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Decision No. 84574

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Apex Bulk Commodities, a corporation, for authority to deviate from the otherwise applicable minimum rate in the transportation of Silica sand, soda ash and limestone for the accounts of Thatcher Glass Manufacturing Company.	Application No. 54843 (Filed May 1, 1974; amended November 6, 1974)
Application of Pyramid Commodities, a corporation, for authority to deviate from the otherwise applicable minimum rate in the transportation of Silica sand, soda ash and limestone for the accounts of Thatcher Glass Manufacturing Company.	Application No. 54844 (Filed May 1, 1974; amended November 6, 1974)

Karl K. Roos, Attorney at Law, for applicants.
George G. Cross, for Bulk Transportation, protestant.
E. O. Blackman, for California Dump Truck Owners Association; E. O. Blackman, G. Ralph Grago, and Wade Austin, for Associated Independent Owner-Operators, Inc.; Kenneth P. Harrison, for Harrison-Nichols Co., Ltd.; and H. W. Hughes and R. W. Smith, Attorney at Law, for California Trucking Association; interested parties.
John Specht and Raymond Toohey, for the Commission staff.

OPINION

By these applications, as amended, Apex Bulk Commodities (Apex) and Pyramid Commodities (Pyramid) seek authority under Section 3666 of the Public Utilities Code to charge less than minimum rates for transportation of silica sand, soda ash, and limestone in dump truck equipment for Thatcher Glass Manufacturing Company (Thatcher). All of the movements involved are between rail-served points. Applicants have been observing the railroad rates and the rail carload minimum weights. The rail rates, proposed rates, projected operating ratios under the proposed rates, and certain related data are included herein in Appendix A. In the event the rates in Appendix A are not authorized, applicants seek relief from minimum rate tariff provisions which require highway carriers to bill and charge for shipments on the basis of the applicable rail carload minimum weight when rail rates are used.

Public hearing on these applications was held on a consolidated record before Examiner Norman Haley at Los Angeles on November 13 and 14, 1974. Representatives of protestant, interested parties, and the staff participated in the development of the record through cross-examination. California Dump Truck Owners Association (CDTOA) and Associated Independent Owner-Operators, Inc. (AIOO) opposed the sought rate reductions identified in Appendix A. The matters were submitted.

Applicants' Evidence

Applicants presented evidence through Thatcher's director of transportation services, New York, and through an officer of the two applicant companies. All of the shipments involved are delivered to the Thatcher plant at Saugus, Los Angeles County, for the manufacture of glass containers. Silica sand is transported from Corona in Riverside County and from Oceanside in San Diego County approximately 87 and 120 highway miles, respectively, from Saugus. Soda ash is transported from West End and

Trona in San Bernardino County. West End is approximately six miles beyond Trona and approximately 158 miles from Saugus. In these applications the mileage and rates from Trona are considered to be the same as from West End, the more distant point. Limestone is transported from Colton and from Lucerne Valley in San Bernardino County approximately 86.2 and 116.5 miles, respectively, from Saugus.

Applicants each hold permits to operate as highway contract carriers, radial highway common carriers, and dump truck carriers. Silica sand and limestone are transported under the provisions of Minimum Rate Tariff 7-A (MRT 7-A). Soda ash is transported under the provisions of Minimum Rate Tariff 2 (MRT 2). Applicants have been applying railroad rates under rules in the two tariffs governing alternative application of common carrier rates and shipments transported in multiple lots. Assertedly, the railroad rates and minimum weights applied under those tariff rules are unsatisfactory both to applicants and Thatcher.

Evidence was introduced relative to special favorable circumstances under which applicants perform transportation for Thatcher, as well as cost and revenue data pertaining to the transportation involved. The manufacture of glass containers by Thatcher at Saugus is a continuous process operating seven days a week, 24 hours a day. As such it requires large amounts of raw materials to maintain the furnaces completely filled and producing glass at all times. Shipments can be received at any time. In a month the plant receives approximately 70,000 tons of sand, 25,000 tons of soda ash, and 20,000 tons of limestone. This volume is expected to continue and a plant expansion is anticipated within the next 12 to 18 months. The dumping points at Thatcher are receiving pits that the trucks drive over and discharge into.

Thatcher has storage capacity for approximately 20 truckloads of soda ash, 35 loads of sand, and 12 loads of limestone. The receiving facilities are constructed so the carrier cannot make an error and introduce the wrong material into the system. The material can be received unsupervised at the convenience of the carrier. Unloading takes from approximately 15 to 30 minutes.

