

Decision No. 84077

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
HILDEBRAND & SON TRUCKING, INC.,  
for authority, pursuant to the  
provisions of Section 3666 of the  
Public Utilities Code, to depart  
from the minimum rates, rules and  
regulations of Minimum Rate Tariff  
No. 7-A.

Application No. 54896  
(Filed May 20, 1974;  
amended June 17, 1974)

Handler, Baker & Greene, by Daniel W. Baker,  
Attorney at Law, for Hildebrand & Son  
Trucking, Inc., applicant.  
James R. Foote, for Independent Owner Operators,  
Inc.; E. O. Blackman and Ralph Eighmy, for  
California Dump Truck Owners Association;  
and James Tunstall, for Jim's Transfer  
Service; protestants.  
F. R. Golzen, for Universal Transport System;  
Mike Mallin for Miles & Sons Trucking  
Service; Les Calkins, for Les Calkins  
Trucking; and Robert Young, for YTS, Inc.;  
respondents.  
J. C. Kaspar, R. C. Broberg, and Herbert W. Hughes,  
for California Trucking Association; Michael  
McElroy, for Granite Construction Company;  
Edward E. Gay, for Teamsters Local 890;  
Tony J. Gellepis, for Teamsters Local 287;  
E. J. Bertana, for Lone Star Industries, Inc.  
(Northern California Division); and Ray S.  
Eruton, for Kaiser Sand & Gravel; interested  
parties.  
Raymond Toohey and George Hunt, for the Commission  
staff.

O P I N I O N

In this application, as amended, Hildebrand & Son Trucking, Inc. (Hildebrand), seeks authority to assess less than minimum rates for the transportation of earth, granite, rock, sand, and stone for Granite Construction Company from locations in Monterey and San Benito Counties to destinations in the same counties.

Public hearing was held before Examiner Mallory on a common record with Petition 277 in Case No. 5437 in Watsonville on August 12 and 13, 1974 and September 30 and December 6, 1974 in San Francisco. The relief sought in the application was amended and a request for dismissal of Petition 277 was made at the hearing on December 6, 1974, at which time the application was submitted. Petition 277 will be dismissed by separate order.

Evidence in support of the relief sought was presented by applicant's president, its secretary-treasurer, and its bookkeeper, by a certified public accountant, and by a representative of the shipper for whom the service is to be performed.

Minimum Rate Tariff 7-A (MRT 7-A) contains distance rates and hourly rates for the transportation of earth, rock, and sand in Northern Territory. The mileage and hourly rates in MRT 7-A alternate. Both types of rates are predicated on the same operating costs and are intended to return approximately the same revenues per trip.

The representative of Granite Construction Company and applicant's president presented oral and documentary evidence designed to show that within Monterey and San Benito Counties the minimum hourly rates consistently produce lower revenues than the minimum distance rates for the same hauls. The representative of Granite Construction Company testified that his company prefers the use of distance rates because the precise charge can be

determined in advance, and because charges do not vary between shipments between the same origin and destination. The witness stated that it is economically unfeasible to use distance rates when hourly rates produce substantially lower charges for the same hauls.

The evidence adduced by applicant's accountant was designed to show that the service to be performed by applicant will be compensatory. That evidence includes the development of costs per trip for representative distances which are based on loading, unloading, and running times for typical movements performed by applicant for Granite Construction Company.

The following table depicts the loading and unloading times developed for typical hauls from 12 producing plants to various locations within the proposed service area, as set forth in Exhibit 13:

TABLE 1			
HILDEBRAND & SON TRUCKING, INC.			
<u>Recap of Loading and Unloading Times</u>			
<u>Loads</u>	<u>M i n u t e s</u>		
	<u>Loading</u>	<u>Unloading</u>	<u>Total Loading and Unloading</u>
37	273	150	423
3	22	20	42
6	36	25	61
12	71	32	103
43	504	39	543
5	76	11	87
10	91	41	132
23	300	62	362
63	721	222	943
40	319	226	545
63	252	63	315
10	45	31	76
3	30	20	50
5	64	04	68
Totals	323	946	3,750
Averages	8.68	2.92	11.6
Converted to hours	.144	.048	.193

The running times used in applicant's cost study were developed by use of a speed curve from data set forth in its Exhibit 11.

