

Decision No. 80919

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of J.I.M. CORPORATION, a California corporation, for an Order authorizing Applicant to deviate from certain minimum rates on shipments transported for BALL CORPORATION, pursuant to Section 3666 of the Public Utilities Code.

Application No. 53735
(Filed December 5, 1972)

INTERIM OPINION

J.I.M. 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 for Ball Corporation from the Mission Viejo production plant of Owens-Illinois Glass Company (Owens-Illinois) near the City of San Juan Capistrano to the Ball Corporation plant located at 300 North Arden Drive, El Monte.

The application alleges as follows: Ball Corporation is currently obtaining its silica sand from the Owens-Illinois Glass Company plant located at Weisel, California. This source is rapidly being exhausted. Ball Corporation has been transporting its own sand from Weisel to El Monte but has noted that its competitors in Vernon and Huntington Park, who have already transferred to the silica sand source at Mission Viejo, are receiving their shipments at a lower cost than it incurs with its own equipment operating out of Weisel, which approximates \$2.30 per ton. Ball Corporation has therefore requested and obtained a quotation, subject to the approval of the Public Utilities Commission, of a rate of \$1.80 per ton from Mission Viejo, and would prefer to use applicant to transport from this new source and phase out its proprietary operation from Weisel. As close as applicant can determine, the present minimum rate from Mission

Viejo to El Monte would be \$2.75 per ton, which cost would be prohibitive to Ball Corporation and place it at a competitive disadvantage.

Applicant states that it operates its own equipment including bottom dump hoppers, and has adequate equipment to transport twelve loads per day and meet the annual requirements of the consignee for between 65,000 and 70,000 tons per year, operating on a basis of 255 days per year. It further states that facilities of both the shipper and the consignee are operated on a 24 hours a day basis, permitting maximum utilization of applicant's equipment. Because of the fast loading and unloading, each unit in operation can make as many as eight round trips per day and earn as much as \$374.40 per day on the basis of the proposed rate. Applicant estimates its operating cost to be \$26.00 per trip, as against a revenue of \$46.80 minimum.

Applicant requests that the Commission issue an ex parte order authorizing applicant to deviate from the provisions of Minimum Rate Tariff 7 on an interim basis for a period of six months and to make its final determination for an extension thereof upon the basis of further cost information to be submitted by applicant covering the first three months of operation; and that the matter be handled ex parte and without hearing.

The application herein is similar to nine other applications filed by highway permit carriers seeking relief from minimum rates. Those highway permit carriers have been authorized to assess the rates proposed in their applications on an interim basis, pending hearing of their applications on a consolidated record with Amended Order Setting Hearing 233, issued December 12, 1972, in Case No. 5437. OSH 233 was issued for the purpose of determining whether there should be a reduction in the minimum rates governing the transportation of silica sand in bulk in dump truck equipment from Mission Viejo to the various locations in Southern California.

Similar temporary relief should be granted the applicant herein for the transportation of silica sand, and the application should be consolidated for hearing with OSH 233 in Case No. 5437.

The verified application shows that copies thereof were mailed to interested parties and the application was listed on the Commission's Daily Calendar. No objection to the granting of the application has been received.

The Transportation Division staff has reviewed the application and recommends that, in view of applicant's urgent need for the sought rate relief, the relief be granted by ex parte order on an interim basis pending a public hearing.

Subject to further review 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 to the extent hereinafter indicated.

INTERIM ORDER

IT IS ORDERED that:

1. J.I.M. Corporation is authorized to transport processed silica sand in dump truck equipment for Ball Corporation from the plant of Owens-Illinois Glass Company, located five miles east of Interstate Highway 5 on California State Highway 74 (Ortega Road) near the City of San Juan Capistrano, to the plant of Ball Corporation at El Monte at a rate less than the Commission's established minimum rate but not less than \$1.80 per ton, minimum charge 26 tons per unit of equipment.
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. This proceeding will be consolidated for hearing with Order Setting Hearing 233 in Case No. 5437 and with the applications listed therein.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 9th day of JANUARY, 1973.

Reginald L. Stungen
President
[Signature]
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Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.