At the points of origin overhead loading is performed either by a bunker or by a conveyor belt that discharges into a bunker or hopper that loads the truck. The facilities for loading soda ash at Trona and West End, and limestone at Lucerne Valley, are open 24 hours a day. At Colton the facilities are open 24 hours a day to ship limestone except from 6:00 a.m., Saturday to midnight Sunday. The facilities for loading sand at Oceanside are open for two shifts from early morning until approximately 11:00 p.m., seven days a week. Loading at points of origin assertedly takes from 30 to 45 minutes. It was alleged that combined loading and unloading time averages less than one hour.

Exhibit 1 (Apex) and Exhibit 2 (Pyramid) contain projected costs, revenues, proposed rates, and related data. As stated above, the present and proposed rates and certain other data are summarized in Appendix A hereof. Three scales of rates are proposed from each origin subject to minimum weights of 25, 27, and 28 tons, except that the lowest minimum weight for sand from Oceanside would be 26 tons. Of the 15 proposed rates three of those subject to the lowest minimum weights would be the same as the railroad rates. The remaining 12 proposed rates would be below the rail rates.

The Thatcher witness explained the proposed rates in the two exhibits.[1/] The rates and related minimum weights were negotiated after several discussions between Thatcher and an officer of the two carriers. The witness stated that the proposed rates were adjusted upward from original estimates in recognition of the rapid escalation of costs being experienced by the carriers. The witness was of the opinion that the proposed rates would afford the two carriers a fair return above costs. He said it is important to maintain a level of rates which is compensatory to the carriers so that they will not disappear from the operation which is heavily dependent upon them.

1/ As discussed below, an officer of the two applicant companies testified further concerning the proposed rates and explained the balance of Exhibits 1 and 2. Those exhibits are identical except for the names of the respective applicants. Except for a minor change on page 1 of Exhibits 1 and 2, those exhibits are the same as each Appendix B contained in amended Applications Nos. 54843 and 54844.

The Thatcher witness explained that the California intrastate traffic in question is now moving largely in trucks of Apex and Pyramid with a small part moving by rail.[2/] He said that Thatcher prefers special deviation rates rather than alternative rail rates. He said the proposed truckload minimum weights, in lieu of the much higher rail carload minimum weights, would give his company the ability to take one, two, or three loads as required and available. He contended that this would stabilize and smooth out the operation making it more predictable in terms of cost, delivery schedules, and service. He said that it is not the company's desire to take one load at a time as a normal basis of operation, but where a carrier has one piece of equipment available the supplier can bill and ship in that quantity without the requirement that the carrier open and carry a master bill of lading to

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2/ Thatcher receives rail carloads of soda ash from Green River, Wyoming, and occasional carloads of sand from Corona, California. The Thatcher witness stated that rail service generally is not satisfactory for the intrastate transportation involved here. He said that his company has experienced car shortages at origin points and delays in transit which have caused the company to ship principally by truck. Rail car transit time has ranged from 7 to 12 days on a movement of sand from Oceanside (about 140 rail miles). He explained that rail movements have been in covered hopper cars and there is a lack of assurance of a steady car supply. Some cars offered to the shipper at Oceanside had to be rejected because of residue left in the cars from prior loadings. Frequently no cars have been available at all. Where two railroads are involved delays at interchange points have made it very difficult for the company to schedule its materials. The witness stated that there are three different receiving facilities at the Saugus plant which, in effect, are like three individual glass manufacturing operations. Unloading of rail cars and trucks is performed at the same facilities. If a rail car of soda ash is being unloaded at one point and a truckload of soda ash comes in, it can be unloaded at one of the other locations, or the rail car can be moved.

meet the rail carload minimum. He stated that frequently material is not available in quantities necessary to satisfy the rail minimum in the time allowed.[3/]

The Thatcher witness stated that it is of advantage to his company to be able to look to one or two carriers to satisfy transportation needs at negotiated and approved rates rather than to seek a variety of carriers to haul under the alternative rail rates. He said if the application is granted, the traffic would go to Apex and Pyramid, and if the carriers thereafter experience increased costs Thatcher will be willing to meet with them and adjust the rates upward to compensate for any increased costs as may be shown.