The evidence shows that the combined running, loading, and unloading times for shipments transported by Hildebrand from commercial producing plants to jobsites or batching plants are less than the corresponding times used as a basis for the costs underlying the Northern Territory distance rates. The following table sets forth the costs of operation developed by applicant for typical lengths of haul, and compares the revenues resulting from the proposed rates with the total estimated costs of performing the service:

TABLE 2  
HILDEBRAND & SON TRUCKING, INC.  
Estimated Revenue and Expense for the Transportation  
of Rock, Sand and Gravel

Item	Length of haul - one-way miles					
	2	5	10	20	35	50
Equipment hours per trip:						
Loading and unloading time	.19	.19	.19	.19	.19	.19
Running time	.17	.30	.49	.89	1.50	2.12
Total	.36	.49	.68	1.08	1.69	2.31
Proposed rate (Minimum 24 tons)	\$ .35	\$ .48	\$ .76	\$ 1.26	\$ 2.01	\$ 2.76
Revenue per trip	\$ 8.40	\$11.52	\$18.24	\$30.24	\$48.24	\$66.24
Cost per trip:						
Equipment fixed cost	\$ .826	\$ 1.124	\$ 1.560	\$ 2.478	\$ 3.876	\$ 5.299
Equipment running cost	2.889	3.932	5.456	8.666	13.561	18.535
Driver wage cost	2.955	4.022	5.582	8.866	13.873	18.963
Total direct cost	\$ 6.670	\$ 9.078	\$12.598	\$20.010	\$31.310	\$42.797
Revenue costs	.198	.272	.430	.714	1.138	1.563
Indirect cost	.560	.763	1.058	1.681	2.630	3.595
Total cost	\$ 7.43	\$10.11	\$14.09	\$22.41	\$35.08	\$47.96
Net income	\$ .97	\$ 1.41	\$ 4.15	\$ 7.83	\$13.16	\$18.28
Operating ratio	88.5%	87.8%	77.2%	74.1%	72.7%	72.4%
Revenue per hour	\$23.33	\$23.51	\$26.82	\$28.00	\$28.54	\$28.68

The loading and unloading time of 0.19 hours set forth in Table 2 above compares with a total loading and unloading time in the staff cost study which underlies the Northern Territory rates (Exhibit 265-7) of 0.23 hours for rock and sand and 0.17 hours for earth. The equipment hours per trip (exclusive of loading and unloading) set forth in Exhibit 265-7 for transportation of rock and sand in Northern Territory are compared with data in Table 2 as follows:

TABLE 3  
Comparison of Equipment-Hours per Trip  
Length of Haul - One-Way Miles

	<u>5</u>	<u>10</u>	<u>15</u>	<u>25</u>	<u>50</u>
Exhibit 265-7 (MRT 7-A distance rates)	0.50	0.80	1.08	1.59	2.77
Table 2 (Hildebrand study)	0.30	0.49	0.70	1.10	2.12

The record shows that the preponderance of the dump truck transportation services in issue are performed by Hildebrand in its own equipment with union drivers. The driver wage costs used in Table 2 are based on Hildebrand's contract with Monterey-San Benito Counties Teamster Union local. Hildebrand also regularly employs subhaulers who are carried in its payroll. From time to time Hildebrand uses additional subhaulers, who are paid in accordance with the subhaul provisions in Item 210 of MRT 7-A. Hildebrand desires that the less-than-minimum rate authority sought herein be applicable in the circumstances where subhaulers are employed, as well as when union drivers are used.

Associated Independent Owner Operators, Inc. (AIOO) opposes the granting of the application on the basis that Hildebrand assertedly is a party to a "sweetheart" contract which provides lower labor costs than are provided in other Teamster labor contracts applicable to transportation of rock and sand in Northern Territory. AIOO also opposes the granting of the application on

the basis that "pullers" (tractor only subhaulers) may not find operations under the lower rates to be profitable.

