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ORIGINAL

Decision No. 85424

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of J. S. SHAFER, JR.,
for authority, pursuant to
provisions of Section 3666 of the
Public Utilities Code, to depart
from the minimum rates, rules and
regulations of Minimum Rate Tariff
No. 17-A.

Application No. 56129
(Filed December 18, 1975)

INTERIM OPINION

Applicant J. S. Shafer, Jr., seeks authority to assess certain tonnage rates named in Item 300, Minimum Rate Tariff 7-A (MRT 7-A), in lieu of the otherwise applicable rates named in Item 65, Minimum Rate Tariff 17-A (MRT 17-A). The proposed rates are about 25 percent lower than the applicable minimum rates for the same transportation.

The service for which the rate deviation is sought involves the transportation of asphaltic concrete from the Griffith Company (Griffith) plant located in Irwindale to a construction project on Venice Boulevard between Cadillac Avenue and Overland Avenue in the city of Los Angeles. According to the application the project will require about 14 months to complete. Applicant also proposes that should the rates in Item 300, MRT 7-A, be increased during the period the deviated rates are in effect, that the rates authorized will be adjusted to the same level, effective concurrently with the new MRT 7-A rates.

Applicant proposes to use 19 bottom-dump double trailer units, all but one of which will be rented to underlying carriers. Statements of 14 underlying carriers in support of the relief requested were attached to the application. Applicant alleges that "...the rates requested are prima facie reasonable in that they are the current minimum rates applicable to the specific type of transportation and no modifications or increases have been petitioned for." The favorable loading, unloading, and route conditions are also cited in support of the relief sought.

By letter dated December 30, 1975 the California Dump Truck Owners Association (CDTOA) opposes the application in toto and especially any ex parte action. According to CDTOA the relief sought is an obvious "adverse selection" procedure, the subject of which was developed during the hearing on Petition 13 in Case No. 9819. A number of decisions were cited wherein alternation of rates between MRT 17-A and MRT 7-A was not permitted. CDTOA also questions the propriety of the proposed use of underlying carriers and directs attention to the examiner's proposed report in the matter of OSH 238 in Case No. 5437 et al., regarding the relationship between power units pulling non-owned trailing equipment. And lastly the question as to applicants status as a carrier was raised, citing Decision No. 85188 in Application No. 55672.

We agree with applicant that the proposed rates are prima facie reasonable, but only for a limited period, during which actual cost and operational data may be obtained. Such data should then be presented at a public hearing. A determination of the appropriate rates could then be made based on conditions under which the particular transportation service is conducted. Interim authority will be granted for this purpose.

Applicant should be prepared to present costs experienced by the underlying carriers during the interim period. Such cost data should include factors from which a determination of the proper level of rental charges for trailing equipment may be made. In this regard applicant's attention is directed to the Proposed Report of Examiner John W. Mallory dated November 13, 1975 in Case No. 5437, Order Setting Hearing 238 and related matters. Furthermore, applicant should be prepared to present evidence demonstrating his status as a carrier in response to the question raised by paragraph 6 of CDTOA's letter. CDTOA should be equally prepared to present evidence that will assist the Commission in its determination.

INTERIM ORDER

IT IS ORDERED that:

1. J. S. Shafer, Jr., is authorized to depart from the minimum rates set forth in Minimum Rate Tariff 17-A 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 June 30, 1976 unless sooner canceled, modified, or extended by order of the Commission.

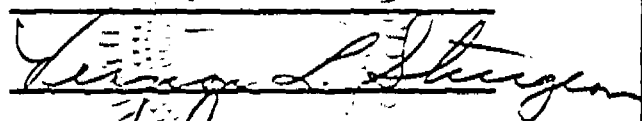
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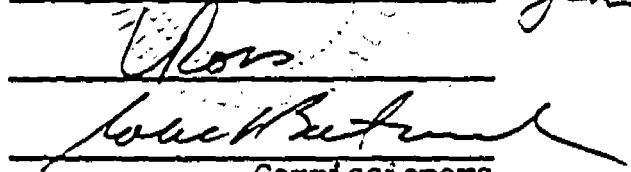
3. A public hearing shall be scheduled on this application at a date to be set.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 3rd day of FEBRUARY, 1976.


President




Commissioners

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

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APPENDIX A

Shipper: Griffith Company, Irwindale, California.

Commodities: Asphaltic concrete as described in Item 65,
Minimum Rate Tariff 17-A.

From: Griffith Company, Irwindale Production Area 19-F.

To: Venice Boulevard construction project extending from
Cadillac Avenue to Overland Avenue in the city of Los Angeles.

Rates: The rates named in Item 300, Minimum Rate Tariff 7-A
for distances of:

27 - 28 miles
28 - 29 miles
29 - 30 miles.

Conditions:

- (a) Charges to underlying carriers for trailer rental shall be 25 percent of the rate authorized herein in connection with transportation services performed by such underlying carriers under the authority described above.
- (b) Other than the authority described above, all other provisions of Minimum Rate Tariff 17-A shall apply.