

ORIGINAL

Decision No. 84604

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ROBERT WILLIAM HARRIS  
for authority under Section 3666 of  
the Public Utilities Code of the  
State of California to deviate from  
the minimum rates for the transporta-  
tion of glass bottles, demijohns or  
jars for OWENS-ILLINOIS, INC., between  
certain points.

Application No. 55315  
(Filed November 14, 1974)

Robert W. Harris, for himself, applicant.  
E. H. Griffiths, for Vandell Truckaway,  
Inc., protestant.  
Eldon M. Johnson, Attorney at Law, and  
O. F. Marcantonio, for Guthmiller  
Trucking; Dennis O'Brien, Attorney at  
Law, for O'Brien Freight Lines, dba  
Atlas Freight Lines; John J. Wynne,  
for Owens-Illinois; Bobbie G. Vaughn,  
for U.S. Department of State (Dispatch  
Agency); and R. C. Broberg and H. W.  
Hughes, for California Trucking  
Association; interested parties.  
Russell D. Corning, for the Commission  
staff.

### O P I N I O N

Applicant holds a highway contract carrier permit. By this application he seeks authority to assess less than minimum rates for the transportation of glass bottles, carboys, demijohns or jars, other than cut, with or without their equipment of caps, covers, stoppers, or tops, one gallon or less in capacity for Owens-Illinois, Inc. from their plants, warehouse, and storage sites in Oakland to destinations located in Sacramento, Rutherford, St. Helena, Salinas,

San Jose, Saratoga, San Francisco, and Vallejo and from said company's plants, warehouse, and storage sites in Tracy to destinations located in Rutherford, St. Helena, San Francisco, Fresno, San Jose, Saratoga, and Vallejo.

By interim order in Decision No. 83722 dated November 18, 1974, the relief sought was granted on an interim basis pending hearing. Public hearing was held before Examiner O'Leary on January 24, March 3 and 4, and April 30, 1975 at San Francisco. The matter was submitted on the latter date.

At the hearing of April 30, 1975 applicant amended his application to seek relief only from the facilities of Owens-Illinois, Inc. at Oakland and Vallejo to the Seven Up Bottling Company plants in San Francisco, San Jose, and Vallejo.

Revenue and expense data submitted by applicant (Exhibit 8) indicate that the transportation at the proposed rates will be compensatory. However, cross-examination of applicant and his bookkeeper revealed that with very few exceptions the cost figures contained in Exhibit 8 are not his cost figures but rather the cost figures previously submitted by protestant Yandell Truckaway, Inc. in Application No. 54378.

This Commission has consistently held in applications seeking deviations from minimum rates that a showing that the proposed rates will exceed the costs of providing service is indispensable to the requisite finding that the proposed rates are reasonable, Re Paper Transport (1964) 63 CPUC 690. Since the bulk of the costs set forth in Exhibit 8 are not those of applicant, a showing that the proposed rates will exceed the costs of providing service has not been made.

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The Commission finds that applicant has not shown that the proposed rates will exceed the cost of providing service, and therefore has not sustained his burden of proof that the proposed rates are reasonable. We conclude that the application should be denied and that the interim authority authorized by Decision No. 83722 should be rescinded.

Though we find that applicant has failed to establish that the proposed rates would be compensatory and reasonable, we place applicant on notice that the Commission has set in motion a procedure that might soon allow this applicant to charge the rates denied in this proceeding. We refer to Decision No. 84539 in which we stated our intention "to implement a new regulatory program." We may require all carriers to file tariffs, without regard to whether the rates contained therein are below the minimum, thereby allowing this applicant to determine for himself whether his proposed rates are compensatory.


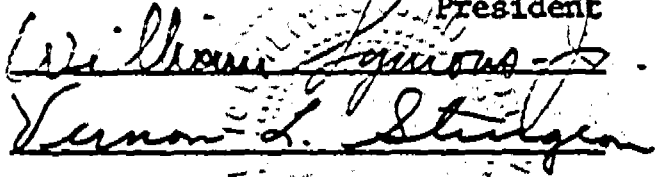
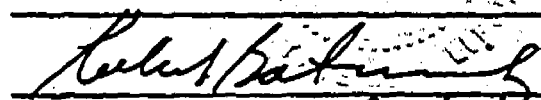
O R D E R

IT IS ORDERED that:

1. Application No. 55315 is denied.
2. The authority set forth in Decision No. 83722 is rescinded.

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

Dated at San Francisco, California, this 1st  
day of JULY, 1975.

  
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President  
  
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Commissioners