The carrier official testified that the two applicant companies share the same terminal offices, yard facilities, dispatcher, and telephone. Some of the operating overhead also is shared by both companies. This witness testified with respect to the cost figures in Exhibits 1 and 2 and also explained Exhibits 3 and 4. Exhibit 3 is the weighted average operating ratio for all transportation services performed for Thatcher at proposed deviation rates. Exhibit 4 consists of balance sheets and operating statements of the two companies, and several invoices covering truck rental and diesel fuel purchases. The financial statements show that in the case of each applicant assets exceeded liabilities, and Apex and Pyramid had net carrier operating income of 3.5 and 4.8 percent, respectively, for the six-month period ending June 30, 1974.

3/ Rules in the two tariffs governing shipments transported in multiple lots (Item 85 of MRT 2 and Item 240 of MRT 7-A) provide generally that under the circumstances involved here the entire shipment must be picked up within 24 hours from 12:01 a.m. on the date on which the initial pickup commences in order to obtain the benefit of the rail rate.

The carrier witness said the accounting figures in Exhibit 4 were prepared by a public accountant from the books and records of the respective companies in accordance with accounting procedures of the Commission. He said that the accounting figures were prepared under his control and correctly reflect the financial condition of the two companies. The Thatcher operation generates approximately 45 percent of the operating revenue shown in Exhibit 4.

Applicants together operate from 21 to 22 power units (tractors). The Thatcher operation currently requires from 8 to 10 sets of power units and hopper-bottom trailers, although the number sometimes varies. Applicants lease power units and trailing units on a mileage basis under fixed contracts.[4/] The yearly minimum miles for tractors and trailers was estimated at 106,500. Tractor running costs of approximately $0.2420 per mile include power unit rental of approximately $0.125 and $0.10 for fuel,[5/] with the remainder for insurance, license, and registration. Trailing units are leased at $0.05 per mile, which includes tires, maintenance, repairs, license, and registration. Insurance carried on the tractors and trailing units together was estimated at $0.0185 per mile, calculated on a gross receipts basis. Total vehicle costs per road mile were shown to be $0.3105.

4/ A number of the tractors operated by applicants are leased from Management 4 Corporation which is owned by the carrier official and his wife. Some of the tractors are leased from employee drivers (Decision No. 82948 (1974), and also from other leasing companies. Trailers are leased from Management 4 Corporation and from Cal Pacific Leasing. The latter company is owned jointly by the carrier official and another party.

5/ Applicants maintain bulk fuel storage facilities and also purchase fuel on the road. Approximately 90 percent of the fuel used is from the storage facilities. The average diesel fuel cost was calculated to be approximately $0.40 per gallon, including state and federal taxes. The witness stated that fuel cost has come down since the figures were compiled.

Apex and Pyramid employ approximately 25 drivers. From 8 to 10 are used on the average for the Thatcher account. Driver labor costs also were calculated on a mileage basis for the minimum of 106,500 miles. Total driver costs of $0.1420 per mile that were developed include basic pay, five holidays, five vacation days, group health and life insurance, compensation insurance, and payroll taxes. Total driver costs added to total vehicle costs produce a total direct cost of $0.4525 per mile. An indirect cost of 12 percent was added ($0.0543) resulting in a total direct and indirect cost of $0.5068 per mile. The witness explained that Apex and Pyramid engage in activities other than for-hire transportation and, based on judgment, that 12 percent indirect cost should be assigned to the transportation involved. Gross revenue taxes were calculated at 0.43 percent of total direct and indirect costs.

Projected operating ratios under the proposed rates (Appendix A hereof) range from 77 to 97.9,[6/] depending upon the minimum weight and distance. Projected operating ratios improve as the minimum weight in tons increase from 25 and 26 tons up to 28 tons. The witness stated that a good percentage of applicants' vehicles, including the later models, can haul 28 tons. The carrier witness was of the opinion that the operating ratios represent a fair profit for the equipment utilized dependent upon the tonnages involved. Three movements represent 95 percent of the total tons hauled to Saugus for Thatcher. These are silica sand from Oceanside, soda ash from Trona and West End, and limestone from Lucerne Valley.

6/ The projected operating ratio of 97.9 was for hauling sand from Oceanside, minimum weight 26 tons. For minimum weights of 27 and 28 tons the operating ratios are projected at 95.7 and 94.3, respectively. Altogether, the sand hauls from Oceanside represent 54 percent of the Thatcher hauling.

