

ORIGINAL

Decision No. 641S1

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 EDNA F. KELLY and SIDNEY E. KELLY, JR.,  
 dba KELLY TRUCKING COMPANY, for author-  
 ity to deviate from the minimum rates  
 in MRT-2, Item 690, re transportation  
 of lumber, Burney and Nubieber.

Application No. 44388  
 (Filed April 26, 1962)

Sidney E. Kelly, Jr., for applicant.  
Neal J. Masotti, for Clear Pines Products,  
 Inc., interested party.  
Arthur F. Burns and George H. Morrison, for  
 the Commission staff.

O P I N I O N

Public hearing was held before Examiner J. E. Thompson at Fall River Mills on July 13, 1962, on which date the matter was submitted.

Applicant is a radial highway common carrier conducting operations in northern California and in Oregon with two flat-bed trucks and trailers. Clear Pine Products is engaged in the manufacture of forest products, including moulding, at Nubieber. It purchases lumber for its manufacturing operation from Scott Lumber Company and Lorenz Lumber Company as well as from other sources. Applicant has been transporting lumber from Scott's plant near Burney and Lorenz' plant near Burney Falls for Clear Pine Products at the minimum rates. During 1961 the traffic amounted to over two million board feet. The movement is not seasonal.

Clear Pine Products showed that when it receives lumber by railroad and avails itself of the transit privileges in the rail tariffs, the cost of transportation to it for the movement of lumber

from Burney to Nubieber is something less than \$3.00 per thousand board feet.<sup>1/</sup> Because of the convenience of handling truck shipments by fork-lift and because of the better protection of the kiln-dried lumber from inclement weather in the case of shipments by truck, Clear Pine Products prefers applicant's service. The minimum rates, however, greatly exceed \$3.00 per thousand board feet. The general manager of Clear Pine Products testified that if the applicant is not authorized to transport lumber from Scott and Lorenz at a rate which is the equivalent of \$3.00 per thousand board feet, the shipments will either be diverted to railroad or the company will acquire its own truck.

Applicant proposes to assess a rate of 12 cents per 100 pounds subject to a minimum weight of 45,000 pounds, for the transportation of lumber from Scott and 11 cents per 100 pounds, minimum weight 45,000 pounds, from Lorenz. There are no vehicular scales between Burney and Nubieber; therefore applicant uses the weights provided in Minimum Rate Tariff No. 2 of 2500 pounds per thousand board feet for kiln-dried lumber. The 12 cent rate is the equivalent of \$3.00 per thousand board feet.

The distance in constructive miles from Scott to Clear Pine Products is 53.5 miles and from Lorenz to Clear Pine Products is 49.5 miles. Based upon the expenses shown on the 1961 income tax return and the number of miles operated during that year, applicant estimated that its cost of operation amounts to 36 cents per mile. The amount of those expenses does not truly reflect the traffic involved herein, however. For example, Sidney E. Kelly, Jr. (a co-owner of applicant) drives one of the trucks and performs some of the repairs, and applicant's costs of drivers and equipment maintenance are lower than if

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<sup>1/</sup> Most of the production of Clear Pine Products is shipped in interstate commerce by railroad. The alternative common carrier rate provisions of Minimum Rate Tariff No. 2 are not applicable thereto.

applicant were to engage others at prevailing rates.

If applicant were to engage a driver under customary working conditions in that area, the driver cost, including wages and other payroll expenses, would amount to approximately 11 cents per mile rather than the 8 cents per mile recorded. Maintenance expense, which includes repairs and lubrication was recorded at 2 cents per mile; if Mr. Kelly had not done some of the repair work, the cost of maintenance would have been approximately 5 cents per mile. Even so, the evidence shows that the cost does not exceed 42 cents per mile and that the proposed rates are compensatory.

We find that the proposed rates are reasonable. Consistent with the Commission's policy in connection with rates authorized under Section 3666 of the Public Utilities Code, the authorization to assess the rates will expire after one year unless sooner canceled, modified or extended by the Commission.

O R D E R

Based on the evidence and on the finding set forth in the preceding opinion,

IT IS ORDERED that:

1. Edna F. Kelly and Sidney E. Kelly, Jr. are authorized to charge, demand and collect for the transportation of lumber from the plants of Scott Lumber Company and Lorenz Lumber Company, near Burney, to Clear Pine Products, Nubieber, rates and charges lower than the minimum rates otherwise applicable but no lower in volume or effect than the rates set forth in Appendix A attached hereto and by this reference made a part hereof.

2. The authority hereinabove granted shall expire September 30, 1963 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 29th day of August, 1962.

George F. Hoover  
President

Ernest A. Ruge  
Frederick B. Holshoff

Commissioners

Peter E. Mitchell  
Commissioner ~~\_\_\_\_\_~~, being necessarily absent, did not participate in the disposition of this proceeding.

E. Lynn Fox  
Commissioner ~~\_\_\_\_\_~~, being necessarily absent, did not participate in the disposition of this proceeding.

## APPENDIX A

Schedule of Minimum Rates for  
Transportation of Property for  
Clear Pine Products, Inc.

## Section I

Item 10 - Application of Rates - General

To the extent that Minimum Rate Tariff No. 2 prescribes minimum rates for the transportation of property, said minimum rates, rules and regulations are applicable to all shipments except as provided in Section 2.

## Section 2

Item 20 - Application of Rates - Territorial

Rates in this section apply to the transportation of property from the plant of Scott Lumber Company located approximately two miles west of Burney and from the plant of Lorenz Lumber Company, located near State Highway 89 approximately two miles south of Burney Falls, to the plant of Clear Pine Products at Nubieber.

Item 30 - Application of Rates - Commodities

Rates in this section apply only to shipments of lumber, including moulding stock, subject to minimum weights of 45,000 pounds.

Item 40 - Rates

<u>From</u>	<u>To</u>	<u>Rate in Cents Per 100 Pounds</u>
Scott Lumber Co.	Clear Pine Products	12
Lorenz Lumber Co.	Clear Pine Products	11