

ORIGINAL

Decision No. 84430

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application
of FIKSE BROS., INC., a California
corporation, for authority to
deviate from minimum rates pur-
suant to Section 3666 of the
Public Utilities Code for speci-
fied shipper.

Application No. 55288
(Filed November 1, 1974;
amended November 20, 1974
and March 10, 1975)

O P I N I O N

This is an application by Fikse Bros, Inc. (Fikse), a California corporation, for authority pursuant to Section 3666 of the Public Utilities Code (Code) to charge less than the rate prescribed in Minimum Rate Tariff 2, for the bulk transportation of flue dust from Kaiser Steel Corporation at Fontana to Kaiser Cement & Gypsum Corporation at Cushenberry. The requested rate is 25 cents per 100 pounds, minimum weight of 50,000 pounds, with certain additional loading and unloading time charges, as set out in Exhibit 1-A attached to the application. The applicable minimum rate for this commodity is 52.5 cents per 100 pounds, minimum weight 45,000 pounds.

Applicant is presently operating as a certificated cement carrier, and also has radial highway common carrier and dump truck carrier permits.

In Decision No. 82178 dated November 27, 1973 in Application No. 53567, we granted a minimum rate deviation to another carrier hauling the same commodity for the same shipper between the same points. The rate allowed therein was the minimum applicable rate for hauling cement.

In Decision No. 83856 dated December 17, 1974 and effective simultaneously, we granted the minimum rate deviation requested on an interim basis, for a period not to exceed six months from the effective date.

Applicant represents that:

1. It has hauled cement in bulk for the shipper in the past.
2. The transportation of flue dust is substantially similar to the hauling of cement.^{1/}
3. The proposed transportation will be performed in sets of pneumatic doubles, each with a capacity of 550 cubic feet, in order to achieve maximum payload.
4. The volume of traffic will be two loads per day, five days per week, and 250 days per year.
5. Power to unload the pneumatic trucks will be furnished by Kaiser Cement and Gypsum Corporation.
6. Fikse will be paid an additional charge when loading and unloading time exceeds the free time (See Exhibit 1-A of amendment to application).
7. There will be no collection problems or bad debts as all freight charges will be paid by Kaiser Cement and Gypsum Corporation.
8. The freight charge proposed will be made whether or not 50,000 pounds can be loaded in any one unit.
9. It has the financial ability, equipment, and experience necessary to perform the proposed service.
10. The operating ratio for the proposed service, based on the estimated cost study (Exhibit 3 of application) is 89.1.

^{1/} The present minimum rate for hauling cement is 20.5 cents per 100 pounds, minimum weight 47,500 pounds, with a loading and unloading time rate slightly lower than the applicant is requesting.

11. Since the entry of the Interim Opinion (Decision No. 83856) Fikse has been actively engaged in the authorized service.

12. Exhibit 3-A attached to the second amendment to the application indicates current conditions under actual operating experience since the entry of Decision No. 83856 and indicates the following material changes per day from Exhibit 3:

- a. Payroll taxes increased from \$7.10 to \$7.53 because the driver's mileage rate is the average of the current rates and rates to be effective July 1, 1975.
- b. Fuel costs increased from an estimated 8.1 cents per mile to an actual 9.1 cents per mile.
- c. Loading, unloading, driving, and terminal times have been better than estimated, but no reduction in costs was included, thus actually resulting in an overstatement of costs in Exhibit 3-A.
- d. Based on the above items, the actual operating ratio is 90.6, computed on a per load basis from gross revenues of \$250, expenses of \$226.41, and profit of \$23.59 (see Exhibit 3-A).

13. Fikse presently performs substantial transportation service for the shipper and has the equipment necessary to achieve the maximum payload.

14. The shipper has indicated that it will continually work with the applicant in the event there are any unanticipated inflationary spirals (see Appendix A to second amendment to application).

The California Trucking Association (CTA) has filed a protest to the original application, but since the filing of the second amendment to the application on March 10, 1975, a copy of which was served upon CTA, there has been no response. We did not believe their protest to be substantial enough to warrant a public hearing prior to the issuance of the Interim Opinion. The applicant

has filed an actual operating cost study since the issuance of the Interim Opinion, which does not reflect any significant changes from the estimated cost study and which indicates that the proposed deviation is profitable to the applicant. In view of this filing of experienced costs by applicant, and the failure of CTA to respond in any meaningful manner,^{2/} we deem a hearing to be unnecessary.

Findings

1. The circumstances that exist for applicant's transportation of the commodity involved in this proceeding which are not present in the ordinary transportation of this commodity are:

- a. The transportation of flue dust is similar to that of cement, and the rate requested is greater than the present minimum rate for cement;
- b. There is a guaranteed rate for 50,000 pounds per unit whether or not that much can be loaded in any one unit;
- c. The power to unload the trucks will be furnished by the shipper, thus reducing applicant's costs;
- d. The high frequency and maximum loadweights of the service allow the most efficient and lowest cost use of manpower and equipment;
- e. Loading, unloading, driving, and terminal times have been less than originally estimated, thus reducing applicant's actual costs below those shown in Exhibits 3 and 3-A.

2. There is a cost saving directly attributable to applicant's transportation of the commodity involved.

3. The proposed rate is compensatory, reasonable, and justified.

4. The protest filed by CTA is not substantial enough to warrant a hearing, and no protest was made after the applicant filed its second amendment to the application containing a cost study based on actual operating experience.

^{2/} In fact, CTA has failed to respond at all to applicant's second amendment to the application.

5. Section 3666 of the Code does not require a hearing in a proceeding of this nature.

6. The minimum rate deviation requested should be granted.

Since conditions under which the service is performed may change at any time, the authority granted in the ensuing order will expire at the end of one year unless sooner canceled, modified, or extended by order of the Commission.

O R D E R

IT IS ORDERED that:

1. Fikse Bros., Inc., a California corporation, is authorized to depart from the minimum rates set forth in Minimum Rate Tariff 2 by charging those rates set forth in Appendix A of this decision. This authority does not include any deviation from any rates, rules, or regulations except as specifically set forth in Appendix A.

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

The effective date of this order shall be June 17, 1975.

Dated at San Francisco, California, this 13th day of

MAY 1, 1975.

Veronica P. S. [Signature]
President
William [Signature]
[Signature]
[Signature]
[Signature]
Commissioners

APPENDIX A

Carrier: Fikse Bros., Inc.

Shipper: Kaiser Cement & Gypsum Corp.

Commodity: Flue dust, in bulk.

Origin: Plant site of Kaiser Steel Corporation at or near Fontana, California.

Destination: Plant site of Kaiser Cement & Gypsum Corp. at or near Cushenbury, California.

Rate: 25 cents per 100 pounds, minimum weight 50,000 pounds per shipment (subject to Notes).

Note 1: Loading Time: An additional charge of \$3.30 shall be assessed for each 15-minute period or fraction thereof after the first 60 minutes of free time. Free time is not to commence before scheduled arrival time at the loading hopper or actual arrival time, whichever is later.

Note 2: Unloading Time: An additional charge of \$3.30 shall be assessed for each 15-minute period or fraction thereof after the first 90 minutes of free time. Free time is to commence at actual arrival time at plant of Kaiser Cement & Gypsum Corp. at or near Cushenbury, California.

Note 3: Kaiser Cement & Gypsum Corp. is to supply power for unloading.

Note 4: In all other respects the provisions of Minimum Rate Tariff 2 are applicable.