

Decision No. 78798

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Wm. H. Shatto, Inc.)	
a corporation, for authority under)	
Section 3666 of the Public Utilities)	
Code to transport powdered clay)	Application No. 52643
(Star Dust) in bulk pneumatic tank)	(Filed May 27, 1971)
trailers, between points in Orange)	
County and Los Angeles County, Calif.)	
at rates less than the established)	
minimum rates.)	

INTERIM OPINION AND ORDER

Wm. H. Shatto, Inc., a corporation, holds radial highway common carrier and dump truck carrier permits. It also operates as a cement carrier. By this application, it seeks authority to transport powdered clay or earth (Star Dust) in bulk for Owl Rock Products Company between points in Los Angeles and Orange Counties at hourly rates in lieu of the Commission's established rates in cents per 100 pounds.

Applicant states that it has transported the above commodities in pneumatic hopper trucking equipment for the past several years between points in Los Angeles and Orange Counties at the established hourly rates of Minimum Rate Tariff 5 (MRT 5).¹ Applicant alleges that, since the hourly rates in MRT 15 do not apply to the transportation of bulk commodities transported in pneumatic hopper trucking equipment, it must use the class rates named in MRT 2. Applicant declares that the class rates are unjust and unreasonable when applied to the bulk transportation service

¹ Decisions Nos. 78264, 78266 and 78271 as amended by Decision No. 78472 canceled MRT 5 and established, among other things, weight rates in Minimum Rate Tariff 2 (MRT 2) and hourly rates in Minimum Rate Tariff 15 (MRT 15) for the transportation of property within Los Angeles and Orange Counties.

in question and shows in Appendix "C" attached to the application that the revenue derived under the class rates in MRT 2 is substantially in excess of the revenue actually accrued by it in January and February of 1971 under the hourly rates in MRT 5 for the same transportation. According to applicant, the aforementioned hourly rates are on the same level as the rates proposed herein.

Applicant contends the shipper has informed it that it cannot afford to absorb the substantial increases in transportation costs which will be incurred under the class rates in MRT 2 and that, in the absence of the sought relief, the shipper will be forced to satisfy its transportation needs in proprietary carriage.

Revenue and expense data submitted by applicant indicate that the subject transportation has been profitable and may be reasonably expected to be profitable under the proposed rates in the future.

The verified application shows that a copy thereof was mailed to the California Trucking Association on or about May 24, 1971. The application was listed on the Commission's Daily Calendar of May 28, 1971. By letter dated June 1, 1971, California Trucking Association objected to the relief sought herein including interim ex parte handling thereof.

The Transportation Division staff has reviewed the instant application and Applications Nos. 52546 and 52579 of Bulk Freightways and West Coast Warehouse Corporation, respectively. The applicants in the latter two proceedings sought to apply the hourly rates in question for the transportation of property in the same area in specialized equipment under the same circumstances and conditions and the protestant in this proceeding did not object

to the interim authorities granted to such applicants by Decisions Nos. 78630 and 78649. Applicant in this proceeding claims that the involved transportation constitutes a substantial part of its operations and a severe economic loss would be incurred by it in the event that the shipper should be forced to resort to proprietary transportation. The staff recommends that the status quo be maintained with respect to all of the aforementioned carriers and involved shippers and that the application be granted by ex parte order on an interim basis pending decision on evidence to be adduced at a public hearing.

Subject to further review upon consideration of evidence which may be adduced at a public hearing, it appears, and the Commission finds, that the proposed rates are reasonable. In view of the existing conditions, the Commission concludes that applicant should be granted interim authority for a period of six months. A future hearing will be scheduled in this proceeding.

IT IS ORDERED that:

1. Wm. H. Shatto, Inc., a corporation, is authorized to depart from the minimum rates and rules set forth in Minimum Rate Tariff 2 for the transportation of powdered clay or earth (Star Dust) in bulk, between points in Los Angeles and Orange Counties for Owl Rock Products Company as more specifically set forth, and subject to the conditions specified, in Appendix A attached hereto and made a part hereof.

2. The authority granted herein shall expire six months after the effective date of this order unless sooner canceled, modified or extended by order of the Commission.

3. A public hearing shall be scheduled in this proceeding for the receipt of evidence on this application and full disposition thereof.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 15th day of June, 1971.

Chairman

Commissioners

APPENDIX A TO DECISION NO. 78738

MINIMUM RATES, TERMS AND CONDITIONS FOR THE TRANSPORTATION OF
POWDERED CLAY OR EARTH (STAR DUST) AT HOURLY RATES

Wm. H. Shatto, Inc., a California corporation, is authorized to transport powdered clay (Star Dust), in bulk, in pneumatic hopper trucking equipment between points in Los Angeles and Orange Counties for Owl Rock Products Company at hourly rates, as follows:

<u>Weight in Pounds</u>	<u>Rate in Cents per Hour (1)</u>
Over 30,000	1887

(1) Subject to minimum charges as follows:

<u>Commodity</u>	<u>Minimum Hours</u>
Powdered Clay or Earth (Star Dust)	Two

Note 1. Weight in pounds is the greatest (heaviest) gross weight of the property transported by the unit of carrier's equipment at one time during a single transaction.

Note 2.

(a) The total of the loading, unloading and driving time computed from the arrival of carrier's equipment at point of origin, or first point of origin when more than one point of origin is involved, to the time unloading is completed at point of destination, or last point of destination when more than one point of destination is involved, subject to paragraph (b) hereof, shall be used to compute charges.

(b) In computing time under the basis outlined in paragraph (a) hereof the various time factors shall be not less than the actual time involved in minutes. After the total time has been determined under the provisions of paragraph (a) hereof, it shall be converted into hours and fractions thereof. Fractions of an hour shall be determined in accordance with the following table:

Less than 8 minutes-----	omit.
8 minutes or more but less than 23 minutes	shall be 1/4 hour.
23 minutes or more but less than 38 minutes	shall be 1/2 hour.
38 minutes or more but less than 53 minutes	shall be 3/4 hour.
53 minutes or more	shall be 1 hour.

(c) Between the hours of 6:00 PM and 7:00 AM and on Saturdays, Sundays and the holidays of Washington's Birthday, Memorial Day, the day after Thanksgiving and December 24th, as defined in Item 10, an additional charge at the rate of \$4.30 per hour (or fraction thereof) shall be assessed. On all other holidays, as defined in Item 10, an additional charge of \$3.60 per hour (or fraction thereof) shall be charged.

(END OF APPENDIX A)