

Decision No. 87909 SEP 27 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of J. S. Shafer, Jr.,  
for authority, pursuant to Provi-  
sions 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. 55672  
(Filed May 6, 1975;  
amended March 16, 1977)

(See Decision No. 86648 for appearances.)

Additional Appearance

Clyde H. Peeples, for the Commission staff.

FINAL OPINION AND ORDER

This application (first filed May 6, 1975) has a long history of amendments and decisions. For reference purposes the twelve decisions to date are listed in Appendix A together with a synopsis of their provisions. At a hearing held June 2, 1977 in Los Angeles all parties agreed that there are only two issues yet to be resolved.

The first involves applicant's petition for modification dated January 3, 1977 which requests additional modification to the original authorizations restricting the use of subhaulers. The proposal is shown in Appendix B attached hereto.

The second issue involves substantiation by applicant of the terminal end and traverse times for the movement from Transit Mixed Concrete plant (formerly Azusa Western) to the Griffith Company Asphalt plant, or Production Area 19-G to Delivery Zone 19245.

It was further agreed by the parties at the June 2nd hearing that no further evidence would be taken but that the parties would submit on briefs to be filed July 15. Briefs were filed by three parties: applicant, California Trucking Association, and California Dump Truck Owners Association.

The first issue can be conveniently broken into two parts. Applicant wants to be able to temporarily replace any of his three authorized subhaulers with secondary subhaulers if the primary subhaulers cannot operate for reasons of health, family illness, or vacation. This is a reasonable request and we will grant it with the proviso that the substitution for any of the three authorized subhaulers cannot exceed fifteen working days per year per primary subhauler. The second part of the request asks that unnamed secondary subhaulers be authorized to transport not more than one load per day for applicant when such movement is incidental to that subhauler's regular transportation. This makes sound economic sense for all concerned including the secondary subhauler; but, to protect against any possible abuses and keep the authorization unique to this applicant, we will require that such secondary subhaulers complete at least one round trip per day of transportation other than that involved in this proceeding.

On the second issue there is no reason not to grant the rate requested for the movement from the Transit Mixed Concrete plant. No one challenged the data presented in support of the request which is contained in the amendment filed on March 16, 1977. Applicant was ready and willing to support the request at the June 2nd hearing. No one requested further testimony or cross-examination.

A Special Note

The following footnote was contained in applicant's brief:  
"Since the final submission of this proceeding in early June, the Griffith Company has sold its asphaltic concrete plants to Hunt Mix, Inc. While it is true that Hunt Mix Inc. has utilized another trucking company for some of the movements of the subject transportation since this acquisition, Applicant is informed and believes that he will continue to perform the majority, if not all, of the subject transportation. Assuming that Applicant does continue to perform the subject transportation, Applicant will request a modification of Appendix A to his current authorities in this proceeding to reflect the change in name of the shipper. If Applicant does not continue to perform the haul, then applicant will so advise the Commission, and request a discontinuance of the authority on the ground that it is moot."

Findings

1. The modifications to the subhauler restrictions requested by applicant are reasonable and should be authorized subject to the record keeping required by the following order.
2. The terminal end and traverse times presented by applicant for the movement from the Transit Mixed Concrete plant to the Griffith Company Asphalt plant are reasonable and the requested rate based thereon of \$2.02 per ton is reasonable, with a rate of \$1.52 for authorized underlying carriers.
3. For convenience, all of the authorities granted by this decision and the decisions noted in Appendix A should be restated in Appendix C attached hereto and should expire concurrently on November 16, 1977.

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 C attached hereto.

2. J. S. Shafer, Jr. and all applicable subhaulers shall keep such records as are necessary to substantiate that:

- a. No secondary subhauler has substituted for the primary subhaulers named in Appendix C more than fifteen working days per year for each primary subhauler, and
- b. Any secondary subhauler used for only one trip per day shall, on that same day, have performed at least one round trip of other transportation.

3. The authority granted herein shall expire on November 16, 1977 unless sooner canceled, modified, or extended by the Commission.

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

Dated at San Francisco, California, this 27th day of SEPTEMBER, 1977.