The carrier official explained several advantages, in addition to those given by the Thatcher witness, that the proposed rates would have over the alternative railroad rates now being utilized. He said the proposed rates would simplify billing procedures in those instances where master bills are required because of high railroad minimum weights. He explained that there may be as many as four different trucks involved in hauling under one master bill. The driver may forget to turn in necessary documents until it is too late under tariff rules to include all of the transportation in one master bill. In some cases truck drivers lose the paper work. Under the proposal, which is based on truckload quantities, billing could go on continuously as paper work comes in without having to match it up and wait for master bills to be completed. This, in turn, would bring money in faster, which assertedly would result in a saving in interest. Part-time help now required on certain days to take care of peak billing loads could be reduced or eliminated. Dispatching would be simplified because it would not be necessary to send several trucks to cover a railroad minimum quantity within the time limits imposed by the tariffs. Loads could be scheduled better with respect to availability of material at points of origin. There is a common dispatcher for both Apex and Pyramid and trucks are dispatched by numbers. The witness said it is not important which company operates the trucks, but if all trucks necessary to pick up a shipment subject to a railroad minimum weight are not operated by the same company, then one of the companies must bill the other for a subhaul. He said when this happens it doubles the paper work, which is costly. This problem would not arise under the proposal. The witness asserted that for these reasons the proposals would result in better use factors for the equipment and make the entire operation run more smoothly.

Aside from subhauling between Apex and Pyramid, virtually no subhaulers are used for the Thatcher hauling. Applicants are willing to pay subhaulers either 100 percent of the sought rates, or 95 percent of the railroad rates.

On cross-examination the carrier official testified that tractor running costs, trailer costs, and fuel costs provide about 2.2 cents per mile for incidentals and out-of-way mileage for returning to the yard. The yard is located about halfway between Oceanside and Saugus. Trucks are routed via the yard every time a trip is made to pick up sand at Oceanside. The out-of-way mileage factor was calculated at two miles out of each 500, or approximately 1/4 cents per mile. Drivers are not compensated for excess loading or unloading time until after two hours at origin or two hours at destination. They are paid at the rate of $3.20 per hour for excess loading time. This cost is about $60 per month for all of the Thatcher hauling, and an allowance of approximately 1 cent per mile assertedly was included in the tractor running costs to compensate for it. Most of the $60 per month cost for delay time is for delays in picking up sand at Oceanside which represents approximately 54 percent of the Thatcher hauling. The carrier official testified that a driver works an average of 5½ days a week for 50 weeks a year (106,500 miles). Using a five-day week it was calculated that for sand hauls from Oceanside a driver normally would drive 435 miles in a ten-hour day for an average speed of 43 miles per hour. Between 200 and 250 tons of sand are hauled in a day. The carrier official estimated that out of the total of 125,000 tons for the three commodities hauled for Thatcher in a year, that a tonnage reduction of 25 percent would still be profitable. The carrier official contended that the costs for hauling 25 tons per load is the same as the cost for hauling 28 tons. There are no back hauls.

Other Evidence

The president of Bulk Transportation testified on behalf of CDTOA. This carrier has been in the business of transporting bulk commodities in dump truck equipment since 1961. It also has hauled some of the same materials from the same points as have applicants. It was the testimony of this witness that there have been many instances where his company experienced excessive loading time at the origin points involved. He also testified that there were instances where vehicles were dispatched but were unable to pick up a load. He stated that on a recent trip to Lucerne Valley, he found the plant shut down and two of his company's trucks waiting but unable to load. He said that Corona usually gets trucks in and out within 20 to 30 minutes, but there have been some plant problems in the past.

The vice president of Harrison-Nichols Company, Ltd., also testified on behalf of CDTOA. This company has been engaged in the transportation business for 50 years and is primarily in the dump truck business. This carrier also hauls sand from Oceanside. He said that 50 percent of the vehicles have been loaded within 30 minutes, but that the remainder have taken from 30 minutes up to four or five hours due to delays waiting for loads. He said that within the last two months his company has experienced four dead-head trips to Oceanside when no material was available. His company billed the customer for dead-head runs but did not receive any pay.

Positions of the Parties

In closing the CTA representative argued that there are many cost elements that were not considered in applicants' presentation. He asserted that cost per hour for delays was converted into cost per mile without any basis other than estimates. He was of the opinion that the proposed rates were the result of negotiation, and that the costs were adjusted to accommodate those rates.

