

ORIGINALDecision No. 72860

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
 into the rates, rules, regulations,)
 charges, allowances and practices)
 of all common carriers, highway)
 carriers and city carriers relating)
 to the transportation of any and all)
 commodities between and within all)
 points and places in the State of)
 California (including but not)
 limited to, transportation for which)
 rates are provided in Minimum Rate)
 Tariff No. 2).

Case No. 5432

Petition for Modification No.
448

(Filed March 27, 1967)

J. J. Devine, for Devine & Son Trucking Co.,
petitioner.R. W. Smith, H. F. Kollmyer and Arlo D. Poe,
for California Trucking Association,
interested party.Robert W. Stitch and Joseph C. Matson, for the
Commission staff.O P I N I O N

This matter was heard and submitted April 21, 1967,
 before Examiner Thompson at Sacramento. Copies of the petition and
 notice of hearing were served in accordance with the Commission's
 procedural rules. There are no protests.

Devine and Son Trucking Co., hereinafter referred to as
 petitioner, is a corporation engaged in transporting property as a
 highway common carrier and as a highway contract carrier. It seeks
 authority from the Commission under Section 3666 of the Public
 Utilities Code to charge less than the minimum rates for the
 transportation of unprocessed bark and sawmill residue for Vita-
 Bark, Inc., from Anderson, Red Bluff and Potter Valley to Elk
 Creek.

Petitioner transports a large volume of lumber for Glenco Forest Products as a highway common carrier. Glenco has a large mill operation at Elk Creek. By-products of Glenco's lumber operation are wood chips and bark. Since 1960 petitioner has transported wood chips from Glenco's mill at Elk Creek to Ukiah. It also transports wood chips from Paskenta to Anderson. The transportation of wood chips is not subject to minimum rates and petitioner hauls that commodity as a highway contract carrier at rates negotiated with the shippers. For such transportation petitioner acquired special trailer equipment which may be described as open-top, 26-foot vans equipped with a hydraulic hoist for end-dumping.

Vita-Bark, Inc., is engaged in the production of soil additives and nutrients, among other things, which are made from bark and sawmill residue. In 1964 it established a plant at Elk Creek adjacent to Glenco for grinding, sizing, storing and distributing ground bark products. For a few years its source of supply for raw material was the adjacent Glenco plant. In 1966 it required supplementary raw materials and arranged to acquire bark and residue from mills at Ukiah and Paskenta. Petitioner has enjoyed that traffic and has utilized the special equipment on its return from the wood chip hauls. It also enjoys the transportation of Vita-Bark's products from Elk Creek.^{1/}

Vita-Bark recently informed petitioner that it desires to further augment its supply of raw material at its Elk Creek plant. It has arranged with mills located near the termini of

^{1/} See Decision No. 70952 (unreported) dated July 12, 1966, in Application No. 48346.

petitioner's wood chip hauls to supply that raw material. It informed petitioner that the acquisition of such material is economically feasible only under transportation rates similar to those provided for the movements from Ukiah and Paskenta. An official of Vita-Bark testified that the company has plants at Truckee and Shingle Springs. It uses its own trucks to transport raw material and the finished products to and from those plants, and he is aware of the cost of operating the equipment performing such transportation. He has informed petitioner that Vita-Bark is ready and able to perform its own transportation at the Elk Creek plant if necessary.

The following is a comparison of the sought rates with those authorized by Decision No. 70952.

Rates in Dollars Per Unit (200 cu.ft.)
For Transportation of Bark to Elk Creek.

<u>From</u>	<u>Minimum Load</u>	<u>Rate</u>
<u>Sought Rates</u>		
5 Miles N.E. Potter Valley	15 Units	\$4.25
Anderson or Red Bluff	14.25 "	4.15
<u>Rates Authorized by D.70952</u>		
Ukiah	15 Units	\$4.15
Paskenta	14.25 "	4.15

Petitioner presented estimates of the costs to it of transporting bark from 5 miles N.E. of Potter Valley and from Anderson to Elk Creek as return loads from outbound hauls of wood chips to Ukiah and Anderson. The estimates are based upon cost factors of \$1.50 per hour for fixed vehicle expense, \$4.50 per hour labor expense, 12 cents per mile running costs, 12 percent indirect expense, and 4.07 percent for expenses based upon gross

revenue. Those factors were applied to 134 miles and 6-1/2 hours for the Potter Valley haul and 90 miles and 5 hours for the Anderson haul. The cost factors and performance factors appear to be reasonable. The estimates disclose that the proposed rates would be compensatory when transportation of the bark is performed in conjunction with the movement of wood chips to Ukiah and Anderson.

No one opposed the granting of the authority sought.

In Karl A. Weber, 60 Cal.P.U.C. 59, the Commission held that in proceedings brought under Section 3666 of the Public Utilities Code:

"Normally only the transportation conditions and circumstances surrounding the traffic tendered by the shipper will be considered in the determination of whether the proposed rate is reasonable. Unrelated traffic expected to be received from other shippers, but not assured and not directly involved in the proceeding, does not afford a reasonable basis of offsetting revenue deficiencies which would result from the proposed less-than-minimum rate."