California Dump Truck Owners Association (CDTOA) did not oppose the granting of the amended application, but expressed concern that no provision was made in applicant's cost study for nonrevenue time, that is, the deadhead time necessary to position equipment at the first point of loading and the time necessary to return the equipment to the garage or storage site from the last point of unloading. It is the position of CDTOA that a 10 percent factor for deadhead time similar to that used in staff cost studies should be incorporated in applicant's study.

California Trucking Association (CTA) indicated that the dismissal of Petition 277 and the amendment of the requested rate deviation authority to a service for a single shipper had significantly changed the issues originally presented. CTA expressed the view that the authority should be granted; however, CTA urged that the relief be limited to applicant's operations as a prime carrier because the costs submitted by it are largely developed from such operations.

The Commission staff stated that it had no position with respect to the granting of the relief sought nor with respect to the requested limitation to applicant's operations as prime carrier.

#### Findings

1. The Commission has established minimum rates for the transportation of earth, rock, sand, and gravel in dump truck equipment in Northern Territory in MRT 7-A. (Northern Territory includes all counties in the State except San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Imperial, Riverside, San Bernardino, Kern, Inyo, and Mono).

2. Applicant Hildebrand operates in Monterey and San Benito Counties. Approximately 75 percent of the transportation services performed by it are for Granite Construction Company.

3. Within Monterey and San Benito Counties, the minimum hourly rates provided in Item 390 of MRT 7-A produce lower charges for the same services than the corresponding distance rates per ton set forth in Item 290 for transportation of earth, rock, sand, and gravel.

4. Granite Construction Company prefers the use of distance tonnage rates because such rates provide the same total charges for each load between the same points of origin and destination, because the total transportation costs can be accurately determined in advance of shipment, and because the transportation charges are expressed in the same unit of measurement as that in which the material is sold.

5. Granite Construction Company has required the assessment of hourly rates because such rates consistently provide lower charges than distance rates within Monterey and San Benito Counties.

6. Granite Construction Company currently operates trucking equipment and is financially able to acquire additional equipment if for-hire carrier services do not meet its requirements.

7. Applicant's studies show that the loading, unloading, and running times involved in transportation of earth, rock, sand, and gravel for Granite Construction Company are less than those used as a basis for development of the operating costs underlying the Northern Territory distance rates in Item 290 of MRT 7-A.

8. Applicant's studies show that the labor costs incurred by it are different from those reflected in the cost studies which underlie the Northern Territory distance rates in MRT 7-A. Applicant's wage rates are the generally prevailing wage rates for transportation of earth, rock, and sand in the area it serves, inasmuch as the only other fleet operator in that area (YTS, Inc.)

has an individual contract with the Teamsters Union which contains similar wage rates and other conditions.

9. Applicant's operations within Monterey and San Benito Counties for Granite Construction Company are different from the operations upon which the Northern Territory distance rates are predicated.

10. Applicant's cost study makes no provision for so called "deadhead" or nonrevenue time. Adjustment of applicant's cost data by increasing running times by 10 percent to make provision for nonrevenue time would still leave a substantial margin between the estimated costs per trip and the proposed revenue per trip under the sought rates.

11. Applicant's cost study, which reflects its current labor costs, and the loading, unloading, and running times applicable to transportation for Granite Construction Company, shows that total operating costs are less than the total operating costs in the staff cost study upon which the Northern Territory minimum distance rates are predicated.

12. Applicant's proposed rates exceed the reasonable costs of providing the services. Said rates will be compensatory for services performed by applicant with its own equipment and with union drivers.

13. The running times, loading and unloading times, and labor costs set forth in applicant's study are appropriate for operations by subhaulers within applicant's proposed service area.

14. The conditions under which subhaulers perform transportation services for applicant in behalf of Granite Construction Company are similar to the conditions under which applicant performs the service and are dissimilar to the operations upon which the MRT 7-A Northern Territory distance rates are predicated.



15. The total revenue per shipment to be received under the proposed distance rates are consistent with the revenues which would accrue under the application of the alternative hourly rates in Item 390 of MRT 7-A (see Table 2).

16. The application of Item 210 (Payments to Underlying Carriers) of MRT 7-A to the transportation services performed by subhaulers employed by applicant under the distance rates sought herein will provide reasonable and adequate revenues to said subhaulers.

