

ORIGINAL

Decision No. 86667

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 )	Application No. 56658
Deviate from certain Minimum )	(Filed July 29, 1976)
Rates on shipments transported )	(Amended October 12, 1976)
for BALL CORPORATION, pursuant )	
to Section 3666 of the Public )	
Utilities Code. )	

OPINION AND ORDER

By this application, as amended, J.I.M. CORPORATION, a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 2 in connection with the transportation of bottles, carboys, demijohns or jars for Ball Corporation from El Monte to various points in California.<sup>1</sup>

The application, as amended, is based on special circumstances and conditions detailed therein.

<sup>1</sup>The present and proposed rates in cents per 100 pounds, exclusive of applicable surcharges, for representative shipments of bottles, carboys, demijohns or jars are:

From El Monte MZ 220 To	<u>Present Rate</u> Minimum Weight 40,000 Pounds	<u>Proposed Rate</u> Minimum Weight 40,000 Pounds
San Francisco MZ 101	141	95
Fresno	110	86
Sacramento	141	122

The application and amendment thereto were listed on the Commission's Daily Calendar of August 2 and October 14, 1976. California Trucking Association (CTA) objected to the ex parte handling of this matter stating that applicant seeks authority to assess rail rates to off-rail locations without any data supporting the reasonableness of such proposals. CTA declares, "the fact that the reduction in revenue is less than the net income for the entire operation during the first six months of 1976 implies that other traffic may be compelled to subsidize lower rates for a single shipper".

Applicant responded to CTA's allegations stating that the application is based solely on the cost of handling the traffic to the various destinations involved and whether or not the consignee is located on a rail siding has nothing to do with the cost of handling such traffic. Applicant also indicated to CTA that the northbound traffic herein involved is all for a single shipper and is more profitable than the southbound traffic as it would develop an operating ratio of 82 percent under the proposed rates compared with an operating ratio of 97 percent for southbound traffic during the same six-month period.

Revenue and expense data submitted in the original application and the additional revenue and expense data covering the southbound (backhaul) traffic furnished in the amended application are sufficient to determine that the transportation involved may reasonably be expected to be profitable under the proposed rates.

In the circumstances, the Commission finds that applicant's proposal is reasonable. A public hearing is not necessary. The Commission concludes that the application should be granted as set forth in the ensuing order and the effective date of this order should be the date hereof because there is an immediate need for this rate relief.

IT IS ORDERED that:

1. J.I.M. Corporation, a corporation, is authorized to perform the transportation shown in Appendix A attached hereto and by this reference made a part hereof at not less than the rates set forth therein.

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

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 23rd day of November, 1976.

[Signature]  
President

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners

I will file a dissent.  
William Lyons, Jr.

## APPENDIX A

Carrier: J.I.M. Corporation, a corporation.  
 Commodity: 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 as described in Sub 2, Item 87700, National Motor Freight Classification NMF 100-C.  
 For: Ball Corporation  
 From: El Monte

<u>To</u>	<u>Rates in Cents Per 100 Pounds</u>
Atwater	95
Berkeley	95
Castroville	95
Fremont	95
Fresno	86
Lindsay	84
Lodi	116
Manteca	95
Morgan Hill	95
Oakland	95
Pleasanton	95
Redwood City	95
Richmond	95
Salinas	95
San Francisco	95
San Jose	95
San Leandro	95
Sacramento	122
Sunnyvale	95
Stockton	95
Strathmore	84
Visalia	84

Minimum Weight: 40,000 pounds

## Conditions:

1. Applicant has not indicated subhaulers will be engaged nor have any costs of subhaulers been submitted. Therefore, if subhaulers are employed, they shall be paid no less than the rates authorized herein without any deduction for use of applicant's trailing equipment.
2. In all other respects, the rates and rules in Minimum Rate Tariff 2 shall apply.

(END OF APPENDIX A)

A. 56658 - D.

J I M CORPORATION

COMMISSIONER WILLIAM SYMONS, JR., Dissenting

This decision granting a deviation is defective for the reasons previously set forth in detail in my August 24, 1976, dissenting opinion to Decision Nos. 86274 through 86279. The decision is granted ex parte, despite legitimate questions being raised by protestant -- the request for a hearing is overridden. Likewise, the decision is made effective immediately, and it contains cursory discussion and the boiler-plate language which is becoming so common in these decisions:


"The application, as amended, is based on special circumstances and conditions detailed therein."

and

"Revenue and expense data submitted ... are sufficient to determine that the transportation involved may reasonably be expected to be profitable under the proposed rates."

Thereby, the majority avoids setting forth sufficient facts about the special circumstances of the transportation which a person might review to see if the deviation is justified.

San Francisco, California  
November 23, 1976

  
WILLIAM SYMONS, JR.  
Commissioner