

ORIGINAL

Decision No. 88837 MAY 16 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of George Kishida,)
 Inc., a California Corporation,)
 for authority to depart from the)
 rates, rules and regulations of)
 Minimum Rate Tariff 7 pursuant to)
 the provisions of Section 3666 of)
 the Public Utilities Code, for the)
 transportation of silica sand from)
 Ione, California, to Kingsburg,)
 California for Guardian Industries)
 Corporation.)

Application No. 57935
 (Filed March 17, 1978)

OPINION AND ORDER

By this application, George Kishida, Inc., a corporation, requests authority to deviate from the provisions of Minimum Rate Tariff 7 in connection with the transportation of silica sand for Guardian Industries Corporation (Guardian) from Ione to Kingsburg.¹

Applicant states that it is presently transporting silica sand from Ione for other shippers. Loading is performed by means of overhead bunker and unloading is performed by dumping in a pit and by conveyor system.

According to applicant transportation will be performed on a regular basis with a minimum movement of from 10 to 12 trucks loads per day, Monday through Friday.

Applicant points out that Guardian's plant in Kingsburg is now under construction and is due for completion in July, 1978. To the best of applicant's knowledge no other carrier has been contracted to haul silica sand for this shipper to or from this plant.

¹ The present minimum and proposed rates in cents per ton for representative shipment of silica sand from Ione to Kingsburg are:

Present Rate
 Minimum Weight
24 Tons

932

Proposed Rate
 Minimum Weight
27½ Tons

700

Applicant alleges that the two principal competitors of Guardian are Pittsburg Glass Company located in Fresno and Libbey-Owens-Ford Company located in Lathrop. Transportation of silica sand to these plants are predicated on rail alternative rates. Guardian must, therefore, assess comparable rates in order to meet competition. The sought authority would place Guardian on a comparable level to its competitors.

Applicant contemplates the use of 19 subhaulers with remuneration provided in Items 126 and 210 (80%-20% and 95%-5%) of Minimum Rate Tariff 7-A.

The application was listed on the Commission's Daily Calendar of March 20, 1978. California Trucking Association (CTA) wrote a letter on April 5, 1978 opposing the ex parte consideration requested by applicant. No objection to the granting of the application has been received in the form prescribed by Rule 42.2 of the Commission's Rule of Practice and Procedure. Rule 42.2 requires that a protest must be filed in accordance with Rules 7 and 11 (original and twelve conformed copies) of the Commission's Rules of Practice and Procedure and within 20 days of the publication of the filing of the application or petition in the Commission's Calendar. These conditions have not been met by CTA. CTA's letter states that some of the subhaulers' fixed costs are understated because no present values are shown. It cites Decision 77767 (Major Truck Lines) wherein the Commission enunciated that a value must be shown to determine the reasonableness of the proposed deviation, although the original cost may have been fully recovered.

The Commission has determined by contact with the applicant, that the salvage values of the involved vehicles are low and they would not, in any manner, significantly affect the proposal.

CTA's letter also states that the subhaulers which applicant intends to engage have not joined in this application.

The subhaulers in question have submitted verified statements of their cost data which in effect satisfies the requirement for joining in the aforesaid application.

Revenue and expense data submitted by applicant in the form of verified statements by 19 subhaulers named in Appendix A attached hereto are sufficient to determine that the division of revenues between George Kishida, Inc., and the aforementioned subhaulers for the involved transportation may reasonably be expected to be profitable for all parties concerned at the authorized rate.

In the circumstances, the Commission finds that applicant's proposal is reasonable to the extent hereinafter indicated. A public hearing is not necessary.

The Commission concludes that the application should be granted as set forth in the ensuing order.

IT IS ORDERED that:

1. George Kishida, Inc., a corporation, is authorized to perform the transportation shown in Appendix A attached thereto and by this reference made a part hereof at not less than the rate 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 shall be thirty days after the date hereof.

Dated at San Francisco, California, this 16th
day of MAY, 1978.

Robert Batiminski
President
William J. Snow, Jr.
Verizon L. Stutzgen
Richard W. Lewis
Clair T. DeLoach
Commissioners

APPENDIX A

George Kishida, Inc., a corporation, is authorized to transport silica sand from Ione to Kingsburg for Guardian Industries Corporation at a rate of \$7.00 per short ton minimum weight 55,000 pounds (27½ tons) subject to the following conditions:

1. Applicant has indicated that subhaulers will be engaged. If the following subhaulers are employed they shall be paid the rate authorized herein computed in accordance with the provisions set forth in Items 126 and 210 of Minimum Rate Tariff 7-A:

A. Berchtold	T-97,007
Ken Cossins	T-97,574
Frank Costa	T-115,253
Ramon Gonzalez	T-54,012
Ramon Gonzalez Jr.	T-117,674
Gary Grimes	T-110,604
D. Hieb	T-93,627
F. Kaida	T-93,629
Tom Kiriu	T-93,630
Wesley Lawce	T-93,642
Gene Pate dba L&E Trans- portation	T-94,417
Eugene Quarton	T-118,685
Louis Rivera	T-82,318
Mickey Shirakawa	T-93,636
J. Utz	T-119,697
J. Van Zant	T-93,905
Bill Yamada	T-81,692
Jim Yamauchi	T-93,641
Adrin Polk	T-112,362

2. If any other subhaulers are employed, they shall be paid not less than the rates authorized herein without any deduction for use of applicant's trailing equipment.

3. In all other respects, the rates and rules set forth in Minimum Rate Tariff 7-A shall apply.

(END OF APPENDIX A)