Robert B. Brown  
President

Yurgen L. Sturgis  
Philip D. Chavala  
Clair L. DeLoach  
Commissioners

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

## APPENDIX A

<u>Dec. No.</u>	<u>Date</u>	<u>Action</u>
84531	6/10/75	Authorized deviation for Owl Rock to Griffith Co. (Area 19-G to Zone 19245) at \$1.89/ton with 25% subhauler trailer rental.
84952	9/30/75	Added Conrock to authority granted by D.84531.
85214	12/2/75	After hearing 10/17/75 extended Owl and Conrock deviations to 6/30/76 to provide time for applicant to gather cost data for applicant and subhaulers.
85650	3/30/76	Changed Owl/Conrock rate to \$1.99 per ton to reflect tariff increases and payload changes.
86028	6/29/76	After hearing April 6 and 12, 1976 extended Owl/Conrock to 8/30/76.
86145	7/19/76	Added Azusa Western to deviation at a rate of \$2.08/ton expiring 12/31/76; continued 25% trailer rental.
86300	8/24/76	Extended Owl/Conrock to 10/31/76.
86531	10/19/76	Extended Owl/Conrock to 11/30/76.
86648	11/16/76	Adjusted Owl and Conrock rates to \$1.99 and \$1.92 with subhaulers to get \$1.49 and \$1.44 limited to 3 named subhaulers. Expires 11/16/77.
86790	12/21/76	Extended Azusa Western to 3/31/77.
87154	3/29/77	Extended Azusa Western to 6/30/77.
87490	6/21/77	Extended Azusa Western to 9/30/77. (Azusa Western is now Transit Mixed Concrete.)

## APPENDIX B

Applicant's proposal for amending the restrictions on the use of underlying carriers contained in the currently authorized deviation and as more particularly set out in the amendment to the application dated January 3, 1977. Underscored portion is proposed change.

"If any underlying carrier, other than Richard C. Kellogg, Scott P. Swope or Juan A. Veggezzi, is engaged on a permanent basis as a replacement for any one or more of the above-mentioned sub-haulers, a verified statement shall be filed with the Commission showing the underlying carrier's name, equipment description, and cost information, such that it may be determined whether such an underlying carrier's cost is within the range established by the three carriers named above; provided however, that if any of the three above-named subhaulers (primary subhaulers) are temporarily unable to perform transportation services in question for reasons of health, illness in the family, or vacation, a secondary subhauler may be substituted in place of the primary subhauler on a temporary basis without the need for filing such a verified statement: provided, further, however, that any other subhauler (secondary subhauler) may be used for the subject transportation without the need for filing such a verified statement, when such transportation is incidental to the secondary subhauler's regular transportation duties, and as long as such secondary subhauler shall not be used for the subject transportation for more than one movement per day."

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Shipper: Griffith Company, Wilmington, California.

Commodities: Rock, sand, and gravel as described in Item 60,  
Minimum Rate Tariff 17-A.

To: Griffith Company, Wilmington. Delivery Zone 19245.

From: Owl Rock Company, Azusa. Production Area 19-G.

Rate: \$1.99 per ton.

From: Conrock, Irwindale. Production Area 19-G.

Rate: \$1.92 per ton.

From: Transit Mixed Concrete, Azusa. Production Area 19-G.

Rate: \$2.02 per ton.

Conditions:

- (a) Underlying carriers supplying tractors pulling trailing equipment furnished by J. S. Shafer, Jr. shall be paid no less than \$1.49 per ton from Owl Rock, \$1.44 from Conrock, and \$1.52 from Transit Mixed Concrete.
- (b) If any underlying carrier, other than Richard C. Kellogg, Scott P. Swope, or Juan A. Veggezzi, is engaged on a permanent basis as a replacement for any one or more of the above-mentioned subhaulers, a verified statement shall be filed with the Commission showing the underlying carrier's name, equipment description, and COST information, such that it may be determined whether such an underlying carrier's cost is within the range established by the three carriers named above; provided however, that if any of the three above-named subhaulers (primary subhaulers) are temporarily unable to perform transportation services in question for reasons of health, illness in the family, or vacation, a secondary subhauler may be substituted in place of the primary subhauler for a period not exceeding fifteen (15) working days per year for each primary subhauler

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without the need for filing such a verified statement; provided, further, however, that any other subhauler (secondary subhauler) may be used for the subject transportation without the need for filing such a verified statement as long as such secondary subhauler makes no more than one movement per day of the transportation covered by this deviation in addition to at least one round trip on the same day of other transportation.

- (c) Other than the authority described above, all other provisions of Minimum Rate Tariff 17-A shall apply.