17. The rates proposed by applicant and set forth in Appendix A hereto are reasonable (Section 3666 of the Public Utilities Code.)

Conclusions

1. The application, as amended, should be granted.
2. The authority should be made to expire concurrently with the expiration of the current provisions of applicant's labor contract with its drivers.

O R D E R

IT IS ORDERED that:

1. Hildebrand & Son Trucking, Inc. is authorized to perform transportation services for Granite Construction Company at rates less than the minimum rates set forth in MRT 7-A, but not less than the rates and charges set forth in Appendix A attached hereto and made a part hereof.

2. Except as specifically provided in this order and in Appendix A, all of the provisions of MRT 7-A are applicable to the transportation services performed by Hildebrand & Son Trucking, Inc. for Granite Construction Company, including Item 210 (Payments to Underlying Carriers) and Item 270 (Application of Rates for Use of Equipment Other Than Tractor with Bottom Dump Doubles in Train).

3. The rates set forth in Appendix A are not applicable to transportation services for which minimum rates are provided in MRT 20.

4. The authority granted herein shall expire May 31, 1975 unless sooner changed, amended, or cancelled.

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

Dated at San Francisco, California, this 11<sup>th</sup>  
day of FEBRUARY, 1975.

James L. Stinson  
President  
William Synovae, Jr.  
San Francisco  
Leonard Rose  
Commissioners

APPENDIX A  
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Carrier: Hildebrand & Son Trucking, Inc.

Shipper: Granite Construction Company.

Commodities: Earth, granite, gravel, rock, sand, and stone.  
(exception to Item 30 of Minimum Rate Tariff 7-A).

Minimum Weight: 24 tons per unit of carrier's equipment  
(exception to Item 190(g) of Minimum Rate  
Tariff 7-A).

Unit of Carrier's Equipment: Tractor and two bottom dump  
trailers.

From: Origins in the area described below.

To: Destinations in the area described below.

Described Area:

The area within which authorized rates shall be applicable is  
described as follows:

Beginning at the point the San Mateo-Santa Clara  
County Boundary Line meets the Pacific Ocean,  
thence northerly along said Boundary Line to  
State Highway 9; thence northerly along State  
Highway 9 to Saratoga; thence due east along an  
imaginary line to the Santa Clara-Stanislaus  
County Boundary Line; thence southerly along the  
Santa Clara-Stanislaus County Boundary Line, the  
Santa Clara-Merced County Boundary Line, the  
San Benito-Merced County Boundary Line, the San  
Benito-Fresno County Boundary Line, the Monterey-  
Fresno County Boundary Line, and the Monterey-  
Kings County Boundary Line to the Monterey-San  
Luis Obispo County Boundary Line; thence westerly  
along the Monterey-San Luis Obispo County  
Boundary Line to the Pacific Ocean; thence  
northerly along the shoreline of the Pacific  
Ocean to the point of beginning.

APPENDIX A  
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Authorized Rates (in cents per ton). (Exception to Item 290 of Minimum Rate Tariff 7-A):

<u>Mileage</u>		<u>Rates</u>		<u>Mileage</u>		<u>Rates</u>	
<u>Over</u>	<u>But Not Over</u>		(1)	<u>Over</u>	<u>But Not Over</u>		
0	1	30	28	25	26	156	
1	2	35	32	26	27	161	
2	3	39	36	27	28	166	
3	4	43	40	28	29	171	
4	5	48	45	29	30	176	
5	6	52	49	30	31	181	
6	7	58	55	31	32	186	
7	8	64	60	32	33	191	
8	9	70		33	34	196	
9	10	76		34	35	201	
10	11	81		35	36	206	
11	12	86		36	37	211	
12	13	91		37	38	216	
13	14	96		38	39	221	
14	15	101		39	40	226	
15	16	106		40	41	231	
16	17	111		41	42	236	
17	18	116		42	43	241	
18	19	121		43	44	246	
19	20	126		44	45	251	
20	21	131		45	46	256	
21	22	136		46	47	261	
22	23	141		47	48	266	
23	24	146		48	49	271	
24	25	151		49	50	276	

(1) Restricted to shipments which do not originate at or are not destined to commercial production plants as defined in Minimum Rate Tariff 7-A.