

**ORIGINAL**

Decision No. 72934

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
LEE KUYKENDALL, EUGENE HARNSBERGER, )  
SALVATORE DANNA and ROBERT M. WILLIAMS )  
for authority to depart from the )  
minimum rates, rules and regulations )  
of Minimum Rate Tariff No. 7, pursuant )  
to the provisions of Section 3666 of )  
the Public Utilities Code for )  
transportation performed for MISSION )  
VALLEY ROCK CO. )

Application No. 48851  
(Filed October 10, 1966;  
Amended December 6, 1966)

Handler, Baker & Greene, by Daniel W. Baker,  
for applicants.  
E. O. Blackman, for California Dump Truck  
Owners Association, protestant.  
Richard W. Smith, H. F. Kollmyer and A. D. Poe,  
and R. C. Broberg, for California Trucking  
Association, interested party.  
Joseph C. Matson and Robert W. Stitch, for the  
Commission staff.

O P I N I O N

Applicants seek authority to depart from the provisions of Minimum Rate Tariff No. 7 for transportation performed for Mission Valley Rock Co. An amendment to the application was filed December 6, 1966, deleting applicant Eugene Harnsberger and inserting applicant James E. Swift.

Decision No. 71987, dated February 7, 1967, denied the application. The decision pointed out that applicants had not presented any evidence concerning driver and maintenance costs. By Decision No. 72178 dated March 21, 1967, Decision No. 71987 was vacated and the proceeding was reopened for the limited purpose of taking evidence on the issue of driver and maintenance costs.

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Further hearing was held before Examiner O'Leary on June 5, 1967 at San Francisco. The matter was submitted subject to the filing of late-filed Exhibit 5A. The exhibit has been filed and the matter is now ready for decision.

The operations and circumstances surrounding the transportation involved are described in Decision No. 71987. It is not necessary to repeat them herein.

Evidence was presented by an accountant concerning the anticipated revenues and expenses of applicants under the proposed operation (Exhibit 5 as amended by Exhibit 5A). Applicants requested that the application be amended to show that they request authority to assess a rate of 93 cents per ton rather than the 90 cents per ton requested in the original application. The anticipated annual revenues shown in the exhibit have been projected on the basis of the 93 cents per ton rate. Since wages of drivers are not actually paid by applicants, the cost attributable to wages was developed from the provisions of two union contracts which are applicable to similar types of operations. The wage costs as developed under either contract when added to the other expenses disclose that the operating ratios of applicants will range from 90.4 percent to 94.8 percent.

The Commission finds that:

1. The proposed rate will be compensatory.
2. The proposed rate is reasonable and justified.

The Commission concludes that the sought relief should be granted. As conditions may change, the authorities will be made to expire one year from the effective date of the order which follows unless sooner canceled, modified or extended by order of the Commission.

ORDER

IT IS ORDERED that:

1. Lee Kuykendall, James E. Swift, Salvatore Danna and Robert M. Williams are hereby authorized to transport sand and gravel for Mission Valley Rock Co., from its plant near Sunol to Berkeley Ready Mix Co. located at Third and Virginia Streets, Berkeley, at rates less than those established in Minimum Rate Tariff No. 7, subject to the conditions and limitations set forth in Appendix A attached hereto and by this reference made a part hereof.

2. The authority granted herein shall expire one year after the effective date of this order 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 22nd day of AUGUST, 1967.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
Commissioners

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APPENDIX A

Carriers: Lee Kuykendall  
James E. Swift  
Salvatore Danna  
Robert M. Williams

Shipper: Mission Valley Rock Co.

Commodity: Sand and/or gravel.

From: Mission Valley Rock Co.'s Quarry near Sunol.

To: Berkeley Ready Mix Co.  
Third and Virginia Streets  
Berkeley, California

Rate: 93 cents per ton, minimum weight 25.5 tons.

Conditions: Subject to Notes 1 and 2.

Note 1. Rates apply only when shipper furnishes bottom-dump hopper type trailers at no expense to carriers.

Note 2. Shipper shall guarantee that each carrier shall be tendered a minimum of 24,000 tons per year. In the event of a strike or other work stoppage affecting consignor, consignee or involved carriers said minimum shall be proportionately reduced for such period.

In all other respects the rates and rules in Minimum Rate Tariff No. 7 shall apply.

(End of Appendix A)