

ORIGINALDecision No. 76078

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHNNY HARRIS
(JOHNNY HARRIS TRANSPORTATION)
for authority to deviate from
minimum rates for the transpor-
tation of material in dump truck
equipment for public works
construction projects under
Section 3666 of the Public
Utilities Code.

Application No. 51181
(Filed June 19, 1969)

Johnny Harris, applicant.
Richard W. Smith, H. F. Kollmyer, and
A. D. Poe, for California Trucking
Association, interested party.
Leonard Diamond, for the Commission
staff.

O P I N I O N

Johnny Harris, an individual doing business as Johnny Harris Transportation, operates as a radial highway common carrier. In this application, Harris seeks authority to charge less than the prescribed minimum rates, as set forth in Minimum Rate Tariff No. 2, for the transportation of quarried rock for L. S. Hawley Corporation, a general contractor. The transportation to be performed is the movement of jetty rocks weighing six tons or more in flat-bed trailers from a rock quarry located near Corona to Newport Beach. The rock is to be used in the construction of four groins (jetties). The proposed rate for this service is \$2.10 per ton, minimum 22 tons per load. The applicable minimum rate, as set forth in Minimum Rate Tariff No. 2, is 33 cents per 100 pounds (\$6.60 per ton), minimum weight 45,000 pounds per shipment.

Public hearing was held and the matter submitted before Examiner Mallory in Los Angeles on August 7, 1969. The application was not opposed. Counsel for California Trucking Association pointed out that the application indicates that the work on the construction was scheduled to begin June 15, 1969. He also pointed out that decisions in prior proceedings have stated that the Commission has no authority under Section 3666 of the Public Utilities Code to authorize retroactive authority to assess rates less than the established minimum rates.

Oral and documentary evidence was presented by applicant. His testimony was as follows: Applicant is an experienced hauler of quarried rock in flat-bed and dump truck equipment, having previously been president and half owner of Rocko Transportation, Inc., a carrier also engaged in the hauling of jetty rock under substantially the same conditions as those pertaining to the transportation herein. Applicant has entered into a contract with L. S. Hawley Corporation to transport 60,000 tons of rock to the jetty construction project; of this amount, 50,000 tons will be hauled in end-dump trailer equipment, and 10,000 tons will be hauled on flat-bed trailers. The rock to be hauled on the flat-bed equipment weighs six tons or more per piece. Safety of operations and ease of loading and unloading prompt the use of flat-bed equipment in lieu of dump truck equipment. Loading and unloading of the flat-bed equipment is performed with cranes furnished by the shipper and receiver. The driver is involved in loading and unloading only to the extent of attaching and detaching chains. Loads are weighed on scales located at the quarry.

Harris stated that he expects to use a maximum of five units of flat-bed equipment. Said equipment is owned by him, and the drivers thereof are in his employ. No subhaulers will be used. Transportation of rock on flat-bed equipment commenced in the early part of July and ceased shortly thereafter because of a strike of construction employees on the project. Harris stated that the project will not conclude on September 1, 1969, as originally contemplated, but will extend approximately three months after the strike is settled. (Said strike was still in progress on the date of the hearing.) Harris requested that any authority granted herein not expire for at least six months.

Harris presented in evidence Exhibit 1, which is a development of the estimated costs of performing the transportation involved herein. Said study indicates that the proposed rates will substantially exceed the estimated costs of providing the service, as represented by an operating ratio of approximately 70 percent.

The Commission finds as follows:

1. Applicant's development of the estimated costs of hauling large jetty rock on flat-bed trucking equipment from a quarry in the vicinity of Corona to Newport Beach shows that the total costs of performing said service will be exceeded by the rate proposed herein, and that said transportation service will be profitable.
2. The rate proposed by applicant for the transportation service involved herein will be reasonable.
3. Transportation of jetty rock on flat-bed equipment on the Newport Beach jetty construction project was commenced by applicant in early July and ceased approximately two weeks thereafter because of a strike which is still in progress.

The Commission concludes that:

1. The less-than-minimum rate authority requested herein should be authorized for the future.
2. In order that applicant may exercise the authority as promptly as possible the order herein should be made effective on the date issued.

ORDER

IT IS ORDERED that:

1. Johnny Harris, an individual doing business as Johnny Harris Transportation, is hereby authorized to assess a rate of \$2.10 per ton, subject to a minimum weight of 22 tons per load, for the transportation of quarried rock and stone, by means of tractors and flat-bed trailers, for L. S. Hawley Corporation, from a quarry located in the vicinity of Corona to a jobsite at Newport Beach.

2. The authority granted herein will expire with February 15, 1970.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this
26th day of AUGUST, 1969.

William Sproun, Jr.
 President

August
James P. [unclear]
[unclear]
[unclear]
 Commissioners