The representative of CDTOA and AIOO opposed the rate reductions sought in the applications. He alleged that the costs are understated. He argued that no dead-head mileage costs are included at all and referred to data bank publications which show a 10 percent dead-head time in connection with dump truck operations. He said that this would convert to approximately 1.2 cents per mile. The association representative argued that applicants' position that it costs no more to haul 28 tons than 25 tons is in error. He alleged that applicants' wage costs are dubious and not predicated on any written contract. He calculated from the testimony of applicants' carrier witness that drivers receive $5.16 per hour to drive the average of 430 miles per day in 10 hours. He doubted that the 43 mile per hour average speed disclosed by applicants' carrier witness could be maintained in view of loading times at some of the origins. This speed assertedly would be necessary for drivers to earn $5.16 per hour for 50 hours work a week. He cited the statement of applicants' carrier witness that it takes six hours for a round trip to Trona, a distance of 316 miles, resulting in an average speed of 53 miles per hour. He asserted that there is no provision for loading and unloading time involved in that figure. He said that the average driving time on which the rates in MRT 17-A in the Los Angeles Basin Area are predicated is 30 miles per hour. The association representative argued that the wage base of applicants deliberately encourages high speed operation on the highways by the drivers which is contrary to the public interest. He believed that for an average speed in excess of 40 miles an hour to be maintained that the 55 mile an hour speed limit inevitably must be violated.

The representative of CDTOA and AIOO argued that the rates for each haul should be based on cost plus a reasonable profit. He contended that costs were not the primary consideration in negotiating and determining the proposed rates, and that the proposed rates actually are based on the rail rates. He said that if the Commission grants the deviation from minimum rates on the basis of wage costs which are substantially less than other prevailing or negotiated wages in the same area for the same transportation, they would defeat the purpose of wage laws and would encourage wage cutting. He said that in the dump truck industry approximately 80 percent of the carriers are self-employed owner-operators. He stated that if rate deviations are granted on the basis of reduced wage scales determined by applicants, that owner-operators could flood the Commission with rate deviation applications predicated on whatever wage rates were necessary to justify a haul to secure the business. He believed that this would inevitably lead to chaos and would be contrary to the legislative policy contained in Section 3502 of the Public Utilities Code. He was of the opinion that the approximate 12.6 cents per mile figure developed by applicants for tractor leases probably should be in the range of 18.4 cents per mile.

With respect to subhaulers the representative of CDTOA and AIOO argued that it is improper and unlawful under Section 3666 of the Public Utilities Code to pay subhaulers on the basis of any rate deviation, and that they should be paid on the basis of the rail rates or the minimum rates. He stated that applicants' request does not include deviation from Item 210 of MRT 7-A which requires payments of 95 percent of the minimum rates to subhaulers.

The staff argues that a rate deviation should be based on transportation conditions different from those on which the minimum rates were designed; that the proposed rates should be compensatory; and that the case involving Major Truck Lines (1970) 71 CPUC 447 summarizes the most salient points. The staff also pointed out that if subhaulers are used, the subhauler costs also should be shown as the basis for the deviation, citing Direct Delivery System (1955) 54 CPUC 377.

The president of Bulk Transportation was of the opinion that if the applications are granted, three glass companies in the Los Angeles Area who now take truck deliveries at rail rates would require the highway carriers to apply for deviations from minimum rates. The vice president of Harrison-Nichols Company, Ltd., expressed the opinion that if the applications are granted, a transportation rate war would be started among carriers hauling for glass companies in the Los Angeles Area.

The attorney for applicants pointed out that there was no cost evidence offered by the other parties to show that applicants' figures are understated or do not include all of the carriers' costs. He pointed out that applicants' carrier witness said that he would be willing to pay subhaulers 100 percent of the revenue that he can charge his customer and if that is not satisfactory to the Commission, applicants would be willing to have the sought authority conditioned upon the requirement that if subhaulers are used, applicants pay them no less than 95 percent of the lowest rail rate applicable to the particular haul. He said that what applicants are particularly concerned about is the necessity for relief from the master billing procedures on the large multiple lot shipments, which require performing service within a limited time and involve excessive paperwork and bookkeeping. He pointed out that these problems occur occasionally because necessary tonnage is not available at origins within the times required in order to apply the railroad rates. Applicants' attorney stated that the fears of a rate war that were expressed do not justify denial of the application because shippers can come to other carriers and ask them to file for similar relief, but that costs would have to be justified.

