

Decision No. 56221**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the investigation
 into the rates, rules, regulations,
 charges, allowances and practices
 of all Common Carriers, Highway
 Carriers, and City Carriers relating
 to the transportation of sand, rock,
 gravel, and related items (commodities
 for which rates are provided in Minimum
 Rate Tariff No. 7).

Case No. 5437
 Petition for
 Modification No. 49
 As Amended

Frank Loughran and Harold Shifflet for Shifflet
 Bros., petitioner.
John Specht and R. J. Carberry for the Commission's
 staff.

O P I N I O N

By petition filed January 2, 1959, Earl F. Anders, Clifton Shifflet and Harold Shifflet, partners doing business as Shifflet Bros., seek authority to transport volcanic scoria as a highway contract carrier from Cinder Products Company at rates different from the minimum rates provided in Minimum Rate Tariff No. 7.

Public hearing was held before Examiner J. E. Thompson on March 12, 1959 at San Francisco.

Cinder Products Company quarries volcanic scoria at a point adjacent to State Highway 20 two miles east of Clear Lake Oaks, Lake County. For the past six months petitioner has furnished one unit of equipment, consisting of a truck and trailer combination with a water level capacity of 42 yards, which is devoted to transporting volcanic scoria for Cinder Products Company. The traffic, usually straight shipments of 40,000 pounds or more, ordinarily moves to points within a 150-mile radius of the quarry. Petitioner has been assessing the distance rates in Minimum Rate Tariff No. 7 for distances between points as set forth in Distance Table

No. 4. From time to time Cinder Products Company tenders two or more shipments to petitioner with an aggregate weight of between 20 and 25 tons. The shipments are physically transported as a split delivery shipment. Each of the lots, however, must be rated as a separate shipment because there is no provision in Minimum Rate Tariff No. 7 for split deliveries.

A partner of Shifflet Bros. testified that the volume of traffic is steadily increasing so that soon petitioner will add an additional unit of equipment for this transportation. While most of the volcanic scoria is shipped in pebble, sand or dust sizes, which are used in the manufacture of building blocks and structures, a part of the movement is in the form of slabs which are used as decorating material. Most of the split deliveries occur in the movement of the latter. This portion of the traffic is also increasing greatly in volume. Prior to engaging Shifflet to perform the service, Cinder Products Company transported its products in its own equipment from its quarry to plants. It has informed petitioner that, with the increase in the volume of split delivery traffic, its cost of transportation exceeds that which the company experienced when using its own equipment. Cinder Products Company has advised Shifflet that unless a split delivery provision can be made applicable to the movement of this traffic, it will discontinue using the Shifflet service and will again transport its products in its own trucks.

Petitioner proposes a split delivery rule for this transportation which is similar to that set forth in Minimum Rate Tariff No. 10 which prescribes rates for the transportation of cement in bulk.

Evidence was presented by petitioner showing that the transportation at the proposed rates will be profitable. From the evidence, it appears that the transportation performed is very similar to the manner in which cement is transported. After careful consideration of all the facts and circumstances of record, the Commission is of the opinion that the rates proposed by petitioner are reasonable for the transportation performed and should be authorized.

Petitioner avers that the transportation is performed under its highway contract carrier permit. It also holds Radial Highway Common Carrier Permit No. 4-1039 dated May 5, 1953. Section 3542 of the Public Utilities Code provides that no person shall be permitted by the Commission to engage in the transportation of property both as a common carrier and as a highway contract carrier of the same commodities between the same points. Petitioner suggests that the Commission amend its radial highway common carrier permit so as to provide that it may not transport volcanic scoria from Cinder Products Company's quarry. The order herein will amend said permit accordingly.

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:

1. That Radial Highway Common Carrier Permit No. 4-1039 issued to Earl F. Anders, Clifton Shifflet and Harold Shifflet is amended by incorporating therein the following provision:

"This permit does not authorize operations as a radial highway common carrier of volcanic scoria

from any point within a radius of five miles of Clear Lake Oaks, Lake County."

2. That petitioners are authorized to transport volcanic scoria under Highway Contract Carrier Permit No. 4-1410 from Cinder Products Company, near Clear Lake Oaks, Lake County, to points and places in northern territory, as defined in Item No. 110 of Minimum Rate Tariff No. 7, at rates and charges no lower in volume or effect than the rates and charges set forth in Appendix A attached hereto and by this reference made a part hereof.

3. The authority granted in paragraph 2 of this order shall expire on May 1, 1960 unless sooner modified, extended, or cancelled 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 7th day of April, 1959.

E. L. Fox President
E. E. Mathew
Walter H. Rose
Theodore H. Deener
Everett H. Boye Commissioners

Schedule of Minimum Rates Applicable to the
Transportation of Volcanic Scoria from the Plant
of Cinder Products Company, Located Near Clear
Lake Oaks, Lake County, California, to Points and
Places in California

SECTION 1

Item 10 - Application of Rates

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

SECTION 2

Item 20 - Application

Rates in this section apply only to shipments in inter-plant movement, minimum weight 40,000 pounds.

Item 30 - Rules and Regulations - Exceptions

Rates applicable under this section are not subject to the following rules and regulations in Minimum Rate Tariff No. 7: Item 10(i), Item 40, Item 80.

Item 40 - Definition of the term "Shipment"

"Shipment" means a quantity of property tendered for transportation to one carrier at one time on one shipping document by:

- (1) One shipper at one point of origin for one consignee at one point of destination; or
- (2) One shipper at one point of origin for one consignee at more than one point of destination, or for more than one consignee at one or more points of destination, all of which are in the Northern Territory.

Issued by the California Public Utilities Commission.

Decision No. 58221, Case No. 5437, Pet. for Mod. No. 49, Amd.

Item 50 - Computation of Distance

Distances to be used in connection with distance rates applicable herein shall be the shortest resulting mileage via any public highway route, computed in accordance with the method provided in Distance Table No. 4, amendments thereto or reissues thereof.

Item 60 - Split Delivery

Shipments as defined in Item 40(2) herein are subject to the following conditions and additional charges:

- (1) The composite shipment shall consist of not to exceed three component parts.
- (2) Charges shall be paid by the consignor when there is more than one consignee.
- (3) At the time of, or prior to, the tender of the composite shipment, the carrier shall have been furnished with written instructions showing the name of each consignee, the point or points of destination, and kind and quantity of property in each component part.
- (4) The charge for the transportation of the composite shipment shall be the charge applicable for transportation of a single shipment of like kind and quantity of property, computed by applying the rate or rates for 1/2 the distance from point of origin to that same point via each of the points and destinations.
- (5) In addition to the charge applicable for transportation of a single shipment of like kind and quantity of property, computed as set forth in paragraph (4) above, an additional charge of \$3.50 shall be made for each of the component parts comprising the composite shipment.

End of Schedule

Issued by the California Public Utilities Commission.

Decision No. 58221, Case No. 5437, Pet. for Mod. No. 49, Amd.