

ORIGINALDecision No. 76090

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of LEE KUYKENDALL, GEORGE RINGER
and JAMES SUTTON 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. 51263
(Filed July 23, 1969)

OPINION AND ORDER

By Decision No. 74635, dated September 4, 1968, in Application No. 50436, Lee Kuykendall, Nick Nires, James Sutton and Robert M. Williams were authorized to charge a rate less than the minimum rate otherwise applicable but not less than 95 cents per ton, minimum weight 25.5 tons, for the transportation of sand and gravel for Mission Valley Rock Co. from its plant near Sunol to Berkeley Ready Mix Co. in Berkeley. The authority is scheduled to expire on September 11, 1969.

By this application, authority is sought to continue the deviation from the established minimum rates for a further one-year period, but to substitute George Ringer for Nick Nires and Robert M. Williams.^{1/} Applicants also request that the authority be modified by increasing the rate from 95 to 101 cents per ton.^{2/}

1/ Each applicant holds either a radial highway common carrier or a highway contract carrier permit.

2/ No authority for the proposed increase in rate is required from this Commission inasmuch as applicants perform the service as permitted carriers for which only minimum rates have been established.

Applicants state that the cost of transportation is a major factor in the marketing of the products of Mission Valley Rock Co. and that such shipper is not served by rail facilities. Applicants allege that the shipper's competitors are located on rail facilities and can engage highway carriers under the alternative application provisions of Minimum Rate Tariff No. 7 to perform their transportation services at rates slightly above the rail rates and lower than those set forth in the aforementioned tariff. Applicants aver that the shipper furnishes the trailers to them without cost and will consider purchasing its own equipment if the sought authority is not granted.

Revenue and expense data submitted by applicants indicate that the transportation involved has been profitable and reasonably may be expected to be profitable for the ensuing year.

The verified application shows that copies thereof were mailed to Associated Independent Owner-Operators, Inc., California Dump Truck Owners Association, California Trucking Association and Mission Valley Rock Co. The application was listed on the Commission's Daily Calendar of July 24, 1969. No objection to the granting of the application has been received.

In the circumstances, it appears, and the Commission finds, that the proposed rate is reasonable. A public hearing is not necessary. The Commission concludes that the application should be granted.

In view of the impending expiration date of the current authority, the order which follows will be made effective September 11, 1969.

IT IS ORDERED that:

1. Lee Kuykendall, James Sutton and George Ringer 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 a rate 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, on and after September 11, 1969, supersede the authority granted by Decision No. 74635, and shall expire with September 11, 1970.

The effective date of this order shall be September 11, 1969.

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

William Symons, Jr.
President
August 26, 1969
Alfred P. Monks, Jr.
William J. Sullivan
James J. Sullivan
Commissioners

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APPENDIX A TO DECISION NO. 76090

Carriers: Lee Kuykendall
George Ringer
James Sutton

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: 101 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)