

ORIGINAL

Decision No. 79243

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Harrison-Nichols)
Company, Ltd. 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 of sand for Owens-)
Illinois Glass Company.)

Application No. 52895
(Filed September 27, 1971)

INTERIM OPINION AND ORDER

Harrison-Nichols Company, Ltd., a corporation, operates as a highway permit carrier. By this application, it seeks authority to assess a rate less than the established minimum rate for the transportation of processed silica sand from the Mission Viejo production plant of Owens-Illinois Glass Company (Owens Illinois) in the City of San Juan Capistrano to the Owens-Illinois plant in Vernon.

Applicant states that Owens-Illinois produced silica sand for its glass making business at its production plant at Corona for the past 40 years but that this deposit of silica sand is now exhausted. Applicant avers that, to replace its Corona plant, Owens-Illinois began construction of a new multimillion dollar production plant of modern design in August of 1970 in the City of San Juan Capistrano in the proximity of Production Area 30-P. Applicant declares that the loading facilities of the new plant consist of a 5,000-ton storage bin which feeds a 150-ton bunker located over a 100-foot truck scale and that the dump trucks will be loaded and weighed automatically. Applicant contends that

shipments will be transported entirely by trucks pulling bottom dump hoppers (gravity dump) with operations commencing on approximately October 15, 1971; and that Owens-Illinois is currently constructing a new truck unloading facility at its Vernon plant at an expense of \$50,000 in anticipation of trucking service for its sand deliveries at a reasonable competitive rate.

Applicant asserts that the movement will demand continuous 24-hour service as the nature of Owens-Illinois' glass making process requires operation of its Vernon plant 24 hours per day, 362 days a year and that maximum use of hauling equipment would result. Applicant alleges that it is concerned that, without the sought deviation authority, Owens-Illinois may consider, because of the cost economies that can be realized on this transportation, engaging in proprietary hauling.

Applicant states that Owens-Illinois has entered into an exclusive contract with it for the subject hauling which provides for a minimum movement of 100,000 tons of sand a year. Applicant proposes to use up to ten subhaulers to conduct the major portion of the hauling and avers that it has based its sought rate of \$1.38 per ton on the use of 2-axle tractors pulling gravity dump bottom hopper trailers with carrying capacity of approximately 27 tons operating 2041 hours per year.

Data submitted by applicant indicate that the proposed rate will be compensatory for the transportation involved.

The verified application shows that copies thereof were mailed to the California Trucking Association and other interested parties on or about September 27, 1971. The application was listed on the Commission's Daily Calendar of September 30, 1971. By letters dated October 5 and 7, 1971, California Trucking Association and Associated Independent Owner-Operators Inc. have informed the Commission that they are opposed to ex parte consideration in this matter and that this application be set for public hearing.

The Transportation Division staff has reviewed the application and recommends that, in view of applicant's urgent need for the sought rate relief, it be granted by ex parte order on an interim basis pending decision on evidence to be adduced at a public hearing. The staff also recommends that payment made to underlying carriers (subhaulers) should not be less than 95 percent of the charges applicable under the rate authorized by the Commission in this proceeding less the gross revenue taxes applicable and required to be paid by the overlying carrier.¹

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 rate is reasonable. In view of the existing conditions, the Commission concludes that applicant should be granted interim authority for a period of six months to the extent hereinafter indicated. A future hearing will be scheduled in this proceeding.

IT IS ORDERED that:

1. Harrison-Nichols Company, Ltd., a corporation, is authorized to transport processed silica sand in dump truck equipment from the plant of Owens-Illinois Glass Company located five miles east of Interstate Highway 5 on California State Highway 74 (Ortega Road) in the City of San Juan Capistrano to the Owens-Illinois Glass Company plant at Vernon at a rate less than the Commission's established minimum rate but not less than \$1.88 per ton, minimum charge per shipment 26 tons at said rate.

2. Harrison-Nichols Company, Ltd., a corporation, shall pay to the involved underlying carriers not less than 95 percent of the charges applicable under the rate authorized herein less the gross revenue taxes applicable and required to be paid by it subject to Notes 1 and 2 of Item 94 of Minimum Rate Tariff 7.


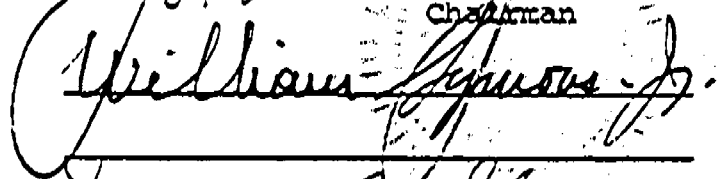


¹ Similar provisions in Item 94 of Minimum Rate Tariff 7 govern payment to underlying carriers in instances where the minimum rates are applicable.

3. 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.

4. 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 13th day of October, 1971.


Chairman



Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.