachometer records. Applicant must be aware that the tractor will have to be fueled and serviced regularly and that the hooking up of the trailers and the receiving of shipping documents and instructions from Alhambra will require some expenditure of time.

The estimates of tire expense and maintenance expense are lower than those found generally for transportation companies enjoying volume or fleet prices; however, it is not necessary to discuss it further. It is clear that the operation would not be compensatory.

At times Alhambra would have shipments requiring the use of the small trailer for which applicant would receive an additional five cents per mile. If all of the shipments involved the use of the small trailer they would produce only additional revenues of \$4,000.

Upon consideration of all of the facts and circumstances we find that the proposed rates are not reasonable and that the application should be denied.

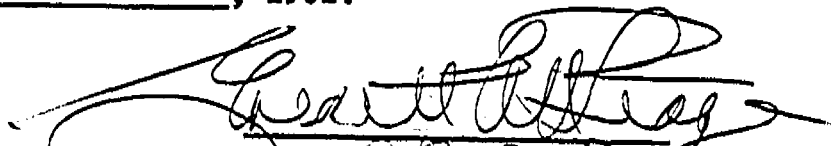
O R D E R


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

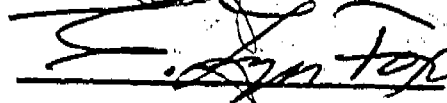
IT IS ORDERED that the application of Harold Martin is denied.

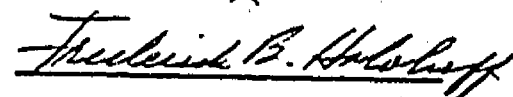
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 26th day of FEBRUARY, 1962.



President






Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.