Although Vita-Bark, Inc. is not the shipper of the wood chip transportation, the record shows that such transportation is assured to the carrier and is directly related to the proposed movement of bark. Under petitioner's proposal, the transportation of wood chips and the transportation of bark would be an integrated operation in that the latter commodity would not be transported except as a return from an assured wood chip haul. In applications brought under Section 3666 where the transportation for which the rate relief is sought will be compensatory only when considered with other transportation performed by the carrier for another shipper as a backhaul, and it has been shown that both movements are assured to the carrier and the transportation to be performed at the proposed rate is so closely related to the other transportation as to constitute an integrated operation, the Commission has

considered the revenues and expenses of the transportation at the proposed rate as a part of the integrated operation in determining whether that transportation would be compensatory. Mitchell Bros. Truck Lines, 61 Cal.P.U.C. 422; Ragus Trucking, Inc. (1966) Decision No. 71500 in Application No. 48626. Such is the case here.

Although petitioner is not a highway common carrier of wood chips or of bark, it does conduct a substantial highway common carrier operation out of Elk Creek and has facilities, including equipment and personnel, at that location in connection with such operation. The revenues from the integrated transportation of wood chips and bark will substantially contribute to the offsetting of the expense of maintaining said facilities.

The record discloses that there is no other carrier that might be able to obtain the transportation. The testimony of the official of Vita-Bark makes it clear that the established minimum rates exceed the value of the transportation service involved and that Vita-Bark is prepared to conduct its own transportation operations to and from its Elk Creek plant, in which case other traffic now enjoyed by petitioner would be lost to it.

We are cognizant of the fact that bark and sawmill residue are by-products which have little or no use except for processing into products such as soil additives and have customarily been disposed of as waste by burning. We are also aware that in recent years the intrusion of smoke into the atmosphere by the burning of wastes has been considered to be contrary to the best interests of the public.

We find that:

1. The method of the development of the cost estimates by petitioner is reasonable for the proposed operations.

2. When performed as an integrated operation with the movement of wood chips from Elk Creek to Ukiah and from Paskenta to Anderson, the transportation of bark and sawmill residue at the proposed rates will be compensatory.

3. In the absence of the authority herein requested, the transportation of bark, sawmill residue and products thereof to and from Vita-Bark's plant at Elk Creek may be diverted from regulated highway carriers.

4. The transportation of bark and sawmill residue proposed by petitioner at less than the established minimum rates is in the public interest and is justified by transportation conditions.

5. The proposed rates are reasonable.

We conclude that the authority sought in the petition herein should be granted. In view of the fact that there are no protests and Vita-Bark desires to augment its supply of raw material without delay, the authority which will be granted herein should be made effective ten days after the date of this order.

O R D E R

IT IS ORDERED that:

1. Devine & Son Trucking Co., a corporation, is authorized to charge and collect rates different from and less than the applicable minimum rates, but not less than the rates set forth in Appendix A attached hereto and by this reference made a part hereof, for the transportation of unprocessed bark and sawmill residue, in bulk, for Vita-Bark, Inc., from Crawford Lumber Co., located near Potter Valley, to Elk Creek when such transportation

APPENDIX A
Page 1 of 2

DEVINE & SON TRUCKING CO.

Schedule of Minimum Rates for the
Transportation of Unprocessed Bark
and Sawmill Residue for Vita-Bark,
Inc. to Elk Creek from Potter Valley,
Anderson and Red Bluff.

Section 1

Item No. 10 Except as provided in Section 2, the transportation shall be subject to the minimum rates and rules set forth in Minimum Rate Tariff No. 2 in effect at the time of transportation.

Section 2

Item No. 20 Rates in this section apply to the transportation of unprocessed bark and sawmill residue for Vita-Bark, Inc., to Elk Creek from:

- a) Crawford Lumber Co. located 5 miles N.E. of Potter Valley when such transportation is performed in conjunction with the transportation by the carrier of wood chips from Elk Creek to Ukiah.
- b) Anderson and Red Bluff when such transportation is performed by the carrier in conjunction with the transportation of wood chips from Elk Creek or Paskenta to Anderson.

Item No. 25 Rates in this section are based upon a unit of measurement of a unit equal to 200 cubic feet of the commodity in bulk.

APPENDIX A
Page 2 of 2

Item No. 30 Rates in Dollars per unit to Elk Creek

<u>From</u>	<u>Rate Per Unit</u>	<u>Minimum Load Per Trip</u>
Crawford Lumber Co. 5 mi. N.E. Potter Valley	\$4.25	15 Units
Anderson	4.15	14.25 Units
Red Bluff	4.15	14.25 Units

Item No. 40 Shipping Documents

Carrier shall issue a shipping document for each load and, in addition to the information required by Item No. 255 of Minimum Rate Tariff No. 2, shall make reference to the shipment of wood chips transported in conjunction with the transportation performed under the rates provided in this section.

End of Schedule