

Decision No. 39033

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )	
of DIRECT DELIVERY SYSTEM, LTD. )	Application No. 25585
for authority to assess less than )	
minimum rates. )	

FIRST SUPPLEMENTAL OPINION AND ORDER

Decision No. 37013 of April 25, 1944, in this proceeding, authorized applicant to charge less than the established minimum rates for the transportation of diatomaceous earth for The Dicalite Company from its plant located adjacent to the City of Torrance to points within the city limits. The authority was limited to a period of one year, unless sooner canceled, changed or extended by appropriate order of the Commission, and was allowed to expire on April 25, 1945.

By supplemental application filed March 25, 1946, applicant seeks, in effect, restoration and extension for one year of the expired authority. According to the application, it was the intention of applicant to apply to the Commission before April 25, 1945, for the desired extension, but by reason of the pressure of the many problems and restrictions resulting from wartime operations applicant inadvertently overlooked making such application, and has just recently discovered the oversight.

The record shows that the conditions of service and many factors of cost pertaining to the transportation in question are substantially the same at this time as they were on April 25, 1944; that both applicant and the shipper desire to continue the service for another year at the rates heretofore authorized; that no carriers protested the granting of the authority

originally, and applicant has no reason to believe that any carriers would be adversely affected in any way at this time if the authority sought herein is granted; and that if applicant were forced to charge The Dicalite Company full minimum rates, said company would provide its own plant-facility transportation as soon as the necessary automotive equipment is available.

The transportation involved in this proceeding is performed by means of tractors and semi-trailers in a "shuttle" type of operation, under which the loading and unloading are done by employees of the shipper, without expense to applicant. The shipper also prepares such documents as are necessary. The maximum length of haul is slightly over six constructive miles.

Upon consideration of the evidence heretofore developed in this proceeding and the data presented in support of the supplemental application now pending, the Commission is of the opinion and finds as a fact that the rate proposed in this application will be reasonable for the transportation herein involved.

It appears that this is a matter in which a public hearing is not necessary and that the sought extension of authority, in so far as it involves rates for the future, should be granted. So far as rates for the past period subsequent to April 25, 1945, are concerned, the Commission has held in various proceedings under the City Carriers' Act and the Highway Carriers' Act that provision is not made therein for the retroactive adjustment of rates and charges. (See Application of Walkup Drayage and Warehouse Co., 45 C.R.C. 572, and cases cited.) To the extent that the supplemental application seeks retroactive relief, it must be denied. Therefore, good cause appearing,

IT IS ORDERED:

(1) That Direct Delivery System, Ltd. be and it is hereby authorized to assess and collect for the transportation for which rates are provided in Appendix "A" attached hereto and by this reference made a part hereof, rates and charges less than the minimum rates and charges heretofore established by the Commission, but in no event less than those provided in said Appendix "A".

(2) That the authority herein granted shall expire one (1) year from the effective date of this order unless sooner changed, canceled or extended by appropriate order of the Commission.

(3) That in all other respects the supplemental application be and it is hereby denied.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of May, 1946.

Harold Ruden  
Justus F. Cooney  
Thomas D. ...  
Robert D. ...  
Harold A. ...  
Commissioners

APPENDIX "A"

ITEM NO. 10 - APPLICATION OF RATES

(a) Rate provided in this appendix applies only for the transportation of diatomaceous earth, in sacks, from plant of The Dicalite Company located adjacent to the southerly city limits of Torrance to points within the City of Torrance.

(b) Transportation charges and minimum weight shall be computed upon basis of the actual weight of the diatomaceous earth and sacks. No additional charge shall be made for the transportation, in either direction, of pallets.

(c) Rate does not include loading or unloading of carrier's equipment.

ITEM NO. 20 - RATE

41 cents per ton of 2,000 pounds, minimum weight 30,000 pounds.

(End of Appendix)