Discussion

Applicants seek authority to charge less than the railroad rates[7/] they have been charging for the specialized transportation being performed for Thatcher (Appendix A, hereof). In the event the proposal in Appendix A is not authorized, applicants request authority to charge railroad rates on the basis of each truckload as a separate shipment. This would relieve them of the requirement of billing shipments at the railroad carload minimum weights, and also of picking up the entire carload minimum weight within a specified time limit.

7/ The railroad rates, being lower than the rates published in MRT 2 and MRT 7-A, therefore constitute the minimum rates for the transportation involved, and authority to charge less than railroad rates is required. The railroad rates currently are applied under authority of Item 200 of MRT 2 and Item 100 of MRT 7-A. Among other things, these items are in compliance with the directive contained in Section 3663 of the Public Utilities Code, as follows:

> "In the event the Commission establishes minimum rates for transportation services by highway permit carriers, the rates shall not exceed the current rates of common carriers by land subject to Part 1 of Division 1 for the transportation of the same kind of property between the same points."

If the carrier provides services not included in the rail rate, MRT 2 and MRT 7-A require that additional charges be assessed.

The Thatcher account represents 45 percent of applicants' business. Although there are certain favorable circumstances and conditions attendant to the transportation, we must conclude that the cost data of record are understated and uncertain in several important respects. The costs calculated principally on a mileage basis apparently have not included sufficient allowance for labor and other costs occasioned by excess loading time, and for transit time on at least some of the hauls. Wage costs have not been shown to be equivalent to other wages prevailing in the area for the same type of transportation. Deadhead mileage costs have not been included. Costs shown for loads of 28 tons are no greater than for 25 tons. The six-months operating statement presented shows that Apex and Pyramid had net carrier operating profits of 3.5 and 4.8 percent, respectively. No study was presented to measure the effect the proposed rate reductions would have on overall profits. There are no proposed rate increases. The record does not indicate that there would be any traffic gain or loss under the proposed reduced rates. If the 12 proposed reduced rates equated to lower overall revenue for 45 percent of applicants' operations, which appears likely, the reductions could place the carriers in an even poorer profit situation. In view of the cost deficiencies and the questionable effect the proposed rates would have on profits we cannot conclude that the proposed rate reductions have been shown to be reasonable, and this part of applicants' proposal should be denied.

The record shows that the Thatcher commodities are not always available within the time limit within which they must be picked up in order to comply with tariff rules governing shipments transported in multiple lots. This has produced substantial problems for applicants and Thatcher. Applicants' dump truck units experience a high use factor (at least 106,500 miles a year). We are satisfied from the record that it costs applicants no more per load to haul one load rather than several loads necessary to satisfy a rail carload minimum weight. In fact, applicants have demonstrated that substitution of the proposed truckload minimum weights for the higher rail carload minimum weights would result in efficiencies and cost savings to them. Applicants' request to be relieved from the tariff rules which require them to issue master bills covering rail carload minimum weights transported in multiple lots within a given time period essentially was not opposed. This part of their proposal is reasonable. We will authorize applicants to assess for the future current railroad rates subject to a minimum weight of 25 tons per load, except on sand from Oceanside the minimum weight will be 26 tons per load.

Though we find that applicants have failed to establish that the proposed rates would be compensatory and reasonable, we place the applicants on notice that the Commission has set in motion a procedure that might soon allow these applicants to charge the rates denied in this proceeding. We refer to Decision No. 84539 in which we stated our intention "to implement a new regulatory program." We may require all carriers to file tariffs, without regard to whether the rates contained therein are below the minimum, thereby allowing these applicants to determine for themselves whether their proposed rates are compensatory.

Findings

1. Applicants seek authority to charge less than minimum rates for dump truck transportation of silica sand, soda ash, and limestone from six origins in southern California to the Thatcher glass container plant at Saugus.

2. The type of service applicants perform for Thatcher is different from that contemplated by the minimum rates.

3. All of the transportation identified in Finding 1 is between rail-served points, and applicants have been applying common carrier railroad rates, subject to rail carload minimum weights.

4. Occasionally some of the origin plants have been unable to produce sufficient truckloads of materials to meet the railroad carload minimum weights within the time limit required in MRT 2 and MRT 7-A for alternative use of common carrier rates and shipments transported in multiple lots. This, along with associated problems, has resulted in operational and billing difficulties for applicants and attendant problems for Thatcher, including payments for some loads not carried.

