

Decision No. 86030

ORIGINAL

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

RULING ON MOTION TO STRIKE AND
ORDER EXTENDING TIME

By Decision No. 85424 dated February 3, 1976, applicant J. S. Shafer, Jr., was granted temporary authority, pending public hearing and final determination, to deviate from the minimum rates for the transportation of asphaltic concrete to a construction project on Venice Boulevard in the city of Los Angeles.

Among other things, applicant was advised that evidence pertaining to the question of applicant's status as a carrier would be expected to be produced at a public hearing.

At a prehearing conference held on April 12, 1976 in San Francisco during which the principal issues in this matter were discussed and defined, applicant moved that the issue of carrier status be struck from this proceeding on the grounds that this issue is not normally raised in this kind of proceeding and that it was not fair and reasonable to have this issue pressed at this time.

The California Trucking Association supported the motion while the California Dump Truck Owners Association (CDTOA) opposed it. CDTOA did comment that it would prefer that the issue be considered

in a general proceeding, but in the absence of such an investigation resisted withdrawal of that issue at this time. The motion was taken under submission.

After consideration it is evident that the effect of a determination of the carrier status of overlying carriers (brokers), which varies from the present concept, would be widespread, including transportation services other than that provided by dump truck carriers. Such a determination based on the circumstances applicable to a single carrier's performance on a single construction project would not be appropriate. The motion to strike the issue of carrier status is granted.

The temporary authority will expire June 30, 1976. The construction project involved has been delayed; therefore, the bulk of the transportation service will not occur until after June 30, 1976. Since final determination of this matter cannot be made before the present authority expires, the time will be extended to December 31, 1976.

IT IS ORDERED that:

1. The authority granted by Decision No. 85424 shall expire on December 31, 1976 unless sooner canceled, modified, or extended by order of the Commission.

2. In all other respect Decision No. 85424 shall remain in full force and effect.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 29th
day of JUNE, 1976.

William Symons Jr. President
Vernon L. Sturgeon
Thos.
Robert Bateman Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.