

Decision No. 79295

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
(Star Dust) in bulk pneumatic tank
trailers, between points in Orange
County and Los Angeles County, Calif.
at rates less than the established
minimum rates.

Application No. 52643
(Filed May 27, 1971)

Knapp, Gill, Hibbert & Stevens, by Karl K. Roos, At-
torney at Law, for applicant.
Arlo D. Poe and R. W. Smith, Attorneys at Law, and
H. F. Kollmyer, for California Trucking Assoc-
iation; and Donald L. Denney, for L. R. Denney, Inc.,
interested parties.
George L. Hunt and John deBrauwere, for the Commission
staff.

SECOND INTERIM OPINION AND ORDER

By interim order in Decision No. 78798, dated June 15, 1971, Wm. H. Shatto, Inc., a corporation, was granted authority to transport powdered clay or earth (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 in lieu of the Commission's established minimum rates in cents per 100 pounds. Said decision ordered the authority to expire six months after the effective date thereof and a public hearing to be scheduled in this application. A duly noticed public hearing was held September 30, 1971, before Examiner Thompson at Los Angeles.

California Trucking Association filed a motion to defer submission and to limit the proceedings to the granting of interim relief only. Discussion by the parties on the motion disclosed that this is one of a number of applications brought under Section 3666 of

the Public Utilities Code seeking authority to charge hourly rates for the transportation of commodities in bulk in Los Angeles and Orange Counties.^{1/} The filings of these applications resulted from Decisions Nos. 78264, 78266 and 78271 under which minimum hourly rates which had been maintained in Minimum Rate Tariff 5 were canceled, and certain commodities in bulk transported in dump truck equipment and pneumatic hopper trucking equipment which had moved under said hourly rates were made subject to the class rates in Minimum Rate Tariff 2. In each of said applications, including this one, applicants have been granted interim authority to continue to assess the hourly rates that had been set forth in Minimum Rate Tariff 5. California Trucking Association has filed Petition for Modification No. 41 in Case No. 7783 requesting that hourly rates in Minimum Rate Tariff 15 be made applicable to the transportation involved in these applications. A decision in said proceeding could make these applications moot. California Trucking Association asserts that the fact that there are six carriers seeking identical relief shows that the circumstances that would justify such relief are general rather than peculiar to the individual carrier, and that reasonable minimum rates for general application in such circumstances are required.

It was the consensus at the hearing that the Commission should be given opportunity to consider all of the circumstances related to the aforesaid applications and that this applicant should not be prejudiced thereby. It was stipulated by all parties that the Commission should extend the interim authority granted in Decision No. 78798 to expire sixty days after the effective date of a final decision in Petition No. 41 in Case No. 7783 without prejudice to further hearing in this application. The stipulation was considered

^{1/} Application No. 52579, West Coast Warehouse Corporation; Application No. 52546, Bulk Freightways; Application No. 52686, Lloyd Hendrick Wood; Application No. 52634, Tom Utsuki Trucking, Inc.

to be a motion and was taken under advisement by the presiding officer, and the hearing was adjourned to a time and place to be set.

Upon consideration of the circumstances, we conclude that the authority should be extended in accordance with the stipulation; therefore,

IT IS ORDERED that the authority granted in Decision No. 78798 is extended so as to expire sixty days after the effective date of a final decision by the Commission in Petition for Modification No. 41 in Case No. 7783 without prejudice to further extension of said authority if applicant requests additional hearing herein prior to said effective date.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 9th
day of NOVEMBER, 1971.

[Signature]
Chairman
William J. Lyons
[Signature]
Theron L. Stinger
[Signature]
Commissioners