5. The record shows that various problems experienced by applicants and Thatcher in the use of railroad rates would be eliminated, and various improvements and efficiencies resulting in cost reductions for the subject transportation could be realized, if applicants were relieved from the requirement of applying railroad carload minimum weights to the shipments involved.

6. Applicants propose 15 separate rates, subject to minimum weights ranging from 25 to 28 tons, as set forth in Appendix A hereof. Three of the proposed rates are the same as the railroad rates (except as to minimum shipment weights). Twelve of the proposed rates are below the railroad rates.

7. Applicants' overall operations are profitable. The Thatcher hauling represents approximately 45 percent of applicants' overall operations.

8. The record does not show that the proposed reduced rates in Appendix A hereof would be compensatory and reasonable.

9. The record shows that the application of railroad rates currently in effect at time of shipment, subject generally to truckload quantities of 25 tons per load, and 26 tons on sand from Oceanside, will be reasonable for the transportation described in Finding 1.

10. Except as provided in Finding 9, the proposed rates have not been shown to be reasonable.

11. Since the authorized rates will be at the level of current railroad rates, subject to truckload minimum quantities, a reasonable rate for applicants to pay subhaulers will be 95 percent of the authorized rates.

Conclusion

The Commission concludes that the application should be granted to the extent provided in the following order.

Since the authorized rates will be the current railroad rates (except the rail carload minimum weights), including any rail rate increases that may become effective, an expiration date of the authority is not necessary and should not be prescribed.

O R D E R

IT IS ORDERED that:

1. Applicants are authorized to perform transportation encompassed by these applications for Thatcher Glass Manufacturing Company at rates less than the minimum rates set forth in MRT 2 and MRT 7-A, but not less than the lowest rates of common carrier railroads currently in effect at time of shipment, subject to a minimum weight of 25 tons per dump truck load, except on sand from Oceanside the minimum weight shall be 26 tons per dump truck load.

2. Applicants are relieved from applying rail carload minimum weights to the transportation encompassed by these applications.

3. In the event either applicant employs an independent contractor subhauler to perform transportation encompassed by these applications, the subhauler shall receive not less than 95 percent of the rates authorized herein.

4. In all other respects the transportation encompassed by these applications shall be governed by the rates and rules prescribed in MRT 2 and MRT 7-A.

5. To the extent not granted herein, Applications Nos. 54843 and 54844 are denied.

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

Dated at San Francisco, California, this 24th day of JUNE, 1975.

Vernon L. Sturgeon
President

Leonard M. Ross

Commissioners

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

A. 54843, 54844 - SW

APPENDIX A

Apex Bulk Commodities and Pyramid Commodities

Present and Proposed Rates
in Cents Per Ton to Saugus
and Projected Operating Ratios
(From Exhibits 1, 2, and 3)

Commodity and Origin	Percent of Tons (1)	Highway Miles	Present Rates (Rail)	Proposed Rates and Projected Operating Ratios: 25 Ton Minimim	27 Ton Minimim	28 Ton Minimum
Silica Sand from Oceanside	54	120 OW 240 RT	$4.80 Minimum 50 Tons	$4.80 97.9 OR (26 Ton Min.)	$4.73 95.7 OR	$4.63 94.3 OR
Silica Sand from Corona	1	87 OW 174 RT	$4.20 95% Marked Capacity of Car	$4.20 84.5 OR	$4.10 80.2 OR	$4.02 78.8 OR
Soda Ash from Trona and West End	26	158 OW 316 RT	$6.80 Minimum 50 Tons	$6.71 96.0 OR	$6.65 89.7 OR	$6.58 87.4 OR
Limestone from Lucerne Valley	15	116.5 OW 233 RT	$5.91 Minimum 50 Tons	$5.65 84.1 OR	$5.58 78.9 OR	$5.51 77.0 OR
"	"	"	$5.73 Minimum 60 Tons	"	"	"
Limestone from Colton	4	86.2 OW 172.4 RT	$3.82 Minimum 60 Tons	$3.82 92.0 OR	$3.76 86.5 OR	$3.69 85.0 OR
Weighted Average Operating Ratios:				95.033	91.185	89.472

(1) Percent of total tons hauled to Saugus for Thatcher.